



Town of Beaufort, NC

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Town of Beaufort Board of Commissioners Work Session Meeting 4:00 PM Monday, October 26, 2020 - Zoom Meeting Due to COVID-19 Pandemic Minutes

Call to Order

Mayor Newton called the meeting to order at 4:00 p.m.

Roll Call

Mayor Newton conducted roll call and declared a quorum present for the meeting.

Present

Ann Carter

John Hagle

Sharon Harker

Marianna Hollinshed

Charles McDonald

Agenda Approval

Mayor Newton asked to amend the agenda to include closed session pursuant to NCGS 143-318.11 subparagraph C.

Commissioner Hagle made a motion to approve the agenda as amended. The motion passed unanimously.

Voting Yea: Commissioner Carter, Commissioner Hagle, Commissioner Harker, Commissioner Hollinshed, Commissioner McDonald

Public Comment

None

Project Updates

Town Engineer, Greg Meshaw provided an update on current projects.

- Randolph Johnson Park. Randolph Johnson Park had a pre-final inspection with the contractor to ensure that everything was working and/or completed. Anything incomplete/incorrect was placed on a correction/completion item list. He noted some drainage issues along the edge of the site; potential remedies have been discussed but not yet completed. He referenced a conversation with the contractor earlier in the day and explained that the subcontractor is waiting on dry weather before beginning the drainage improvements. He explained that the drainage work will involve some grading along the edges of the site that would not impact anyone using the park.
- Cedar Street Park. Mr. Meshaw reminded the Board that the 25% design benchmark and preliminary cost estimates were completed. He then discussed the Design Review Meeting which took place October 8, 2020. As a result of the meeting, he explained that the Town needs to provide decisions on the bathroom footprint and elements to bid initially.
- Topsail Park. Mr. Meshaw told the Board that contracts have been executed with an estimated start date of November 9, 2020. Mr. Meshaw said the contract is for seven weeks, but that he hoped they would be able to complete it sooner. He noted that this is a good planting season
- Street Construction. Mr. Meshaw showed a list of street rehabilitation and construction projects. Stanton Road, Hedrick Street, Mashburn Avenue, Professional Park Drive, Jefferson Street, Eastern Avenue, Ricks Avenue and Sherwood Boulevard have been completed. Work has been started on Live Oak Street, Gordon Street, Laurel Street, Safrit Drive and Taylors Creek Road. He noted work will begin on Craven Avenue, Carteret Avenue and Pollock Street this week. He explained that the overall project had been behind schedule, but he feels that they are catching up and should be able to finish on schedule.
- Turner Street 100 Block Street Improvements. Mr. Meshaw referenced the last Regular Meeting where the Board approved the proposed projects. There is not a definitive start date at this time, but Mr. Meshaw anticipates the project will start in early November. He explained that it is a two-month contract but may take longer given the recent additions to the plans.
- Cedar Street Water & Sewer Rehabilitation & Replacements. Mr. Meshaw told the Board that bids should be received October 29, 2020 to replace water lines, replace and rehab sewer lines, and rehab and replace a few manholes along Cedar Street in advance of the NCDOT project to pave the street. The current estimate for the project is a little over \$1.2 million.
- First Street Culvert Relocations. Mr. Meshaw noted work on the corner of First Street and Craven Avenue at the future location of Beaufort Dental. He explained that stormwater piping is being rerouted around that site as the drain currently runs directly through the site. The work should be completed in 30 days. The total project cost is \$43,000 and is being split 50/50 between the Town and developer.
- Town Hall Reception Area Renovation. Mr. Meshaw said that work on the project slowed down as staff is trying to determine what the reception window area should look like. He then discussed the proposed layout for the reception area noting safety glass between the reception area and staff.

Mr. Meshaw then asked the Board for any questions.

Commissioner Hollinshed asked who will be making the decisions on the elements to be included in the park. Mr. Meshaw said that had not yet been discussed, but noted staff would likely provide recommendations and potentially take them to the Parks and Recreation Advisory Board and then on to the Board of Commissioners, or it could go solely before the Parks and Recreation Board. Commissioner Hollinshed said that she thought the Board would likely want to see it to make sure it doesn't become something that was not intended. Mr. Meshaw pointed out budgetary concerns and added that the total project cost estimate at this point is about \$1.3 million.

Commissioner Harker asked if the \$1.2 million for Cedar Street Rehabilitation would be the Town's responsibility. She then asked if there was any chance of getting any of that money back from NCDOT. John Day, Town Manager, explained that the Town would not get any money back for that project as it does not fall within NCDOT's purview. He added that NCDOT would be coming back to replace stormwater lines at their

expense and installing the stormwater system discussed about a year ago with the bumpouts and stormwater BMPs. NCDOT will pay for those improvements and the resurfacing.

Commissioner Harker then asked about Cedar Street Park. She asked if the design is the same one from a few years ago. Mr. Meshaw said the plan does closely follow that initial design. Mr. Day added that the initial plan was conceptual and that there were some minor differences between the current plans and the initial concept plan but overall are quite similar.

Commissioner Hagle explained that the intent of Cedar Street Park was to keep it simple and low maintenance. He said that it's a beautiful spot that does not need to have much added to it that would require significant maintenance. Commissioner Hagle also thanked staff for the hard work on the resurfacing projects. He then asked if there would be center striping on the streets. Mr. Meshaw said that the only one that will have center striping is Live Oak Street.

Commissioner Carter asked if NCDOT will be doing the stormwater work at the same time the town begins work on the water/sewer lines. Mr. Meshaw said that unfortunately it looks like it will have to come at another time.

