



**CAROLINA BEACH**  
**Regular Town Council Meeting Agenda**  
**Tuesday, April 14, 2020 @ 6:30 PM**  
**Council Chambers**  
**1121 N. Lake Park Boulevard**  
**Carolina Beach, NC 28428**

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1. CALL MEETING TO ORDER	
2. ADOPT THE AGENDA	
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## AGENDA ITEM

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Debbie Hall

Department: Finance

## Budget Amendments & Transfers

### BACKGROUND:

I have received several budget amendments and/or transfer requests. As you know, transfers require only your notification whereas amendments require your approval. Listed below you will find a description of the amendments and/or transfers. I have also attached a copy of the supporting documentation for the appropriations.

### Appropriations:

Appropriate \$4,984 Island Women donation made to Parks & Rec to account 10-620-016 for the purchase of two additional beach wheelchairs.

### Transfers:

Transfer \$25,000 from account 30-811-019 WWC Streets and \$25,000 from account 30-812-019 Water Streets to 30-800-045 W&S Admin Contract Services to cover the cost of Air Sparging and Groundwater monitoring of the MOTSU property.

Transfer \$10,000 from account 30-812-046 Water Professional Services to account 30-800-045 W&S Admin Contract Services to cover the cost the Aclara AMI meter annual subscription. Funds from this line item were used for ground testing on the MOTSU property causing a shortfall.

Transfer \$5,000 from account 30-810-045 WWTP Contract Services to account 30-810-032 WWTP Chemical & Lab Fees to cover the cost of chlorine and sulfur dioxide for the remainder of the fiscal year.

Transfer \$55,000 from account 10-580-074 Environmental Capital over \$10,000 to account 10-570-018 Parking Maintenance & Repair - Grounds to cover the cost of additional wheel stops for the new parking lots being brought online.

Transfer \$15 from account 10-430-012 Clerk Printing & Publishing to 10-430-053 Clerk Dues & Subscriptions to cover an increase in the

dues for the NC Association of Municipal Clerk's.

Transfer \$3,000 from account 27-003-090 Marina Phase III Contingency to account 27-003-046 Marina Phase III Professional Services to contract with Jerome Rufaro Redmond, PE for engineering consulting services for the damages to the Marina caused by Hurricane Florence.

Transfer \$6,000 from account 34-001-074 Hamlet Project Capital over \$10,000 to 34-001-046 Hamlet Project Professional Services to accommodate additional services and permits that are not included in the WIMCO contract.

**ACTION REQUESTED:**

Approve the budget amendments and/or transfers as presented by the Finance Director.

**ATTACHMENTS:**

[Budget Transfers 4.14.20](#)

[Island Women Beach Wheelchair Donation - 4-8-20](#)

Joe Benson  
*Mayor*

Steve Shuttleworth  
*Council Member*

LeAnn Pierce  
*Council Member*



Tom Bridges  
*Mayor Pro Tem*

JoDan Garza  
*Council Member*

Michael Cramer  
*Town Manager*

**Town of Carolina Beach**  
1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428  
Tel: (910) 458-2999  
Fax: (910) 458-2997

To: Debbie Hall  
From: Mark Meyer  
Re: Budget transfer  
Date: March 23 , 2020

Budget transfer 50,000

From: 30-811-019 (Wastewater Collection streets) \$25,000

30-812-019 (Water streets) \$25,000

To: 30-800-045 (W&S Admin Contract Services)

Explanation: This transfer is to cover the Air Sparging and Groundwater monitoring of the MOTSU property.

LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



Jay Healy  
*Mayor Pro Tem*

JoDan Garza  
*Council Member*

Ed H. Parvin  
*Interim Town Manager*

**Town of Carolina Beach**  
1121 N. Lake Park Blvd.  
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Tel: (910) 458-2999  
Fax: (910) 458-2997

To: Debbie Hall  
From: Mark Meyer  
Re: Budget transfer  
Date: March 9th , 2020

Budget transfer \$10,000

From: 30-812-046 (Water Professional Services)

To: 30-800-045 (W&S Admin Contract Services)

Explanation: For the Aclara yearly subscription, The shortfall in this line was to pay for ground testing on the MOSTU property

LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



Jay Healy  
*Mayor Pro Tem*

JoDan Garza  
*Council Member*

Bruce Oakley  
*Town Manager*

**TOWN OF CAROLINA BEACH**  
1121 N. Lake Park Boulevard  
Carolina Beach, North Carolina 28428

### **BUDGET TRANSFER REQUEST**

**To:** Debbie Hall, Finance Director

**From:** Mark Meyer, Public Utilities Director

**Re:** Budget transfer

**Date:** March 31, 2020

**Budget transfer amount:** \$ 5,000.00

**From:** 30-810-045 (Contract Services)

**To:** 30-810-032 (Chemical & Lab Fees)

**Explanation:** This transfer is to cover the cost of an open P.O. for Airgas for chlorine and sulfur dioxide gas required for disinfection and dechlorination for the remainder of FY 2019-20.

**Mark Meyer**

**Director of Public Utilities, Town of Carolina Beach**

**From:** Ed Parvin <ed.parvin@carolinabeach.org>  
**Sent:** Tuesday, March 31, 2020 11:29 AM  
**To:** Debbie Hall <debbie.hall@carolinabeach.org>  
**Cc:** Bruce Oakley <Bruce.Oakley@carolinabeach.org>  
**Subject:** budget transfer

Debbie,

Please consider a budget transfer of:  
\$55,000  
from 10-580-074 to 10-570-018

Purpose: to accommodate the additional wheel stops needed for the parking lots we are bringing online.

V/R,

**Ed H. Parvin**  
Assistant Manager

910 465 2766  
[ed.parvin@carolinabeach.org](mailto:ed.parvin@carolinabeach.org)



1121 North Lake Park Blvd.  
Carolina Beach, NC 28428

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**Debbie Hall**

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**From:** Kim Ward  
**Sent:** Tuesday, March 31, 2020 3:30 PM  
**To:** Debbie Hall  
**Subject:** Budget Transfer Request

Debbie,

Will you please transfer \$15 into account # 10-430-053 (Clerk Dues and Subscriptions) from 10-430-012 (Clerk Printing and Publishing) to cover the overage as a result of the NC Association of Municipal Clerk's dues increasing by \$15 this year? I apologize for the inconvenience.

Thank you,

Kim Ward  
Town Clerk  
Town of Carolina Beach  
1121 N Lake Park Blvd  
Carolina Beach, NC 28428  
Phone 910-458-2992





**Debbie Hall**

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**From:** Ed Parvin  
**Sent:** Tuesday, March 31, 2020 4:02 PM  
**To:** Debbie Hall  
**Cc:** Bruce Oakley  
**Subject:** budget transfer  
**Attachments:** SKM\_C360i20033115500.pdf

Debbie,

To cover the attached contract please consider transferring \$3,000  
FROM: 27-003-090 Marina Project Contingency  
TO: 27-003-046 Professional Services

V/R,

**Ed H. Parvin**  
Assistant Manager

910 465 2766  
[ed.parvin@carolinabeach.org](mailto:ed.parvin@carolinabeach.org)



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[CarolinaBeach.org](http://CarolinaBeach.org)

**J**erome Rufaro Redmond, PE  
Building Engineering & Design  
Building Analysis  
Structural Design  
Project Management

8209A Market St. Ste 222 Wilmington, NC 28411  
P: 910.915.6529 E: jrufaro@jrufaroe.com

March 29, 2020

Ed H. Parvin  
Assistant Manager  
Town of Carolina Beach  
Carolina Beach, NC

**LETTER OF AGREEMENT**

**RE: Carolina Beach Marina Structural Assessment**  
**PROJECT NO: IN020104**

The Office of Jerome Rufaro Redmond, PE (JRR) is pleased to submit for your review a letter of agreement for engineering consulting services and fees for the said project. Herein is our understanding of the scope of work and services to be provided.

**I. SCOPE OF WORK**

- Provide site evaluation(s) of existing marina to determine level of deterioration in contrast to damage due to Hurricane Florence of September 2018.
- Provide structural assessment report based on site evaluation and previous documentation

**II. SCHEDULE OF FEES**

The fee shall be billed hourly @ \$125 per hour not to exceed \$3000.00 (THREE THOUSAND DOLLARS) with retainer of \$1500 (ONE THOUSAND FIVE HUNDRED DOLLARS).

If you are in agreement with this Scope of Work and Schedule of Fees please sign and date the document below and return copy with retainage. If there are any questions regarding this matter, please do not hesitate to call.

Jerome Rufaro Redmond, PE

Principal



Ed H. Parvin, Assistant Manager

30 MAR 2020

DATE

THIS INSTRUMENT HAS BEEN  
PRE-AUDITED IN THE MANNER  
REQUIRED BY THE LOCAL GOVT  
BUDGET & FISCAL CONTROL ACT.  
FIN DIR Debra Hall

**Debbie Hall**

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**From:** Ed Parvin  
**Sent:** Thursday, April 2, 2020 1:57 PM  
**To:** Ben Meister  
**Cc:** Debbie Hall  
**Subject:** RE: Hamlet

Debbie,

Please move forward with a budget transfer of \$6,000 to accommodate additional services needed at the Hamlet lot that are not included in the WIMCO contract.  
from 34-001-074  
to 34-001-046

V/R,

**Ed H. Parvin**  
Assistant Manager

910 465 2766  
[ed.parvin@carolinabeach.org](mailto:ed.parvin@carolinabeach.org)



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Carolina Beach, NC 28428

[CarolinaBeach.org](http://CarolinaBeach.org)

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**From:** Ben Meister <Ben.Meister@carolinabeach.org>  
**Sent:** Thursday, April 2, 2020 12:39 PM  
**To:** Ed Parvin <ed.parvin@carolinabeach.org>  
**Cc:** Debbie Hall <debbie.hall@carolinabeach.org>  
**Subject:** Re: Hamlet

I talked to Dan and he is thinking \$3,000 should cover the lumber/plumbing/etc for the showers. It seems a little high to me, but lets go with it. It should leave a cushion for mulch or other site improvements we end up going with.

**Benjamin Meister**  
Town of Carolina Beach  
Project Manager  
910.232.1144(c)  
910.458.2786

LeAnn Pierce  
*Mayor*

Steve Shuttleworth  
*Council Member*

Lynn Barbee  
*Council Member*



Jay Healy  
*Mayor Pro Tem*

JoDan Garza  
*Council Member*

Bruce Oakley  
*Town Manager*

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 Tel: (910) 458-2999  
 Fax: (910) 458-2997

To: Debbie Hall, Finance Director  
 Bruce Oakley, Town Manager

From: Eric Jelinski, Parks and Recreation Director

Date: 4/8/2020

Re: Budget Transfers

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I am requesting the below budget transfers for the FY 19/20 Parks and Recreation Department budget. If you have any questions regarding the below transfers, please let me know.

Account	Amount	Transfer to Account	Reason
General Fund	\$4,984.00	10-620-016	Island Women donated \$4,984.00 to the Town of Carolina Beach to purchase two additional Sand Rider Beach Wheelchairs. The funds were deposited into the General Fund. We are requesting those funds be transferred to the equipment line item to purchase the beach wheel chairs.



## **AGENDA ITEM**

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Holly Brooks

Department: Human Resources

### **Review the Revised Family and Medical Leave Act Policy**

**BACKGROUND:** Review the revised Family and Medical Leave Act Policy of the Town, which includes the new Families First Coronavirus Relief Act provisions. These changes were effective April 1, 2020.

**ACTION REQUESTED:** No action is needed.

**ATTACHMENTS:** [FFCRA Family and Medical Leave Act Policy](#)  
[Family and Medical Leave Act Appendix 7 April 1 2020](#)  
[Emergency Family Leave FMLA Application](#)  
[Emergency Paid Sick Leave Act FMLA Application](#)  
[Family and Medical Leave Act Appendix 7 April 1 2020](#)

# Family and Medical Leave Act (FMLA)

Number: F-6

Revision:

Revision Date: April 1, 2020

## 1.0 POLICY

In accordance with the Family and Medical Leave Act (FMLA) of 1993, the Town of Carolina Beach provides employees who meet the requirements of the Act a total of 12 weeks of unpaid FLMA job-protection during a rolling 12-month period for their own illness, the illness of a family member, or because of a qualified exigency as specified in the Act. Town employees are also provided with unpaid FMLA job-protection for up to 26 weeks to care for a service member who is recovering from an injury or illness sustained while on active duty in support of a contingency operation.

Effective April 1, 2020 a special emergency provision has been added to the Family Medical Leave Act. The provisions of the Families First Coronavirus Response Act (FFCRA) will be complied with to the extent allowed for under the law, and policy provisions will be outlined in this Policy and in the FFCRA Appendix. The FFCRA contains a compilation of a number of Acts, with different purposes. These include the Emergency Family Medical Leave Expansion Act and the Emergency Paid Sick Leave Act. The FFCRA is effective on April 1, 2020 expires on December 31, 2020.

## 2.0 PURPOSE

The Town recognizes that employees may occasionally need to take a leave of absence for their own illness, the illness of a family member, or to assist a service member who is family or next of kin. The FMLA, and its amendments, provide for unpaid FMLA job-protection for covered employees under specific circumstances. The Town complies with this law and considers its requirements to be the minimum. This policy explains the rules and procedures the Town uses to comply with FMLA.

A limited time expansion of the job-protection benefits under FMLA, for the first time, mandate paid leave under the FMLA. The Emergency Paid Sick Leave Act of the FFCRA, will require the Town to provide paid sick leave as defined in the Act and outlined in this policy.

