

CAROLINA BEACH

Town Council Workshop Meeting

Tuesday, October 27, 2020 – 9:00 AM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Mayor Pierce called the meeting to order at 9:00 AM.

PRESENT

Mayor LeAnn Pierce

Mayor Pro Tem Jay Healy

Council Member Lynn Barbee

Council Member JoDan Garza

Council Member Steve Shuttleworth (arrived at 9:20 AM and left at 11:20 AM)

ALSO PRESENT

Town Manager Bruce Oakley

Town Clerk Kim Ward

Town Attorney Noel Fox

DISCUSSION ITEMS

1. Employee Recognition

Mark Meyer introduced Deidre Fennell and Devin Brooks, the two new Customer Service Billing Representatives.

Fire Chief Alan Griffin recognized Buddy Thompson for 5 years of service and Simon Sanders for 15 years of service with the Fire Department.

Holly Brooks recognized Sara Hartman for 15 years of service with Human Resources.

Eric Jelinski recognized Tim Murphy for 15 years of service and Margaret Dowling for 20 years of service with Parks and Rec.

Brian Stanberry recognized Tim Lawrie for 20 years of service with Environmental.

2. Discussion on Freeman Park and Parking Updates

Assistant Town Manager Ed Parvin led a discussion on proposed updates to the Freeman Park ordinance and parking in general for the 2021 season. Action will be requested at the November 10 regular meeting.

Each year parking permits feature a new color. For 2021, they will be green. Permit prices for 2021 are as follows:

- Resident parking/re-entry: \$40 + \$10 after June 1
- Resident re-entry only: \$2 + \$10 penalty after June 1
- Non-resident parking: \$175
- Golf cart resident parking: \$40
- Golf cart non-resident parking: \$100
- Central Business District employee: \$100

Other parking prices for 2021 are:

- Parking lots: \$20/\$5
- Meters without time restrictions: \$5
- Meters with time restrictions: \$3/hour

Cost/Benefit Options for Parking Collections

ParkMobile

- COST: User fees - \$.30 per transaction that customer pays. Convenience fees – 3% of the total amount + \$0.15 per transaction.
- BENEFITS: No setup fees because we already use them.
- PROBLEMS: Have had issue with enforcement app not showing everyone who has paid, reporting is extremely difficult and time-consuming, they are slow to fix issues.

Text2Park

- COST: \$250 for first 10 lots/areas, \$0 after that to set up through rest of the town. Fees are: User fees - \$0.10 per car, Convenience fee – 3% + \$0.50 per transaction. (There is the ability to push some or all fees to customer.)
- BENEFITS: We already use it in two of our lots, they will provide first 5 signs for free. Working on integrating with LPR software for LPR car, reporting takes very little time and effort and have had no issues writing citations for people who paid with Text2Park and are willing to negotiate some aspects.
- PROBLEMS: Setup is a little cumbersome.

Pay By Phone

- COST: Negotiable \$0.35 fee per transaction.
- BENEFITS: Wilmington and Wrightsville Beach use Pay By Phone, they are willing to waive \$250 startup fee, there are no other fees, they provide first round of signs, they provide back office training.
- POTENTIAL PROBLEMS: People will try to use ParkMobile instead of Pay By Phone.

Mr. Parvin said he wanted to get input on which options or combination of options to pursue. Mayor Pro Tem Healy said he thinks Pay By Phone is easier to use. Town Council Member Garza said he also thinks the Pay By Phone app is simple.

Council Member Barbee said he would like to see more branding on Town lots because it's not always easy to identify them without pulling in.