Commissioner Carter noted that she agrees with Commissioner Hagle regarding Cedar Street Park and keeping it as simple and low maintenance as possible. She also emphasized the need to give the Parks and Recreation Advisory Board the opportunity to comment on the proposal.

Commissioner McDonald asked for clarification on the odor control project and referenced emails to the Board. He said that Mr. Meshaw indicated Mr. Blackley made a mistake in the amount of soil that would be taken out of the area. Mr. Meshaw confirmed. Commissioner McDonald asked how much soil would be taken from the area. Mr. Meshaw explained that the number he provided was based on leaving approximately one foot of soil in the bottom to be removed later with the grading process. Mr. Meshaw said it would be approximately 43,000 cubic yards, not much more than the 41,500. Discussion ensued. Commissioner McDonald asked Mr. Meshaw to confirm that it would not be more than a \$20,000 difference between the cost of the soil and the cost of the odor control device. Mr. Meshaw confirmed. Mr. Meshaw explained that the contractors are spending \$263,000 on the equipment in addition to a design fee that he estimates to be at least \$15,000. Commissioner McDonald asked Mr. Meshaw to confirm that the equipment would become the Town's responsibility after installation. Mr. Meshaw confirmed. Commissioner McDonald asked when Mr. Blackley would no longer be able to take any more soil from the site. Mr. Meshaw said that there is not an expiration date, but he is entitled to the 41,500 cubic yards as agreed upon. Mr. Meshaw further explained ongoing geological testing that will determine whether the town will need to go deeper for the infiltration basin. Mr. Day added that the basin will be constructed to meet the requirements of the state permit. Upon completion, it will be certified by an engineer to confirm that it meets the design requirements. Mr. Meshaw confirmed that it will need to be certified. Commissioner McDonald asked if the Town would be responsible for additional cost for the infiltration basin if necessary. Mr. Meshaw confirmed, pointing out the cost savings provided by Blue Treasure doing the excavation work required.

Mayor Newton asked Mr. Meshaw about the 100 block of Orange Street pervious surface project. Mr. Meshaw spoke about an onsite meeting where they discussed traffic control. He is waiting on a traffic plan from the contractor at this time. The contractor is working to finish the utility work on Howard Junior Lane. Once that is finished, they will move to Orange Street with the utility crew. Once the traffic plan is received and approved, work will begin.

Items for Discussion and Consideration

1. Draft Minutes for the Sept. 28 Work Session & Oct. 12, 2020 Regular Meeting

This item was placed on the agenda under Items of Consent

2. 2021 BOC Meeting Dates

Mayor Newton pointed out the need to consider the date for the December meeting. Commissioner Hagle suggested holding the meeting December 20, 2021. Discussion ensued. Mr. Day told the Board that in years prior that meeting was eliminated as it would be a Work Session noting that it is a challenging time of year.

This item was placed on the agenda under Items of Consent

3. Noise Ordinance Revisions

Mr. Day referenced the September 28, 2020 Work Session where the Board discussed the revisions. Following the meeting, the Board provided comments on the proposed revisions. Mr. Day asked if the Board would like to review the comments individually. Commissioner Hagle confirmed.

Sec. 91.04 (m). The first comment was in reference to the definition of Downtown. Mr. Day noted that it was done incorrectly the first time and asked what [zoning] districts the Board would like to include in the definition.

Mr. Day noted incorrect references to the general statutes regarding motorized vehicles which have since been corrected.

Sec. 91.05 Specific Prohibitions

(a) – there was a suggestion to add boats to the prohibition. The Board agreed.

(d) – Construction activity – the proposed draft prohibits construction activity between the hours of 7:00 p.m. and 8:00 a.m.

One of the comments noted that construction activity of all types often begins at 7:00 a.m. Discussion ensued. Commissioner Harker pointed out that the times should probably be consistent for everything as it makes it easier for citizens to remember and for the Town to enforce. Commissioner Carter noted that a lot of contractors prefer to start earlier in the day, especially in the summer. Further discussion ensued. Commissioner Hagle referenced the current ordinance with a start time of 7:30 a.m. Mr. Day asked for confirmation of the start time. Mayor Newton said that 7:30 a.m. seems to be the consensus.

(h) – The operation of lawn mowers and other domestic power tools outside between the hours of 8:00 p.m. and 8:00 a.m.

Commissioner Carter asked if there should be additional restrictions on Sundays. Commissioner Harker said she felt the end time should be earlier than 8:00 p.m. Commissioner Carter said that some people start mowing their lawns at 7:30 and noted that she has received many complaints about that.

Commissioner Hagle said that it could be consistent with the restrictions for construction activity. Mr. Day asked to confirm that the Board would like to change the start time to 7:30 a.m. and add weekend restrictions. Commissioner Carter said that on Sundays it should not start before 8:00 or 8:30 a.m. Commissioner Hagle asked if the board should make it consistent with construction activity as it is prohibited on Sundays. Discussion ensued. Mr. Day pointed out that the Board could have a later start date on Sundays. Commissioner Carter suggested 9:00 a.m. on Sundays. Commissioner Hagle pointed out that it has not been in the ordinance to date and has not been an issue.

Mr. Day read a comment pertaining to Section 91.05 B6 which has information about large trucks including refrigerated trucks. The question was whether it was covered in the definition for “Necessary Business Equipment.” Mr. Day explained that it is not, and that the Board may want to consider adding the following prohibitions from the current noise ordinance:

- 1) Loading or unloading of a vehicle with more than six wheels;
- 2) The parking of a motor vehicle with more than six wheels with its engine running;
- 3) The parking of a vehicle with more than six wheels with a refrigerated cargo compartment while the refrigeration unit is operating;

- 4) The loading or unloading of cargo from a motor vehicle with the use of mechanical or hydraulic lifts; or
- 5) The outdoor dumping of bottles or cans from one container into another

He explained that the aforementioned were prohibited from 10 or 11 p.m. to 7 a.m. Commissioner Carter said that she has received complaints about dumping of bottles and things into a dumpster or truck noting that they do make a racket. Commissioner Hagle reminded the board that the topic came up in previous discussions about the previous ordinance. Mr. Day said that the Town rarely receives complaints about any of these items.

