



Town of Beaufort, NC

701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

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

Call To Order

Roll Call

Agenda Approval

Items for Review and Discussion

- [1.](#) Lease Agreement- Island Express Ferry Service
- [2.](#) Speed Limit Reduction- Turner Street

Closed Session

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

Adjourn



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**Board of Commissioners
Work Session
4:00 PM Monday, July 22, 2024
Train Depot, 614 Broad Street**

AGENDA CATEGORY: Items for Review and Discussion
SUBJECT: Lease Agreement- Island Express Ferry Service

SUMMARY:

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. Additionally, the termination of the contract resulted in the loss of use of the Town docks. As such, 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 of the docks.

A lease agreement has been drafted by the Town Attorney for consideration. 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. A copy of the lease agreement is included for the Board’s consideration.

REQUESTED ACTION:

Staff recommends that the Board consider the lease agreement with Island Express Ferry Service, LLC.

EXPECTED LENGTH OF PRESENTATION:

10 Minutes

SUBMITTED BY:

Todd Clark, Town Manager

LEASE AGREEMENT

THIS LEASE AGREEMENT (“Lease”) is by and between **TOWN OF BEAUFORT** (“Landlord”), whose address is 701 Front Street, Beaufort, NC 28516, and **ISLAND EXPRESS FERRY SERVICE, LLC** (“Tenant”), whose address is 108 JR’s Rand Road, Newport, NC 28570, as follows:

For and in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION ONE: PREMISES

Landlord leases unto Tenant, and Tenant hereby leases and takes upon the terms and conditions which hereinafter appear, the following described property, including any improvements located thereon (hereinafter called the “Premises”), to wit:

Those certain three (3) boat slips currently occupied by Tenant and located at Landlord’s Grayden Paul Park dock.

SECTION TWO: TERM

This Lease shall commence on _____, 2024 (“Lease Commencement Date”). Provided this Lease is not earlier terminated as herein agreed, this Lease shall end at midnight on December 31, 2024, without further extension hereof.

SECTION THREE: RENTAL

Beginning on the Lease Commencement Date, Tenant agrees to pay Landlord, without notice, demand, deduction or set off, a monthly rental of \$1,500.00, payable in advance on the first day of each calendar month during the term hereof. Upon execution of this Lease, Tenant shall pay to Landlord the first monthly installment of rent due hereunder. Rental for any period during the term hereof which is less than one month shall be the pro-rated portion of the monthly installment of rental due, based upon a 30 day month.

If Landlord fails to receive full rental payment within five (5) days after it becomes due, Tenant shall pay Landlord, as additional rental, a late charge equal to five percent (5%) of the overdue amount, plus any actual bank fees incurred for dishonored payments. The parties agree that such a late charge represents a fair and reasonable estimate of the cost Landlord will incur by reason of such late payment.

SECTION FOUR: UTILITY BILLS/SERVICE CONTRACTS

Landlord and Tenant agree that all utility bills and service contracts (such as trash collection/removal) for the Premises shall be paid by the Tenant.

SECTION FIVE: PERMITTED USES

The permitted use of the Premises shall be: dockage for boats to be used as a ferry service (“Permitted Use”). The Premises shall be used and wholly occupied by Tenant solely for the purposes of conducting the Permitted Use, and the Premises shall not be used for any other purposes unless Tenant obtains Landlord’s prior written approval of any change in use. At Tenant’s sole expense, Tenant shall procure, maintain and make available for Landlord’s inspection from time to time any governmental license(s) or permit(s) required for the proper and lawful conduct of Tenant’s business in the Premises. Tenant shall not cause or permit any waste to occur in the Premises. Tenant shall keep the Premises, and every part thereof, in a clean and wholesome condition, free from any objectionable noises, loud music, objectionable odors or nuisances.

SECTION SIX: TAXES AND INSURANCE

Landlord shall pay all taxes (including but not limited to, ad valorem taxes, special assessments and any other governmental charges) on the Premises and shall procure and pay for such commercial general liability, broad form fire and extended and special perils insurance with respect to the Premises as Landlord in its reasonable discretion may deem appropriate. Tenant shall be solely responsible for insuring Tenant’s personal and business property and for paying any taxes or governmental assessments levied thereon. Tenant shall have no responsibility to reimburse Landlord for taxes or insurance.

