

MINUTES  
OAK ISLAND TOWN COUNCIL  
PUBLIC HEARINGS & REGULAR MEETING  
MAY 14, 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 Scott 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 proposed amendments to modify the text in the Unified Development Ordinance Article 10, Part IV – Signage Regulations; to regulate signage standards for the airport. There were no comments. **Councilor Bell made a motion to close the Public Hearing at 6:32 p.m. Councilor Blalock seconded the motion and it passed unanimously.**

Councilor Bach asked what the rationale was for having two different sets of regulations for signage at the airport and for giving the airport more discretion. Mr. Vares said that is his review of what other jurisdictions, he found that those entities did not regulate signage. Councilor Bach said it would depend on how we were defining airport-related businesses. Mr. Vares said that would be on a case-by-case basis. Mr. Edes said that term hasn't been defined yet, and that he would recommend drafting a definition and setting another public hearing, and suspending implementation of the ordinance amendment if it were adopted tonight. Councilor Bach said that he thought the language was vague. Mr. Edes said that any vendor that is out there could argue that its services are airport-related. Councilor Bell asked if the Airport Commission had regulations. Mr. Vares said there are federal regulations. Councilor Bell asked why the airport wouldn't be exempt, like the Town is. Mr. Vares said the Town is not exempt and that the Town has to follow the same rules as everyone else. Mr. Edes asked if the question was why federal law doesn't pre-empt local laws, and he said they can look into that along with drafting a definition.

**Councilor Bach made a motion to reopen the Public Hearing. Mayor Pro Tempore Winecoff seconded the motion and it passed unanimously.**

Liz Carolan, 106 NW 13<sup>th</sup> Street: Ms. Carolan said that she had a couple of concerns about the signage and the process for how this came to pass. She said signage should have been included in the initial plans. If it was an oversight, there should be a uniform process as to how oversights are handled and that should extend to all citizens. She said that there have been several things that have been happening at meetings and as she reads Minutes from meetings and gets information about what is happening at meetings, if signage was an oversight, then it should not have been kicked back out and gone through the regular process. She said that the airport district should have been created via copying and pasting from commercial and business zones without any regard to safety regulations and other higher-up regulations. It was an airport, not a business. She said that if staff were going to extend themselves to help certain citizens, then that should be extended to all citizens and not just somebody who has an airport, somebody who is a builder. She said another citizen has acted as an agent for certain citizens and she thinks this might be a prime example and more research needs to be done on this because it is happening. She asked for unilateral application of the UDO and the permit process to be applicable to all citizens and not just an airport person or a builder.

**Councilor Bach made a motion to close the Public Hearing at 6:40 p.m. Mayor Pro Tempore Winecoff second and the motion passed unanimously.**

PUBLIC HEARING I ACTION: Mr. Edes recommended that if this ordinance passes, Council state that it not take effect until the definition is approved. Mayor Pro Tempore Winecoff suggested tabling it to the June meeting. **Mayor Pro Tempore Winecoff made a motion to table the item to the June meeting, Councilor Bell seconded the motion and it passed unanimously.**

PUBLIC HEARING II: The purpose of the Public Hearing was to receive citizens' comments on proposed amendments to modify the text in the Unified Development Ordinance Section 5.2 Pre-Application Meeting & Sketch Plan and Section 10.18 Approval/Appeal, to modify the timing requirements for major subdivision and building facade design plan review. There were no comments.

**Councilor Bell made a motion to close the Public Hearing at 6:13 p.m. Councilor Blalock seconded the motion and it passed unanimously.**

PUBLIC HEARING II ACTION: Councilor Bell said the old code allowed 45 days, and the UDO stated 21 days, and all we are doing is going back to the old timeframe so that if larger projects come forward, there would be enough time for review.

Councilor Bach asked if there was data to show that deadlines were not being met, because his understanding was that the deadlines were being met. Development Services Director Steve Edwards said that it does test staff to meet these deadlines. He also explained the Technical Review Committee process, which includes utility companies, etc. Councilor Bach asked if it would be fair to say that doubling the timeframe would give staff time to give a more thorough review. Mr. Edwards said that was a fair statement, and that they want to be sure the applicant has time to make corrections or changes.

