

# CAROLINA BEACH

Regular Town Council Minutes  
Tuesday, June 9, 2020 @ 6:30 PM  
Council Chambers  
1121 N. Lake Park Boulevard  
Carolina Beach, NC 28428

## ASSEMBLY

The Town of Carolina Beach Regular Town Council Meeting was held on Tuesday, June 9, 2020, at 6:30 PM in Council Chambers.

PRESENT: Mayor LeAnn Pierce, Mayor Pro Tem Jay Healy, Council Member Lynn Barbee, Council Member Steve Shuttleworth, Council Member JoDan Garza

ALSO PRESENT: Town Manager Bruce Oakley, Town Clerk Kim Ward, and Town Attorney Noel Fox

### 1. MAYOR PIERCE CALLED THE MEETING TO ORDER WITH INVOCATION BY MAYOR PIERCE FOLLOWED BY THE PLEDGE OF ALLEGIANCE

Mayor Pierce said Council Member Shuttleworth would be arriving about 15 minutes late.

### 2. ADOPT THE AGENDA

**ACTION:** Motion to adopt the agenda

Motion: Mayor Pierce

Vote: UNANIMOUS (excluding Council Member Shuttleworth)

### 3. CONSENT AGENDA

The following items were included on the consent agenda:

- a. Set a public hearing for July 14, 2020 to consider adopting the 2020 Land Use Plan Update
- b. Set a public hearing for July 14, 2020 to consider a Conditional Use Permit for a planned unit development located at 522 N 7th St for 8 single-family homes
- c. Annual Write-off of Outstanding Accounts Receivables

Mayor Pro Tem Healy said out of about 80 cases in which people have not paid bills, 4 of those have the same address. He asked if these were multiple occasions of not paying. Town Finance Director Debbie Hall said she would need to look into the reason for the duplications.

Mayor Pro Tem Healy asked about the typical process of disconnection for nonpayment. Ms. Hall said most of the accounts are closed, so the Town doesn't have that option.

Council Member Garza said he would like to customers get a reminder after payment is 2 weeks late.

d. Approve Kure Beach & Fort Fisher Aquarium Sewer Rates

Mayor Pro Tem Healy noted that Kure Beach's total went down \$44,000 and asked how that happened. Ms. Hall said the Town of Kure Beach has been making improvements to inflow and infiltration and therefore sending less sewer and water for treatment. She said use of a pond is reducing usage and affecting rates.

e. Budget Amendments & Transfers

f. ROT Funds Reimbursement Request

g. Approve May Meeting Minutes

**ACTION:** Motion to adopt the consent agenda

Motion: Mayor Pierce

Vote: UNANIMOUS (excluding Council Member Shuttleworth)

**4. SPECIAL PRESENTATIONS**

a. Manager's Update

Mr. Oakley gave updates on the following items:

- Carolina Beach Marina/Golden LEAF: The Town is waiting to hear about FEMA reimbursement for the marina. The Town has also submitted everything necessary to apply for a grant from the Golden LEAF Foundation and should hear back in August.
- Canal Drive Grant: The Town received information about a water-related grant up to \$5 million from Resource Institute, which would not require a match. The Town plans to look into this.
- Parking Permits: The Town offered curbside purchasing and extended the time to buy parking permits at a discounted rate. Nearly 4,500 residential, 400 non-residential, and 1,000 golf cart passes have been sold.
- Invoice Cloud: The Town has entered an agreement to help with automation and online utility payments. It will go live at the end of the summer. Transaction fees will be passed to the customer. The system is expected to be easier to use and have the ability to capture data better.

Council Member Barbee asked for a few words on how the financials for the fiscal year ending on June 30 will end up. Mr. Oakley said he thinks the Town will still be in the positive even with loss of revenue and expects the year will close without having to borrow money from the fund balance.

Council Member Shuttleworth joined the meeting at 6:41 PM.

**5. PUBLIC COMMENT**

**Comment 1:**

Diane Bomba of 211 Atlanta Ave. Apt. A said she submitted online to get a parking pass and received an email acknowledging her request but was never notified of anything further.

**Council Response:**

Mr. Oakley said Town staff will look into this. Council Member Garza asked about others in the same situation, and Mr. Oakley said Town staff will check to see how many others might be pending in the online system.

