



Town of Beaufort, NC
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Board of Commissioners
Work Session Meeting
4:00 PM Monday, July 22, 2024
Train Depot, 614 Broad Street

Call To Order

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

Roll Call

Elizabeth Lewis, Town Clerk, called the roll.

PRESENT:

Mayor Harker
Commissioner Gillikin
Commissioner LoPiccolo
Commissioner Oliver
Commissioner Spiegler

Mayor Pro Tem Cooper participated in the meeting remotely.

Agenda Approval

Commissioner Spiegler made a motion to amend the agenda to add public comment.

Commissioner Gillikin made a motion to approve the amended agenda to add public comment.

Mayor Harker asked for a roll call vote.

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Spiegler

Voting Nay: Commissioner Oliver

Commissioner Cooper was having audio issues and did not participate in the vote.

The motion was carried with a (3-1) vote.

Mayor Harker noted that public comment would be added to the agenda to follow, Items for Review and Discussion.

Town Manager, Todd Clark, provided an update regarding the status of the Waterfront Improvement Project. The following statement was read into the record:

The Town of Beaufort has enjoyed a relationship with Beaufort Waterfront Enterprises (BWE) for the last 45 years. The nature of the relationship has been beneficial to both parties. It's enabled BWE to successfully operate the Town docks as an independent business operation. In return, the Town has received national and international accolades as a destination. The Town has also received compensation for the use of the waterfront through lease payments and contributions from BWE for annual dredging operations to keep the Beaufort Harbor accessible to boaters.

However, the agreement with BWE will come to an end on December 31, 2024, when the lease agreement expires. The owner of BWE does not desire to continue operating the docks after a long and successful career.

In anticipation of this partnership ending, the Town appointed the Harbor & Waterways Master Planning Advisory Committee in July of 2021, to evaluate needed improvements. After considerable review, the Committee presented the Board of Commissioners with a set of recommendations in September of 2022.

Armed with these recommendations, the Board decided to investigate whether a private market exists for a third-party operator with sufficient capital to invest in and manage the Town's docks. Consequently, the Town set forth to explore these questions in the context of a long-term lease or in the form of a public-private partnership.

Although it was determined that a private market does exist, it became apparent very quickly that the Town is not financially positioned to invest \$10-15 million in the rehabilitation of the waterfront. In determining estimated costs, we considered the complete replacement of the docks and the associated infrastructure including potable water lines, sewer pump outs, in-slip fueling, and electrical and plumbing connections. Additional investments to the waterfront were also considered to include the reconstruction of our iconic wooden boardwalk and developing a long-term solution for the storage and dispensing of fuel.

In consideration of these expenses, along with those outlined in the Town's comprehensive capital improvement program, we easily determined that the Town simply does not have available cash resources to fund the desired improvements. With this understanding, the town investigated the possibility of financing the improvements through commercial lending as an alternative to a third party.

In consultation with First Tryon Advisors, the Town's financial consultant, it was determined that commercial lending would be very difficult given collateral required for a loan requires the pledge of Town owned assets other than the waterfront assets themselves. As such, a comprehensive review was conducted to determine what other fixed assets of the Town could be used as collateral. Unfortunately, the fixed assets that have an appreciable value are obligated. As such, they represent encumbrances and therefore cannot be used as collateral for a loan to improve the docks.

Another alternative considered to fund improvements included a bond referendum which requires voter approval. This option, if approved by the voters, requires an increase in property tax rates to satisfy the associated debt service. The Board has not expressed an interest in pursuing this alternative as the tax burden for improvements would be distributed to all property owners, and not just those who use and/or enjoy the docks.

The review process has also included a discussion of grant funding to offset the expected \$10-15 million of improvements. Although grant funding would produce an estimated \$3 million for the project, the Town will still have an appreciable balance that cannot be funded through cash reserves or commercial lending.

Assuming for a moment that the Town was to successfully locate a source of funding to complete the improvements, the fact remains that a catastrophic event could result in complete devastation of the waterfront. In that scenario, the town will be in a financially vulnerable position with looming debt service payments with no revenue from the docks. It should also be recognized that any reimbursement through FEMA or insurance claims with the Town's carrier will take months, if not years, to realize. The Town cannot afford to wait 12-36 months, or longer, for restitution and reconstruction when the docks need to be producing revenue within 30 days of a significant storm. How would the town meet its financial obligations without that revenue stream?