Mayor Newton asked the Board how it would like to proceed. Commissioner Hagle said that it has been in the current ordinance and that it should be left in this one too. Mr. Day asked for confirmation that the Board would like the prohibitions added. The Board confirmed.

Mr. Day then asked about the hours and if they should remain 10:00 p.m. to 7 a.m. Commissioner Hagle explained that those hours were set in response to events downtown. Commissioner Hollinshed said that it seems to have changed with the new recycling service, noting that they come typically around 7 if not earlier. Mr. Day said they are not supposed to be here before 7. Mayor Newton said that it should remain 10 p.m. to 7 a.m. Commissioner Harker verified that the hours [lawn mowers and domestic power tools] would be 7:30 a.m. to 8:00 p.m.

Mr. Day explained that this ordinance is based on the City of Wilmington's. He said that there is a considerable amount of filming there and that Beaufort has the potential for such. Commissioner Harker asked if one would need a permit for filming. Mr. Day said that there is nothing in place at this time, but that it is something the Town should probably consider. Commissioner Carter said to leave it in. The board concurred.

Sec. 95.06 (i). Mr. Day then discussed (i) lawnmowers. Commissioner Carter said that they had just discussed this. Mr. Day explained that was part of prohibitions and this section discusses things that are permitted. Commissioner Hollinshed said it should be standardized. Mr. Day asked to confirm that the recommendation is to change this to be the same as the other one [7:30 a.m. to 8:00 p.m.]. The board agreed.

Sec. 91.08. Mr. Day mentioned a suggestion to change the Waterfront Business District early time from 7:00 a.m. to 8:00 a.m. because of complaints from citizens that live nearby. Commissioner Hagle pointed out that the only difference is the morning hour, midnight is the same in both. Commissioner Hollinshed mentioned the recent rezoning of the Beaufort Historical Association and explained that they usually end events at 10:00 p.m. She explained that when it is on the waterfront, it is buffered whereas the other side of the street has less of a buffer. Mr. Day said that he believed that is where the Transitional District is.

Commissioner Hollinshed said that she is okay with the 10:00 p.m. in that area. She mentioned the brewery, noting that it typically calms down before 10. Mayor Newton said that he could not think of any activity outside of the BHA that would occur beyond 10:00 p.m. Discussion ensued.

Commissioner Hagle pointed out that when the ordinance was written, the area behind Backstreet Pub was busier than it seems to be now. Commissioner Hollinshed pointed out that we are in the middle of the COVID-19 pandemic so things are a little less exciting at the moment and it's easy to forget how these elements transmit throughout neighborhoods. Commissioner Hagle pointed out that the business districts are not consistent. Commissioner Carter said the waterfront business districts seem to be pretty clear. Commissioner Hagle said that 8:00 a.m. to 8:00 p.m. is reasonable in the residential areas.

Commissioner Hagle said it should be consistent with definitions for districts – commercial/industrial covers several districts. Commissioner Carter asked what district the area is down where the hotel is

going. Mr. Day said that it's not the same as the downtown area, but it is a waterfront district. Commissioner Carter said that waterfront commercial is one thing, but that area is a bit different. Mr. Day said that area is zoned Waterfront Business District and explained that if the Board wanted to call it out specifically in the ordinance, it can.

Commissioner Carter said that commercial/industrial could be a problem. She said the Waterfront Business District should stop at 10:00.

Mr. Day asked the Board to confirm that the Waterfront Business District should also be 8:00 to 10:00. Commissioner Hagle said that he thought the Board decided to leave that one alone. Mr. Day said that he would add another for the Waterfront Business District. Commissioner Carter said that there is a business waterfront from 8:00 to midnight. Mr. Day said that Business Waterfront is what is on Cedar Street. Commissioner Carter said that one should stop at 10:00 p.m. because there is a lot of residential very close to that. Mr. Day verified that Business Waterfront is going to be 8:00 a.m. to 10:00 p.m. and asked if there were any other changes to this part of the ordinance.

Commissioner Hagle said that he would like to consider using the official definitions rather than general areas. Mr. Day confirmed that the Board would like specific zoning districts named in the ordinance.

Sec. 91.09 (d). Mr. Day explained that there is a section in the ordinance that allows for some discretion if something is running over the approved time. There were some concerns about having extensions unless there was an in-town designee, perhaps the mayor or something. Commissioner Carter agreed that it would need to be an in-town person. Commissioner Hollinshed said the mayor would be appropriate. Mr. Day said that he felt the mayor would be the best option if you wanted to keep the extension option available. Commissioner Hollinshed said that another option would be to remove the option all together. Commissioner Hagle said he did not think that has ever been an issue. Commissioner Hollinshed said that she could understand that if there was a band or something that had to delay an hour or two due to weather. The board agreed to remove the clause all together.

Sec. 91.09 (g) (10). Mr. Day discussed the criteria for consideration of a noise permit application. He noted one comment which said that there is not a necessity except for emergency purposes. Commissioner Hagle said that he felt it refers to asking the question about amplified sound. He said that he was not sure why we need to ask that question and recommended removing it from the list of criteria.