Freeman Park Pass Sales and Fees

DAY PASSES

OFF-SEASON: \$20

IN-SEASON DURING THE WEEK: \$30

IN-SEASON ON SATURDAY/SUNDAY: \$40

EARLY BIRD SPECIAL: November 23 – December 31: \$110 (transaction fees included)

CAMPING: \$50 Labor Day night until the Thursday before Memorial Day

Campfires – Allowed October through March (must be contained)

ANNUAL PASS: \$225 (transaction fees included)

Off-Season: October 1 – March 31

In-Season: April 1 – September 30

Pickup sites for stickers

Town Hall, 1121 North Lake Park Blvd.: 8:00 AM-5:00 PM Monday - Friday

Reef Parking Office, 1708 Canal Drive: 8:00 AM-5:00 PM daily March – October; 8:00 AM-5:00 PM Monday – Friday November-February

Freeman Park Permit Statistics

Early Bird

December 2018-2019: 8,049

December and January 2019-2020: 3,671

Annual Pass Sales

2018-2019: 9,592

2019-2020: 4,369

Day Pass Sales (January 1 – October 25)

2019: 7,306

2020: 11,524

Image to use on pass being finalized.

Freeman Park Sales Options

Option 1: Existing Plan

- December 1 – December 31 Early Bird in-person sales
- Includes Island Tackle and Hardware as a sales point
- Continue to use Click and Park for all online and in-person sales

Option 2: Online Only

- December 1 – 15 Early Bird online sales
- Purchase online and receive a barcode to be scanned at location of sticker pickup
- Least amount of work for additional vendors
- Vendor TBD

Option 3: In-Person Only

- December 1 – 31 Early Bird
- Purchase can be any form of payment; each sales location receives a point of sale machine
- Logistics are cleaner than Click and Park
- Reporting is better than Click and Park
- Everything must be filled out manually on paper

Current adopted budget lists Early Bird as November 23 – December 31.

Council Member Barbee said the window seems short for Option 2. Mayor Pro Tem Healy said Option 2 creates a sense of urgency, which is good, but he also acknowledged change is tough for people. Council Member Shuttleworth asked what is wrong with Option 1. Mr. Parvin said there were lots of negatives that make it hard to manage, including many errors due to constant data entry. Mayor Pierce said it was too close to the start time to implement big changes to what people are used to. She said she would like to see both online and in-person options. Council Member Barbee said he likes Option 2 but thinks it can't be the only option. Mr. Parvin said he will change the dates to December 1 – December 31 for all three options and recognized the desire for online and in-person options. He said he will bring back costs.

CODE UPDATES

Freeman Park

1. Clarified 4-wheel drive vehicles only
2. Expand allowances for towing to include hazardous conditions
3. Clarified camping only allowed in designated areas on Freeman Park
4. Freeman Park pass shall be permanently affixed to the windshield

Parking

- Eliminated reference to the official parking map
- Clarified prohibited parking areas
- Clarified parallel parking regulations on the side of a roadway
- Ensured regulations apply to golf carts
- Updated payment procedures for public lots

- Moved parking administration from schedules to “stopping, standing and parking”
- Clarified timeline for immobilization
- Added appeals procedures

Council Member Barbee brought up the issue of Town lots being used as residential parking for buildings. Mr. Parvin said there would be language to prevent “residential overflow.”

Schedules

- Removed parking administration
 - Updated street names
3. A briefing on an upcoming Text Amendment related to changes to Chapter 40 – Zoning related to 160D requirements regarding Conditional Zoning, Special Use Permits, and the Table of Permissible Uses – Applicant: Town of Carolina Beach

Senior Planner Miles Murphy gave an update about proposed ordinance changes.

Background

- State statute changes from 153/160A to 160D for Zoning
- Many, many changes required in local ordinances
- Conditional Use Permits (CUPs) are no longer permitted
- Transitioning to conditional zoning on attorney’s recommendation
- Reviewing table of permissible uses at Council direction to reassess which uses really need additional scrutiny and where uses are permitted
- Many more 160D changes coming...