## 3.0 SCOPE

This policy covers all employees of the Town.

## 4.0 DEFINITIONS

- **4.1 FMLA Eligible Employee** - An employee who has worked for the Town of Carolina Beach for at least 12 months and for at least 1,250 hours during the year preceding the start of the leave. The 12 months do not necessarily have to be consecutive.

- **4.2 Family Under FMLA** - For the purpose of this procedure, the word "family" is defined as the employee's legal spouse or the employee's biological, adoptive, foster, or step-child, or parent. For the purpose of the 26-week qualifying event (under USERRA), the next of kin or nearest blood relative is considered family.
- **4.3 FMLA 12-Month Period** - The Town has defined the 12-month FMLA period as a rolling 12-month period meaning any consecutive 12-month period measured backwards from the date an employee uses any leave under FMLA job protection. Each time an employee uses FMLA job protection, the remaining leave entitlement will be any balance of the 12 weeks which had not been used during the preceding 12 months.
- **4.4 FMLA Qualifying Event** - FMLA qualifying events are birth of a child and in order to care for the child, placement of a child for adoption or foster care, to care for a family member who has a serious health condition, or a serious health condition of the employee that makes him unable to work. This definition includes workers' compensation absences. The entitlement to leave for the birth or placement of a child for adoption or foster care will expire twelve (12) months from the date of the birth or placement. Military family leave for up to 12 weeks because of a qualifying exigency or 26 weeks to care for an injured service member are also qualifying events.
- **4.5 Families First Coronavirus Response Act (FFCRA)** – an Act of Congress approved on March 18, 2020 which expands the existing provision of the FMLA and has the goal of providing relief to those who have been or will be adversely affected economically by the COVID-19 pandemic. The FFCRA is effective April 1, 2020 and expires on December 31, 2020. See the FFCRA Appendix.

## 5.0 ORGANIZATIONAL RULES

- **5.1** FMLA job protection may be used by an eligible employee to care for his child after birth, adoption, placement for adoption or foster care; to care for a member of the family who has a serious health condition; or for a serious health condition that makes the employee unable to perform his job. Military family leave for up to 12 weeks because of a qualifying exigency or 26 weeks to care for a service member is also included.
- **5.2** If the FMLA job protection is used for the purpose of the birth, adoption, placement for adoption or foster care of a child, and both spouses work for the Town, a combined total of 12 work weeks of FMLA job protection may be used during a 12 month period.
- **5.3** Whenever possible, an employee must give 30-days advance notice of the need to use FMLA job protection. This notice should also include the employee's intent regarding his return to work. When circumstances do not allow advance notice, the employee must notify his supervisor as soon as physically possible.
- **5.4** Supervisors or employees must invoke FMLA job protection by sending a request for Family and Medical Leave to Human Resources. The Human Resources representative will send the appropriate packet to the affected employee.

- 5.5 Any absence that would qualify for coverage under the FMLA may be protected under such laws as the ADAA. Prior to issuing a corrective action or adverse employment decision, supervisors should consult with the Human Resource Director.
- 5.6 An employee granted FMLA job protection is required to first use paid, accrued leave sick time for which the employee is eligible and qualified. Paid leave used for FMLA will be counted in the 12-week total for the rolling year. Any accumulated FLSA compensatory time belonging to the employee must be used before unpaid leave under FMLA.
- 5.7 FMLA job protection to care for a seriously ill family member or due to the employee's own serious health condition may be used intermittently. The employee may also reduce hours based on the medical necessity. Military leave for up to 12 weeks because of a qualifying exigency or 26 weeks to care for a service member may also be used intermittently. FMLA leave for birth, adoption or foster care of a child does not qualify for an intermittent or reduced schedule leave.

Intermittent leave is taken in separate blocks of time because of a single illness or injury and may include leave for periods of one hour or more up to several weeks. Examples of intermittent leave include leave taken on an occasional basis for medical appointments or leave taken several days at a time spread over a period of months, such as for chemotherapy. A reduced work schedule leave is a leave that reduces an employee's usual number of hours per work week or work day, generally from full-time to part-time. In those situations where intermittent leave or a reduced work schedule leave is approved, the hours missed from the employee's usual work week will be charged against the FMLA 12-week entitlement on a pro-rata basis. An intermittent leave example is as follows: If an employee who normally works five days a week takes off one day, the employee would have used 1/5<sup>th</sup> of a week of FMLA leave. Reduced work schedule examples would be: An employee who works half-days on a reduced schedule will have used 1/2 of a FMLA leave week; an employee who normally works 30 hours per week, but works a reduced schedule of 20 hours per week will have used 1/3<sup>rd</sup> of a FMLA week.

- 5.8 FMLA job protection resulting from an employee's own or his family member's serious health condition will require the employee to furnish medical certification substantiating the health condition at the time the leave is requested and periodically thereafter.
- 5.9 If FMLA leave without pay is granted by the Town under the Family and Medical Leave Act, the employee is responsible for paying his portion of insurance premiums, if any, and the Town will continue to pay its share.
- 5.10 An employee in a leave without pay status for more than one pay period does not accrue benefits such as sick and vacation leave, and the time in a leave without pay status will not be counted toward the employee's service time.
- 5.11 After consultation with the Human Resource Director or Town Manager a Department Head may temporarily reassign an employee on an intermittent or reduced work schedule leave to an alternate position which better accommodates the recurring periods of leave.
- 5.12 An employee who uses FMLA job protection is entitled to be returned to the same position that the employee held when the leave started, or to an equivalent position with equivalent



benefits, pay, and other terms and conditions of employment. The Town cannot guarantee that an employee will be returned to his or her original job. If at the end of the 12-week FMLA entitlement the employee is unable to return to work, the department may terminate the employee. The employee may be eligible for a disability retirement. A determination as to whether a position is an "equivalent position" will be made by the Town of Carolina Beach.

- 5.13 The Town may discipline or dismiss an employee on an intermittent or reduced work schedule leave for poor performance or for excessive absenteeism unrelated to the basis for the FMLA leave.
- 5.14 A reduced work schedule which does not make use of any paid leave to make up the difference between the regular schedule and the temporary work schedule may result in a pro-rate reduction in the employee's paid leave accrual and benefits.
- 5.15 Exempt employees who use unpaid FMLA leave on an intermittent or reduced work schedule basis will have their salary reduced according to the hours of the leave without pay used, without compromising their exempt status under the Fair Labor Standards Act.
- 5.16 Continuation of retirement contributions is not mandated by the FMLA. All terms and conditions relevant to participation in the retirement system shall be in accordance with the rules established by NCLGERS or the NC LEO Retirement Fund.
- 5.17 Vacation and sick leave accruals and retirement service credit will continue during any period of paid leave. However, no leave or retirement service credit will accrue during any period of leave without pay.
- 5.18 If there is a reduction in force while the employee is on FMLA leave, and the employee would have lost his position if not on leave, except as provided for under the Reduction in Force policy, there is no obligation to restore the employee to his former or equivalent position.
- 5.19 It is the Town's responsibility to designate leave as FMLA leave. This obligation supersedes an employee's desire to use his FMLA entitlement. The key to designating FMLA leave is the qualifying reason(s), not the employee's decision or reluctance to use FMLA leave. The designation must be based on information obtained from the employee or employee's representative.
- 5.20 The Human Resource Director will review, investigate and resolve suspected cases of bad faith, fraud or abuse of the FMLA leave policy. Abuses of the policy may result in, but are not limited to, revocation of the leave, refusal to restore the employee to his job; recovery of the Town costs for paid leave and insurance benefits, and disciplinary action up to and including termination.
- 5.21 Outside employment while on FMLA leave will be treated the same as when an employee is discovered to have outside employment while on any other paid or unpaid leave.
- 5.22 An employee who will not be returning to work at the conclusion of FMLA leave must notify the Town in writing as soon as practicable. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

## 6.0 PROCEDURES

- 6.1 When an employee needs to be absent from work because of a potential FMLA qualifying event as defined in Section 4.4 above, he will notify his supervisor of his need to be absent. The employee should indicate his need for the FMLA job protection but the employee has the FMLA job-protection rights whether or not he indicates the leave is FMLA, or if the absence qualifies for FMLA.
- 6.2 When the employee notifies the supervisor of a potential FMLA event, or after the employee has been absent for five business days, the supervisor will notify Human Resources so the FMLA packet can be sent to the employee. The FMLA packet is sent by US Mail.
- 6.3 Once the employee receives the FMLA packet of information, he will follow the instructions contained in the packet in order to ensure receipt of FMLA job-protection. If he does not respond to the packet or follow the instructions, he is not protected by FMLA, because Human Resources is not able to determine that a health issue exists in order to qualify for FMLA job protection. In this event, the absence may be classified as unauthorized leave and subject to the corrective action policy.
- 6.4 Where leave must begin prior to the confirmation of an FMLA qualifying event, the leave will be provisionally designated and so communicated to the employee in writing. Upon receipt of the requested information or medical certification which confirms that the leave either is or is not for an FMLA reason, the provisional designation will either be withdrawn or made final by providing written notice to the employee.
- 6.5 For leave related to a serious health condition or childbirth, the employee is required to provide medical certification from the employee's or the family member's qualified healthcare provider.
- 6.6 The Town may require a second medical opinion at the Town's expense. In the case of conflicting opinions, the opinion of a third health care provider, agreed upon by both the employee and the Town and paid for by the Town, shall be final.
- 6.7 At least five working days before the employee's scheduled return to work, the employee must contact their supervisor to inform them of the employee's intent to return to work. The supervisor must also discuss the return to work with Human Resources in order to assess fitness for duty, discuss any limitations placed on the employee, if any and determine the need for a Return to Work evaluation. The cost for a fitness-for-duty certification will be done at the employee's expense. If the employee fails to provide such certification, reinstatement will be delayed until the employee complies. If the certification is not submitted within 15 calendar days of the request, reinstatement may be denied. The Town reserves the right to have the employee examined by another health care provider at the Town's expense.
- 6.8 An employee on FMLA must continue to pay premiums on health and dental insurance plus any optional benefit products in a timely manner, if continued coverage during the leave period is desired.
- 6.9 The employee on FMLA is responsible for providing periodic reports to Human Resources regarding intent to return to work.

- 6.10 The employee must make reasonable efforts to schedule any medical treatments so as to not unduly disrupt the operations of the employee's working unit. During the course of the treatment, the employee may be required to provide certification from the treating health care professional of the unavailability of treatment during non-work time, or at times that are less disruptive to the operations of the employee's work unit.
- 6.11 The Town may require an employee to certify the family relationship if the need for leave is pursuant to adoption, foster care placement, birth of a child, or to care for a child or the employee's parent.
- 6.12 An employee unable to return to work following the planned conclusion of FMLA leave must contact the Human Resource department and provide reasonable notice of the need to extend any leave under any leave programs that may be available to the employee.

## **7.0 APPENDIX/APPENDICES**

- 7.1** See the FFCRA Appendix

## FFCRA APPENDIX

**On March 18, 2020 Congress passed and President Trump signed into law the Families First Coronavirus Response Act (“the Families First Act”). The Families First Act includes temporary provisions to expand the Family and Medical Leave Act (“FMLA”) known as the Emergency Family and Medical Leave Expansion Act (“Emergency FMLA”) and includes the Emergency Paid Sick Leave Act.**

### **Emergency Family Medical Leave Expansion Act**

- Eligibility: All employees that have worked for at least 30 days.
- Duration: Protected 12 weeks of leave in any rolling 12-month period for all reasons combined.
- Reason for Leave: The Emergency FMLA provides a new qualifying reason for leave. Leave may be taken if an employee is unable to work (or telecommute) due to a need for leave to care for his or her son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider<sup>1</sup> of such son or daughter is unavailable due to an emergency with respect to COVID-19 as declared by a federal, state or local authority.
- Paid Amounts: Leave taken under the Emergency FMLA’s new qualifying reason is paid leave after a ten-day waiting period, i.e., the first ten days are unpaid. You may choose to use any other accrued paid leave during the first ten days of Emergency FMLA leave. After ten days, the rate of pay will be calculated by multiplying the numbers of hours an employee would normally be scheduled to work (or pro-rata hourly rate for exempt employees) each week by an amount that is “not less than 2/3 of an employee’s regular rate of pay” as that term is used by the Fair Labor Standards Act. Under Emergency FMLA leave, the maximum amount is \$200/day or

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<sup>1</sup> “Child care provider” is one who provides child care services on a regular basis and receives compensation for those services.

\$10,000 total. Employees cannot supplement with accrued leave.

Expiration: Emergency FMLA is available for as long as a federal, state or local COVID-19 state of emergency is in effect and in any event only through December 31, 2020.

### **Emergency Paid Sick Leave.**

Eligibility: All employees who work for the Town.

Duration: 80 hours–protected paid leave, in addition to any other employer provided paid time off, for full-time employees. Part-time employees are entitled to emergency paid sick leave in an amount equal to the average number of hours worked over a two-week period.

Reason for Leave: An employee may take emergency paid sick leave if he or she is unable to work (or telecommute) because:

- (1) the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19;
- (2) the employee has been advised by a healthcare provider to self-quarantine because he or she is infected with or has been exposed to COVID-19 or because he or she is at high risk of complications from COVID-19;
- (3) the employee is showing symptoms of COVID-19 and is seeking but has not yet received a medical diagnosis;
- (4) the employee is caring for someone subject to a federal, state or local quarantine or isolation order related to COVID-19 or the employee has been advised by his or her healthcare provider to self-quarantine for COVID-19 related reasons; or
- (5) the employee is caring for his or her son or daughter because his or her child's school or childcare facility

has been closed or the childcare provider<sup>2</sup> is no longer available because of a COVID-19 related reason.