SECTION SEVEN: INSURANCE; WAIVER; INDEMNITY

(a) During the term of this Lease, Tenant shall maintain commercial general liability insurance coverage (occurrence coverage) with broad form contractual liability coverage and with coverage limits of not less than \$1,000,000.00 combined single limit, per occurrence, specifically including liquor liability insurance covering consumption of alcoholic beverages by customers of Tenant should Tenant choose to sell alcoholic beverages. Such policy shall insure Tenant’s performance of the indemnity provisions of this Lease, but the amount of such insurance shall not limit Tenant’s liability nor relieve Tenant of any obligation hereunder. All policies of insurance provided for herein shall name as “additional insured” Landlord and such other individuals or entities as Landlord may from time to time designate upon written notice to Tenant. Tenant shall provide to Landlord, at least thirty (30) days prior to expiration, certificates of insurance to evidence any renewal or additional insurance procured by Tenant. Tenant shall provide evidence of all insurance required under this Lease to Landlord prior to the Lease Commencement Date.

(b) Landlord (for itself and its insurer) waives any rights, including rights of subrogation, and Tenant (for itself and its insurer) waives any rights, including rights of subrogation, each may have against the other for compensation of any loss or damage occasioned to Landlord or Tenant arising from any risk generally covered by the “all risks” insurance required to be carried by Landlord and Tenant. The foregoing waivers of subrogation shall be operative

only so long as available in the State of North Carolina. The foregoing waivers shall be effective whether or not the parties maintain the insurance required to be carried pursuant to this Lease.

(c) Except as otherwise provided in paragraph (b) above, Tenant indemnifies Landlord for damages proximately caused by the negligence or wrongful conduct of Tenant and Tenant’s employees, agents, invitees or contractors. The indemnity provisions in this paragraph cover personal injury and property damage and shall bind the employees, agents, invitees or contractors of Landlord and Tenant (as the case may be). The indemnity obligations in this paragraph shall survive the expiration or earlier termination of this Lease.

SECTION EIGHT: REPAIRS

Landlord agrees to keep the Premises in good repair and condition, except repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its employees, agents, invitees or contractors. Tenant shall promptly report in writing to Landlord any defective condition known to it which Landlord is required to repair and failure to report such conditions shall make Tenant responsible to Landlord for any liability incurred by Landlord by reason of such conditions.

Tenant accepts the Premises in their present condition and as suited for the Permitted Use and Tenant’s intended purposes. Tenant agrees to promptly make repairs rendered necessary by the negligence or intentional wrongful acts of Tenant, its employees, agents, invitees or contractors. Tenant agrees to return the Premises to Landlord at the expiration or prior termination of this Lease, in as good condition and repair as on the Lease Commencement Date, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty alone excepted. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant’s breach of the provisions of this paragraph. Tenant shall not make any alterations, additions, or improvements to the Premises without Landlord’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION NINE: DESTRUCTION OF OR DAMAGE TO PREMISES

If the Premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, or if the Premises are damaged to the extent that Tenant cannot use same for the Permitted Use, Landlord shall have the right to terminate this Lease on written notice to Tenant within thirty (30) days after such destruction, and this Lease shall terminate as of the date of such destruction and rental shall be accounted for as between Landlord and Tenant as of that date. In the event of the termination of this Lease under this paragraph, both Landlord and Tenant shall be released from any liability or obligation under this Lease arising after the date of termination, except as otherwise provided for in this Lease.

SECTION TEN: GOVERNMENTAL ORDERS

Tenant, at its own expense, agrees to comply with: (a) any law, statute, ordinance, regulation, rule, requirement, order, court decision or procedural requirement of any governmental or quasi-governmental authority having jurisdiction over the Premises; (b) the rules and regulations of any applicable governmental insurance authority or any similar body, relative to the

Premises and Tenant’s activities therein; (c) provisions of or rules enacted pursuant to any private use restrictions, as the same may be amended from time to time and (d) the Americans with Disabilities Act (42 U.S.C.S. § 121-1. et seq.) and the regulations and accessibility guidelines enacted pursuant thereto, as the same may be amended from time to time.