**Comment 2:**

Mayor Pierce read the following public comment submitted online:

Maureen Lewis, 1407 Croaker Lane

This week, council is scheduled to vote on approving the Lake Park Master Plan and applying for a grant of \$350K toward the project that is estimated at 4.8M- 5.2M. While I applaud the vision of the park and can see great value in some of the improvements, I question the timing and the priorities as outlined in the current proposal. Before approving this project, the town and taxpayers should understand the cost of maintenance for the new structures like a splash pad. How will this project impact the CB yearly budget?

I was one of the people who attended a public meeting last winter, but final costs were never discussed when the project was presented. Of course, we all want everything in the candy shop- but once costs and maintenance are factored in, public approval changes, especially when our local economy and town budget takes a huge hit because of something like COVID.

Some questions and opinions:

Is it possible before approval, to consider breaking the project into assign Phases to help manage risk?

Would the parks & rec department consider leveraging marketing opportunities to offset cost before the project is shovel ready? I.E. Name the new Bandshell for the Local or regional family, business or group that provides 75% or more funding for the new structure. This approach has been effective in raising revenue for gazebos, playground, and other public projects in other beach communities. Corporations & businesses are looking for organic & relevant ways to market their brand at the local level. A Win- Win.

Is the department working with a non- profit(s) to help raise monies for the “nice to haves” like a splash pad?

If plans are adopted, I believe the highest priorities should be the infrastructure of the lake and the current structures. We need to finish the dredging and shore up the banks before spending monies on other projects.

I personally do not see the necessity of a permanent vendor structure and think it needs to be removed from the plan entirely. The current situation allows the markets and other events to be fluid. The past 3 months have been a good reminder that our town and businesses need to be agile. This proposed structure limits the number of vendors and it would be a very tight squeeze to get customers flowing through. The proposed site is a narrow space. The sidewalk would be blocked to pedestrians and bikers when in use. Please consider:

What if the future of the farmer’s market location is the downtown boardwalk area?

What if the 6 feet distancing is a new normal for all public functions?

The proposed structure obstructs the view of the lake from the road.

Current vendors' tents add a bit of color and fun to the island on a weekend morning. It is exciting and drives curious visitors to the lake. A hard structure will not do that.

The return on this specific investment will be negative.

Thank you for all you do.

**Council Response:**

Mayor Pierce said Town Parks & Recreation Director Eric Jelinski would be addressing these items in his presentation later in the evening.

Council Member Barbee said there had been some confusion among the public about what the master plan is, so he would like to hear a general explanation of how the process works. Mayor Pierce said that would also be coming later in the meeting.

**Comment 3:**

Jeanette Morales, who lives on Atlanta Avenue along the lake, said she is concerned about flooding as a result of any changes that might be incorporated due to the master plan. She said the parking lot curves and water runs into properties, so expanding the parking lot will bring more water into yards.

**Council Response:**

Mayor Pierce asked for this to also be addressed later in the meeting.

**6. PUBLIC HEARINGS**

a. Text Amendment: Amend Article III Sec. 40-72. – Table of Permissible Uses, Article IX Sec. 40-261. – Development Standards for Particular & Article XVIII Sec.40-548. – Definitions to consider a registration program for short-term rentals

Town Planning Director Jeremy Hardison introduced Gloria Abbotts, a University of North Carolina Wilmington graduate fellow who is working with the Town Planning & Development Department. She gave a presentation about short-term rentals.

Ms. Abbotts said the Town is proposing to track short-term rentals using a registration program to easily identify which structures should pay the room occupancy tax. The annual fee would be \$25 per property. She shared a snapshot of fees in communities around the state, which indicated that other places have higher fees but also more regulations. She said research shows about 1,500 short-term rentals exist in the Town with an average daily rental rate of \$250, but only about 1,000 have been formally identified thus far.

The text amendment would allow short-term rentals in every zoning district, and it states that any rental available for a period of less than 31 days should register as a short-term rental with

the Town as well as with New Hanover County. Registration would be due on July 1 every year. After two notifications, the fine for noncompliance would be \$50 per day. No new regulations are being proposed.

Town staff is recommending that the text amendment be adopted as written. The Planning & Zoning Commission recommended requiring registration for any rental available for a period of less than 91 days instead of 31.