**Councilor Bell made a motion to approve the proposed amendments (Secs. 5.2.1, 5.4.3, 5.7.1.2, and 10.18) and to adopt the associated plan consistency statement. Councilor Scott seconded the motion and it passed unanimously.**

#### PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

1. National Safe Boating Week – U.S. Coast Guard Auxiliary: Council member Bell read the Proclamation.

2. Presentation of the Proposed FY 2019-2020 Budget – Town Manager David Kelly and Finance Director David Hatten gave a presentation on the budget. The presentation is attached and is hereby made a part of these Minutes. Mr. Kelly reviewed some of the highlights of the proposed budget, including four new employees and a suggested tax rate of 29 cents per \$100 of assessed value, with 4.85 cents dedicated to beach nourishment. The sand tax would generate \$1,535,812. The FY 2019-2020 debt payment for Town Hall and the Police and Fire stations is \$1,726,364; next year those debts will be paid off. The coming year's payment for sewer debt is \$7,221,512; that will be paid off in 2035-2036. There are plans to add four new employees – two maintenance workers in Public Works, a backflow prevention technician for the water department, and a Pier crew leader. Mr. Hatten reviewed planned capital outlay, including leasing police vehicles. Mr. Kelly said there is no fee increase for water, wastewater or the sewer district fee. There is a small increase proposed for stormwater. Three new people were hired for stormwater earlier this year, and they have been doing more maintenance. Mr. Kelly also said the budget included a \$694,000 transfer to the beach nourishment fund; the total projected revenue for beach nourishment/accommodations tax fund is approximately \$3.4 million.

3. Beach Nourishment – Johnny Martin with Moffatt & Nichol: Mr. Martin gave a presentation on the upcoming beach nourishment and FEMA projects, a copy of which is attached and is hereby made a part of these Minutes. Material dredged from the AIWW crossing was placed on the west end of Oak Island; the western edge of the placement was moved farther east so the material would not go right back into the inlet; approximately 120,000 cy of sand was placed on the west end by the Corps of Engineers. Mayor Brochure said that many people don't know how much work goes into getting projects like this, and she thanked Mr. Martin and staff for their efforts. There will also be dredging to place sand in a near-shore spot/hole; hopefully that will help the erosion problem at the west end. The Town is still working with FEMA on a post-Hurricane Florence dune project for 229,317 cy of sand with some dune planting. They have also submitted applications for State grants to cover the post-storm engineering costs (\$64,549) and for a \$5.4 million grant for sand. Mr. Martin spoke about the different levels of protection the general beach nourishment project, where a dune would be placed, etc. He also said they have been doing field investigations to identify sand sources. The Sea Turtle Habitat Restoration Project is planned to begin in January of 2020 and finish May of that year. There is a FEMA authorization for approximately \$6 million for that project, and the State/Town contribution is \$2 million; the project volume is 364,000 cy. For the 2020/2021 winter, they plan to do the post-Hurricane Florence emergency dune restoration project. The general nourishment project is expected to cost \$25-\$40 million, depending on the level of protection the Town approves and the sand source utilized. Mr. Martin also explained that one of the reasons to phase these projects is that for the beach to be considered an "engineered beach" for future FEMA reimbursement following a storm, it can't have been built with federal funding. Councilor Bach asked about the modeling being used, if it was possible the cost would be lower and if Mr. Martin thought we did need that volume of sand. Mr. Martin said that he was fairly certain we would need all that sand. He said that once the large nourishment project was complete, the hope would be that storm loss would be covered by FEMA, not the Town's regular beach maintenance funds. Councilor Bell said there were a lot of "maybes," "should bes" and "ifs." Mr. Martin said there was no reason to think the Town would not get the FEMA reimbursements.

#### ADJUSTMENT/APPROVAL OF THE AGENDA

Mayor Pro Tempore Winecoff added two Budget Ordinance Amendments to the Consent Agenda – one is for \$12,500 toward the purchase of a truck for Oak Island Water Rescue and the other is \$140,137 for leasing five cars for the Police Department. Mayor Brochure noted that Council had discussed those items previously at budget workshops.