As mentioned previously, the Town needs to consider long-term fueling options for the docks. The current system is antiquated and represents environmental concerns which are not a town responsibility currently. A long-term solution is needed and must be solved for the economic vitality of the docks.

Aside from the availability of capital and a needed solution for fueling, the Town has recognized various other aspects of dock operation that need to be weighed in the decision-making process.

This includes the liability for damaged boats and personal injury as the result of any failure of the town to operate the docks safely. Insurance coverage must be a consideration and can cost in the hundreds of thousands of dollars for an operation of this nature given the Town would be trying to insure only one asset versus a pool of diversely located waterfront assets. Environmental hazards such as the release of fuel, human waste, and any other chemical agents must also be included under an insurance policy.

The Town must also consider the level of service delivered through whomever is responsible for the management and operation of the docks. Additionally, the character and charm of Beaufort must be preserved while meeting the public's expectation to ensure the existing vistas of Rachel Carson Reserve.

As a functional consideration, the Town must consider the availability of dock space for day boaters, the continuance of existing commercial activities, and the creation of mooring space in the harbor.

Each of these issues is being considered by the Board of Commissioners along with the public feedback received throughout the process including the charette conducted in May of this year.

This is not an easy decision. However, the Board is cognizant of the issues and is taking into consideration the use of taxpayer dollars.

Items for Review and Discussion

1. Lease Agreement- Island Express Ferry Service

Mr. Clark shared provided the following background:

The National Park Service notified the Town on May 28, 2024, of their decision to cancel the lease contract with the Town for the visitor's center. The termination of the contract resulted in the loss of use of the Town docks. Therefore, Island Express Ferry Service no longer has a right of use of the docks as the Park Service concessionaire to Cape Lookout and Shackleford Banks. Despite termination of the contract, Island Express Ferry Service has been allowed to continue using the docks for normal operations as the Park Service concessionaire. However, in lieu of a lease agreement, the Town has potential liability for risks associated with the ferry service operation. Furthermore, there is no formal agreement in place that assures the ferry service the express right to use the docks.

Mr. Clark noted that a lease agreement had been drafted by the Town Attorney for consideration and was included in the meeting packet. The Board is advised that the operator of the ferry service has verbally agreed to the terms of the lease agreement which expires on December 31, 2024.

Commissioner Oliver made a motion to approve the lease as drafted.

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Oliver, Commissioner Spiegler, Commissioner Cooper

Voting Nay: None

The motion was carried unanimously with a (5-0) vote.

2. Speed Limit Reduction- Turner Street

Mr. Clark explained residents had expressed concern about the speed limit on Turner Street. He noted Town Staff had reached out to NCDOT and they confirmed they were good with Turner Street having a Speed Limit of 35 from US 70 to 400' northeast of Pine Street. The speed would then be reduced to a Speed Limit of 25 from 400' northeast east of Pine Street to Cedar Street. He explained this would reduce the speed before you get to the developed residential part of Turner Street.

Mr. Clark asked the Board to consider adopting the draft resolution in their meeting packet that requested NCDOT reduce the speed on Turner Street as discussed.

Commissioner LoPiccolo made a motion to approve the resolution as presented.

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Oliver, Commissioner Spiegler, Commissioner Cooper

Voting Nay: None

The motion was carried unanimously with a (5-0) vote.

Public Comment

Daphne Littiken: 102 Stanton Road, Beaufort NC

Beaufort is really unique, and we want to try to keep it that way. We do not want it to become generic. We realize that we are going to have to do something, it is evident. The taxpayers can't afford it but something has to be done. We do need a corporation to come in and help us or business of some type. But please, not this one.

Susan Schmidt: 1527 Ann Street, Beaufort NC

I want local control, local management, and the local workforce for dock construction, maintenance and operation. As well as local access, small town ambiance, flavor and architecture. If the town can't afford litigation, don't work with Safe Harbor, because Beaufort and Port Royal, South Carolina, are now suing them.