Mayor Pierce asked why the original recommendation was for less than 31 days instead of 91. She said hotels are required to pay room occupancy tax on rentals up to 90 days. Ms. Abbotts said less than 31 days is consistent with what is required by New Hanover County.

This led to some confusion among Council Members and staff. Council Member Garza suggested the item be tabled until clarification can be provided.

Council Member Barbee asked if the data collected would be public information. Mr. Hardison said the information on an application would be public record, but it has not been determined if the database itself would be accessible to the public.

**ACTION:** Motion to open the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

Mayor Pierce read the following public comments submitted online:

**Comment 1:**

Ea Ruth from Palm Air Realty, Kure Beach

I am reading over the text amendment and wonder why the status for short term rental is not to exceed 31 consecutive days in the amendment, yet state statute allows for up to 90 days as a taxable short-term rental. I would think you'd want them to align. This is from our state statute Chapter 42A ((3) Vacation rental. - The rental of residential property for vacation, leisure, or recreation purposes for fewer than 90 days by a person who has a place of permanent residence to which he or she intends to return.) Also, Occupancy and state tax is to be collected on all rentals 90 days or less. Wouldn't want STR owners to think it was only 30 days or less and not collect appropriate taxes.

Section 1-B requires the registration number be displayed on any rental advertisement...that might be cumbersome for management companies who use their signs as a form of advertisement. We wouldn't be able to put the number on each sign. We would find a way to include it in the listing descriptions.

**Comment 2:**

Carolyn Danielle

I'm reaching out to you because I think there needs to be a change in the ordinance regarding the requirement that property owners register with New Hanover County for Room Occupancy

Tax - specifically those who advertise on Airbnb, as Airbnb collects the tax on behalf of its hosts and turns it over to the county. Maybe the section that talks about the requirement to register with the county for tax purposes could be revised to include an exception for individuals who advertise on Airbnb (and maybe as part of their registration you just have them submit a printout of their account homepage as proof?).

The other thing I wanted to bring to your attention is a state law that passed last year, which as I understand it, does not allow for registrations to be mandated on vacation rentals.

Thank you for taking the time to read this.

**Council Response:**

Mayor Pierce said room occupancy tax collection is only one goal of the registration program. She said there were issues contacting Airbnb to get them to let owners know about the short-term rental ban and other issues related to COVID-19, so the other goal of the registration program is to have a direct line of communication with all short-term rental owners.

**Comment 3:**

Kristen Dunn, 905 #2 Ocean Blvd.

Hello. I have a few questions about the proposed Text Amendment/Ordinance 20-1140 regarding registration of Short Term Rentals (STRs) in Carolina Beach.

I'm under the impression the ordinance mandates registration of all STRs operating in CB, but still permits their use in all zoning districts with no caps or separation (distance) requirements. The fee is \$25 annually, and the application requires that the owner provide a ROT number.

I will not be able to attend the meeting because we finally got back to youth baseball at Mike Chappell Park. Can you please go on record tonight by answering the questions below?

Who is going to enforce this?

Where will the money go / what will the money be used for?

What are your intentions for creating a new fee when the property owners already pay property taxes?....is it to make sure you get the ROT money and that will help CB get beach renourishment money or is this just the beginning of more fees and more restrictions on STRs?

**Council Response:**

Mayor Pierce said the goals are for the Town to know where all short-term rentals are located for communication purposes and ensure everyone is paying their fair share and following the rules.

Council Member Garza read the following public comment submitted online:

**Comment 4:**

Dorrene Stanley 1201 Saint Joseph Street & business owner Coastal Carolina Property Group LLC

Good afternoon Madam Mayor and Council. I have some questions for you regarding the Short-Term rental registration process that the Town is implementing.

1. I have property owners requesting clarification on the STR registration. The way it is written they want to know if a Hotel owner will be required to pay the \$25 registration fee per room on an annual basis. Can you please confirm?

2. Please confirm why the fee? Why do we have to charge a fee? When you have time... the way it is written it almost appears as if the town is going to have to physically go out and inspect each unit. I manage over 50 properties and I have property owners asking me if this will replace my business? Each application has to be "approved" per the registration template, so who will determine if they are in compliance with the codes? Who will approve each application and on what basis?