**Councilor Bell made a motion to approve the agenda as amended. Councilor Bach seconded the motion and it passed unanimously.**

#### PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Melanie Morgan, 4808 W. Beach Drive, written comments provided as follows: I am here to publicly voice my opinion regarding chickens at Oak Island. It's not the chickens themselves that concern me, it's their waste. For one thing, it stinks. Our lots are small. Small enough that there isn't going to be enough of a buffer between your property and your neighbors to contain the smell. And it's going to further pollute our waters. We already have fecal bacteria getting washed into our estuaries during heavy rains. Right now Lockwood Folly is closed for shell fishing for this reason. The clams and oysters are not safe to eat. There has been times when areas of the beach have to be closed due to high fecal bacteria levels, to keep people from getting sick from swimming there. And it's gross. We often blame people not picking up their dog's poop for the fecal bacteria in our waters. Therefore we require dog owners to pick it up. I ask you, by what method is the chicken poop going to be collected and disposed of? What measures will be in place to prevent the waste from flowing to our estuaries during heavy rains? Will there be periodic inspections of chicken coops, or only if a neighbor complains? The answer is, you are saddling Development Services with the task of animal control. The council directed that this ordinance be written,

bypassing the planning board and a public hearing, so I am guessing that means you already have your minds made up. But I feel it would be irresponsible for the council to allow chickens here and I am asking you NOT to pass this ordinance.

Karen Fullerton, 142 NW 13<sup>th</sup> Street: Ms. Fullerton asked Council how they rationalize the intentional harm caused to her and her property by denying previously approved civil engineering drawings and a fix midway through. She said that this started a year ago when she met with Steve Edwards in August to fix a multiple home problem of flooding. She said that she presented this at the October meeting to bring up issues about the UDO that contributed to the major flooding and the circular reference of fix your own yard yet not allowing them to fix it because of the utility easement. She said that she got a fill permit in October and that she had an engineer with a greater than \$20,000 fix so that it would not harm her neighbors and would meet all the permits. She said that was approved in writing by Steve Edwards with a “vaguely written note” that the retaining wall cannot be within the utility easement. Ms. Fullerton said that she knows what vague means with regards to real estate signage, so she questioned it and said that her engineer told her there was no legal utility easement on her property. She said that on March 19, she met with Brunswick Electric and Mr. Kelly and Mr. Edwards and that Mr. Tippet told her the BEMC easement was five feet on her property. She said that she audiotaped it. She said that she got a letter of agreement, and then met with Mr. Kelly. She said that they started work in April and that the work was stopped by Steve Edwards and the police who threatened arrest. She said that was coercive. She said that was criminal in a civil action. She said when she asked why, she was told that the attorney reinterpreted the easement. She asked why they were harming a person who was using their own money to fix a problem. She said there were trees uprooted and that she had a sump pump up for weeks. She said she emailed and called Council without any response and that was horrible. She said they had a role and responsibility to residents. She said that she had to fix her yard, not to the engineer’s fix but costing the same amount of money. She asked Council to fix 12<sup>th</sup> and 13<sup>th</sup> Streets and to look at their inconsistencies.