SECTION ELEVEN: ASSIGNMENT AND SUBLETTING

Tenant shall not assign this Lease or any interest hereunder or sublet the Premises or any part thereof, nor shall Tenant permit the use of the Premises by any party other than the Tenant, without Landlord’s prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

SECTION TWELVE: EVENTS OF DEFAULT

The happening of any one or more of the following events (hereinafter any one of which may be referred to as an “Event of Default”) during the term of this Lease, or any renewal or extension thereof, shall constitute a breach of this Lease on the part of the Tenant: (a) Tenant fails to pay when due the rental as provided for herein; (b) Tenant abandons or vacates the Premises; (c) Tenant fails to comply with or abide by and perform any non-monetary obligation imposed upon Tenant under this Lease within ten (10) days after written notice of such breach; (d) Tenant is adjudicated bankrupt; (e) A permanent receiver is appointed for Tenant’s property; (f) Tenant, either voluntarily or involuntarily, takes advantage of any debt or relief proceedings under any present or future law, whereby the rent or any part thereof is, or is proposed to be, reduced or payment thereof deferred; (g) Tenant makes an assignment for benefit of creditors; or (h) Tenant’s effects are levied upon or attached under process against Tenant, which is not satisfied or dissolved within ten (10) days after written notice from Landlord to Tenant to obtain satisfaction thereof.

SECTION THIRTEEN: REMEDIES UPON DEFAULT

Upon the occurrence of Event of Death, Landlord may pursue, separately or concurrently, all remedies provided by law, including but not limited to the following: (a) Landlord may terminate this Lease by giving written notice to Tenant and upon such termination shall be entitled to recover from Tenant damages as may be permitted under applicable law or (b) Landlord may terminate this Lease by giving written notice to Tenant and, upon such termination, shall be entitled to recover from the Tenant damages in an amount equal to all rental which is due and all rental which would otherwise have become due throughout the remaining term of this Lease, or any renewal or extension thereof (as if this Lease had not been terminated). No termination of this Lease prior to the normal ending thereof, by lapse of time or otherwise, shall affect Landlord’s right to collect rent for the period prior to termination thereof.

SECTION FOURTEEN: EXTERIOR SIGNS

Tenant shall place no signs upon the Premises, except with the express written consent of the Landlord in Landlord’s sole discretion.

SECTION FIFTEEN: LANDLORD’S ENTRY OF PREMISES

Landlord may enter the Premises at any time without prior notice, for any purpose deemed by Landlord to be reasonable or necessary.

SECTION SIXTEEN: QUIET ENJOYMENT

So long as Tenant observes and performs the covenants and agreements contained herein, it shall at all times during the Lease term peacefully and quietly have and enjoy possession of the Premises, subject to the terms hereof.

SECTION SEVENTEEN: HOLDING OVER

If Tenant remains in possession of the Premises after expiration of the term hereof, Tenant shall be a tenant at sufferance and there shall be no renewal of this Lease by operation of law. In such event, commencing on the date following the date of expiration of the term, the monthly rental payable under this Lease shall for each month, or fraction thereof during which Tenant so remains in possession of the Premises, be **twice** the monthly rental otherwise payable under this Lease.

SECTION EIGHTEEN: ENVIRONMENTAL LAWS

(a) Tenant covenants that with respect to any Hazardous Materials (as defined below) it will comply with any and all federal, state or local laws, ordinances, rules, decrees, orders, regulations or court decisions relating to hazardous substances, hazardous materials, hazardous waste, toxic substances, environmental conditions on, under or about the Premises or soil and ground water conditions, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act or 1980, the Resource Conservation and Recovery Act, the Hazardous Materials Transportation Act, any other legal requirement concerning hazardous or toxic substances, and any amendments to the foregoing (collectively, all such matters being “Hazardous Materials Requirements”). Tenant shall remove all Hazardous Materials from the Premises, either after their use by Tenant or upon the expiration or earlier termination of this Lease, in compliance with all Hazardous Materials Requirements.

