

MINUTES  
OAK ISLAND TOWN COUNCIL  
PUBLIC HEARING & REGULAR MEETING  
APRIL 9, 2019 – 6 P.M.  
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Cin Brochure, Mayor Pro Tempore Winecoff, Council members John W. Bach, Sheila M. Bell, Charlie K. Blalock and Loman Scott, Town Manager David Kelly, Assistant Town Manager Lisa P. Stites, MMC, and Town Attorney Brian Edes.

Mayor Brochure called the meeting to order at 6 p.m. The Mayor thanked everyone for attending and explained the meeting format. Councilor Blalock gave the invocation and led the Pledge of Allegiance to the flag.

**PUBLIC HEARING I:** The purpose of the Public Hearing was to receive citizens' comments on a proposed text amendment to modify the text in the Unified Development Ordinance Article 6 Zoning Districts; Section 6.5 – Table of Uses & Activities; to permit a golf cart rental, repairs and sales business within the CB zoning district and to adopt regulations in 7.55(1-5) Golf Cart & Low Speed Vehicles Sales & Rentals. There were no comments. **Mayor Pro Tempore Winecoff made a motion to close the Public Hearing at 6:02 p.m. Councilor Bell seconded the motion and it passed unanimously.**

**PUBLIC HEARING I ACTION:**

**Councilor Scott made a motion to approve the proposed text amendments to Sec. 6.5 Table of Uses, to adopt the text amendments in Sec. 7.55, and to adopt the associated plan consistency statement. Councilor Bach second the motion.** Planning and Zoning Administrator Jake Vares explained the proposed amendments, saying there is not a space on the Table of Uses for golf cart sales and rentals. There was an applicant for a business license, and it was denied since the use was not already allowed. Mr. Vares said additional standards had been added as well. Councilor Bach asked if the Town had considered what the CB district looked like and if there was a cohesive vision. Mr. Vares said he thought there was, and that it had been discussed extensively during the Land Use Plan process, and that the Planning Board also discussed the commercial areas extensively when working on the draft UDO. Councilor Bach said that as we go forward, we needed to keep that vision in mind. **The motion passed unanimously.**

**PRESENTATIONS AND PROCLAMATIONS**

1. Appreciation of Service of J.C. Moss on the Parks & Recreation Advisory Board: Councilor Scott and Parks and Recreation Advisory Board Chairman Dennis Maneri presented Mr. Moss with a plaque. Mr. Moss is moving back to the mountains after approximately 20 years of service on the Advisory Board. Mr. Maneri reviewed a long list of accomplishments and the work Mr. Moss did while serving the Parks and Recreation staff and the community. Councilor Scott said that there were few times when a Council member could get all of the audience to agree on something but this was one of those rare occasions – he also thanked Mr. Moss for his service and presented him with a plaque.
2. Arbor Day Proclamation: Mayor Brochure noted that the Town was again named a Tree City USA for 2018. She said that the Town's Environmental Advisory Committee would be participating in the Town's Earth Day events April 18 and she encouraged everyone to attend. Councilor Blalock read the Proclamation.

**APPROVAL OF AGENDA: Councilor Bach made a motion to approve the agenda as presented. Mayor Pro Tempore Winecoff seconded and the motion passed unanimously.**

- I. TOWN HALL MEETING (this section includes Public Comments)

Worthy Keener, 124 SE 63<sup>rd</sup> Street: Mr. Keener said he was requesting Council allow staff to look at the height limits and locations for fences. He said that he understands that the fence ordinance had been developed over a period of time, and that some of the rules may not be as pertinent or applicable as they were when put in place. He said that he has provided information to staff regarding the changes he is seeking. He also said that he appreciated the Town's support in opposing offshore drilling. Mayor Brochure asked what his specific request was regarding fences; Mr. Keener said it was the height, and what was considered oceanfront for certain lots. Mayor Brochure said she was sure staff would take care of that.

Kympton Lovley, 220 NE 43<sup>rd</sup> Street: Mr. Lovley said that he is asking for a building permit fee waiver. He said that he and his wife bought a home in 2013, and this past December, they decided they needed an elevator. He said that during the permit process, it was discovered that the previous owners failed to get a permit for the living space on the ground floor. He said that he provided plans and other information he had regarding that issue and that he has worked with Development Services staff. He found out that his permit was approved, but that the fee was \$628.80 and then it would be inspected. He said that they are asking for the fee to be waived since they did not circumvent the process. Mr. Lovley thanked Council for consideration. Development Services Director Steve Edwards said it was his understanding that only Council could authorize waiving the fee. Ms. Stites said Council could suspend the rules and add the item to the agenda for consideration if it wanted to resolve the issue tonight, or Council could direct staff to put the item on the agenda next month. Mr. Edwards said that Mr. Lovley had been cooperative and that he was trying to get it corrected so it is a legal improvement to the house.