(6) the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Paid Amounts: Employees needing emergency paid sick leave for reason 1, 2 and 3 will receive the full amount of emergency paid sick leave with a maximum amount of \$511/day or \$5,110 total per employee. Employees needing sick leave for reasons 4 and 5 will receive 2/3 of the calculated payment with a maximum amount of \$200/day or \$2,000 total per employee. Employees cannot supplement with accrued leave.

Expiration: Emergency paid sick leave expires December 31, 2020.

\*All other Town or Department sick leave policies not in conflict with the above remain in effect. Employees needing to take advantage of the FFCRA MUST contact Human Resources to be provided with the necessary forms and documents and must comply with all provisions of the Town's FMLA policy not in conflict with the FFCRA.

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<sup>2</sup> "Child care provider" under the emergency paid sick leave provision of the Families First Coronavirus Response Act does not include the requirement of receiving compensation as is required under the Emergency FMLA.

Town of Carolina Beach
Families First Coronavirus Response Act (FFCRA)

Emergency Family Leave Expansion Act Application

In accordance with the Town of Carolina Beach policy on FMLA and the Emergency Family Leave Expansion Act, which goes into effect April 1, 2020, I hereby request Emergency Family Leave for the following reason:

- I am responsible for the care of my minor son or daughter who is younger than age 18, because their school and/or day care is closed (proof related to closing is attached)
I am requesting this Emergency Family Leave effective: \_\_\_\_\_

By signing below, I understand and acknowledge all of the following:

- 1. The first 10-days of Emergency Family Leave is unpaid, and I may choose to apply for Emergency Paid Sick Leave under the Families First Coronavirus Response Act, which I will apply for under a separate application.
2. I may choose to use my accrued compensatory time, sick time or vacation time for the 10-days of unpaid Emergency Family Leave instead of applying Emergency Paid Sick Leave under the Families First Coronavirus Response Act. It is solely my responsibility to complete the necessary Request for Leave documentation or provide other like documentation such as an email to Payroll (sara.hartman@carolinabeach.org), in order to notify Payroll of how I plan to be compensated for the 10-day unpaid period of Emergency Family Leave.
3. Following the first 10-days unpaid under this policy, Emergency Family Leave will compensate me at 2/3 (66.67%) of my regular rate of pay for up to 10-weeks or as long as a federal, state, local COVID-19 state of emergency is in effect. My pay will be capped at \$200 per day (or \$10,000 in aggregate). I CANNOT supplement Emergency Family Leave with accrued leave of any kind.
4. Emergency Family Leave time will count towards my FMLA entitlement of 12 weeks in a rolling 12-month period for all FMLA qualified reasons.
5. Emergency Family Leave may be taken intermittently. I will coordinate my work and Emergency Family Leave schedule with my immediate supervisor. I am responsible for clearly noting my Emergency Family Leave time and my hours of work, if any, on my timecard.
5. The employment tax provisions of the FFCRA are found in the legislation. The Town will comply with these rules.
6. All other provisions of the Town of Carolina Beach FMLA policy apply.
7. This policy is in effect for as long as a federal, state or local COVID-19 state of emergency is in effect, and in any event only through December 31, 2020.
8. My request for Emergency Family Leave is conditionally approved. Human Resources will write to me further regarding any clarification needed on my application and my approval status.

Name: \_\_\_\_\_ Signature: \_\_\_\_\_
Date Signed: \_\_\_\_\_ Best Phone Number : \_\_\_\_\_

Note: This Document is either printed on pink paper or is noted a pink in color

Town of Carolina Beach
Families First Coronavirus Response Act (FFCRA)

Emergency Paid Sick Leave Act Application

In accordance with the Town of Carolina Beach policy on FMLA and the Emergency Family Leave Expansion Act, which goes into effect April 1, 2020, I hereby apply for Emergency Paid Sick Leave for the following reason:

- 1. I am subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. I have been advised by my healthcare provider to self-quarantine because I am infected with or have been exposed to COVID-19 or because I am at high risk of complications from COVID-19;
3. I am showing symptoms of COVID-19 and am seeking, but have not yet received, a medical diagnosis;
4. I am caring for someone subject to a federal, state or local quarantine or isolation order related to COVID-19 or who has been advised by their healthcare professional to self-quarantine for COVID-19 related reasons;
5. I am caring for my minor son or daughter who is younger than age 18, because their school and/or day care is closed or the childcare provider is no longer available because of a COVID-19 related reason (proof related to closing is required.)
6. I am experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of Treasury and Secretary of Labor.

I am requesting this Emergency Paid Sick Leave effective: \_\_\_\_\_.

By signing below, I understand and acknowledge all of the following:

- 1. Emergency Paid Sick Leave will pay me up to 80 hours of my regular rate of pay according to the following reasons:
Reasons 1 – 3 As Shown Above – 100% of my regular rate of pay, capped at \$511/day or \$5,110 aggregate
Reasons 4 – 6 As Shown Above - 2/3 of my regular rate of pay (66.67%) capped at \$200/day or \$2,000 aggregate
2. It is solely my responsibility to complete the necessary Certification of a Healthcare Professional or provide other like documentation either in person or by email to Payroll (sara.hartman@carolinabeach.org) or Human Resources at (holly.brooks@carolinabeach.org), in order to certify my need for Emergency Paid Sick Leave. This is confidential HIPAA protected information and will be treated as such.
3. I CANNOT supplement Emergency Paid Sick Leave with accrued leave of any kind.
4. Emergency Paid Sick Leave may be taken intermittently only for Reason 5 shown above. I will coordinate my work and Emergency Paid Sick Leave schedule with my immediate supervisor. I am responsible for clearly noting my Emergency Paid Sick Leave time and my hours of work, if any, on my timecard.
5. The employment tax provisions of the FFCRA are found in the legislation. The Town will comply with these rules.
6. All other provisions of the Town of Carolina Beach Personnel Policy and Procedures apply.
7. This policy is in effect for as long as a federal, state or local COVID-19 state of emergency is in effect, and in any event only through December 31, 2020.
8. My request for Emergency Paid Sick Leave is conditionally approved. Human Resources will write to me further regarding any clarification needed on my application and my approval status.

Name: \_\_\_\_\_ Signature: \_\_\_\_\_
Date Signed: \_\_\_\_\_ Best Phone Number : \_\_\_\_\_

Note: This Document is either printed on yellow paper or is noted a yellow in color



## FFCRA APPENDIX

**On March 18, 2020 Congress passed and President Trump signed into law the Families First Coronavirus Response Act (“the Families First Act”). The Families First Act includes temporary provisions to expand the Family and Medical Leave Act (“FMLA”) known as the Emergency Family and Medical Leave Expansion Act (“Emergency FMLA”) and includes the Emergency Paid Sick Leave Act.**

### **Emergency Family Medical Leave Expansion Act**

- Eligibility: All employees that have worked for at least 30 days.
- Duration: Protected 12 weeks of leave in any rolling 12-month period for all reasons combined.
- Reason for Leave: The Emergency FMLA provides a new qualifying reason for leave. Leave may be taken if an employee is unable to work (or telecommute) due to a need for leave to care for his or her son or daughter under 18 years of age if the school or place of care has been closed, or the child care provider<sup>1</sup> of such son or daughter is unavailable due to an emergency with respect to COVID-19 as declared by a federal, state or local authority.
- Paid Amounts: Leave taken under the Emergency FMLA’s new qualifying reason is paid leave after a ten-day waiting period, i.e., the first ten days are unpaid. You may choose to use any other accrued paid leave during the first ten days of Emergency FMLA leave. After ten days, the rate of pay will be calculated by multiplying the numbers of hours an employee would normally be scheduled to work (or pro-rata hourly rate for exempt employees) each week by an amount that is “not less than 2/3 of an employee’s regular rate of pay” as that term is used by the Fair Labor Standards Act. Under Emergency FMLA leave, the maximum amount is \$200/day or

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<sup>1</sup> “Child care provider” is one who provides child care services on a regular basis and receives compensation for those services.

\$10,000 total. Employees cannot supplement with accrued leave.

Expiration: Emergency FMLA is available for as long as a federal, state or local COVID-19 state of emergency is in effect and in any event only through December 31, 2020.

### **Emergency Paid Sick Leave.**

Eligibility: All employees who work for the Town.

Duration: 80 hours–protected paid leave, in addition to any other employer provided paid time off, for full-time employees. Part-time employees are entitled to emergency paid sick leave in an amount equal to the average number of hours worked over a two-week period.

Reason for Leave: An employee may take emergency paid sick leave if he or she is unable to work (or telecommute) because:

- (1) the employee is subject to a federal, state or local quarantine or isolation order related to COVID-19;
- (2) the employee has been advised by a healthcare provider to self-quarantine because he or she is infected with or has been exposed to COVID-19 or because he or she is at high risk of complications from COVID-19;
- (3) the employee is showing symptoms of COVID-19 and is seeking but has not yet received a medical diagnosis;
- (4) the employee is caring for someone subject to a federal, state or local quarantine or isolation order related to COVID-19 or the employee has been advised by his or her healthcare provider to self-quarantine for COVID-19 related reasons; or
- (5) the employee is caring for his or her son or daughter because his or her child’s school or childcare facility

has been closed or the childcare provider<sup>2</sup> is no longer available because of a COVID-19 related reason.

(6) the employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Paid Amounts: Employees needing emergency paid sick leave for reason 1, 2 and 3 will receive the full amount of emergency paid sick leave with a maximum amount of \$511/day or \$5,110 total per employee. Employees needing sick leave for reasons 4 and 5 will receive 2/3 of the calculated payment with a maximum amount of \$200/day or \$2,000 total per employee. Employees cannot supplement with accrued leave.

Expiration: Emergency paid sick leave expires December 31, 2020.

\*All other Town or Department sick leave policies not in conflict with the above remain in effect. Employees needing to take advantage of the FFCRA MUST contact Human Resources to be provided with the necessary forms and documents and must comply with all provisions of the Town's FMLA policy not in conflict with the FFCRA.

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<sup>2</sup> "Child care provider" under the emergency paid sick leave provision of the Families First Coronavirus Response Act does not include the requirement of receiving compensation as is required under the Emergency FMLA.



## **AGENDA ITEM**

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Noel Fox

Department: Attorney

### **Consider Approving the Electronic Meeting Policy as Drafted by the Town Attorney**

**ACTION REQUESTED:** Review and consider approving the Electronics Meeting Policy as presented.

**ATTACHMENTS:** [Electronic Meeting Policy 2020](#)

**RULES OF PROCEDURE  
FOR ELECTRONIC MEETINGS**

The Town of Carolina Beach Town Council (“Council”) recognizes that Article 33C of Chapter 143 of the North Carolina General Statutes contemplates that official meetings of public bodies, such as the Council, may take place by electronic means. In fact, §143-318.10(d) of the North Carolina General Statutes states that an official meeting can, “mean[] a meeting, assembly, or gathering together at any time or place or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon or otherwise transacting the public business within the jurisdiction, real or apparent, of the public body.” The Rules of Procedure for Electronic Meetings are a guide for how Council will conduct meetings featuring electronic participation.

1. Conditions Necessary for Electronic Meetings

Council agrees that electronic meetings will only be permitted when any of the following entities declare that a state of emergency or a disaster exists in an area including the Town of Carolina Beach, New Hanover County, North Carolina, the federal government of the United States of America or the Government of the State of North Carolina through the Governor of the State of North Carolina or other method permitted by Chapter 166A of the North Carolina General Statutes. The state of emergency declaration or disaster declaration must be related to a distinct event that reasonable persons can agree directly affects Council. If no state of emergency or disaster exists, then the Electronic Rules may not be used.

2. Definition of an Electronic Meeting

An Electronic Meeting is any meeting where one or more members of the Council participates through telephonic communication, or a telecommunications application which allows simultaneous communication by multiple parties, or other similar means that allows the members of the Council to hold a meeting without all members being physically present in the same room.

3. Notice of Electronic Meeting

If an Electronic Meeting is necessary, a public notice of the electronic meeting shall be sent as part of any notice required by North Carolina General Statutes §143-318.12. The public notice, in addition to the information required by North Carolina General Statutes §143-318.12, shall provide:

- a. The location of the physical meeting (which is where any Councilmembers and Staff able to attend the meeting in person shall gather); and
- b. The location of where a member of the public, member of the media, or others, may listen to the Electronic Meeting in accordance with § 143-318.13 of the North Carolina General Statutes.

The notice shall be provided in the manner required by Article 33C of Chapter 143 of the North Carolina General Statutes. If the Electronic Meeting is being used for any part of a regular meeting that is on the meeting schedule adopted by the Council, then the information required above shall be provided in a separate notice to be provided in accordance with Article 33C of Chapter 143 of the North Carolina General Statutes. Any notice provided may also be posted on the bulletin board, website and social media accounts, if possible.

#### 4. Quorum

Councilmembers present in person or electronically, shall be included in the calculation for determining if a quorum exists. If a Council member who participates electronically withdraws from the meeting, the rest of the meeting may be completed provided there is still a quorum of the Council present either in person or electronically.

#### 5. Process of Opening Meeting

Immediately prior to opening the meeting, the Mayor, or other presiding officer shall communicate with the Councilmember(s) who is (are) participating electronically and ensure that he/she is prepared to go forward. From that time forward until the adjournment of the meeting, the communication line or application shall be kept open. At the start of the meeting, the Mayor, or other presiding officer shall state which Councilmembers are participating electronically.