Sec. 91.11 Mr. Day read the comments on this section – Owner/Occupant Responsibility needs to be tightened, 12 months is too long before fines are considered, and questions on the practicality of having an absentee owner responsible for excessive sound. Mr. Day said that it would be helpful to have the town attorney weigh in on this portion as it deals with enforcement.

Arey Grady, Town Attorney, said that the board could go against either the property owner or tenant/guest. The theory is that the property owner would generally be liable for whatever the guest is doing. Commissioner Carter asked if a property owner would be responsible for a renter in a rental property. She said that it would make sense if it was excessive and a recurring problem. Mr. Grady said that he felt the wording is a bit confusing. Mr. Day said that his recommendation would be for Mr. Grady to review and edit this section and have it for the Board at the Regular Meeting. Mr. Grady and the Board agreed.

Commissioner McDonald asked if the ordinance has any bearings on moving vehicular traffic noise. Mr. Day confirmed that it does. Commissioner McDonald asked if that would apply for the same time frames as other areas. Mr. Day said that sort of noise would be a violation at any time of day.

Mr. Day went over additional comments/questions submitted by the Board, one of which was about vehicle noise – loud music, illegal equipment, heavy trucks. He provided a summary of the earlier talking points and additions earlier in the meeting regarding vehicle noise. Mr. Day then spoke about

enforcement. Mayor Newton asked if he felt the Police Department is equipped to enforce this ordinance. Mr. Day confirmed and explained that Paul Burdette, Chief of Police, reviewed the ordinance and prefers this draft to the current noise ordinance.

Mayor Newton asked for any additional comments or questions. Commissioner Hollinshed said that she agrees with Commissioner Harker on keeping the schedule consistent. She also said that people should inform their contractors of the times – accountability is key.

Commissioner Harker said that once the ordinance is completed, if any of the businesses need to know what to let their vendors do so they can stay consistent with it and put out as much educational material on it. She pointed out that it is a little bit different. We want to make sure everybody knows what we're doing so that when the enforcement comes it's not a total surprise.

Commissioner Hagle agreed that the Town should try to advertise this one because it does impact a lot of people, both residential and businesses. He suggested that once the document is finalized there should be some PR on the topic.

Commissioner Carter mentioned reduced noise commercial grade mowing equipment. She said that if there's any way that we can encourage these commercial companies to invest in those, it would make life easier day or night for everybody in town – that could be a good thing. She added that there is no way to address everyone that is too loud in town, but that this is a good baseline.

Mayor Newton asked Mr. Day if he had all of the information needed. Mr. Day confirmed and said that he would incorporate the changes in the document and have it on the agenda at the next Regular Meeting.

This item was placed on the agenda under Items for Discussion and Consideration

4. Short Term Rental Regulations

Mr. Day referenced the September 28, 2020 Work Session where the Board discussed potential regulations for homestay and whole house short term lodging. He explained that the commissioners submitted questions and comments on the potential regulations for discussion at this meeting.

Homestay Lodging 1(b). The first question was about permitting in a homestay – can multi bedroom units or multifamily structure owned by a company be a homestay facility if the owner of the LLC or company applies for permission? Mr. Day asked Mr. Grady to answer. Mr. Grady explained that there is no clear authority that can draw that distinction between an actual person or any type of business entity. He explained that he understands the theory behind it, as the Town would like to preserve the residential character and keep bigger companies from taking over. He said he believes the Town has the discretion to draw this distinction. He further explained that a LLC, corporation, or other business entity is what he would call a typical protected class, so you have to be careful with when you single them out. He said that he is comfortable moving forward with the proposal and believes that it is at the Town's discretion. He further explained that he would like to caution the Board as there is no specific support for it. Mr. Day added that there are instances where individuals purchase a house through an LLC typically for legal reasons. He asked the Board if it would like to leave this section in or remove it. Commissioner Hagle said that he would like to leave it in.

Homestay Lodging 1 (c). Commissioner Carter pointed out that the state will not allow you to permit short term rentals and said that "permit number" needs to be changed. Mr. Day explained that the wording was referencing the zoning permit, but that he would make that change. Commissioner Harker asked what kind of issues this would carry legally; for example, if we are permitting the person to have this as a short-term rental and they falsely advertise or somehow become non-compliant with VRBO or Airbnb, how does the Town stand legally? Mr. Day explained that it would be a zoning permit and a matter of zoning that would fall under the nonconforming uses portion of the ordinance. He said that if it was just a violation it would be treated like any other violation that would receive a fine until it is

corrected. He then asked the attorney to weigh in on the matter. Mr. Grady explained that the Town would not be liable based on the zoning permit. He pointed out that there could be a case where a neighbor or some other party with standing could lodge a complaint that would start a process to take action on the permit. However, that would not be a situation where the Town would become liable.

Commissioner Harker asked if there should be updates to these permits if changes are made. Mr. Day said that it would be part of the zoning ordinance, so any requirement currently in there would apply. Commissioner Carter asked who would be responsible for enforcement. Mr. Day explained that it would fall under the Planning Department and the Code Enforcement Officer would be responsible for ensuring compliance. Commissioner Carter voiced concerns about the amount of work that would place on the department. Mr. Day discussed the zoning permit process. He noted that violations are generally identified through complaints or obvious violations.

Commissioner Carter voiced additional concerns about the legality of the proposed regulations. She noted that the term "Zoning Permit" seems like a work around and could result in a lawsuit. Mr. Day explained that the prohibition is against registration of rental properties. Mr. Grady spoke about the ongoing Wilmington case and Court of Appeals as there will likely be more case law regarding this in the next few years. He said that he is comfortable with the proposal and feels that by including this in the zoning ordinance, the Town would be avoiding the issue. Discussion ensued. Mr. Day informed the Board that Wilmington requires the zoning permits to be renewed every 12 months. Commissioner Carter pointed out that a rezoning would require a public hearing. Mr. Day agreed, and added that a text amendment would also require a public hearing. Zoning permits, however, do not require a public hearing.