Councilor Scott asked Mr. Lovley to confirm that his wife, Susan Scott, worked with Mr. Lovley in the purchase of this house; Mr. Lovley did confirm that. Councilor Scott asked to be recused. **Councilor Bell made a motion to recuse Councilor Scott. Councilor Blalock seconded the motion and it passed 4-0 with Mayor Pro Tempore Winecoff and Councilors Bach, Bell and Blalock in favor.**

**Mayor Pro Tempore Winecoff made a motion to suspend the rules to add this item to the agenda.** Councilor Bach said that he would rather see the data and documentation and consider it at the next meeting. **Councilor Bell seconded the motion. The motion passed 3-1 with Mayor Pro Tempore Winecoff and Councilors Bell and Blalock in favor and Councilor Bach opposed (Councilor Scott had been recused).** Mr. Edwards said that during the process for permitting the elevator, it was discovered that there was no permit for the upfitting of the downstairs. He said the listing agent had included that it was livable space in the listing. Mr. Edwards also noted that that the listing agent was not Susan Scott. Mr. Edwards said that Mr. Lovley is trying to get a proper certificate of occupancy. Councilor Bell asked if there were any issues with the building code, would those have to be fixed. Mr. Edwards said that they would. Councilor Bach asked how many times Council had taken similar action in the past. Mr. Edwards said as far as waiving building fees, he was not sure, but that he knew Council had set aside a sewer assessments or something similar. Councilor Bach said it sounded like this would not be precedent setting, and Mr. Edwards agreed. **Mayor Pro Tempore Winecoff made a motion to waive the fees as described. Councilor Bell seconded and the motion passed 4-0, with Mayor Pro Tempore Winecoff and Councilors Bell and Blalock in favor. Councilor Bach abstained which is counted as a vote in favor, and Councilor Scott had been recused).**

Katie Vinson, 2902 E. Yacht Drive: Ms. Vinson said she thought allowing chickens on Oak Island would benefit the community. She said that chickens made great pets, and that she loved her chickens as much as others loved their dogs, cats, etc. Ms. Vinson said she was asking for the ordinances to be changed to allow chickens. She presented a petition with additional signatures. Mayor Brochure said that item would be on the May agenda.

Becky Grizzle, 111 NE 25<sup>th</sup> Street: Ms. Grizzle said that every time she tries to set up a yard sale, it rains on her. She asked Council to consider extending the limit for the number of yard sales per year from two to four and to only require filing one application per year. She said that she works at the Senior Center and she always lets the new people know that they need to register their yard sales. She said that she understood not wanting people to put out a sale and leave it up every day in the summer. Mayor Pro Tempore Winecoff asked if someone applied for a yard sale and it rained, did it count against them; Mr. Edwards said it did not.

Tony Morgan, 4808 W. Beach Drive, written comments provided as follows: Recently myself and Mr. Wilson both made proposals to the Town to lease the 801 Ocean property, and both proposals were turned down in favor of the Town running an event center themselves. Several Councilmen cited that they wanted the option that would make the most income for the Town. We were asked to present a pretty extensive business plan to the Council. It seems to me the Council did not do their own homework before making a decision. Where is YOUR business plan? How much income do you expect to bring in? What are your expenses going to be? How much capital will have to be spent just to get the event center started? The City of Southport's Community Building was cited as an example of what they wanted to do. After doing some research, I found out that in 17/18 the Southport Community Building lost \$68,732 and in 16/17 it lost \$75,865. Income vs. expenses, simple math, a well-established event center lost at taxpayers' expense. Just like according to the Town of Oak Island's audit, the Par 3 lost \$77,031 in 17/18 and \$90,068 in 16/17. Again, at taxpayers' expense. You made an uninformed decision. You had two offers of guaranteed income for the Town, and you passed them up without a plan of your own.