#### 6. Voting and Discussion

Councilmembers present for the meeting through electronic means are eligible to vote for all items considered by the Council during the meeting. A member voting must indicate verbally with a "yes," "no," "yea," "nay," "or "abstain" (when that is permitted) such that the Clerk or her designee may record the vote. Prior to taking a vote on any issue, the Mayor, or other presiding officer shall inquire of the Councilmembers participating electronically if he or she has been able to adequately monitor the discussion, including comments from the public, if any, and shall allow those Councilmembers to make any comments he or she desires, if they chose to not avail himself or herself of the opportunity to discuss the matter before the vote. However, it is the responsibility of the member to gain the attention of the Mayor or the presiding officer in order to be recognized for discussion. A Councilmember attending through electronic means that withdraws from the meeting without being excused from further attendance shall not be considered an affirmative vote on items before Council. If a Councilmember attending

through electronic means becomes disconnected from the meeting, the Councilmember will not be counted as an affirmative or negative vote.

7. Minutes

The minutes of the meeting shall designate the name of each Councilmember who participated electronically, the nature of the electronic communication, and the duration of the Councilmember's participation.



## **AGENDA ITEM**

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Kim Ward

Department: Clerk

## **Approval of Meeting Minutes**

- BACKGROUND:** Please review attached meeting minutes and notify the Clerk of any changes.
- ACTION REQUESTED:** Consider approving the meeting minutes from February 25, March 16, March 17, March 18, March 20, March 23, and March 24.
- ATTACHMENTS:**
- [March 10, 2020 - Council Minutes](#)
  - [March 16, 2020 - Council Minutes](#)
  - [March 17, 2020 Workshop](#)
  - [March 18 2020 - Council Minutes](#)
  - [March 20, 2020 - Council Minutes](#)
  - [March 23 2020 - Council Minutes](#)
  - [March 24, 2020 - Council Minutes](#)



# CAROLINA BEACH

Regular Town Council Minutes  
Tuesday, March 10, 2020 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## **ASSEMBLY**

The Town of Carolina Beach Regular Town Council meeting was held on Tuesday, March 10, 2020, at 6:30 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### **1. MAYOR PIERCE CALLED THE MEETING TO ORDER FOLLOWED BY A MOMENT OF SILENCE AND THE PLEDGE OF ALLEGIANCE**

### **2. ADOPT THE AGENDA**

**ACTION:** Motion to adopt the agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

### **3. CONSENT AGENDA**

The following items were included on the consent agenda:

- a. Budget Amendments & Transfers as presented by the Finance Director
- b. Consider Setting a Public Hearing for April 14, 2020, to Consider a Conditional-Use Permit for a 12-Unit Planned Unit Development at 522 North 7th Street
- c. Resolution to Designate Applicant's Agents
- d. Approval of Meeting Minutes from 1/14/2020, 1/28/2020, and 2/11/2020

**ACTION:** Motion to adopt the consent agenda

Motion: Mayor Pierce

Vote: UNANIMOUS

### **4. SPECIAL PRESENTATIONS**

- a. Events Update

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator, reported the following upcoming special events for March/April:

March 10, 2020

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- Steve Haydu St. Patrick's Lo Tide Run – March 14
- Carolina Beach Walk of Fame Ceremony – March 21
- "The Sandlot" Movie at Mike Chappell Park – April 3
- O'Neill East Coast Grom Tour – April 18-19
- Tinted Turtle Trot 5K & 1-Mile Run – April 19
- Community Safety & Wellness Workshop – April 21

Mr. Murphy also gave an update on plans for Warner Bros. Television filming "The Lost Boys" in Carolina Beach. Preparation begins on March 16, with filming scheduled in the Boardwalk area March 19-20 and March 25-26 and filming at High Tide Lounge and the North End area March 23-25.

#### c. Manager's Update

Mr. Oakley gave an update on current and upcoming projects, including the following:

- Budget schedule for FY 2020-2021, including these dates: a public hearing for nonprofit funding requests on March 10, a public hearing for community input on April 14, budget workshops on April 28 and May 5, a public hearing on May 12, a Town Council workshop on May 26, and budget adoption on June 9
- Carolina Beach Marina, including FEMA, a \$3 million Golden LEAF Foundation grant application with no match required, current efforts to advertise and fill slips using the Dockwa online system, and improvements such as the addition of a dock box and new pump station
- Hamlet public restrooms and Ocean Rescue temporary facilities that will be in place by early April until construction on the permanent facilities can begin in September
- COVID-19 (coronavirus) emergency preparedness, including the declaration of a state of emergency by Gov. Roy Cooper
- Census 2020 marketing efforts, including a logo that can be used on the Town's billboard

#### 5. PUBLIC COMMENT

Kevin Fritzingler of 1319 Canal Drive asked if there had been any progress since the last meeting regarding abandoned sailboats and other watercraft in the harbor as well as people living on them. Mr. Oakley said the matter was discussed at a workshop a couple of weeks prior but that he was not aware of any action. Mr. Fritzingler said he would continue to come before Council each month to inquire about the status. Mayor Pierce said there is a harbor master now who would be monitoring the situation. Council Member Barbee said based on the last meeting, he was under the impression the Town was waiting on some enabling legislation from Raleigh that hadn't yet happened. Ms. Fox said this is correct and that she has been working with Town staff to develop an ordinance that will be discussed at the March 17 workshop.

Ben Say of 608 Charlotte Avenue said due to street closures for construction, Waste Management had not made the pickup on his street that day. He asked what could be done about this. Assistant Town Manager Ed Parvin told him the process is to report it via the Town's website or call with his address so the Town can direct Waste Industries to make the pickup. Mayor Pierce said Town staff would make a note of it now and handle it.

Skip Sprague of 102 Island Palms Drive said he wanted to talk about an item on the consent agenda, the 12-unit Planned Unit Development at 522 North 7th Street. He said the people of his neighborhood feel that it does not fit in there due to the number of units, small driveway, and impact on traffic. Mayor Pierce asked if this was regarding a conditional-use permit application. She explained that anytime there's a conditional-use permit application on the agenda, Council members cannot have any communication with the public about the issue until it's presented to Council or it will disqualify them from voting on it. Ms. Fox said that item will be heard next month and it is a conditional-use permit application, so Council should not hear anything about it during tonight's public comment.

## **6. PUBLIC HEARINGS**

a. Public Hearing to Consider Requests for Funding from Nonprofit Organizations out of the General Fund

**ACTION:** Motion to open the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

The following nonprofit representatives spoke briefly to Council about their requests:

- Jarvis Wise of Carolina Beach Inlet Association, requesting \$7,500 to implement educational goals
- Darlene Bright of Federal Point Historical Preservation Society, requesting \$9,000 for operation of the Federal Point History Center
- Denise Anderson and Joey Needham of Friends of Felines, requesting \$2,000 for continuing to trap, spay/neuter, vaccinate, and release feral cats on Pleasure Island
- Frances Massey of Islands of Lights, requesting \$5,000 for new displays and events
- Nancy Busovne of Pleasure Island Sea Turtle Project, requesting \$1,100 per month from May 1 through the end of nesting season (August) for supplies, nesting materials, ATV rentals, gas, and other necessities for running the project all summer

Mayor Pierce asked if there was any public comment regarding the nonprofit requests. No one else spoke. She explained that there would be no vote on the requests tonight and that they would be further discussed during the budget process.

**ACTION:** Motion to close the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

b. Consider a Conditional Use Permit located at 1230 N. Lake Park Blvd for a Business Planned Unit Development – Applicant: Bryant Real Estate Investments, LLC

The following were sworn in by the Town Clerk: Miles Murphy, Attorney Colin Tarrant, and applicant Mark Bryant

Mayor Pierce: OK, and at this time I'll make a motion to open the evidentiary hearing. All in favor?

Council: Aye (motion passed unanimously).

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Mayor Pierce: And I'm gonna ask our Town Attorney Noel Fox to make some comments on the process.

Ms. Fox: Mayor, Council, as you know, this is a quasi-judicial hearing. It means it's an evidentiary hearing much like we would have in a court of law. That means that you as a board have to follow very specific procedures required by state law in making your decisions tonight. But while the rules of evidence don't strictly apply in these types of hearings, we do try to adhere to the rules of evidence. All the testimony that you're going to hear tonight must be competent, relevant, and substantial. You are required to make your decision on competent, relevant, and substantial evidence that is in the record. If you're speaking as a witness, please focus on the facts and standards, not personal preference or opinion. If you intended to testify, please do not offer unsupported opinions or speculation because the Council cannot consider this testimony. You must limit your testimony to relevant, competent, substantial, and material evidence. Competent evidence is not opinion testimony of lay witnesses about the use of the property in a particular way and how it would affect the value of other property, the increase in vehicular traffic resulting from a proposed use and how it would pose a danger to public safety, nor matters about which only expert testimony would generally be admissible in the rules of evidence. Before we begin the hearing, the parties before you tonight are entitled to have this matter adjudged by an impartial decision maker. If you have a conflict of interest, you must not participate. A conflict of interest exists if you have a close familial, business, or other relationship with an affected person or a financial interest in the outcome of this matter. Does any member of the board have any conflict partiality to disclose and recusal to offer?

Council: No.

Ms. Fox: Does any board member have any ex parte communications to disclose?

Council: No.

Ms. Fox: Mr. Barbee?

Council Member Barbee: Not on this one.

Ms. Fox: Oh, OK. Thank you.

Council Member Barbee: Next one.

Ms. Fox: All right. All right.

Council Member Barbee: I'm a problem child.

Mayor Pierce: OK. All right, so we will have our staff presentation.

Ms. Fox: Oh, I'm sorry. I wasn't finished.

Mayor Pierce: I was wondering.

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Ms. Fox: Sorry, my bad. Is there anybody for this matter other than the applicant who believes that they have a have legal standing to participate as a party in this matter?

Mayor Pierce: And Ms. Fox, can you explain what that is because this is a little different?

Ms. Fox: Yes.

Mayor Pierce: The standing.

Ms. Fox: Parties that have standing have to be able to show that they have special damages, so we have had one hearing in the 12 years that I've been the counsel, it was January 14<sup>th</sup>, where we had a standing hearing. Generally that is not something we address, but I thought I would ask. So seeing nobody, I would say take it away, Mayor.

Mayor Pierce: OK.

Miles Murphy, Planner for the Town of Carolina Beach: Yes, ma'am. Good evening, Mayor, Council. Happy to be in front of you. Is this the first time for 2020? I really I can't remember. No? Did one already?

Jeremy Hardison, Planning Director for the Town of Carolina Beach: January.

Mr. Barbee: Were you not here for the all-nighter?

Mr. Murphy: You know, I mean, no, me personally in front of y'all. Yeah, I think thankfully I was able to skip that one. Perks of being a little lower on the totem pole, I guess. All right, I'm here to present a conditional-use permit for a Planned Unit, Business Planned Unit Development at 1230 North Lake Park Boulevard for you this evening. First of all, we're just gonna take a nice little look here at where 1230 North Lake Park Boulevard is, if anyone is unfamiliar. This is what the overall site plan is going to be for the project. First of all, have you point out that in the Highway Business, Planned Unit, Business Planned Unit Developments are permitted by conditional-use permit. They are permitted with a no max density maximum 60 percent lock coverage 50 feet in height standard setback to the Highway Business District. What you see in the center of your screen are the parking calculations related to the project. They have two office spaces and warehouse space being proposed, which requires a total of 22 spaces for office space and one space for the warehouse parking. The height of the proposed structure is a maximum of 24 feet at this time, and the lot is 39,799 square feet, giving them plenty of space to accommodate both of these structures. You can also see on the site plan that the Planned Unit Development for a business park here requires a 10-foot landscape buffer as well as fencing buffering it from any residential properties. In addition, they have 25 feet on the left, on the right, and I believe and a 25 feet in the rear, but I have that on an upcoming slide so we can verify that. Does anyone have any questions about the site plan while we're looking at it?

Council Member Barbee: I just want to make sure I have my bearings.

Mr. Murphy: Yes, by all means.

Council Member Barbee: So the offices at the top of your draft that are being built, that is on

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the property between that front building, and I think there's two adjoining homes back there?  
Mr. Murphy: Yes. So if we go, go back to the previous slide here, this is empty space currently.

Council Member Barbee: Right.

Mr. Murphy: And it's gonna be transitioned to office, office and warehouse.

Council Member Barbee: OK, I got it. Just wanna make sure.