(b) Tenant shall be responsible for obtaining all necessary permits in connection with its use, storage and disposal of Hazardous Materials, and shall develop and maintain, and where necessary file with the appropriate authorities, all reports, receipts, manifest, filings, lists and invoices covering those Hazardous Materials and Tenant shall provide Landlord with copies of all such items upon request. Tenant shall provide within five (5) days after receipt thereof, copies of all notices, orders, claims or other correspondence from any federal, state or local government or agency alleging any violation of any Hazardous Materials Requirements by Tenant, or related in any manner to Hazardous Materials. In addition, Tenant shall provide Landlord with copies of all responses to such correspondence at the time of the response.

(c) Tenant hereby indemnifies and holds harmless Landlord, its successors and assigns from and against any and all losses, liabilities, damages, injuries, penalties, fines, costs, expenses

and claims of any and every kind whatsoever (including attorney’s fees and costs) paid, incurred or suffered by, or asserted against Landlord as a result of any claim, demand or judicial or administrative action by any person or entity (including governmental or private entities) for, with respect to, or as a direct or indirect result of, the presence on or under or the escape, seeping, leakage, spillage, discharge, emission or release from the Premises of any Hazardous Materials caused by Tenant or Tenant’s employees, agents, invitees or contractors. This indemnity shall also apply to any release of Hazardous Materials caused by a fire or other casualty to the premises if such Hazardous Materials were stored on the Premises by Tenant, its agents, employees, invitees or successors in interest.

(d) For purposes of this Lease, “Hazardous Materials” means any chemical, compound, material, substance or other matter that: (i) is defined as a hazardous substance, hazardous material or waste, or toxic substance pursuant to any Hazardous Materials Requirements, (ii) is regulated, controlled or governed by any Hazardous Materials Requirements, (iii) is petroleum or a petroleum product, or (iv) is asbestos, formaldehyde, a radioactive material, drug, bacteria, virus, or other injurious or potentially injurious material (by itself or in combination with other materials).

(e) The warranties and indemnities contained in this paragraph shall survive the termination of this Lease.

SECTION NINETEEN: ABANDONMENT

Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the Premises or be dispossessed by any provision of law, any personal property belonging to Tenant and left on the Premises, at the option of Landlord, shall be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the Premises.

SECTION TWENTY: NOTICES

All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid, to the respective Addresses of Tenant and Landlord hereinabove stated. All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other parties, given as provided herein.

SECTION TWENTY-ONE: GENERAL TERMS

(a) “Landlord” as used in this Lease shall include the undersigned, its heirs, representatives, assigns and successors in title to the Premises. “Tenant” shall include the undersigned and its heirs, representatives, assigns and successors, and if this Lease shall be validly assigned or sublet, shall include also Tenant’s assignees or sublessees as to the Premises covered by such assignment or sublease. “Landlord”, “Tenant”, and “Agent” include male and female, singular and plural, corporation, partnership or individual, as may fit the particular parties.

(b) No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of its obligations hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord’s right to demand exact compliance with the terms hereof. All rights, powers and privileges conferred hereunder upon parties hereto shall be cumulative and not restrictive of those given by law.

(c) **Time is of the essence in this Lease.**

(d) This Lease constitutes the sole and entire agreement among the parties hereto and no modification of this Lease shall be binding unless in writing and signed by all parties hereto.

(e) Each signatory to this Lease represents and warrants that he or she has fully authority to sign this Lease and such instrument as may be necessary to effectuate any transaction contemplated by this Lease on behalf of the party for whom he or she signs and that his or her signature binds such party.

IN WITNESS WHEREOF, the parties hereto have hereunto caused this Lease to be duly executed.