Catrina Purser, 5001 O'Quinn Boulevard: Mr. Purser gave a report on the recent Wine Tasting fundraiser. She said they tried to improve the experience for those who attended. She said the wines were excellent and that the auction was successful. Former Board members Diane and Billie were named Beach Preservationists of the Year. Mr. Purser said the Society would work with the Cape Fear Surfrider Foundation on a pre-season beach cleanup on May 4.

George Wilson, 3008 E. Yacht Drive: Mr. Wilson said that the Town issued a Request for Proposals to run 801 Ocean Drive and that the applicants read that and replied to all of the questions and every part of the offer. He said that they took a good deal of time to do that and studied the venue, etc. He said that he was naïve enough to go into the building and be amazed that \$90,000 had been spent to bring the building up to whatever use it would be. He said that he thought Council gave short shrift to their proposals and that the decision to run the events center had been made before the proposals were received. He said that it was clear that the Council members had not even read the proposals. Mr. Wilson said that his proposals included increases of 16, 25 and 20 percent in the three renewals. He said it seemed the decision was made prior to them showing up. He said that after that meeting he spoke to the Mayor, and that she said there was a lot of money to be made. Mr. Wilson said that the City of Southport had lost \$70,000 the last couple of years on its community center. Mayor Brochure said that when she worked with Southport, it made money, and that the business plan for that community center had been changed several times. He said what the Town is trying to do is hang a crystal chandelier in an old building and make it look elegant. He said that he thought the citizens needed to be aware that the Council is leading the Town down a path that is a mistake and that it is not going to make money.

Mayor Pro Tempore Winecoff said that his comments about 801 had been that if the Town couldn't make any more money than was offered, the Town would run it as an events center. He said that his opinion hasn't changed. He said that if the proposals didn't offer what the Town was looking for, then they wouldn't be accepted and that it was as simple as that. He said they got proposals that they thought didn't offer enough money. Mayor Brochure said that the request for proposals was sent out twice, and that the first time, no proposals were received. She said that they were requested to offer it again, so the second

request for proposals was sent out. She said that they would have been remiss had they not looked into other options once no proposals were received the first time. Mayor Pro Tempore Winecoff said that the whole purpose was to raise money for the beach fund and not put more of a burden on the taxpayers, and that if it didn't work, the Town could sell the building. He also said that everything they had been doing had turned out well. He said they got money for the Sea Turtle beach nourishment when everyone said that we couldn't do it. Mayor Pro Tempore Winecoff also said that all they were asking was a chance to make it work. Councilor Bach said that the comments mischaracterize Council completely. He said that he proposed that the entire complex be run by an outside organization because he felt that the Town should not become business partners running businesses. He said that they didn't receive any bids for that. When they reissued the RFP for 801, they received two bids, but like Mayor Pro Tempore Winecoff, he didn't believe either of the proposals warranted approval. That left Council with the other alternative to have the Town run it; that's how the process unfolded. Councilor Bach said to cast aspersions or suggest it was otherwise belies the factual record, which he encouraged Mr. Wilson to read.

Mr. Edes asked the Town Clerk if the decision to re-advertise for proposals was a Council decision. Ms. Stites said that was true; Mr. Edes said that he wanted the Minutes to reflect that. Mayor Brochure said that was in response to a request from a citizen who missed replying to the first request for proposals.

Bill Millard, 110 SE 10<sup>th</sup> Street: Mr. Millard asked if we would get bike lanes on the side of Oak Island Drive when it is repaved. Mr. Kelly said that at this time, the NCDOT had turned down the Town's request for bike paths but that we could ask again.

Pamela Johnson, 101 NE 28<sup>th</sup> Street: Ms. Johnson asked about the beach access at SE 9<sup>th</sup>, saying that a home is using a parking space for the driveway. She asked how that could happen and why that happened. Mr. Vares said that it is a corner lot, so the house is allowed two driveways, one on each side. To meet the parking requirements, a driveway out to the beach access was needed.

Liz Carolan, 106 NW 13<sup>th</sup> Street: Ms. Carolan said that the homes on the 19<sup>th</sup> East access each have a driveway to the access, which uses four spots. She also supported the request to allow chickens. Ms. Carolan also spoke about the proposed changes at the State level regarding square footage and regulating trees. She asked what that would do with our Tree City USA status. Mayor Pro Tempore Winecoff said that there is a movement at the State level to take local control away from municipalities. He said if what is proposed is approved, the Town would have to amend the ordinances. He said there is also a movement to take away sales tax revenue. He said at some point, citizens needed to get involved. Ms. Carolan reviewed the Tree City criteria and encouraged citizens to contact their representatives. Councilor Bach said that the bill had not cleared committee yet. Councilor Blalock said that he had contacted Rep. Iler and Sen. Rabon and told them Oak Island was called that name for a reason. He also encouraged citizens to contact their State representatives.