Takeaways

- CUPs and the quasi-judicial process are going away
- Reducing number of CUPs required in table of permissible uses
- Conditional zoning replaces CUPs as a legislative process
- Easier
- Ex parte communication permitted
- No 7 specific standards and 4 general conditions to be met

CUP to SUP

- All references and procedures related to CUPs are changed to Special Use Permits (SUPs)
- Procedures remain largely unchanged
- No uses are required to be handled by SUPs unless Council wishes they be handled that way
- Quasi-judicial procedures are still used

Legislative (Conditional Zoning) vs. Quasi-Judicial (CUP/SUP)

Notice of Hearings

Legislative: Both newspaper notice and mailed notice to owners and neighbors are required.

Quasi-Judicial: Only notice to parties to the matter is required unless ordinance mandates otherwise.

Speakers at Hearings

Legislative: Number of speakers, time for speakers can be reasonably limited.

Quasi-Judicial: Witnesses presenting testimony can be limited to relevant evidence that is not repetitious.

Evidence

Legislative: None is required; members are free to discuss issue outside hearing.

Quasi-Judicial: Substantial, competent, material evidence must be put in the record; witnesses are under oath, subject to cross-examination; no discussion of the case outside the hearing is allowed.

Findings

Legislative: None are required.

Quasi-Judicial: Written findings of fact are required.

Records

Legislative: Regular minutes are satisfactory.

Quasi-Judicial: Detailed record of testimony is required; clerk should retain all exhibits during period of potential appeal.

Conditional Zoning

PURPOSE

- A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project.
- Some land uses have significant impacts on both the surrounding area and on the entire community which cannot always be predetermined and controlled by general district standards.
- A general district designation allowing such a use by right would not be appropriate.
- Provides accommodation by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with neighboring properties.
- A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period.
- A conditional zoning and a zoning map amendment are occurring simultaneously in a conditional zoning hearing.

Conditional Zoning

PUBLIC INPUT MEETING

- Prior to scheduling a public hearing on the rezoning application, the applicant shall conduct one (1) public input meeting and file a report of the results with the Zoning Administrator.

- The report for the public hearing will include a summary of the public input meeting.
- The applicant shall mail a notice for the public input meeting to the owners of all properties located within 500 feet of the perimeter of the project bounds not less than 10 days prior to the scheduled meeting.
- The notice shall include the time, date, and location of the meeting as well as a description of the proposal.
- The applicant's report of the meeting shall include:
 - A copy of the letter announcing the meeting
 - A list of adjoining property owners contacted
 - Attendance rosters
 - A summary of the issues discussed
 - The results of the meeting including changes to the project's proposal, if any.

Conditional Zoning

CONDITIONS TO APPROVAL OF PETITION

- Any such conditions should relate to the relationship of the proposed use to the impact on the following details:
 - Town services
 - Surrounding property
 - Proposed support facilities such as parking areas and driveways
 - Pedestrian and vehicular circulation systems
 - Screening and buffer areas
 - Timing of development
 - Street and right-of-way improvements
 - Infrastructure improvements (i.e. water)
 - Provision of open space
 - Other matters that the participants in the public input meeting, staff, Planning & Zoning Commission, and Town Council find appropriate or the petitioner may propose
 - May include right-of-way dedication, easements for streets, water, sewer, or other public utilities necessary for development
- The petitioner shall consider and respond to any such conditions after the Planning & Zoning Commission
- If the applicant does not agree with the Planning & Zoning Commission or staff's recommendations of additional conditions, the Town Council shall have the authority to accept none, any, or all of the conditions forwarded from the review process.
- If any condition required at approval is later found to be illegal, the petition shall be returned to Town Council to reevaluate and adjust any conditions accordingly.