Robert Harper: 1020 Broad Street, Beaufort NC

There are two parts to this, and one is that we have a very good contract, and we have good people working on a very good contract; the contract could be iron clad, but what happens is that if you have a contract, and you're not willing to enforce it, you might as well not have the contract. The history of this Town enforcing its contracts is abysmal, and if you want an example of that, I can give you plenty. This Town will not litigate, this Town will not stand up for the rules that have passed or the ordinances that it has, therefore, that is the issue. You know, if you can assure us that you will stand up, and you will enforce the agreement that you hammered out, then we will feel a lot better about that. But we have no information; it is all a void. There is this mysterious black box where all this conversation is going on, but the public has no idea, and what we are afraid of is that you guys will come out one day and say, this is our decision. We will have no recourse; we have no idea. So, what I would like to hear is some reassurance that once this perfect contract is finalized, that it gets put out there so we can see what it is that you are going to vote on. After all, you all represent us. You are not there for your own good, you are there for us. We put you there for that reason. So, we would like to see what you are doing on our behalf.

David Talbot: 120 Moore Street, Beaufort NC

I would second that first comment and just add one thing that is also confusing. In addition to the sort of black box issue, which generates a lot of unnecessary anxiety in my opinion, it would be very helpful to have a structured period of time prior to the signing of the contract. This would be where the actual details of the contract, down to the granular level, are released if possible. This would ensure there is adequate time to both study the proposal and make redress to the issues that come up. I think there are all these rumors flying around about the contract and when it will be signed, we know none of those are probably true. However, if we don't know, we are going to get anxious, and I think anxiety is appropriate based on the topic.

Martha Kenworthy: 109 Holly Lane, Beaufort NC

I would like to thank Todd for his update that he gave tonight. That was very informational, and it is the first that we have heard, so I would just like to thank you for that transparency. I hope that maybe some more of the meetings can be open to the public, we understand that it is not required that they be confidential. Todd, this might be your last meeting, so thank you and good luck to you.

JP Gooch: 107 Live Oak Street. Beaufort NC

I just want to talk about the Town docks. So, you know, for the past year or year and a half, I've talked to a lot of people in Town about this issue. I would tell you that two out of three people that I talked to do not have any clue as to what is going on here; what decision must be made. I think that is because of what the lady just talked about, the lack of transparency that we are seeing. I have three themes that I want to talk about: transparency, trust and timing. So, transparency first, like I said, two out of three people do not know this is even going on, they do not know what the issue is. They do not know what is being decided; that needs to change, and you guys can help make that happen. Just be more public about the things that you are talking about. When we talked about the contract being reviewed before there is the actual vote, let's do that. You have a lot of really smart people in this room. They are lawyers, doctors, engineers, and business owners. They have negotiated contracts before and they understand what they are talking about. So, they might have input into what that contract needs to look like. Transparency is the first thing. We have had a Harbor Committee, where we had volunteers that spent a year looking at the options on this. Thank you for that update that we got earlier. I did not know about the \$3 million figure for the grant; that is a really good start. Why can't we build upon that, look at other bond referendums, look at other options that the Harbor Committee suggested. It just seems that this has been very quickly put to rest and decided to press the easy button and hire Safe Harbor. However, we do not know if it is Safe Harbor that you are even talking to, because there is a lack of transparency. It is a publicly owned company, owned by Sun Communities, we all know that. I do not trust them because they are beholden to their stockholders. They are not interested in what Beaufort has to say. If we look at what kind of things they have done in other communities, like Beaufort, South Carolina, I don't want 47 Jet Skis riding up and down Front Street. In those communities, you have to look at the other things they have done and are going to do to maximize the shareholder value that they have. That is the only thing that they are required to do as a publicly traded company. I know that this Town is changing, I don't have my head in the sand or anything like that. It breaks my heart to see some of the things that are going on, but this is a big one; it is a big decision. So, trust us and involve us in the decisions that you are making is the thing that I ask. I have a 17-year-old son, and you know, I would prefer that when he looks across Taylors Creek that he sees horses, dolphins, water and beautiful things, instead of a \$20 million dollar boat that is owned by somebody that is not from here.