3. I asked to meet with representatives of the land use plan on multiple occasions to discuss this. No one gave me the time of day. (As usual) I created a lucrative business here focusing primarily on VRBO, Home Away, Evolve etc... Most of my property owners are out of state. What the Town should do--- is require each property to have a LOCAL representative to oversee their guest support, code enforcement, safety issues, issues with the Town, etc... This would create jobs. If the property owner does NOT have a local representative then the Town charges a \$250? Or more-- fee per year..(Trash can issues, trash, noise ordinance, safety issues - over occupancy -etc.) Not having local representation creates a problem with properly managing each unit, thus causes more work for the Town --- and in some cases maybe a liability for The Town Of Carolina Beach.

The proposed "STR Registration" only mimics what other municipalities have implemented. It has little to no thought put into it. It does not address ALL the areas of concern by our residents. MANAGEMENT is the concern, as well as ROT. Some of these concerns are trash build up, noise issues, over occupancy and the most important SAFETY.

I'm not advocating for more business here (I have enough). What I am advocating for is the proper way to "manage" the growing concern of property owners who do not live here that rent units to out of town guests. Merely collecting ROT will not address the issues.

Thanks for your time and consideration.

**Council Response:**

Mayor Pierce said the short-term rental registration program would not apply to hotel rooms because they have different types of registration they already do.

Mayor Pierce said the item would be tabled until the next workshop to get clarification on some of the issues, including the time frame for what is considered a short-term rental.

**ACTION:** Motion to close the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

b. Public Hearing on FY2020/2021 Budget

**ACTION:** Motion to open the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

Mr. Oakley reviewed key points for the FY 20/21 budget that begins on July 1.

General Fund

FY 19/20: \$15,553,211

FY 20/21: \$15,442,611 (no tax increase)

Utilities

FY 19/20: \$9,549,270

FY 20/21: \$8,963,903 (includes 5% rate increase as required by bond covenants and \$314,943 transfer from utilities fund balance; anticipate significantly less revenue from system development and connection fees this year)

Mr. Oakley said while he is hoping revenues will be better than expected, he projected the worst-case scenario. The budget reflects reduced and delayed spending as well as cuts or delays in capital projects.

Mr. Oakley said the Town is changing fees for the municipal marina. The rate is increasing from \$400 to \$432 per month for charter boats, and there will be a switch to the online bill pay system Dockwa. Mr. Oakley also said there will be transient boater slips on the west side available to rent for \$60 per night, which would be a great revenue generator.

There were no public comments.

**ACTION:** Motion to approve Budget Ordinance 20-1141 as presented by the Manager for Carolina Beach budget year fiscal year 20/21

Motion: Council Member Shuttleworth

Vote: UNANIMOUS

Council Members praised Mr. Oakley and other Town staff for balancing the budget without burdening the citizens with a tax increase during a difficult time.

**ACTION:** Motion to close the public hearing

Motion: Mayor Pierce

Vote: UNANIMOUS

## **7. ITEMS OF BUSINESS**

### a. Lake Park Master Plan

Council Member Barbee said there was some confusion about what is being presented, what its purpose is, and what Council would be approving. He asked Mr. Jelinski to start with a general description of what a master plan is, why it was done, and how the process works.

Mr. Jelinski said the plan has been in the works for several years. He said the purpose is not to



request any money right now but to adopt a plan as an idea for what the future of Lake Park could look like. He said the plan came about from various meetings and surveys and is meant to be fluid as community needs change. The plan helps to guide Parks & Recreation staff on future expansion of facilities.

Mr. Jelinski said it is important to have a plan ready as a long-range vision for Lake Park in case money is available from bonds, grants, private donations, or other sources. He is asking Council to adopt the plan with prioritized amenities, and once adopted strategic funding methods can be investigated. His staff is already exploring the possibility of applying for a Land and Water Conservation Fund (LWCF) grant to build the playground portion of the master plan, and having a master plan finalized can help earn points toward this grant application as well as others. Mr. Jelinski said it is hard to go after money without a master plan. He also brought up the possibility of raising money through the community, and Mayor Pierce said she thought this was a great idea to look at this way of funding amenities.