Conditions

Appropriate

- Density: stricter max than district
- Signage: height or location restriction

- Uses: no drive-thru
- Design issues: off-street parking and outdoor storage prohibited, traffic design, exterior structures made of primarily brick

Inappropriate

- Cannot repeat existing requirements: stating same conditions required by existing rules
- Cannot dictate who will live there or dictate price or lot size: Fair Housing Law
- Cannot be less restrictive than underlying district
- Must be quantitative: “add some additional landscaping,” specify type location amount

Conditional Zoning

EFFECT OF APPROVAL

- An approved petition shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan for the district, and any additional approved rules, regulations, and conditions.
 - Shall constitute the zoning regulations for the approved district and are binding on the property.
- Subject property shall be identified on the zoning maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "CBD-CZ").
- No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and applicable site plan, subdivision plat, and/or permit for the district.
- Any violation of the approved regulations and conditions for the district shall be treated the same as any other violation of this ordinance and shall be subject to the same remedies and penalties as any such violation.

Commissioner Shuttleworth and Mayor Pierce expressed concerns that these changes could cause subjectivity and essentially have Council telling property owners what they can do with their own property. Council Member Barbee said he agreed that this could be very empowering to Council, which could be good or bad.

Mr. Murphy reviewed the table of permissible uses. Council Member Garza said this item requires its own workshop. Ms. Fox said this is a great idea because it would allow Council to review everything before further discussion with examples.

Recommendation

Planning and Zoning approved the text amendment as presented with 3 changes:

- Keep day care facilities as a conditional zoning use in strictly residential zones (R1-R3 and MH)
- Keep drop-in day care facilities as a conditional zoning use in strictly residential zones (R1-R3 and MH)
- Keep library facilities as a conditional zoning use in strictly residential zones (R1-R3 and MH)

4. CAMA Oceanfront Setbacks Discussion - Development Line vs Static Line Exception – Applicant: Town of Carolina Beach

The Division of Coastal Management notified the Town on October 2 that the Coastal Resource Commission (CRC) held a virtual meeting in September and declared that if a community has been granted a Static Line Exception and a Development Line, only one may be applied within the bounds of the community's beach nourishment project. A community will not be permitted to have both a Development Line and a Static Line Exception when issuing permits pursuant to the Coastal Area Management Act of 1974 (CAMA). The CRC is requiring the Town to decide which setback rule the Town would like to use.

Planning Director Jeremy Hardison said the Town has had the Static Line Exception since 2009 and the Development Line since 2016. He said there is no timeline for making the choice, but CAMA permits for oceanfront development will not be issued until there is a decision.

Mr. Hardison gave background on the issue.

1925 - 1962

There was not a specific established method for placement of oceanfront structures that took erosion and beach dynamics into consideration. There was no dune or vegetation in place during this time. Two major events happened that impacted the coastline in the 1950s. 1) Carolina Beach Inlet was artificially opened by local interests in September 1952. Prior to its opening, the beach was continuous from Carolina Beach north to Masonboro Inlet with shoreline changes along the entire area relatively moderate. Immediately following the opening of the inlet, the shoreline south of the inlet began to erode at an accelerated rate. 2) Hurricane Hazel in 1954, a Category 4 event that brought significant damage and recognition of the need to manage storm risk in Carolina Beach. As a result of the sporadic placement of structures to the ocean, many started to become threatened by beach attrition and repetitive flooding by 1962.

1963- 1978

In response to the cumulative effects of the inlet-related and storm-induced shoreline retreats, Congress passed the Flood Control Act of 1962, which led the way to fund and authorized federal storm damage reduction project (beach nourishment). One of the conditions for federal participation in the project was the assurance the beach would remain open to the public for the life of the project. Prior to project construction, the Town established a Building Line. Authority to establish the Building Line was provided by a special act of state legislature in 1963. All lands located seaward of the Building Line are in public ownership. The Building Line would become the build-to line for oceanfront development, and no structures could be authorized to go past it other than beach crossovers and piers.

The federal storm damage reduction project was constructed seaward of the Building Line with the Building Line serving as the approximate landward toe of the dune. The Town was the first nourishment project in North Carolina that took place in 1964 that consisted of a 25-foot-wide vegetated dune fronted by a 50-foot-wide storm berm.