Jud Kenworthy: 109 Holly Lane, Beaufort NC

Thanks for the opportunity to comment and thank you Todd for the update, which is kind of refreshing. I just have two comments. Following this process over the years, and having lived here for 45 years, I have seen the evolution of the development of the waterfront from the very beginning. I think right now, my sense is that you really have not tested the public on what they really want or what they are willing to spend or pay for. It is just like anything else; you have a valuable asset. If you have an expensive car, you are going to pay more insurance and pay more for maintenance. If you have an expensive home, it is the same thing. What we have in Beaufort is the waterfront and it is a very valuable asset, and it is going to cost money to operate. I do not think you have really polled the public and explored

what the public feelings are for that valuable asset, or what they are willing to pay. You know, it might take a lot of work to staff up a department, and the expenses and everything, but I just do not think you have looked at both sides of the equation. My other comment is, I am a biologist, so I look through the lens of biology when I look at things like this. What I see here is a classic predator prey relationship and what we are, the Town of Beaufort, and what you are, our representatives and the entire community is, is in fact the prey. Unfortunately, we have not had the foresight and looked ahead to plan for this actual event. We have had a lot of time for it, and I think a lot of people saw it coming down the road. The predator is those folks in the giant corporation that are going to take advantage of this situation. I think you should think hard about this. There are things you can do to bring the public in, and I think you can make a wise and informed decision if you allow a greater scope of consideration.

Grey Sabiston: 305 Marsh Street, Beaufort NC

I am a lifetime resident of Beaufort; I grew up one block from here. My great grandmother had eleven children. So, I was born and raised here. I was actually run off from the original boardwalk being built when I was a young child because my father was crazy enough to lure me down with a pair of waders on and a rope around my shoulders to get antique bottles. We built the boardwalk back then somehow and raised the money a long time ago. It is beyond me how we can't get more grant money or put off the phases to build this in a public way, open and transparent to everybody in this room and everybody that lives in the town of Beaufort. If it has got to be decided behind closed doors, I can't be a part of that. I sat on the Planning Board for almost four years for this Town and had to have standards that I stood by, so I trust everybody on this board to do the right thing. This is a big decision; a 50-year lease with an automatic 50 year renew scares me to death and I have never heard of such thing in my life. Haywood Weeks and Jeb Breary that run the dock right now, have been there without a designated parking place for them to come to work, and I think they have done a great job. I've read through all the books, and all the reports you all have done. I have a 23-foot boat; I am automatically not going to be able to use the boardwalk anymore, right? It is just the little, small things like that. Transparencies highlighted, open forums to communicate with people, is important. Is this the only bidder that can come and fix this issue for us? Has it been sent out to other people? Is this a last-ditch effort and we have to vote today? The lease does not expire until December of this year, if I am not wrong. We still have a few months; I think we can get the conversation out in the open and do the right thing. There are a lot of concerned citizens, and I don't think this is the right thing. This company is too big for Beaufort.

Mayor Harker and the Commissioners thanked all those who participated in the Public Comment period. The Board expressed their appreciation for the community and the feedback received throughout the entire process.

Closed Session

1. Pursuant to NCGS 143-318.11 (a) (3) and NCGS 143-318.11 (a) (4)

Commissioner Gillikin made a motion to enter closed session pursuant to NCGS 143-318.11 (a) (3); NCGS 143-318.11 (a) (4); NCGS 143-318.11 (5); NCGS 143-318.11 (a) (6).

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Oliver, Commissioner Spiegler, Commissioner Cooper

Voting Nay: None

The motion was carried unanimously with a (5-0) vote.

Upon exiting closed session, the following actions were taken:

Commissioner Gillikin made a motion to authorize the Mayor and Town Staff to finalize an employee agreement with Charlie Burgess as a limited-service employee at the compensation rate of \$84,000 per year.

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Oliver, Commissioner Spiegler, Commissioner Cooper

Voting Nay: None

The motion was carried unanimously with a (5-0) vote.

Commissioner LoPiccolo made a motion to authorize the execution and delivery of a purchase contract for 611 Front Street in the amount of \$1.5 million dollars: earnest money of \$60,000 half payable at contract signing and the other half payable upon due diligence expiration. The due diligence expiration date was noted as October 1, 2024, and the closing date was noted to be on or before January 8, 2025. Included in the motion was Board authorization to transfer the funds within the FY 25 Budget, a transfer from Capital Projects to Capital Outlay-Land Purchases.

Voting Yea: Commissioner LoPiccolo, Commissioner Gillikin, Commissioner Oliver, Commissioner Spiegler, Commissioner Cooper

Voting Nay: None

The motion was carried unanimously with a (5-0) vote.

Adjourn

Commissioner Gillikin made a motion to adjourn the meeting at 8:00 p.m.

The motion was carried unanimously with a (5-0) vote.

Sharon E. Harker, Mayor

Elizabeth Lewis, Town Clerk