Helen Cashwell, 3407 E. Yacht Drive: Ms. Cashwell said that many citizens were wondering why the Town Manager had not moved to Oak Island, as that had always been a major requirement for serving in that capacity, and for many who have applied, it had been a requirement and that the most qualified people were not in a position to do it, justification was that the officer would be available to mingle with the citizens since we are an island, and perhaps understand that they expect it from the administration that serves us. Ms. Cashwell said that over the life of this Town, there had been many backroom incidences, least of all was the merging of Long Beach and Yaupon. She said the change in the Charter made earlier this year kept that history alive and well. She said as citizens, they are their own worst enemy and deserve what’s handed to them by the administration of the Town. She said that without their participation as citizens, as worthless as it may seem, they are still at their mercy. She read from the January 2018 meeting Minutes, in which there were no public comments during a public hearing on proposed Charter amendments and staff was directed to place proposed Charter amendments on the February Council agenda. She said Ms. Stites had noted that the other Charter amendments had already been sent to Rep. Iler’s office. Ms. Cashwell claimed that the ordinance amendments had not been discussed openly as to their content and wondered what the other amendments were. She said that Councilor Blalock said the residence requirements for the Manager were archaic and could be a deterrent to future recruitment. She asked since one of the amendments changed the election for Mayor, why that did not apply for the Manager as well. Under his contract at that time, he was to move to Oak Island, not after the contract was up, or was his contract up and it just became automatic to fit the occasion. She said in her mind, changes were usually applied to the next action or they should at least have the courage to face the citizens and waive the requirement. Ms. Cashwell said if it had been applied correctly, he should have moved to Oak Island. She said that it seems there is another move going on, to flip the old UDO and the new UDO as it fits Development Services’ needs. She said they saw that in living color with the 62<sup>nd</sup> Street fiasco. She

told citizens they shouldn't complain unless they were willing to stand up and speak their thoughts regarding their community.

Betty Monin, 3501 E. Yacht Drive: Ms. Monin said that her issue was public safety on Yacht Drive. She said the Town was very responsive in installing stop signs while the bridge was closed. She said that just as soon as the bridge opened, the signs disappeared. Now that there are lane closures on Oak Island Drive, Ms. Monin said that Yacht Drive has become a raceway. She said that most residents are respectful, but that there is an element that is 'public safety dangerous.' Ms. Monin asked that when paving starts on Oak Island Drive, something be done to ensure safety on Yacht Drive.

Rosanne Fortner, for the Beach Preservation Society Advisory Board: Ms. Fortner complimented the Public Works Department for all the work being done at the beach accesses to get ready for the season. The Department will also assist by installing six new bike racks provided by the Society. The May 4 beach cleanup with the Cape Fear Surf Rider organization was very productive, collecting 146 pounds of trash. Ms. Fortner also spoke about plans for the summer, including introducing a beach lover patch as part of education efforts. There will also be a new panel for the kiosk at the Point. There will also be lectures scheduled for the fall.

#### COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Bach echoed Ms. Fortner's comments about the Town's employees; he said the Town had a remarkable recovery from Hurricane Florence, and that was a credit to the employees' skill and persistence.

Councilor Bell agreed with Councilor Bach's comments.

Mayor Pro Tempore Winecoff said that on April 29-30, he, Councilor Blalock and Mr. Kelly attended the NC Beach, Inlet and Waterways Conference, where they learned about rule changes and potential funding sources. Mayor Pro Tempore Winecoff also said that it doesn't matter where a staff member lives; what matters is the job he does for the Town. Mayor Pro Tempore Winecoff said that Mr. Kelly has responded at all times of days, and he thanked Mr. Kelly for what he does for the Town.

Mayor Brochure mentioned the Hands Across the Sand event May 18.

#### REGULAR MEETING:

##### I. CONSENT AGENDA

1. Approval of Minutes
  - a. April 9, 2019 (Public Hearing & Regular Meeting)
  - b. April 17, 2019 (Special Meeting – Budget Workshop)
  - c. April 23, 2019 (Special Meeting – Budget Workshop)
2. Approval of Amendments to the Records Retention and Disposition Schedule
3. Budget Ordinance Amendments for \$12,500 toward the purchase of a truck for Oak Island Water Rescue and \$140,137 for leasing five cars for the Police Department

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

##### II. ADMINISTRATIVE REPORTS

1. Town Manager: Mr. Kelly said the ribbon cutting would be done at the Pier tomorrow morning at 10 a.m. The July 1<sup>st</sup> fireworks will be hosted at the Pier and the first day of fishing would be July 2. Work is progressing on the amphitheater, and there will soon be a ribbon cutting for the

Splash Pad. Regarding the parking lot for 604 Ocean Drive, Mr. Kelly said they hoped to have that completed by Memorial Day weekend.

- 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 that the Town's motion to file an Amicus brief in the South Carolina lawsuit regarding seismic testing was allowed.