Jeff Ashbaugh of Benesch presented specifics of the master plan. He detailed the steps in the process, reviewed the location and facilities in the 18-acre park, and outlined proposed improvements.

Priority improvements are:

- New playground with age-appropriate equipment and additional amenities such as picnic shelters, benches, shade trees, shade structure, and swings
- Sprayground, a new water facility in the northeast corner of park that would offer an option for younger kids and be decorative and attractive
- Amphitheater and multi-purpose lawn to replace Stingray Amphitheater with a new covered stage, ADA accessibility, and a larger concert lawn of 0.25 acres
- New facility for the farmers market featuring twin shelters with a connecting plaza that would also serve as a revenue-generating option rentable for private events; it would be located near Lake Park Boulevard for curb appeal

Other improvements include:

- Replacing restroom
- Shoreline erosion
- Bulkhead construction

The budget for the master plan is \$4.66 million, which includes \$700,000 for bulkhead construction mainly on east end. Park development can be broken in phases or scaled back in the future.

Mr. Ashbaugh said grants are very competitive and that there is a direct relationship between the money you get and how much planning you've done, so adopting a master plan is a good investment.

In response to a concern from the audience, Mayor Pierce asked how drainage would be controlled if the Town continues to build parking areas around the lake. Mr. Ashbaugh said there would be plans for a drainage system that would capture and release at a slow rate, plus the expansion of the parking area would reshape what is already there and not add impervious

surface.

Council Member Barbee asked whether the plan was taking into account that any structures or equipment added to the lake would likely have to deal with flooding. He specifically expressed concerns about cleanliness of playground equipment. Mr. Jelinski said there would be no wooden structures and that whatever is there would be built to withstand flooding.

Council Member Garza asked about the recycled water for the sprayground. Mr. Jelinski said it would be done through a recirculating chlorine pump that is basically like a swimming pool.

Council Member Shuttleworth compared the master plan to a similar plan for the Island Greenway that started 12 to 14 years ago and had undergone significant changes as things progressed. He said it was a visionary document that would allow the Town to move forward, and specific pieces would come back over time.

Mayor Pierce said the master plan was a wish list to allow the Town to go after money. She asked whether any further action could be taken before the dredging issue was resolved.

Mr. Jelinski said he hoped Council would adopt the master plan and give his staff permission to apply for the LWCF grant that is due on July 1 to get things moving ahead for the playground portion.

Mayor Pro Tem Healy praised the job done on the master plan and said it was something good to give back to the community and take care of its children. He said he liked that the master plan was broken into phases and would allow Council to pick and choose what's next.

Council Member Barbee said if there is a way to get funding, the playground is an easy discussion.

Mayor Pierce reiterated that a vote to adopt the master plan is not a commitment to any specific funding.

**ACTION:** Motion to accept Lake Park Master Plan as presented

Motion: Council Member Barbee

Vote: UNANIMOUS

Mr. Jelinski said a separate vote was necessary to allow his staff to pursue the LWCF grant. If awarded the grant, the Town would be required to come up with \$175,000 in matching funds, but this could be spread over two fiscal years and would not be allocated now. Mr. Jelinski said he expects to know about the outcome of the grant in late September or October.

Council Member Shuttleworth asked for specifics about the process for proceeding if the Town wins the grant. Mr. Jelinski said there would be an RFP for the playground equipment that would be designed to fit the budget. The item would come back before Council for a public hearing and vote before any money is spent. Construction could begin in May.

Mayor Pierce said if the Town prides itself on being a family beach, it needs activities for

children and beginning the process of allowing Parks & Recreation to provide that is important.

Mayor Pro Tem Healy said it is important that the Town move forward and not become stagnant.

**ACTION:** Motion to approve resolution 20-2229 to authorize the Town of Carolina Beach to submit an application to the N.C. Department of Natural Resources for the Land and Water Conservation Fund grant

Motion: Mayor Pierce

Vote: UNANIMOUS

#### b. Review RFP Results for the Efficiency Study

Mr. Oakley said 10 firms responded with proposals for a study that strives to find ways to save costs and improve services for the Town. He said all respondents were qualified, and costs ranged from \$30,000 to \$118,000. He has narrowed down the pool to three respondents that were in the \$30,000 range. He hopes after some negotiations he can come back at the upcoming workshop with a contract for Council approval.