Mr. Murphy: Is that clear to everyone? All right, any other questions while on the site plan before we move on? OK. So these are some proposed elevation renderings so you can get an idea of what the structure will look like. You'll essentially have a three fronts there with two office space in the warehouse. The warehouse will feature a second level, hence the 24-foot height for the proposed structure. The warehouse is proposed to be primarily used for laundry space related to Bryant Real Estate's activities. So this is the current status of 1230 North Lake Park. They have their primary operating building. They have the large empty lot, and this is what it looks like from across Lake Park, just in case you haven't been driving in and out of town recently. The adjacent properties, we have commercial property to the north and south of it, and then we also have the Moorefield properties, which is primarily 101 and 103 Moorefield, which will actually back it, but there is 100 and 102. 102 is not featured in any of my photos. The four general conditions, Business PUDs are permitted in Highway Business, and the zoning standards are being followed by this project. The proposed CUP meets all the requirements, and they are not asking for any waivers or modifications. The proposed use conforms with the Highway Business zoning district and will be buffered from adjacent residential properties appropriately, and the future Land Use Plan includes this in the Commercial-1 District, which emphasizes Highway Business Corridor, which will allow for single-family residential but is mostly focused on commercial enterprises – retail, office, restaurant, entertainment, and services – which this proposed business PUD would be working towards. Ingress and egress will be off of Risley, the same way it is now. There may be slight modifications to the pre-existing parking, but that's simply to accommodate necessary handicap parking by the addition of a second business structure. Addition, they have met all of their parking for both the primary structure and the secondary structure they are proposing. Trash service will not be altered. Stormwater and utilities will be dealt with by the in-ground system they already have in place, and anything else will be directed towards Risley Road, but they should they believe they have enough stormwater already in place from their initial development. There will be a minimum of a 10-foot landscaping buffer around the second building, which is proposed. They already have 5 feet or more of landscaping around the rest of the property from initial development. The, there is no additional signage proposed at this time. Any signage they would propose would just have to come back to the Town for a general signed permit and would be evaluated at that time. And there is no required yard or open space beyond general zoning requirements for a PUD, so we're looking at a minimum of 15 between structures, which they meet, a minimum of 10 percent open space, which they meet. They're below 60 percent lot coverage given the size of that lot, and they their front setback for the secondary structure is substantial. Their rear is 25 feet of the required 20, and their sides are both 25 feet of the required 12 and a half and 7 and a half. So staff recommends the approval of this proposed business CUP, and Planning & Zoning voted 5-0 in favor of the approval with the proposed business CUP. I'd be happy to answer any additional questions you may have as well as I believe the applicant is here tonight as well.

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Mayor Pierce: Any questions for Miles?

Council Member Garza: I have none.

Mayor Pierce: Would the applicant like to address Council?

Mr. Tarrant: Good evening, Mayor, members of the board. My name is Colin Tarrant. I'm an attorney with Block, Crouch & Keeter in Wilmington. I'm here on behalf of the applicant, Bryant Real Estate. It's our application for a conditional-use permit for a Business Planned Unit Development. As staff has pointed out, and I don't need to basically repeat everything that staff said, is that we've satisfied all the requirements as laid out in the ordinance, the specific requirements in the ordinance that deal with the Business Planned Unit Development as well as the general requirements that are incorporated into the ordinance and laid out in the general statutes of North Carolina. We would at this time like to request that the staff's report be entered into the record, if there's no objection to that.

Mayor Pierce: OK.

Mr. Tarrant: Thank you. I'd also like to point out that Mr. Mark Bryant is here on behalf of the applicant. He's available to answer any questions that any of you may have as it pertains specifically to the project itself, any of his plans for that property he'll be happy to answer any questions that you may have. Mr. Phil Tripp is also here with Tripp Engineering. He's able to answer more of the technical questions if the board would like to ask any of the technical questions that pertain to the proposed project that we stand before you here today. As I've stated, we meet the requirements, we've appeared before the Planning Board back in January. The Planning Board has voted unanimously to recommend approval to the board of the project. As I stated, we're happy to answer any questions you may have, and we respectfully request that you approve our application.

Mayor Pierce: Council, any questions?

Council Member Garza: I'm cool.

Council Member Barbee: I'm good.

Council Member Shuttleworth: I'm good.

Mr. Tarrant: Thank you.

Mayor Pierce: Would anyone from the public like to comment on this project? OK, well, I'll make a motion. Do we have any more questions for staff?

Council Member Garza: Nope.

Mayor Pierce: All right, I'll make a motion that we close the evidentiary hearing. All in favor?

Council: Aye (motion passed unanimously).

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Mayor Pierce: Council, discussion?

Council Member Barbee: I love it when they're clean like this one.

Mayor Pro Tem Healy: I just know around, I know there's a bunch of live oaks over there and part of it is the preservation of the live oaks. I love our trees, and I don't wanna see anything happen to those. Also, is the front of the building is that corrugated metal?

Mayor Pierce: Ms. Fox, can we have him come back up and answer that question after we've closed the hearing?

Ms. Fox: Yes. Well, you can reopen the evidentiary hearing.

Mayor Pierce: OK, we'll, we'll reopen the public hearing and have you come up and answer that question. All in favor?

Mayor Pro Tem Healy: I'm sorry about that.

Council: Aye (motion passed unanimously).

Mayor Pierce: Yeah, that's OK.

Mr. Bryant: So it is gonna be a pre-engineered metal building, the superstructure of it.

Mayor Pro Tem Healy: Right.

Mr. Bryant: The bottom of it we're trying to tie in the same architecture. There's gonna be an overhang to match the wraparound porch of our building, and then the bottom half is gonna have that oyster tabby shell stucco.

Mayor Pro Tem Healy: By the way, that building is magnificent.

Mr. Bryant: Thank you.

Mayor Pro Tem Healy: It's fantastic.

Mayor Pierce: And and to Jay's point, we would just ask that if any preservation of the treats could happen, we would ask that you be considerate of that.

Mr. Bryant: We are looking forward to that. Those three trees were the reason we bought the lot.

Mayor Pro Tem Healy: Right.

Mr. Bryant: We wanted to put the building behind there.

Mayor Pro Tem Healy: Fantastic.

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Mr. Bryant: In fact, when we went out to have a tree company come and do some aeration trying get make them more healthy, we had probably 14 people pull in. You can't cut these trees down.

Mayor Pro Tem Healy: Thank you for that.

Mayor Pierce: Awesome.

Mayor Pro Tem Healy: Appreciate that.

Mayor Pierce: Anymore questions while he is up here? OK, thank you. OK, I'll make a motion to close the public hearing. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: Well, I'll make a motion that we approve the CUP located at 1230 North Lake Park Boulevard for the Business Planned Unit Development for Bryant Real Estate, that it is consistent with the seven specific standards and four general conditions and consistent with the Land Use Plan. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: Thank you. Nice project, guys. We appreciate it.

c. Consider a Conditional Use Permit located at 1012 S. Lake Park Blvd for a 2-Unit Detached Business Planned Unit Development – Applicant: Ralph Roof

**ACTION:** Motion to interchange item 6c with item 7a because the applicant for item 6c was not yet present

Motion: Mayor Pierce

Vote: UNANIMOUS

The following were sworn in by the Town Clerk: Miles Murphy, George Pinkston, and applicant Ralph Roof

Mayor Pierce: OK, I'll make a motion that we open the evidentiary hearing. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: And staff presentation. Oh, Noel Fox.

Ms. Fox: Just, Mayor, Council, and for those who were here for the earlier item, this is a quasi-judicial hearing. All of the things that I said during the last hearing hold true for this. You must base your decision on competent, material, substantial evidence. Your witness, you must stick to the standards that are necessary for the applicant to prove. The fact finders must be impartial. Does any member of Council have any disclosure of an ex parte communication, bias, or conflict of interest to disclose?

Council Member Barbee: I think the answer to those three things is no, but I do need to disclose that I was in P&Z when not this CUP but a prior version of this came through, so I did hear that hearing, just FYI. And then the second piece is I am a board member for Carolina Sands, which is an adjacent property to this, but I do not have any financial interest in it per se and I do not have a biased opinion.

Ms. Fox: You have no fixed opinion and no bias?

Council Member Barbee: No.

Ms. Fox: Does any member of Council have any objection to Mr. Barbee participating as a fact finder in this matter?

Council Member Garza: Were you there during the entire presentation at P&Z?

Mayor Pierce: Do you mean this presentation or the first presentation?

Ms. Fox: That was a, that was a different CUP.

Council Member Barbee: OK, yes. Not for this one, no.

Mayor Pierce: OK, so we all heard the first one, so, I mean, this is a different CUP. And my other question would be with Carolina Sands, are they going to propose they have special standing?

Ms. Fox: That's the next question, yes, but for this moment, does any member of Council have an objection to Mr. Barbee participating?

Council Member Garza: Wouldn't we need to know that before we can say that answer?

Ms. Fox: No.

Council Member Garza: So, my thing is, is that nothing against Lynn, but if some reason we say Lynn can vote and then Carolina Sands says we want standings, now he does kind of have a part of that. See what I'm saying, Lynn?

Council Member Barbee: You're over my head legally, but.

Ms. Fox: He's indicated that he has served on the board of directors, that he doesn't have, hasn't had any ex parte communications that other than that, you have to vote on whether or not you think that that requires him to not hear this matter as an impartial fact finder.

Mayor Pierce: So, we'll do it like this. I'll make a motion to allow Councilman Barbee to vote on this CUP. All in favor?

Council (besides Council Member Garza): Aye.

Mayor Pierce: Opposed?

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Council Member Garza: Nay (motion passed 4-1).

Ms. Fox: OK, does the applicant have any objection to Mr. Barbee participating in this matter?

Mayor Pro Tem Healy: I just want to say I did attend the exact same P&Z meeting.

Ms. Fox: That is a different CUP. It is not before Council tonight.

Mayor Pierce: And you're gonna move into the special?

Ms. Fox: Yeah, is there any person in attendance that thinks they have standing to participate as a party in this matter of this evening? OK.

Mayor Pierce: All right, we'll hear from staff presentation.

Mr. Murphy: Good evening, everyone. Yes, ma'am, I do know. Just getting back to my OK face after all that. So I'll be presenting a second conditional-use permit for a Business Planned Unit Development located at 1012 South Lake Park Boulevard. As we are all familiar with, this is 1012 South Lake Park Boulevard. The entire property, including two back portions, are now owned by Ralph Roof. There was a recent recombination done as well as a purchase to increase the parking, which will be featured in the site plan that you will see in a moment. So these are the current conditions for 1012 Lake Park Boulevard South. To the south, we have an HOA property of Carolina Sands at 1016, and to the north we have a restaurant commercial property at 1006 Lake Park Boulevard South. Business Planned Unit Developments are permitted in neighborhood business as of a text amendment in the fall of 2019. They are permitted by conditional-use permit. They have to meet a maximum density of 8.7 units per acre and otherwise meet all the standard zoning requirements for that zone as well as a standard Business Planned Unit Development. This is the updated proposed site plan for the new CUP in front of you. There were substantial changes made from the initial, the largest being an increase or a decrease of the footprint of the proposed structure so that the full 10-foot landscape buffer could be incorporated at all areas of the property, which it was reasonably required. Additionally, the parking was modified to include some golf cart parking to deal with some tricky maneuvering situations. They still meet the required parking based on indoor and outdoor available seating. The landscape buffer has been provided in all reasonable areas. Handicapped access and access to the public right-of-way is sufficient for the building inspector. Drive aisles and parking meet standards in addition to having enough turn radius for a fire vehicle as well as an out-of-hours loading plan, and the lot size is 19,692 square feet, big enough to accommodate two units based on the unit density of neighborhood business. Any questions about the site plan while we're all looking at it? All right. Of the general conditions, the density falls within a standard for a neighborhood business and the proposed structure falls to setback requirements. The CUP meets all required conditions and specifications. The structure will conform with the neighboring properties, as it is in the Neighborhood Business District, and plans are for it to be, I believe, a restaurant use. The desired future land use of that area is Mixed Use-1, which is, you know, has a predominance of single-family duplex and commercial uses with lower intensity, such as restaurants and commercial services and retail and otherwise general zoning requirements. The seven specific standards ingress and egress will remain via Lake Park Boulevard South, and the parking design will accommodate two-way traffic. Parking is contained on the property. Trash will be collected via a refuse container, which is located on the site plan that I can point it out if you would like

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me to. Utilities will be standard through Duke and the Town, as there are existing on on, and new parking improvements require the grading of the lot so that no stormwater collects on the rear property and all stormwater is directed towards Lake Park Boulevard South. There's currently a little bit of water collection back there, and stormwater wants that to change as we go through this process and that's the plan at this time. There is a 10-foot landscape buffer required for this development, and that is all being provided in every reasonable area. No signage is proposed at this time, and any new signage will have to come back through the Planning Department and meet the required ordinance standards. The property must meet the 15 feet between structures, 10 percent of open space, 40 percent of lock coverage, and all other standard zoning. They have a 20-foot front setback. They're very far in the rear and are featuring a 10-foot side setback to accommodate the full extent of the landscape buffer. Staff recommends the approval with the proposed business CUP, and Planning & Zoning voted 5-0 in favor of the approval with the proposed business CUP. I'd be happy to answer any of your questions.

Mayor Pierce: Any questions for staff? Would the applicant like to present?

Ms. Fox: Just for the record, the gentleman here, Mr. Roof, he is your agent?

Mr. Roof: Yes.

Mayor Pierce: Yes.

Ms. Fox: Thank you.

Mr. Pinkston: Mayor, Council, good evening. My name is George Pinkston. I represent Mr. Ralph Roof, the applicant, tonight. I have a residence here on Pleasure Island. I have an architectural planning company in Wilmington, North Carolina. We have made every effort, as Miles has presented, to meet the required zoning ordinance staff recommendations, commission, and the previous Council and Mayor recommendations. I simply ask that you consider this and am here for any questions that you may have, so thank you.

Mayor Pierce: Any questions for the applicant? Thanks, George. Would anyone from the public like to speak on this CUP? OK, I'll make a motion to close evidentiary hearing. All in favor?

Council: Aye (motion passed unanimously).

Mayor Pierce: Discussion?

Mayor Pierce: I make a motion to approve the CUP for 1012 South Lake Park Boulevard. All in favor?

Council: Aye (motion passed unanimously).