### III. OLD BUSINESS (None)

### IV. NEW BUSINESS

1. Consideration of Amendments to Chapter 4 – Animals: Mr. Kelly said that after discussing it with Mr. Edes prior to the meeting, staff recommended holding a public hearing on the proposed amendments. **Councilor Scott made a motion to schedule a Public Hearing. Councilor Bach seconded the motion and it passed unanimously.** Mr. Edes confirmed that the Public Hearing was to be scheduled for the June 11 meeting.

2. Consideration of Authorization to Apply for a Grant through the NC Urban Council: Diane Whetsel made the following comments to Council: I am a member of the Environmental Advisory Committee and the Tree City USA Working Group. I am here to support our written Request to Council for Permission to Apply for a Grant of \$5,000. This opportunity has been offered to the Town of Oak Island through the North Carolina Legacy Tree Fund, which this year is focusing on storm recovery tree planting projects to help communities rebuild their urban canopies. The Environmental Advisory Committee has been for the past few months developing a plan to propose to Council, which has been nicknamed "Bringing the Oak back to Oak Island Drive". Many of us were under the popular misconception that because Oak Island Drive up to Middleton Road was a state maintained road, that NC DOT would not allow oak trees to be planted alongside it. However, we have recently found out from the NC DOT Engineer responsible for Oak Island, that this is not only incorrect, but they encourage the planting of roadside trees, within their parameters. Jake Vares, our city planner has prepared an example map showing where trees can be planted along a sample section of Oak Island Drive within DOT parameters, and observing underground utilities, water lines etc. Also, as the North Carolina Senate recently passed a bill directing NC DOT planting to prioritize native trees, Oak Island's signature live oak tree is the perfect choice! If we win the grant, we would be able to plant 25 live oaks along Oak Island Drive and begin our program to bring the oak back to Oak Island Drive. When visitors or residents are asked what sets Oak Island apart from other NC Beach communities, the answer is invariably "the trees". Oak Island, as a community has spent much time and energy creating ordinances to protect our trees from residential and commercial development. However, there are circumstances when trees cannot be saved; they die of disease, they are damaged or blown over by storms, are in the path of development or just planted in the wrong place. City trees provide many benefits - they purify and cool air, take up and filter storm water, control and reduce soil erosion and reduce damage from flooding, and they provide shade, beauty and vital habitat for a variety of wildlife. But they also require an investment to remain healthy and sustainable. Oak Island has been a Tree City USA community for many years. This prestigious Organization is a program of the Arbor Day Foundation, and members must annually meet qualifying standards, one of which is that the community must document at least \$2 per capital toward the planting, care and removal of city trees. The Grant we are applying for requires an equal match of up to \$5,000. This commitment by the Town of Oak Island would nearly fulfill its Tree City USA annual financial obligation, while providing the excellent opportunity to double the budget to work within to fulfill the other Tree City USA standards to be met, of planting and maintaining trees on streets public places. Moreover, the support of the Town of Oak Island would greatly improve our chance of winning this grant. Last year, through the Environmental Advisory Committee, I was responsible for the planting of

the live oak tree on the grounds of the Barbee Library. This was only possible through the generosity of my fellow EAC members, who donated 95% of the funds for the purchase, delivery and planting. The price for that one tree was \$650. If the Town of Oak Island can get 25 live oaks trees, planted and maintained for the bargain price of \$5,000 - then we should jump at this wonderful opportunity!

**Councilor Bach made a motion to authorize staff to work with the Environmental Advisory Committee to apply for a grant through the NC Urban Forest Council. Councilor Bell seconded the motion and it passed unanimously.**

V. **CLOSED SESSION: Councilor Bell made a motion to go into Closed Session to Consult with the Town Attorney Pursuant to N.C.G.S. 143-318.11(a)(3) at 7:42 p.m. Councilor Scott seconded and the motion passed unanimously.**

Council returned to open session at 8:20 p.m. Mayor Brochure noted that there was no action taken in Closed Session.

**Councilor Bell made a motion to adjourn. Councilor Blalock 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.*