Mike Pratt, 308 NE 58<sup>th</sup> Street: Mr. Pratt thanked Council for sponsoring the Citizens Academy. He said staff did an excellent job and he encouraged others to take the academy. He thanked Council for reading his missives on paid parking. He said that he had recently met with the Town's new stormwater administrator to make suggestions for how to address the conflict between the tree ordinance and the stormwater requirements. He encouraged Council members to follow up on that.

Mayor Pro Tempore Winecoff asked Mr. Kelly for an update on the Splash Pad. Mayor Pro Tempore Winecoff said Oak Island residents should not be charged to use the Splash Pad. Mr. Kelly said the rest of the concrete was poured today, and it should be completed this Friday. We would still look at adding a fence. Fees for the use have not been decided at this point, and Council would make those decisions, such as who counted as a resident (children, grandchildren, etc.). Hours, rentals, etc. still need to be discussed. Mayor Pro Tempore Winecoff suggested using a yearly pass for Oak Island residents. Councilor Bell said

that her grandson lives in Leland, and she would expect to pay for him. Mayor Pro Tempore Winecoff said that those are the discussions that Council has to have.

There was a comment from the audience from someone who said she was having a grandchild soon, and would not want to pay. Councilor Bell said the concern was that there would be busloads of children and there is only so much room for people. There were comments from the audience suggesting children be accompanied by an adult and that bathing suits be required. Mr. Kelly said that cut-off shorts would not be allowed, and that diapers would be required for children that need them.

Bettie Thorne asked if they had asked other towns that have splash pads about their rules: Mr. Kelly said they had spoken with staff at other towns, had done site visits, and drafted a set of rules.

There was a question from the audience as to the number of people allowed to use the Splash Pad at one time; Parks and Recreation Director Rebecca Squires said she thought it was approximately 180. Mr. Kelly said that what they have found is that at first, everybody flocks to it and then usage levels off, but our situation is a little different in that it is near the beach.

Liz Carolan suggested having a camp day or camp hour to allow the groups to use a specific time.

Kathy Barger Hon asked if there would be employees monitoring usage. Mr. Kelly said that was one of the things to consider, especially if there are fees to collect or if rentals would be allowed.

Becky Grizzle asked if there would be a requirement for how many children one adult can bring; Mr. Kelly said that would be handled on a case-by-case basis.

There was a comment from the audience about being concerned that we are just now discussing the fees and how to run it though the money has already been spent to install the Splash Pad. Mr. Kelly said that the basic plan had already been drafted but the details need to be finalized; he said that it was not just being started now.

Councilor Bach asked about the Town's liability; Mr. Edes said that the general rule was that towns take on more liability by providing lifeguards. He said that Town would be requiring adult supervision for children. Mr. Edes said that if we are acting consistent with other towns providing a similar service, then that would be a standard of care we should meet. Mr. Kelly said that at some places, the splash pad is in a public park, with no fences or attendants.

Mayor Pro Tempore Winecoff asked about right-of-way parking, saying it had been discussed for some time. He said that one of the discussions was controlling parking especially during the summer season. He said during the summer, there are streets that you can't drive down, and he would hate to see someone get hurt because of the right-of-way (ROW) parking. He said that he'd like Council to start looking at what can be done to eliminate or control right-of-way parking, such as allowing visitors to park in the ROW only with a permit, etc.

Mike Defeo, 902 West Yacht: Mr. Defeo suggested that Council pick something and see if it works for the season. He said there have been way too many debates on this. Mayor Pro Tempore Winecoff said that he had asked Council to have an ad hoc committee to review a topic such as this, instead of Council having meeting after meeting after meeting.

Melanie Morgan, 4808 W. Beach Dr.: Ms. Morgan said that last summer in July, there was a death in the family, and they didn't have enough parking for the family that came into town, and that her neighbors

allowed them to park on their property. She said that there ought to be a way to make parking available when you can't use the beach accesses.