Mr. Murphy: Have a good evening

Mayor Pierce: Thank you, Miles. You did very good tonight on both items.

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## 7. ITEMS OF BUSINESS

### a. 2020 Parking Rates and Fees

Mr. Parvin gave a presentation on proposed parking rates and fee changes. He also displayed an interactive parking program map that will be on the Town's website for everyone to access. Among the proposed changes are \$3 per hour in metered lots with a two-hour limit to encourage turnover for businesses in the Central Business District (CBD) (two-hour limit will stop at 8:00 PM), most parking lots charging \$5 per hour or \$20 per day (with the exception of three that will charge \$3 per hour and \$17 per day), \$200 for non-resident parking passes, and \$100 for a CBD employee parking pass to be used in any Town lot. The proposal is for the parking program to span April-November in 2020 and March-November in 2021.

Council Member Garza asked if the increases were a result of lost revenue from Freeman Park. Mr. Parvin said this was a complete separate issue and was meant to keep parking rates competitive. Mayor Pierce said it was necessary to keep from losing private lots to private operators who may be able to offer a higher cost share.

Mayor Pierce said her main issue was the proposed \$200 for a non-resident parking fee. She said she did not want to discourage nearby people from visiting the island and thought the current fee of \$150 was sufficient.

Council Member Shuttleworth said he also was unsure about the increase for non-residents as well as the increase from \$25 to \$100 for CBD employees. The current \$25 fee restricts parking to a single lot, which is often full. He proposed charging \$50 for a pass that allows CBD employees to park anywhere.

Council Member Garza said he was fine with charging \$100 to CBD employees.

Mayor Pro Tem Healy said he was also OK with \$100 for CBD employees. He said he think it's fair and that employers would be willing to pay for them because employees could show up on time if they have multiple lots where they can park.

Council Member Barbee asked if it was possible to offer a CBD employee pass for \$50 that restricted them to nonprime lots.

The consensus of Council was to charge \$100 for a CBD employee parking pass that allows the holder to park in any Town lot.

Council Member Shuttleworth said the Town could raise \$130,000 in extra revenue if they charged \$40 instead of \$20 for resident parking passes. Council Member Garza, Mayor Pierce, and Mayor Pro Tem Healy also said they would be in favor of this. Council Member Barbee said most residents are already paying property taxes and therefore should get a better deal, so he was not in favor of the increase. He said he would rather see an increase for non-resident parking passes.

**ACTION:** Motion to open the floor to public comment about the parking proposal

Motion: Mayor Pierce

Vote: UNANIMOUS

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Mark Miller said he was not in favor of the increase for resident passes. He said at \$20 per pass he buys multiple passes for multiple vehicles, but with an increase he would not do that so it would not necessarily translate into doubling of revenue.

Debi Taylor of Florida Avenue said she was fine with resident passes being \$40 but thinks golf cart passes should also be \$40 unless there are specific spots reserved just for them.

Scott Seifer of 101 6<sup>th</sup> Street North said he has no problem with resident passes being \$40, but at that price he would only buy one instead of two. He said he was on the fence about whether golf carts should be the same price as cars, but even at \$40 it is still worth it to him.

Lynn Conto of 807 North Carolina Avenue said she has a golf cart and is in favor of the increase to \$40 for residents. She said she would like to see more revenue raised from optional fees rather than mandated taxes.

Paul Levy of 1606 Mackerel Lane said he was indifferent about the resident parking pass increase but suggested maybe a phased approach of \$30 this year and \$40 next year for both cars and golf carts. He said perhaps more residents would use bicycles if it was safer to ride on Lake Park Boulevard. Mayor Pierce said the Ad Hoc Bike/Pedestrian Committee is working on a route to keep foot and bicycle traffic off Lake Park Boulevard.

Patricia Jones of 712 Saint Joseph Street said marketing is the key to getting people to accept rate increases. She said most people expect a premium experience if they are paying more. She suggested charging \$35 for resident passes instead of doubling the price. She also recommended the Town charge private lots for trash pickup and raise the price of the CBD employee parking pass to \$100 so they employees would feel more of a commitment to the Town.

Mark Miller asked whether at the increased price it would be possible for residents to have a pass that would be interchangeable between multiple vehicles they own. Mayor Pierce said that was not possible because passes must be affixed to one vehicle.

**ACTION:** Motion to end public comment about the parking proposal

Motion: Mayor Pierce

Vote: UNANIMOUS

Mr. Oakley suggested splitting the difference and charging \$30 for residents and \$175 for non-residents.

**ACTION:** Motion to approve all Town staff recommendations on parking rates and fees with the following exceptions: \$100 for CBD employees to be used in any Town lot, \$40 for resident cars and golf carts, \$175 for non-resident cars, and \$100 for non-resident golf carts

Motion: Council Member Shuttleworth

Vote: 4-1 (Council Member Barbee opposed due to the increase to \$40 for residents)

Mr. Parvin said the new fees will start April 1. Mayor Pierce said Council might want to rethink running the parking program through November. She said she was OK with starting it in March

but thought extending it through November could be a bad move for businesses. She asked what other communities were doing.

**ACTION:** Motion to reconsider the previous motion  
 Motion: Council Member Shuttleworth  
 UNANIMOUS

Tina Reid of Lanier Parking said most of their operations adhere to March 1-October 31, with two exceptions that operate year-round.

**ACTION:** Motion to approve the Town staff presentation for parking as presented with the following changes to take effect on April 1: \$175 for non-residents, \$100 for CBD employees to be used in any Town lot, \$40 for resident cars and golf carts, and effective dates of March 1-October 31  
 Motion: Council Member Shuttleworth  
 Vote: 4-1 (Council Member Barbee opposed)

#### b. Appointments to the Ad Hoc Beautification Committee

Mayor Pro Tem Healy said there were 10 applicants to the Ad Hoc Beautification Committee that Council voted to create in January. Staff advertised the vacancies for six weeks. The following people applied: Amanda Prill, Blair Williams, Cindy Dunn, Dawn Betz, Emily Harding, Holly Martin, Jacquie Ott, Jeanette Morales, Julenna Jones Shelley, and Karen Graybush. Mayor Pro Tem Healy said his recommendation was to accept all of them because the committee will not just be giving advice but also doing hands-on work.

Council Member Barbee asked whether all 10 would be full voting members. Mayor Pierce said ad hoc committees have voting powers and suggested that Mayor Pro Tem Healy choose nine members and one alternate.

Council Member Shuttleworth said it might be difficult to manage a group of 10 if they will be mostly coming up with ideas, but if the intent is for the committee to be largely hands-on then 10 is not an unreasonable number of members. He also said there should be a plan for how the committee's ideas will be approved. Mayor Pierce said Council would need to provide that approval.

**ACTION:** Motion to approve nine voting members and one alternate, Karen Graybush, for the Ad Hoc Beautification Committee  
 Motion: Mayor Pro Tem Healy  
 Vote: UNANIMOUS

#### 8. NON-AGENDA ITEMS

Mayor Pierce shared information about Census 2020 and stressed the importance of an accurate count for the purposes of determining seats in Congress, funding and grants, and data for redistricting. She asked Town staff to start using the logo on the Town billboard as soon as possible.

Council Member Garza asked about the status of the tree ordinance that was discussed last

year. He also said he'd like to see informational videos on the Town website and Facebook page every week or two to remind residents about issues such as hurricane season, smoke detectors, locking up bicycles, rip currents, and tire pressure when driving on Freeman Park.

Council Member Shuttleworth said Town staff should be looking at completing spring cleaning and other preparations for the peak season before March is over and staff becomes overwhelmed, including putting out the blue trashcans on the beach, clean up parking areas, installing signs, ensuring streetlights are working, etc. Mr. Oakley said he would have a checklist and plan for Council during their workshop next Tuesday. Council Member Shuttleworth also asked whether anything was being done about the flashing lights on the stop sign trail crossings between the Island Greenway and vehicular roads. Mayor Pierce said she would bring this up at the Ad Hoc Bike/Pedestrian Committee meeting next week.

Mayor Pierce said owners of businesses in the Boardwalk area have asked for a designated area to load and unload supplies. Mr. Parvin said there is an area they can use on Raleigh Avenue. Mayor Pierce asked Mr. Oakley to email the business owners with this information as well as the new rate for a CBD employee parking pass.

Council Member Garza asked about the Town's policy on purchasing new vs. used vehicles. He wanted to know if Town staff is always purchasing new models or whether used models were considered based on the best solution for the position. Mr. Parvin said Town staff had been looking into additional vending options for vehicle purchases. Mr. Garza encouraged Town staff to look more aggressively.

#### **9. ADJOURNMENT**

Mayor Pierce made a motion to adjourn at 9:00 PM. Motion passed unanimously.

Submitted by:  
Kimberlee Ward  
Town Clerk



# CAROLINA BEACH

Town Council Special Meeting Minutes  
 Monday, March 16, 2020 @ 6:00 PM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## ASSEMBLY

A Special Meeting of the Town of Carolina Beach Town Council was held on Monday, March 16, 2020, at 6:00 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### 1. MAYOR PIERCE CALLED THE MEETING TO ORDER

#### 2. DISCUSSION ITEMS – COVID-19

##### a. COVID-19 Update by Town Manager Bruce Oakley

Mr. Oakley gave an update on the issues facing our community as well as an action plan. He discussed several specific efforts related to the pandemic, including some that Council should consider for formal action: encouraging the public to watch the meetings via live stream instead of coming to Town Hall, canceling committee meetings unless they involve time-sensitive or very important matters, keeping Town Hall open to the public but strongly encouraging people to do business online or via phone to limit exposure, and suspending disconnection of Town water utility accounts.

Council Member Garza asked whether all employees are still reporting to Town Hall versus allowing as many as possible to work remotely. Mr. Oakley said most Town staff members are still coming to the office, but remote work would be an upcoming possibility for those who are not considered essential personnel.

Tim Buckland, Intergovernmental Affairs Coordination for New Hanover County, gave current statistics about COVID-19 in our area, including no positive cases reported in the county so far. He also discussed new guidelines regarding the size of gatherings and reported that the county had not yet activated its Emergency Operations Center but was rather operating on a monitoring status. He gave information about a county hotline, (910) 798-6800, that would operate 7:30 AM-6 PM daily.

##### b. Exposure Procedure Presented by Fire Chief Alan Griffin

Chief Griffin reviewed exposure procedures for Town emergency responders. He said he has been working closely with the county via a task force of emergency responders to develop modifications for dispatch protocols and staff education. He also said the Town is not yet at activation level for its Emergency Operations Center. He emphasized that the pandemic

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situation presents challenges because emergency responders are treading in areas they haven't been previously.

Council Member Garza recommended the use of videos on the Town website and Facebook page to disseminate messages about public safety. He said people react better to that type of presentation than simply words alone, and many are looking for reassurance.

Mayor Pierce asked Chief Griffin to look into updating the list of special needs individuals living in the Town who might need extra help.

Council Member Barbee asked about the measures being done to protect Town staff. Mr. Oakley said they are exploring online meetings and implementing increased sanitizing.

c. Governor's Executive Order Regarding Mass Gatherings Presented by Police Chief Chris Spivey  
Chief Spivey reviewed the Governor's Executive Order Number 117 on Mass Gatherings. He said the Police Department has the authority to enforce this, which bans most gatherings of more than 100 people in a single room or single space at one time. He also reviewed situations that the order does and does not cover.

Chief Spivey said the Police Department has changed the way officers respond to 911 calls as a result of COVID-19. Officers will not be responding to medical calls for which their presence is not necessary, and they may not respond in-person at all for some situations, such as a resident reporting a bike theft just discovered from weeks ago. He said the goal is to keep officers healthy by following best practices.

Mayor Pro Tem Healy asked if increased crime was a concern. Chief Spivey said no because he believes people will be able to self-regulate and are primarily concerned about taking care of their families.

Mayor Pierce asked whether house parties, such as large weddings at a residence, would go against the mass gatherings order. Chief Spivey said his interpretation is that such an event would not be an exclusion and would violate the order.

d. Resources and Links Presented by Bruce Oakley

Mr. Oakley reviewed available resources and helpful links. He said the Town would be updating its website daily to provide current information about closings, ways to avoid in-person business, and how to submit questions.

Mayor Pierce commended Mr. Oakley and other Town staff members for their hard work over the weekend to stay ahead of the curve. She urged everyone to come together as a community and said people should prepare, not panic.

Council Member Garza encouraged the public to say thank you to employees of the island's three grocery stores. He also asked people to look out for their neighbors, especially the elderly and other vulnerable populations.

Assistant Town Manager Ed Parvin said Town staff was looking for Council to take action on a number of items related to COVID-19.

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**ACTION:** Motion to have Council meetings continue with enhanced live streaming and virtual correspondence, cancel committee presentations at the March 17 Council workshop, suspend committee meetings to a future date unless time-sensitive issues are involved, keep Town Hall open but encourage people to limit their visits by promoting online and phone transactions, and suspend disconnection of Town water utility accounts

Motion: Mayor Pierce

Vote: UNANIMOUS

**3. NON-AGENDA ITEMS**

None.

**4. ADJOURNMENT**

Mayor Pierce made a motion to adjourn at 6:45 PM. Motion passed unanimously.