Commissioner Hollinshed voiced additional concerns about the workload on the Planning and Inspections Department. Mr. Day pointed out that the proposal was provided at the Board's request. He explained that there would not be an inspection beforehand. The applicant would complete an application and provide information necessary to determine whether the use is permitted in that district. He further added that there are no requirements with regard to structure with the exception of parking. Discussion ensued.

Homestay Lodging 3 (a-c). Commissioner Carter said that parking would be the biggest issue. She explained that there will absolutely be complaints and that the police would end up looking into them. Mr. Day agreed that the police would be involved in enforcement here – not the type that results in a notice of violation but asking people to comply. Discussion ensued.

Mayor Newton said that it seems that there is still work to do on this. He said the three biggest concerns he has heard are for parking, noise and trash.

Mr. Day asked if there was any consensus regarding the requirement that parking be restricted to behind the plane and the front facade and removing that section. Commissioner Harker asked if it needs to be specific as to where they park as long as it is off of the street. Commissioner Carter pointed out that there are a lot of lots in town that don't have parking in the rear at all. Commissioner Harker asked if there is a way to limit the number of vehicles allowed. Mr. Day said he would remove that portion.

Commissioner Carter suggested the Board table the request and have more discussion before moving forward. Commissioner Hagle suggested the Board review the remaining comments.

Homestay Lodging 5. Mr. Day discussed the need to define "large gatherings." Commissioner Hollinshed pointed out that the state defines it as 50 people. The board agreed that it would be necessary to define, but would require more consideration.

Whole House Lodging Regulations 1. Mr. Day then discussed the proposed separation distances of 400 feet between STRs. He explained the intent is to reduce the potential impacts on the fabric of the

neighborhood to cap how many there can be in a zoning district or in a geographic area. Discussion ensued. Commissioner Harker mentioned a website AirDNA that provides information – geographical and other data. She said that the site suggests 83% of rentals in Beaufort are whole house. She further explained that the website will show you on a map where the rentals are clustered, noting that a lot of them are pretty close together. She noted that it will be interesting to see who applies first, who will be left out of the deal, etc. pointing out that a lot of the rentals have reservations up until 2021.

Commissioner Carter said that it also depends on the individuals. She explained that a lot of these are older homes, particularly old family homes, and people no longer live here, but they want to keep the home because they want to retire. Therefore, they put it out as an Airbnb or an STR. Then they have enough money to maintain the house until they can retire and come here, but they can also still come in part time to have a chance to get away from wherever they live permanently.

Mr. Day said that one thing the Board could consider would be designating zones or areas and considering it that way. He emphasized that part of the reason for doing it is to have some separation between them. Commissioner Hagle agreed but said that it would make more sense to consider areas rather than zoning districts. Mr. Day said that there is an option to create neighborhood districts.

Mayor Newton asked Mr. Day if this would be a good preliminary discussion to incorporate into the UDO discussion. Mr. Day indicated that he had asked the Board if it would like to wait and have this included as part of the new plans that are being developed and the consensus was to proceed. He added that if the Board would like to go over it bit by bit at future work sessions, that would be an option too. Commissioner Carter said that was a good idea, noting the need to involve the public and provide an opportunity for the public to comment.

Commissioner Hollinshed said that it would be good do it sections at a time and to chip away at it. She said that if it gets dumped on the UDO people without any input as to what works or doesn't work, we would end up back at square one.

Commissioner Harker agreed. She said that she would like to see some data that shows that this is actually worthwhile noting the increased workload for town staff. She wants to be sure that this is in the best interest of the Town, noting additional questions that have not yet been addressed such as occupancy taxes, etc. She agrees that it would be wise to come up with some ideas prior to handing it over to the UDO people.

Commissioner Hagle agreed that there is a lot of work to be done. He said that it is something the Board needs to continue to look at as the Town continues to grow this will continue to be an issue. He said there are a lot of STRs now and while most of them do not cause any problems, it is something that the Town needs to continue to work on.

Commissioner Carter agreed with Commissioner Harker's comments. She said that if all this work is going to be worth it, we get no revenues because we don't get room tax money and the permit fees would be minimal. We need to consider whether we want to go through the amount of time and effort for what we may get out of it, which may be nothing but trouble and more discomfort. She said that if the Board wants to do it, it should take it in small bits.

Commissioner McDonald said that he agrees with the last two commissioners. He said that it appears that we do not really know what we want. He asked who is going to benefit from the regulations and whether existing rentals will be grandfathered. Commissioner McDonald suggested to table it until it becomes an issue.

Mayor Newton thanked the Board for considering and addressing these complex issues. He said it is good to keep this on the table and continue chipping away at it.

5. Homer Smith Marina Covenant Amendment

At the September 28 work session, the board discussed a request from Homer Smith Marina for the Town to support the North Carolina Department of Transportation abandoning some 19,000 square feet of right away, which would be used for parking needed to support expansion of the Marina. In exchange, the owner offered to contribute \$125,000 toward the construction of the restroom kiosk facility at the new Cedar Street Park. Mr. Day noted that he also agreed to a number of other conditions that will be addressed tonight. Mr. Day reminded the Board that it asked the Town Attorney and staff to draft an amendment to the 2011 covenant between the Town and Homer Smith Marina that amends the maximum numbers of slips permitted to be constructed there so that there can be an increase up to a total of 178. Mr. Day then read the proposed amendment to the covenant.