Mayor Pierce asked how long the study would take. Mr. Oakley said the process would be about four to five months. Mayor Pierce also asked if the money for the study was already in the budget. Mr. Oakley said no, but he anticipated there would be enough leftover in the executive budget to cover this. Mayor Pierce said she has been hoping for this for a year and wants to see more things being done online. She said this study can't be done internally and needs outside eyes.

Mr. Oakley said he would bring the top proposal and authorization to execute at the upcoming workshop.

Council Member Shuttleworth asked how the fiscal year is finishing up in terms of revenue. Mr. Oakley said he doesn't have any major updates to share and is still waiting to hear about some initiatives meant to help.

### **8. NON-AGENDA ITEMS**

Council Member Barbee reminded Mr. Oakley to keep a General Fund balance analysis on his radar. He also mentioned a previous question he asked about how much of the Town's water usage goes to irrigation. He also said he likes Mr. Jelinski's idea about getting the community engaged and involved in raising funds for Carolina Beach Lake Park and hopes this will be encouraged. He said this will be easier and more palatable than doing it through tax increases, a measure that often becomes politically charged.

Council Member Garza asked about the Land Use Plan. Mr. Hardison said it is going before the Planning & Zoning Commission one more time before coming to Council in July. Mr. Hardison said he can give an update on the status of it at the upcoming workshop. Council Member Garza also mentioned Town staff looking into rates for water gallon usage and using the Town's Facebook pages to post updates about hurricane season preparation and fire safety.

Mayor Pro Tem Healy said the Town's Census has gone up slightly to 35.4%. He said the Census

will continue through the end of October and encouraged people to fill out the questionnaire online if they do not want an in-person visit from Census takers. He also thanked Mr. Hardison for taking care of the fence on Cape Fear Boulevard.

Mayor Pro Tem Healy also asked about the possibility of getting the speed limit changed at Dow Road and Harper Avenue for safety reasons. He said right now it changes from 55 mph to 45 mph in that area, but it should be 35 mph due to the crosswalk. Mayor Pierce said the Town has asked for permission to do this in the past but turned down by the N.C. Department of Transportation. Assistant Town Manager Ed Parvin said the DOT will do a study if Council requests it, but the data has to support a reduction in the speed limit. Council Member Shuttleworth asked Mr. Parvin to arrange a call with the DOT to find out exactly what needs to be done to justify a speed limit reduction. Mayor Pierce said the slower zone should extend past Mike Chappell Park. Council Member Barbee said he is also concerned about a higher speed limit on some areas of Dow Road during school hours.

Council Member Shuttleworth brought up Fourth of July fireworks. He asked whether the lack of room occupancy tax funding or the need to reduce crowd size was the reason for the cancellation. He said a private group would be able to come up with the money if necessary, but there was concern about whether having the only fireworks display in the county and local area would draw too many people. Council Member Barbee said he would love to see fireworks but that the Town needs to heed orders from N.C. Gov. Roy Cooper about crowd sizes. Mayor Pro team Healy said he agreed that fireworks would be great but was also concerned about the timing and not knowing what the crowd size orders would be in a few weeks. Council Member Garza said he would like to see plans for a large fireworks display on Labor Day weekend. Mayor Pierce said she did not want to act irresponsibly by encouraging people to gather in large groups for the only fireworks in the area, but she also expressed concern about whether the lack of a professional fireworks display would result in people shooting off more fireworks in their yard and causing a potential fire hazard. Council Member Shuttleworth said the price of the fireworks display would be around \$15,000 and added that he was fine with holding off on plans for it at this point.

Mayor Pierce said there had been some complaints about people parking at the lake and going to the beach. She asked if the town is specifying that the parking spots there are for Lake Park use only and if not, is that something the Town should do. Mr. Parvin said parking at the lake is for a maximum of 2 hours, but he is unsure whether signs are up yet. Mayor Pierce also clarified that all committee updates and decisions would happen in August after committees meet in July, and she asked Town Clerk Kim Ward to make sure the committees know this.

## **9. ADJOURNMENT**

Mayor Pierce made a motion to adjourn at 8:45 PM. Motion passed unanimously.