Submitted by:  
Kimberlee Ward  
Town Clerk

## CAROLINA BEACH

Town Council Workshop Meeting Minutes  
Tuesday, March 17, 2020 @ 9:00 AM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

### **ASSEMBLY**

A workshop of the Town of Carolina Beach Town Council was held on Tuesday, March 17, 2020, at 9:00 AM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, MPT Jay Healy, Council Member Steve Shuttleworth, Council Member JoDan Garza, and Council Member Lynn Barbee

ALSO PRESENT: Town Manager Bruce Oakley, Assistant Town Manager Ed Parvin, Finance Director Debbie Hall, Town Clerk Kim Ward, and Town Attorney Noel Fox

Mayor Pierce mentioned that committee presentations that were scheduled to be heard would be postponed until a later date.

### **PRESENTATION BY PUBLIC WORKS DIRECTOR BRIAN STANBERRY**

Mr. Stanberry gave an update on the current list of projects that Public Works is planning to complete before the summer season.

### **MAYOR PIERCE MADE A MOTION TO GO CLOSED SESSION TO DISCUSS AN ATTORNEY AND REAL ESTATE MATTER IN ACCORDANCE TO NCGS 143-318.11(a)(3) AND (5). THE PROPERTY BEING DISCUSSED IS LOCATED AT 3 BOARDWALK AND THE CASES BEING DISCUSSED INCLUDE:**

TCB vs. Carolina Freeman LLC NHC 18 CVS 3151

TCB vs. B&F Enterprises LLC NHC 18 CVS 3152

TCB vs. DRDK LLC NHC 18 CVS 3153

TCB vs Freeman Beach, LLC 18 CVS 3154

### **MOTION PASSES UNANIMOUSLY**

### **MAYOR PIERCE MADE A MOTION TO RETURN TO OPEN SESSION STATING NO ACTION TAKEN. MOTION PASSES UNANIMOUSLY.**

### **MEETING RECESSED**

Mayor Pierce made a motion to recess the meeting until Wednesday, March 18, 2020 at 4:00 p.m.

Submitted by:  
Kimberlee Ward  
Town Clerk

# CAROLINA BEACH

Town Council Special Meeting Minutes  
 Wednesday, March 18, 2020 @ 4:00 PM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## ASSEMBLY

A Special Meeting of the Town of Carolina Beach Town Council was held on Wednesday, March 18, 2020, at 4:00 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### 1. MAYOR PIERCE CALLED THE MEETING TO ORDER

#### 2. UPDATE ON COVID-19

Mr. Oakley said staff has been meeting regularly and Fire Chief Alan Griffin has been setting up an incident action plan in case further steps are necessary. He said Town staff hours have been staggered so everyone is not at Town Hall all at once, with some core working hours implemented for department heads. He is also encouraging virtual meetings or having meetings outside with social distancing.

Mr. Oakley said he would like Council to consider closing the billing office, extending the early purchase date for resident parking passes, and suspending camping at Freeman Park. He also asked Council to expand on their action at a previous meeting to suspend disconnection of water utility accounts by passing a formal ordinance.

**ACTION:** Motion to approve the ordinance regarding water cutoffs

Motion: Council Member Garza

Vote: UNANIMOUS

Mr. Oakley said the Federal Emergency Management Agency (FEMA) will consider reimbursing the Town for money spent involving the emergency pandemic situation, including cleaning and disinfecting supplies. He asked Council to approve a line item of \$25,000 out of the general fund to fund these items with plans to put back what they don't spend and anticipation that FEMA may provide reimbursement.

**ACTION:** Motion to approve the budget ordinance that establishes a line item for coronavirus expenditures in the amount of \$25,000

Motion: Council Member Garza

Vote: UNANIMOUS

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Council Member Garza said he is OK with suspending camping at Freeman Park until further notice.

Council Member Shuttleworth said he is also in favor of suspending camping at Freeman Park but not closing it off to day visitors.

Council Member Barbee said he agreed with Council Member Shuttleworth.

Assistant Town Manager Ed Parvin suggested starting the camping suspension on Friday to give some notice to those with reservations.

**ACTION:** Motion to suspend all camping in Freeman Park effective Friday and encourage staff to reach out to those who have reservations ahead of time in conjunction with the State's action to suspend camping at all State Parks

Motion: Council Member Shuttleworth

Vote: UNANIMOUS

Mr. Oakley said Council should consider closing Town Hall to the public and educating people about ways to conduct business online or via phone. He said phone lines have been added to help people trying to get through for payment or technical assistance.

**ACTION:** Motion to allow Town staff to close the billing office and work on having multiple rollover lines to assist people with online registration and payment for parking and re-entry passes and utility billing

Motion: Council Member Shuttleworth

Vote: UNANIMOUS

Council Member Garza said he would like to extend the early purchase deadline for resident parking passes from April 1 to coincide with when everything goes back to business as usual.

Council Member Barbee said the goal is to take the pressure off and keep crowds of people from rushing in by April 1 to save \$20.

**ACTION:** Motion to stop the pricing increase on resident passes from starting on April 1 to extend to May 1

Motion: Mayor Pierce

Vote: 4-1 (Council Member Shuttleworth opposed)

Mayor Pierce said she and Mr. Oakley had discussed bagging some parking meters in the Boardwalk area and putting up signs that would reserve those spots for people picking up food from nearby restaurants. It was the consensus of Council to move forward with this.

### **3. NON-AGENDA ITEMS**

Council Member Garza asked if there was a contingency plan in case the COVID-19 situation gets much worse than anticipated. Fire Chief Alan Griffin said there is an incident action plan but that there are some gray areas for emergency management due to the unprecedented nature of the pandemic. He said the buildout of this plan will serve as a model for how we will deal with these situations in our communities in the future.

March 18, 2020

2

**4. ADJOURNMENT**

Mayor Pierce made a motion at 4:20 PM to recess until March 20 at 4:00 PM. Motion passed unanimously.

# CAROLINA BEACH

Town Council Emergency Meeting Minutes  
 Friday, March 20, 2020 @ 1:00 PM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## ASSEMBLY

An Emergency Meeting of the Town of Carolina Beach Town Council was held on Friday, March 20, 2020, at 1:00 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### 1. MAYOR PIERCE OPENED THE MEETING

### 2. CORONAVIRUS UPDATE

**ACTION:** Motion to go into closed session to discuss an attorney-client matter in accordance with North Carolina General Statute 143-318.11(a)(3)

Motion: Mayor Pierce

Vote: UNANIMOUS

Council returned from closed session at 1:20 PM.

Mayor Pierce asked Ms. Fox to address the closed session. Ms. Fox said the purpose was to seek advice from the Town Attorney on the limitations and potential liability for the Town in declaring a state of emergency and what it authorizes the Town to do. Mayor Pierce opened the matter for discussion among Council.

Council Member Garza said he wants to follow suit with what the county and state are doing. He thinks doing something ahead of that could put residents into a state of panic. He also said it is important to maintain a balance between business and everyday life.

Council Member Barbee said he wants to do the opposite. He said he thinks it is important for the Town to declare a state of emergency because residents are looking to Council for action and leadership.

Mayor Pro Tem Healy said he agreed with Council Member Barbee. He said lots of people are coming into Town to get away from the COVID-19 situation where they live, and it's putting residents at risk.

Council Member Shuttleworth said he is comfortable with declaring a state of emergency because it allows Council to take action and be in a proactive position.

March 20, 2020

1



Mayor Pierce said the number one goal is to protect the public, and Council can't do that without certain powers given by a state of emergency. She said residents are looking for leadership, and Council can't move forward without being in a state of emergency. She declared the Town in a state of emergency due to the coronavirus pandemic. She stressed that residents should not panic because this is a technicality needed to protect them.

Mr. Oakley discussed options available for the Town to help limit people coming over and interacting in large groups, such as closing beach accesses, parking lots, and parks. He said closing Snow's Cut Bridge to non-residents is also an option, but Town staff is recommending smaller steps at this point.

Mayor Pro Tem Healy said closing the bridge is extreme and could be a later action, but he wants to try closing beach accesses and parking lots first to try to deter people from coming here.

Council Member Barbee asked what steps are necessary to close the bridge. Mr. Oakley said the Town would need to consult with Kure Beach and come up with a plan for re-entry and staffing. Mayor Pierce said closure of the bridge would be difficult to manage on a Friday afternoon and that Kure Beach officials would like the Town to take a soft step first. Council Member Barbee said he agreed with Mayor Pro Tem Healy and wants to curtail access to places where people congregate.

Council Member Garza said he is against closing the beaches and parking lots because he does not want to create panic. He said these moves are similar to martial law. He said the Town needs to make sure businesses survive and should wait for the State or County to make them take any closure measures or await being advised by someone with a science background, especially because there have been no deaths in the state so far.

Council Member Shuttleworth said he would rather close the bridge to non-residents than close beaches and parks. He said he realizes it's a drastic step that could have logistical problems, but he thinks patrolling the beach to keep people off is also problematic. He said people who don't live or work here do not have any business in the Town. He said Council should not wait for deaths or an increased level of cases to take action and that we would rather lead than follow.

Mayor Pierce said Council has to protect public safety first and foremost, and the economic impact can be figured out when this is over. She said she was in favor of a soft approach first while Town staff evaluates the logistics of and makes a plan for further measures, including possible bridge closure. She said now that other local beaches have closed, people were flocking here.

Council Member Barbee asked about the process for bridge closure vs. beach closure. Police Chief Chris Spivey said it is not difficult to close the beaches, nor is it much of a challenge to close the bridge. He said the main problem is maintaining bridge closure over the long term. Fire Chief Alan Griffin said there is a quick plan in place for bridge closure, but he agreed with Chief Spivey that there could be problems for sustaining it over the course of several weeks. He said the main issue is that unlike a hurricane, there are no resources available inland for help because everyone is dealing with the same disaster situation. In addition, he said it's very labor-

intensive because there will be lots of people coming and going and needing to be vetted before coming over.

Council Member Shuttleworth said he would go along with beach closure for now but thinks Council needs to look at moving further and faster with a bridge closure to all except those who live and work on the island.

Council Member Garza said he would be in favor of closing Freeman Park only.

**ACTION:** Motion to close all beach access to the public, close public parking lots, and close Freeman Park effective immediately today

Motion: Mayor Pierce

Vote: 4-1 (Council Member Garza opposed)

Mayor Pierce asked Town staff to move forward with a plan for possible bridge closure in case that is something Council feels is necessary in the future and to continue investigating further measures that Council might need to take. She urged residents not to panic but to practice social distancing and use phone and website access for Town services.

### **3. ADJOURNMENT**

Mayor Pierce made a motion to adjourn at 2:05 PM. Motion passed unanimously.

Submitted by:  
Kimberlee Ward  
Town Clerk

# CAROLINA BEACH

Town Council Special Meeting Minutes  
 Monday, March 23, 2020 @ 4:00 PM  
 Council Chambers  
 1121 N. Lake Park Boulevard  
 Carolina Beach, NC 28428

## ASSEMBLY

A Special Meeting of the Town of Carolina Beach Town Council was held on Monday, March 23, 2020, at 4:00 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, and Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, and Town Clerk Kim Ward

### 1. MAYOR PIERCE CALLED THE MEETING TO ORDER

#### 2. COVID-19 UPDATE

Mr. Oakley gave an update on the latest executive order from Gov. Roy Cooper, which closes schools until May 15, drops the maximum number of people allowed to gather from 100 to 50, and closes a variety of other businesses, including gyms, movie theaters, hair and nail salons, and barbershops effective March 25. He said there is a conference call between Gov. Cooper and elected officials on March 24 at 2:30 PM, which may provide more direction.

Regarding Town staff, Mr. Oakley said the Police Department has locked access to its front door and has adjusted schedules to limit exposure and discussed protocols for what to do if there is exposure. He also said remote work has increased among other Town staff.

Council Member Barbee asked for an update from both chiefs about any concerns they have. Police Chief Chris Spivey said things have been quiet so far and people seemed to be self-regulating and taking the situation seriously. He also said call volume, arrests, and citations have been low. Fire Chief Alan Griffin said his staff continues to work toward modifying dispatching protocols on medical calls to minimize exposure, but overall there has been an uptick in medical calls because people are nervous. He said 911 dispatchers are doing a good job screening calls and only sending units that are necessary. Council Member Barbee asked Chief Griffin if his staff had sufficient personal protective equipment (PPE). Chief Griffin said no, but his staff has been receiving medical guidance about which items can and can't be reused if it becomes necessary. He said if call volume stays limited, they will have enough supply.

Council Member Shuttleworth asked Town staff and first responders to continue working on a plan for additional steps, including bridge closure and curtailing short-term rentals. He said it's important for Council and the community to understand any ramifications these measures would have so an informed decision can be made if additional action is necessary. He said he has heard from those who live just north of the bridge about their need to travel to the Town for essential services such as groceries and medicine, and he does not want to jeopardize them.

March 23, 2020

1

Mayor Pierce asked if a shelter-in-place order would address short-term rentals. Mr. Oakley said he was not sure if that would be included unless there is a travel ban.

Mayor Pro Tem Healy said he had concerns about crowds gathering at parks and playgrounds in the Town. He mentioned incidents with two lacrosse teams over the weekend that had been addressed but said more situations like this could occur.

Council Member Garza said two Council members had witnessed the lacrosse teams but did not try to address the matter directly. He said they should all be giving friendly reminders instead of taking photos and reporting incidents to Town staff.

Mayor Pierce said Council's job is not to police the Town. She said that is for the Police Department to handle.

Council Member Garza said Council was creating hysteria by taking restrictive actions without trying to directly address and educate the public about social distancing and other protective measures.

Mayor Pierce said she was interpreting Council Member Garza's words as panic, which is the opposite of what Council has been promoting to the public.

Council Member Barbee said of all the people in the room, he only hears one hysterical person.