Mr. Day told the Board that staff had been working with the Frost family to come to an agreement. He noted that the Frosts are hesitant to make any monetary contribution to the park without some assurances that they would be able to proceed with the expansion. The Town further does not want to endorse the abandonment of the ROW for the same reasons. He explained that the effectiveness would be upon the issuance of a special use permit at which point the Town would endorse NCDOT ROW abandonment and Mr. Frost would make his payment to the Town. He asked the Board to direct any questions about the agreement to the Town Attorney.

Commissioner Hollinshed asked if the Town agreed to the amendment, is there some sort of impediment that would allow the Town to stop his progress if there were issues with water quality or something of the sort. Mr. Day said that he does not believe that is the case. He explained that they would have to obtain several permits from other agencies to include CAMA. Commissioner Hollinshed asked if the Town would have to sign off on them. Mr. Day explained that once the zoning permit is issued, the Town cannot go back on its decision. Mr. Grady agreed. Mr. Grady said that it would be difficult for the town to change its mind once the agreement is signed. Mr. Grady explained that the Town does not have much to do with external permitting. He said that they would have to get some additional approval from the Town with the site plan and special use permit.

Mr. Day explained that his understanding that the special use permit would include the total number of slips [178] and that the timing is the only thing that would be governed by the other agreement. Commissioner Hollinshed asked if the marina decides not to go up to the total number of slips, it could make that determination. Mr. Day agreed.

Commissioner Harker said that Commissioner Hollinshed already asked the majority of her questions. She said she wondered if the final certificate is contingent upon anything but noted that it does not sound like it.

Commissioner Hagle asked Mr. Day why a special use permit is required. Mr. Day explained that it is a requirement of the Land Development Ordinance for marinas.

Commissioner Carter asked why the Board is phasing the project noting that the board would already have given approval for the entire project. She also pointed out that Mr. Frost is the only one giving anything to the Town in exchange for the right of way. Based on that, she asked why the Town is delaying the project. She asked if this implies that the Board agrees to the covenant change as well. Mr. Day said that the Board voiced concerns about the impact of the project. He explained that the Town asked Mr. Frost if a phased approach would be a problem and he said that it would not. Commissioner Carter questioned the reasoning behind it noting that the waters cannot be any dirtier as its already SC waters. She asked if the marina has to wait the two years or if they could do it faster noting the hotel construction. Mr. Day said that the timing is entirely up to the Board.

Commissioner McDonald asked Mr. Day if he came up with anything that would allow them to move forward after meeting with the marina representative, Mr. Cullipher. Mr. Day confirmed, noting that the agreement included in the packet was a result of the discussions with Mr. Cullipher. Commissioner McDonald said that if both parties agree to it, it should move forward.

Mayor Newton shared his thoughts on the proposal. He said that there are three major parts – positive economic effect, environmental impact and quality of life. He explained that the increase from 85 to 178 slips is significant, noting the increase in traffic that could impact the park and surrounding residential areas. He said that he agrees with Commissioner Carter and that if the board is going to approve the increase, there is no reason to delay two years. Mayor Newton explained that at this point the only certainty is that there will be a positive economic impact. He then read the original covenant which says, *“Beaufort has determined at this time additional slips and these marinas are not in the public interest. While not making any specific findings of fact regarding either Marina project, Beaufort has concerns over possible impacts associated with the permitting of additional wet slips in this area including the potential for adverse negative secondary effects in terms of congestion of boats, boat traffic on public trust waters, additional vehicle traffic to and from the marinas, additional security needs and other secondary effects not set forth herein.”* He reminded the Board that nothing has changed. If the board approves the increase, two years from now if the area becomes flooded with traffic, the Board knows about it now and has an opportunity do something about it. Mayor Newton explained that the position for 150 [slips] is something that can be negotiated. He emphasized the significance of the decision now and the potential impacts in the area. He then asked the Board for any additional comments.

Commissioner Hollinshed said that she does understand the impacts. She referenced the future development down the street that has already been approved.

Commissioner Harker said that if he builds the number of slips before the two years is up and there is an increase in congestion, etc., per this agreement, there is nothing the Town can do about it. She said ultimately there is no benefit to doing it in phases versus all at once as there is no recourse to change anything in the agreement. Mayor Newton pointed out that the Town is responsible for drafting the amendment and agreement, so there is still recourse at this point. Mr. Grady agreed. Mr. Grady explained that the way the agreement is drafted right now, he would get the maximum number of slips. He said that the board could make the language such that he could do 25 so the Board could see what happens, then approve the next 25, etc. He said that if that is the Board’s desire, he would need to further amend the covenant to reflect that additional language.

Commissioner Harker said that if the Board takes that route, there will need to be some form of metrics in place. At this point, there is not a matrix in place to determine what would allow him to go from one phase to another. Mr. Day said that the idea was that if there are some adjustments that need to be made to parking regulations or something of the sort, then there would be an opportunity to do that. Mr. Grady agreed and pointed out that the board does not have to amend the covenant at all. Mayor Newton asked if the request could be approved incrementally. Mr. Grady confirmed.

Commissioner Hagle pointed out that if the Town were to request additional phasing, the topic of funding for the restrooms will likely come up. He further agreed with Commissioner Harker and the need for metrics to figure out what works or does not work.

Mayor Newton asked Mr. Day for the property value of the ROW. Mr. Day said he believed it was somewhere around \$300,000 based on the tax assessed value. Commissioner Carter pointed out the power lines that severely limit the possible use of the land for anything other than parking.

Commissioner Carter said by allowing it and phasing it, there is no benefit. She said that she was not sure that the marina is the cause of the parking issues currently. She asked if this is going to become the normal process for all marinas in the future. She said that if the town does not approve the request, the Town will lose that \$125,000 for the bathroom facilities at the park.