Sheila Solberg, NE 48<sup>th</sup> Street: Ms. Solberg said that that the condition of the road were embarrassing. She said she and her neighbors try to use other roads as much as possible. She said she never hears the roads discussed and wondered if anything would be done. Mr. Kelly said that she was not the only one to address that. Mr. Kelly introduced Scott Thornall, the Town's new Public Works Superintendent. Mr. Kelly said Mr. Thornall had asphalt experience. Mr. Kelly also explained the process for surveying all of the streets in town, and the upcoming paving project.

Bob Carpenter, 126 NE 36<sup>th</sup> Street: Mr. Carpenter said that if the lot at 19<sup>th</sup> Place mentioned earlier was a corner lot, by definition, weren't all street ends corner lots? He said if the Town didn't address the parking issue with people having two driveways, it would be the same land taking that this Town tried to stop when people tried to take that property and it turned out that it was a street end and they can't.

Council took a brief recess at 7:26 p.m.

## II. COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Bach congratulated Ms. Stites on being named Cape Fear Council of Governments Clerk of the Year. He also congratulated the Beach Preservation Society for its successful fundraiser. He asked Mr. Kelly about an after action report on the Hurricane Florence response; Mr. Kelly said there would be a meeting open to the public to discuss that in May. Councilor Bach also asked for a report from the Police Department about changes that have been made and any that are planned.

Councilor Blalock reiterated his request for citizens to contact their representatives about the legislation mentioned earlier.

Mayor Pro Tempore Winecoff also congratulated Ms. Stites on her award. He also said the Wine Tasting was a great event.

Mayor Brochure also congratulated Ms. Stites on her award.

## III. CONSENT AGENDA

1. Approval of Minutes
  - a. March 5, 2019 (Special Meeting)
  - b. March 12, 2019 (Public Hearings & Regular Meeting)
  - c. March 25, 2019 (Special Meeting)
2. Approval of Post-Florence CSDM Renourishment Project Water Resources Development Grant Project Resolution and No Conflict of Interest Certification

**Councilor Bach made a motion to approve the Consent Agenda as presented. Mayor Pro Tempore Winecoff second and the motion passed unanimously.**

## IV. COMMITTEE APPOINTMENTS

1. Board of Adjustment (one regular term ending March 2022 and two alternate positions ending March 2022): **Council unanimously appointed Eddie Grooms to the regular term and Kristy Sappe as an alternate. With votes from Mayor Pro Tempore Winecoff and Councilor Blalock, Martyn Hawkins was not appointed.**
  - a. Eddie Grooms
  - b. Martyn Hawkins
  - c. Kristy Sappe

V. ADMINISTRATIVE REPORTS

1. Town Manager: Mr. Kelly said that we hoped to have substantial completion for the Pier by May 1, that he hoped the public could use the area up to the T, and that the rest would be completed shortly thereafter. He said right now, the ocean is not cooperating; all the pilings are there except for four. He said we are shooting for a C/O by July 1<sup>st</sup>, though the public could hopefully start using a portion of it the first week in May. The Town is working on obtaining the fishing license. The cost for the permit would start July 1<sup>st</sup>, the 2<sup>nd</sup>, really, since there would be fireworks on the Pier on July 1<sup>st</sup>. We would soon advertise for the staffing the Pier. Councilor Bach asked about the business plan for 801 Ocean; Mr. Kelly said it should be ready before the April 23 budget workshop. After some discussion about possibly changing the date or time, consensus was to keep the budget meeting on April 23 as scheduled.

a. Department Reports: Department reports are included as an attachment and are hereby made a part of these Minutes.

2. Town Attorney: Mr. Edes said at the last meeting, Council directed him to look into filing an Amicus brief in the seismic testing case filed in South Carolina. He said that we filed a brief yesterday in a motion for a preliminary injunction; it includes Oak Island, Caswell Beach and Holden Beach, though he has had other requests from other towns as well. He said there were really two suits, but that they have been combined. He also explained the process for filing a “friend of the court brief.”

VI. CLOSED SESSION to Consult with the Town Attorney to preserve the attorney/client privilege pursuant to N.C.G.S. 143-318.11(a)(3): There was no Closed Session.

**Councilor Scott made a motion to adjourn at 7:50 p.m. Mayor Pro Tempore Winecoff seconded the motion and it passed unanimously.**

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Cin Brochure, Mayor

Attested: \_\_\_\_\_

Lisa P. Stites, MMC  
Assistant Manager/Town Clerk

*Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 so that the Citizens and the Public may view and listen to the meetings in their entirety.*