Council Member Garza said Council Member Barbee had cut him off multiple times.

Mayor Pierce said she wanted to hear more from Mr. Oakley about what Council needs to do when they see people not engaging in social distancing or otherwise not following rules and guidelines.

Council Member Shuttleworth expressed frustration with Council Member Garza. Council Member Garza replied that he wanted to talk about a complaint regarding Council Member Shuttleworth. Mayor Pierce asked them to stop so Council could proceed with hearing from Mr. Oakley. She said the meeting had veered off course from its intent.

Mayor Pierce asked Mr. Oakley how to proceed when they see people breaking rules and guidelines. She said she personally does not feel comfortable approaching them herself.

Mr. Oakley said the safest thing to do is contact the Police Department or other Town staff who might be in charge of the facility where the offense is occurring. He said because people are tense, it might be more appropriate for it to come from someone in uniform and/or with authority. Chief Spivey also encouraged Council to call on the Police Department for these types of issues.

Council Member Garza said he disagreed with this and thinks Council should feel free to approach someone doing something wrong. He said the entire Town was a family, and people will respect it if Council tries to educate them.

**3. NON-AGENDA ITEMS**

Council Member Garza said he had a non-agenda item to discuss. He inquired about an email sent by a resident to Council regarding what the resident considered an altercation with Council Member Shuttleworth after the March 20 meeting. Council Member Garza said no one had responded to the email, and he considered it an issue that there had been no reply. Mayor Pierce said she implored all members of Council to behave professionally and pointed out that the resident who sent the email was Council Member Garza's business partner or employer. Council Member Garza became upset and told Mayor Pierce to stop cutting him off. Mayor Pierce said he had talked more than anyone during the meeting and owed everyone an apology.

**4. ADJOURNMENT**

Mayor Pierce made a motion at 4:30 PM to recess the meeting until 4:00 PM March 24. Motion passed 4-1 (Council Member Garza opposed).

Submitted by:  
Kimberlee Ward  
Town Clerk

# CAROLINA BEACH

Town Council Special Meeting Minutes  
Tuesday, March 24, 2020 @ 4:00 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## **ASSEMBLY**

A Special Meeting of the Town of Carolina Beach Town Council was held on Tuesday, March 24, 2020, at 4:00 PM at Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, and Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### **1. MAYOR PIERCE CALLED THE MEETING TO ORDER**

#### **2. TOWN MANAGER'S UPDATE ON COVID-19**

Council Member Garza asked to speak before the update. He said he wanted to address residents, Town staff, and his peers to say he was sorry for his demeanor at the March 23 meeting. Mayor Pierce told him she appreciated his apology and said Council should work together and move forward.

Mr. Oakley said there were no new orders issued as a result of the conference call with Gov. Roy Cooper earlier that day. He said he continues to work with Town staff to define roles and expectations for essential and non-essential personnel as the situation progresses, and police and fire staff are moving ahead with contingency and response planning.

#### **3. DISCUSSION ON SHORT-TERM RENTALS**

Mayor Pierce read Proclamation 20-2217, which amended the Declaration of a State of Emergency issued on March 20 to include discontinuance of all short-term rental operations. All renters with a term of less than 90 days must vacate the premises by 2:00 PM on March 27, and no new rental occupancies with a term of less than 90 days will be allowed in the Town until April 22 or the order has been rescinded. Individuals renting for purposes directly related to the COVID-19 pandemic or providing essential services are exempt from the order. Mayor Pierce asked anyone with any questions about the order and its interpretation to contact Town staff.

Council Member Garza asked if this order pertains to hotels and other weekend rentals. Mayor Pierce said yes, it applies to Airbnb, vacation rentals, and hotels.

Mayor Pierce encouraged the public to continue practicing social distancing and asked people not to be out unless it's necessary and to limit gatherings to less than 10 people.

### **4. ADJOURNMENT**

March 24, 2020

1

Mayor Pierce made a motion to adjourn at 4:10 PM. Motion passed unanimously.

Submitted by:  
Kimberlee Ward  
Town Clerk



## **AGENDA ITEM**

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Bruce Oakley

Department: Executive

## **Manager's Update**

### **BACKGROUND:**

Town Manager Bruce Oakley will give a COVID-19 update along with other general topics.





## **AGENDA ITEM**

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: LeAnn Pierce

Department: Elected Officials

## **Mayor Pierce will Read Public Comments Submitted Online**

### **BACKGROUND:**

Mayor Pierce will read the public comments that were submitted online.



## AGENDA ITEM

Meeting: Regular Town Council - 14 Apr 2020

Prepared By: Debbie Hall

Department: Finance

## Approval of Financing Terms for Refinancing Wilm Bch Paving & CBP3

### BACKGROUND:

Approve financing terms for the modification of the Wilmington Beach Paving & Drainage Loan and the CBP3 Loan. Wilmington Beach Paving & Drainage rate will be reduced from 2.88% to 2.53% with a reduction in interest of \$9,680 over the life of the loan.

CBP3 rate will be reduced from 3.47% to 2.67% with a reduction in interest of \$53,245 over the life of the loan.

### BUDGET IMPACT:

Reduction in debt service payments will have a positive affect on future budgets.

### ACTION REQUESTED:

The Finance Director recommends Council approve the following:

(1) Resolution #20-2219 "Approving Financing Terms" for the Wilmington Beach Paving & Drainage loan

(2) Resolution #20-2220 "Approving Financing Terms" for the CBP3 loan. The CBP3 Board will also need to approve the terms as a separate action.

### ATTACHMENTS:

[Truist Carolina Beach 2011 Modification Resolution 20-2219](#)

[Truist Carolina Beach CBP3 Modification Resolution \(Town\) 20-2220](#)

[BBandT Offer Wilm Bch Paving](#)

[BBandT Offer CBP3](#)

**RESOLUTION NUMBER 20-2219**

**Resolution of the Town Council of the Town of Carolina Beach, North Carolina**  
**Approving Financing Terms**

**WHEREAS**, the **TOWN OF CAROLINA BEACH, NORTH CAROLINA** (the “Borrower”) previously financed certain grading, paving and storm water improvements (collectively, the “Project”) through a Financing Agreement and Deed of Trust dated as of May 3, 2011 with Branch Banking and Trust Company, now known as Truist Bank (the “Lender”), as modified by that certain Modification Agreement dated as of July 16, 2012 and that certain Modification Agreement dated as of July 3, 2014, each between the Borrower and the Lender, and the Finance Director of the Borrower has now presented a proposal for the refinancing of such Project.

**BE IT THEREFORE RESOLVED, as follows:**

1. The Borrower hereby determines to refinance the Project by entering into a Modification Agreement (the “Modification Agreement”) with the Lender in accordance with the proposal from the Lender dated April 6, 2020, or as such proposal may be supplemented or amended by Lender and the Borrower verbally or in writing. The amount refinanced shall not exceed \$1,273,185, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.53%, and the term of the Modification Agreement shall not exceed 7 years from the date of closing.

2. The Modification Agreement and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Borrower are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable to carry out the refinancing of the Project as contemplated by the proposal and this resolution.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to the Finance Director’s satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Borrower’s officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of such document’s final form.

4. The Borrower shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Borrower hereby designates its obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).

5. All prior actions of Borrower officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this \_\_\_ day of April, 2020.

**TOWN OF CAROLINA BEACH, NORTH CAROLINA**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL

**RESOLUTION NUMBER 20-22****Resolution of the Town Council of the Town of Carolina Beach, North Carolina**  
**Approving Financing Terms**

**WHEREAS**, the **TOWN OF CAROLINA BEACH, NORTH CAROLINA** (the “Town”) and CBP3, Inc. (the “Company”) previously entered into an arrangement to refinance a loan to the Company from Branch Banking and Trust Company, now known as Truist Bank (the “Lender”), under the terms of a financing plan (the “Financing Plan”) approved by a resolution of the Board of Directors of the Company on October 1, 2014 and Resolution 14-2071 of the Town Council of the Town adopted on October 1, 2014.

**WHEREAS**, pursuant to the Financing Plan, the Company entered into a Financing Agreement and Deed of Trust dated as of October 1, 2014 (the “Financing Agreement”) for the benefit of the Lender, and the Company, the Town and the Lender entered into a Support Agreement dated as of October 1, 2014 (the “Support Agreement”), which agreement provides for certain mutual commitments by the Town and the Company in support of the Financing Plan, including the Town’s commitment to consider the annual appropriation of funds for debt payments, and the Finance Director of the Town has now presented a proposal for the refinancing of the loan evidenced by the Financing Agreement.

**BE IT THEREFORE RESOLVED, as follows:**

1. The Company has determined, or will determine, by separate resolution, to refinance the loan evidenced by the Financing Agreement by entering into a Modification Agreement (the “Modification Agreement”) with the Lender in accordance with the proposal from the Lender to the Town dated April 6, 2020, or as such proposal may be supplemented or amended by Lender and the Town verbally or in writing. The amount refinanced shall not exceed \$1,335,000, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.67%, and the term of the Modification Agreement shall not exceed 9 years from the date of closing.
2. In furtherance of its obligations under the Support Agreement, the Town hereby approves of the refinancing evidenced by the Modification Agreement and all related documents, including the previously executed Support Agreement, for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents to which the Town is a party, and to take all such further action as they may consider necessary or desirable to carry out the refinancing of the loan evidenced by the Financing Agreement as contemplated by the proposal and this resolution.
3. The Finance Director is hereby authorized and directed, in support of and in cooperation with officers of the Company, to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to the Finance Director’s satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by the Town’s officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, in cooperation with officers of the Company, with the Finance Director’s release of any Financing Document for delivery constituting conclusive evidence of such officer’s final approval of such document’s final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates the obligations to make principal and interest payments under the Financing Documents as “qualified tax-exempt obligations” for the purpose of Internal Revenue Code Section 265(b)(3).
5. All prior actions of the Town’s officers in furtherance of the purposes of this resolution are

hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Approved this \_\_\_ day of April, 2020.

**TOWN OF CAROLINA BEACH, NORTH CAROLINA**

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

SEAL


**Branch Banking & Trust Company**

Governmental Finance

 5130 Parkway Plaza Boulevard  
 Charlotte, North Carolina 28217  
 Phone (704) 954-1700  
 Fax (704) 954-1799

April 6, 2020

 Ms. Debbie Hall  
 Town of Carolina Beach, NC  
 1121 N. Lake Park Blvd  
 Carolina Beach, NC 28428

Dear Ms. Hall:

Truist Bank (“Lender”) is pleased to offer this proposal for the financing requested by the Town of Carolina Beach, NC (“Borrower”).

**PROJECT:** Modification of Existing Note 00014  
**AMOUNT:** \$1,033,178  
**MATURITY DATE:** May 3, 2026  
**INTEREST RATE:** 2.53%  
**TAX STATUS:** Tax Exempt – Bank Qualified  
**PAYMENTS:** Interest: Annual  
Principal: Annual  
**INTEREST RATE CALCULATION:** 30/360  
**SECURITY:** Security interest in the project being financed  
**PREPAYMENT TERMS:** Prepayable in whole at any time with a one percent prepayment penalty  
**RATE EXPIRATION:** May 15, 2020  
**DOCUMENTATION/ LEGAL REVIEW FEE:** \$2,500  
**FUNDING:** Proceeds will be deposited into an account held at Lender pending disbursement unless equipment is delivered prior to closing.

**DOCUMENTATION:** Lender proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should Lender be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

**REPORTING**

**REQUIREMENTS:** Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

**Truist Bank**



Andrew G. Smith  
Senior Vice President


**Branch Banking & Trust Company**


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**Governmental Finance**

5130 Parkway Plaza Boulevard  
 Charlotte, North Carolina 28217  
 Phone (704) 954-1700  
 Fax (704) 954-1799

April 6, 2020

Ms. Debbie Hall  
 Town of Carolina Beach, NC  
 1121 N. Lake Park Blvd  
 Carolina Beach, NC 28428

Dear Ms. Hall:

Truist Bank (“Lender”) is pleased to offer this proposal for the financing requested by the Town of Carolina Beach, NC (“Borrower”).

**PROJECT:** Modification of Existing Note 00022

**AMOUNT:** \$1,331,146.80

**MATURITY DATE:** December 21, 2028

**INTEREST RATE:** 2.67%

**TAX STATUS:** Tax Exempt – Bank Qualified

**PAYMENTS:** Interest: Annual  
Principal: Annual

**INTEREST RATE CALCULATION:** 30/360

**SECURITY:** First lien security interest on the real property purchased, financed, constructed, or renovated with financing proceeds

**PREPAYMENT TERMS:** Prepayable in whole at any time with a one percent prepayment penalty

**RATE EXPIRATION:** May 15, 2020

**DOCUMENTATION/ LEGAL REVIEW FEE:** \$2,500

**FUNDING:** Proceeds will be deposited into an account held at Lender at closing pending disbursement for project costs.



**DOCUMENTATION:** Lender and its counsel shall prepare the deed of trust and all documentation for the Borrower. We shall provide a sample of all required documentation to you and your counsel if Lender is the successful proposer. Lender will not require a survey or title insurance. Evidence of LGC approval is required when applicable. At a minimum, Lender shall require flood insurance, if applicable.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with state statutes or the Internal Revenue Service Code. All documentation must be deemed appropriate by Lender before closing.

**REPORTING**

**REQUIREMENTS:** Lender will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

Lender shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to Lender.

Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. Lender reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

We appreciate the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

**Truist Bank**



Andrew G. Smith  
Senior Vice President