Commissioner McDonald said that the area will be used for parking regardless of who owns it. He then said that if both parties agree, then it should move forward.

This item was placed on the agenda under Items for Discussion and Consideration.

6. Case #20-12 Special Use Permit for a Kennel, Indoor/Outdoor Operation for 102 Professional Park Drive & 1975 Live Oak Street

Kyle Garner, Planning & Inspections Director, asked the Board to schedule the public hearing [quasi-judicial] for a special use permit for an indoor and outdoor kennel at 102 Professional Park Drive and 1975 Live Oak Street. He told the Board that the Planning Board reviewed the request at the October 19, 2020 meeting and recommended approval with two conditions as included in the Board's packet materials.

This item was placed on the agenda under Public Hearing.

7. Cedar Street Utility Rehabilitation and Replacement

Budget Amendment and Bid Award

Greg Meshaw, Town Engineer, told the Board that the Town is accepting bids for the Cedar Street Utility Project this week. He explained that the item on the agenda is a place holder for the Regular Meeting should the Town receive three responsible bids. Provided three or more bids are received, staff will provide a recommendation of award for Board approval.

Mayor Newton asked the Board if there were any questions or concerns.

This item was placed on the agenda for Items for Discussion & Consideration.

8. Sewer Allocation Policy

Greg Meshaw, Town Engineer, referenced the Board's 2020 retreat where he discussed a need for a sewer allocation policy. He explained that the need for such policy has come to the forefront recently following the acceptance of Deerfield Shores Subdivision sewer system.

Mr. Meshaw explained the policy has three tiers of prioritization. Tier 1 would be the highest priority and include infill developments, developments approved prior to the establishment of the policy, and town-funded projects. Tier 2 would be projects ready for permit issuance. Tier 3 would be the lowest priority and would include speculative projects, i.e. sketch plans, master planning, etc. He further explained that allocations would be broken down into categories: residential, commercial and discretionary. The maximum amount for residential development per 12-month period would be 36,000 gallons per day for single family development and 48,000 gallons per day for multifamily development. Commercial development would have a maximum allowance of 15,000 gallons per day over a 12-month period. The discretionary category would give the Board the ability to negotiate projects like Beau Coast. The policy would further allow staff approval for Tier 1 projects up to 10,000 gallons per day. Tier 2 projects that require Board approval would also require Board allocation. He explained that Tier 2 projects that are eligible for staff approval can be granted allocation at the staff level. All Tier 3 projects would go before the Board but come with a recommendation from staff. He explained that the person requesting that allocation would have to submit a preliminary plan showing the proposal. The applicant would have to pay an amount equivalent to 20% of the source system development fee which is nonrefundable unless they actually use their allocation in which case that 20% would go towards the full sources, system development fee payment.

Mr. Meshaw explained that developers have 24 months to use the allocation granted or it reverts back to the Town. In some cases, staff would be able to grant a first 6-month extension provided the developer can submit documentation proving that it was due to circumstances outside of the developer's control. If that is not the case, the developer would have to request an extension from the Board. Allocations would stay with the development rather than the developer.

Mayor Newton asked for any questions or comments.

Commissioner Hollinshed reminded the Board that several years ago, it saw how important it is to keep track of sewer allocation. She agreed that the policy is necessary and said that it looks like a good plan.

Commissioner Harker thanked Mr. Meshaw for all of his hard work. She if the Board would receive reports on projects approved at the staff level in order to keep track of what is available. Mr. Meshaw said he would provide updates at the Board's direction. He added that currently the Town has about 470,000 gallons worth of uncommitted capacity at this time. Commissioner Harker then asked Mr. Meshaw if he had any recommendations on the discretionary allocations, noting it appears the intent is to provide the Board with flexibility. Mr. Meshaw confirmed. Mr. Day told Commissioner Harker that he feels it would be beneficial to put the sewer allocation table on the Town's website, so it is easily available.

Commissioner Hagle said putting the table on the website would be great. He asked Mr. Meshaw about subdivisions the Town currently serves (Eastman's Creek, Deerfield Shores, East Carteret Highschool) and if they would be considered infill development. Mr. Meshaw said that he would consider the subdivisions infill developments as the system already exists. Commissioner Hagle then asked about Beaufort Club. Mr. Meshaw explained that Phase I and Phase II are both factored into where the Town stands on the current allocation.

Commissioner Carter pointed out that the Tiers have no limit on how far outside of the city limits one could go. She recommended putting in a requirement that subdivisions outside of the city limits would be required to annex. She also mentioned an old policy for in town, ETJ and reasonable development areas outside of that noting she was unsure of whether or not that is still in effect. Mr. Meshaw agreed.

Commissioner Hagle asked if the limit for Deerfield will be reached once they hit the limit on the transfer pump. Mr. Meshaw said that he believes there may be a little more capacity than what has been permitted but noted that he has not delved into it at this point. He said that he would hope the Town could upgrade the system to accommodate that if it so desired. He added that he would anticipate the need to set up something like a special assessment area since they are outside of the Town in which they would pay system development fees in addition to a special assessment fee to help the Town recoup the cost of having upgraded the station for an area outside of the town limits.

Commissioner Carter explained that the Deerfield subdivision had to pay the \$4,000 impact fee for each lot, noting another 17 that were unable to get septic tanks because it is filled land. She said that is why they were on the package plant to begin with. She added that there are numerous lots in the subdivision with failing septic tanks and that they are already looking at other options. She pointed out that this could be a major remote location and urged the Town to consider future development. Mr. Meshaw said that he will reference the town policy that requires an applicant to petition for annexation prior to joining the system. He also mentioned the need to add language noting that any agreement already in place is grandfathered and not affected by this policy.