LANDLORD:

TOWN OF BEAUFORT

By: _____ **(SEAL)**

Title: _____

Date of signature: _____

TENANT:

ISLAND EXPRESS FERRY SERVICE, LLC

By: _____ **(SEAL)**

Title: _____

Date of signature: _____



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

AGENDA CATEGORY: Items for Review and Discussion
SUBJECT: Speed Limit Reduction- Turner Street

SUMMARY:

The Town of Beaufort has received a request from Kyle McLaughlin of 511 Turner Street for a speed limit reduction on Turner Street from 35 miles per hour to 25 miles per hour. Mr. McLaughlin expressed his concern for the safety of pedestrians as the justification for a lower speed limit. As you may know, Turner Street is a State maintained road. As such, the Town has no authority to reduce the speed limit without the approval of the North Carolina Department of Transportation. Consequently, the Town submitted a request to NCDOT for a review of the speed limit on Turner Street from the intersection of Highway 70 to the intersection of Cedar Street. NCDOT has conducted the review and have responded with the following statement:

NCDOT is good for Turner Street being Speed Limit 35 from US 70 to 400' northeast of Pine Street. The speed would then be reduced to Speed Limit 25 from 400' northeast east of Pine Street to Cedar Street. This will be reducing the speed before you get to the developed residential part of Turner Street.

NCDOT has also provided a map that provides a graphical representation of the speed zones as described above. The map also shows where speed limit signs will be erected if the Board supports a speed limit reduction.

REQUESTED ACTION:

The staff requests that the Board consider adoption of the attached Resolution reducing the speed limit consistent with the findings of the North Carolina Department of Transportation.

EXPECTED LENGTH OF PRESENTATION:

10 Minutes

SUBMITTED BY:

Todd Clark, Town Manager



**RESOLUTION OF THE TOWN OF BEAUFORT BOARD OF COMMISSIONERS
REQUESTING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
TO LOWER THE SPEED LIMIT ON TURNER STREET
RESOLUTION NO. 24-_____**

WHEREAS, the Town of Beaufort Board of Commissioners are dedicated to insuring the health, safety and welfare of its citizens; and

WHEREAS, the Board of Commissioners recognizes that Turner Street has considerable pedestrian, bicycle, golf cart, and motor vehicle traffic; and

WHEREAS, the Board of Commissioners seek to encourage multimodal transportation for reasons related to health, environments and positive social interaction; and

WHEREAS, the Town of Beaufort has experienced new traffic patterns in a residential area as a result of the completion of the Turner Street Bridge Project and new Hwy 70 bypass which has greatly impacted the named street; and

WHEREAS, the Board of Commissioners recognizes that a Speed Limit reduction to 25 mph on the aforementioned section of the street will make them safer for all users.

NOW, THEREFORE BE IT RESOLVED BY THE, Town of Beaufort Board of Commissioners that the North Carolina Department of Transportation is requested to reduce the Speed Limit on Turner Street (SR 1174) from 35 to 25 from a point 400 feet northeast of Pine Street and the Cedar Street intersection.

Adopted this ____ day of July, 2024.

Elizabeth Lewis, Town Clerk

Sharon E. Harker, Mayor

(SEAL)

**SR 1174 – TURNER STREET
PROPOSED SPEED REDUCTION**



PLACE 25 MPH
SPEED REDUCTION
SIGN AHEAD

RELOCATE DROP LANE
SIGN 50 FEET TOWARDS
THE TOWN

TO TOWN OF BEAUFORT

TO US 70, BEAUFORT BYPASS RD.

35
MPH

25
MPH





Town of Beaufort, NC

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**Board of Commissioners
Work Session
4:00 PM Monday, July 22, 2024
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Beaufort, NC 28516**

AGENDA CATEGORY: Closed Session

SUBJECT: Pursuant to NCGS 143-318.11 (a) (3) and NCGS 143-318.11 (a) (4)

REQUESTED ACTION:

Motion to enter closed session pursuant to NCGS 143-318.11 (a) (3) to allow the Board of Commissioners to consult with Town Attorney and NCGS 143-318.11 (a) (4) for the purpose of discussing economic development incentives.

SUBMITTED BY:

Todd Clark, Town Manager

BUDGET AMENDMENT REQUIRED:

No