This item was placed on the agenda under Items for Discussion and Consideration.

9. Voluntary Annexation Request for 186 Chadwick Road (Alan Scibal) and 190 Chadwick Road (Sharon Eck)

Rachel Johnson, Deputy Town Clerk, informed the Board of receipt of a request for voluntary annexation for 186 Chadwick Road and 190 Chadwick Road. She explained that both properties are zoned residential, contiguous and approximately 60 feet from the town limits. She pointed out that the applicants mistakenly stated on the application that the properties are not contiguous and that she has been in contact with them to have the application updated accordingly. She informed the Board the impacts to town services are being investigated but noted that police and fire currently serve this area and will not be impacted. Ms. Johnson thanked Kyle Garner for his assistance with the maps included

in the packets. Ms. Johnson then informed the Board that it needs to direct the deputy clerk to investigate the sufficiency of the request.

This item was placed on the agenda under Items of Consent.

10. Beaufort Pirate Invasion Event on November 20-21

Mr. Day noted some changes in the current circumstances and concerns raised by commissioners regarding the COVID-19 pandemic and the previously approved Pirate Invasion scheduled for November 20-21. Mr. Day cited an increase in active cases in the community and asked the Board if it would like to rescind the approval. He added that Rachel Johnson had been in contact with the representative from the Beaufort Pirate Invasion. Ms. Johnson said she had been in contact with Carl Cannon regarding the event. She said he indicated that he and the pirate invasion want to do what is in the best interest of the town.

Mayor Newton said that he would like to have the issue resolved this evening rather than waiting for the Regular Meeting. He mentioned the increase in cases.

Commissioner Carter made a motion to rescind the approval. Mayor Newton asked for additional comments before acting on the motion.

Commissioner Hollinshed said that she feels the Town should not allow events on Town property at this time. Commissioner Harker voiced concerns over the recent increase in COVID-19 cases and the start of flu season. Commissioner Hagle said that out of an abundance of caution, the Board should rescind the approval. Commissioner McDonald agreed that the approval should be rescinded. He voiced concerns over potential negative press and explained that the Town needs a positive way to present it to the public.

Mayor Newton conducted a roll call vote on the motion to rescind the approval. The motion passed unanimously.

Voting Yea: Commissioner Harker, Commissioner McDonald, Commissioner Carter, Commissioner Hollinshed, Commissioner Hagle

11. September Financial Report/Notes

Christi Wood, Finance Director, provided the September Financial Report. Ms. Wood explained the tax balances are included from August and September. She also included the sales tax distribution number that the Town received for October. She reminded the Board that number is for July sales. She also included a comparison table for FY 19, 20, and 21 Sales and Use Tax Distributions.

Commissioner Hollinshed asked where she would find reimbursement for the expense of the town for the hotel that is now closed [400 Pollock Street]. She said the property is no longer under the same ownership as it was when the expense [\$9,000] was incurred. Ms. Wood explained that the Town has not received any funds for that at this point. Commissioner Hollinshed asked why. Mr. Day explained that the Town Attorney is following up with PNC about the issue and exploring other options as well. Commissioner Carter said she thought they agreed to reimburse the Town for the preliminary demolition costs. Mr. Grady confirmed and said that he posed the question today but has yet to receive a response. He said he also needs to get with the acting Town Clerk to review the original resolution to make sure there are time horizons in place. Discussion ensued.

Commissioner Hagle asked Mrs. Wood about insurance that showed 121% and workman's comp under police, fire and public works. Mrs. Wood confirmed that the 121% is just a one-time payment for insurance. She explained that while it was higher than originally budgeted in that department, it was less in others so she will be able to make some internal adjustments to balance it out. Mrs. Wood then

explained that the workman's comp line items are a premium the Town pays at the beginning of the year.

Commissioner McDonald asked Mrs. Wood to get each commissioner an itemized copy of the expenses for the demolition of the hotel. Mrs. Wood agreed.

Mayor/Commission Comments

Commissioner Hollinshed had none.

Commissioner Harker wished everyone a safe Halloween and encouraged everyone to practice the three W's. She also thanked Chief Ray and Captain Cowley for taking the long drive to Louisiana to help with relief efforts there. She also thanked the Beaufort Fire Department for the effort in recognizing the importance of increasing breast cancer awareness. She encouraged everyone to go to the fire department to get a pink shirt.

Commissioner Hagle also thanked the fire department for the help with the folks in Louisiana. He asked that everyone pay attention and focus on driving. He said he frequently sees speeders and people not focused on driving. He said that focusing on driving could save your own life as well as someone else's.

Commissioner Carter also thanked the fire department for the relief efforts.

Commissioner McDonald had none.

Mayor Newton voiced appreciation for the Board taking on extraordinarily complex topics. He noted that it is not easy, but it establishes a solid foundation for the community.

Closed Session

Mayor Newton asked for a motion to go into closed session pursuant to NCGS 143-318.11 (3).

Commissioner Hagle made a motion to go into closed session. The motion passed unanimously.

Voting Yea: Commissioner Harker, Commissioner McDonald, Commissioner Carter, Commissioner Hollinshed, Commissioner Hagle

Adjourn

Commissioner Hagle made a motion to adjourn. The motion passed unanimously.

Voting Yea: Commissioner Harker, Commissioner McDonald, Commissioner Carter, Commissioner Hollinshed, Commissioner Hagle

Minutes prepared by Kate Allen, Town Planner.

Mayor Everette S. (Rett) Newton

Rachel Johnson, Deputy Clerk