1979- 2008

CAMA of 1974 was passed by the N.C. General Assembly for guiding development for N.C. coastal communities and created the CRC to be responsible for creating policies. In 1979, oceanfront setbacks were introduced statewide. CAMA used the first line of stable natural vegetation to measure setbacks. There were two setback factors utilized and based off annual erosion rates:

- 1) Small structure setback – structures less than 5,000 sq. ft., setback 60’ from the stable natural vegetation
- 2) Large structure setback – structures 5,000 sq. ft. or more, setback 120’ from the stable natural vegetation

The Town has had a healthy coastal storm damage reduction project since 1980. Through local beach management, the dune vegetation has expanded oceanward over the years, but the CAMA measurement line for setbacks was still based off where the vegetation line was at the inception of CAMA, known as the Static CAMA Vegetation Line. The Static CAMA Vegetation Line was codified in 1996 in part based on three factors:

- 1) Engineered beaches erode at least as fast as, if not faster than, pre-project beach;
- 2) There is no assurance of future funding or beach-compatible sand for project maintenance; and
- 3) Development tied to a vegetation line in artificially forced systems could be located so as to be more vulnerable (closer to the shoreline) to natural hazards along the oceanfront.

2009 Static Line Exception

In 2009, CAMA adopted new rules for oceanfront setbacks with the introduction of graduated setbacks based off the size of structures measured from the static vegetation line.

CAMA did want to recognize local government efforts and long-term commitments to managing oceanfront erosion by creating the Static Vegetation Line Exception rules, which would exempt oceanfront communities from the graduated setbacks. To be eligible for this exception, a community must petition the CRC by providing a beach management plan that describes the project area and design, identify sediment sources, identify funding sources to maintain the initial large-scale project and provide an update on project effectiveness and how it will continue to be maintained. The plan must be updated and presented to the CRC every five years for reauthorization.

The Town was granted a Static Line Exception in 2009 after presenting the Beach Plan Report. The reason the Town applied for the exception was not to allow for development to move more seaward but rather the concern that the rule establishing graduated setback requirements for structures based on size could render many oceanfront structures non-conforming based on the present location of the Static Line and not be able to rebuild following major damage resulting from a weather-related event. The Town wanted to prevent more structures from becoming non-conforming with the new rule. The existing non-conforming structures were 64 buildings and over 800 units.

The approval of the Static Line Exception did allow some development to be measured from the natural vegetation line rather than the Static Line under the following conditions:

- Development meet the minimum setback of 60 feet or 30 times the erosion rate, whichever is greater, as measured from the vegetation line;

- Development setbacks are calculated from the shoreline erosion rate in place at the time of permit issuance;
- Total floor area of a building is no greater than 2,500 sq. ft.
- No portion of a building or structure, including roof overhangs and elevated portions that cantilevered, knee braced or otherwise extended beyond the support of pilings or footings extends oceanward of the landward-most adjacent building or structure; and
- Swimming pools are not allowed oceanward of the static vegetation line.

Since the Town was granted the 2009 Static Line Exception, the CRC has reauthorized the town in 2015 and 2020 after staff provided the following;

- Design changes to the initial large-scale beach fill project
- Design changes to the location and volume of compatible sediment necessary to construct and maintain the large-scale beach fill project
- Changes in the financial resources or funding sources necessary to fund the large-scale beach fill project

2016 Development Line

Prior to 2016, Town staff was notified by the real estate industry that many “non-conforming” units were not able to secure financing because of new lending procedures. The Town met with lenders and real estate professionals with CAMA discussing the state and local non-conforming regulations. The Town’s nonconforming regulations allow a building to be rebuilt in the same footprint if it is destroyed by fire, wind, flood or other catastrophic event. The CAMA regulations were more restrictive: If a structure is destroyed more than 50 percent, then it shall meet current setbacks regardless of how it was destroyed. This is problematic for many non-conforming structures because the setback places them near or completely in the street. In these cases, if the setback were measured from the current vegetation line rather than the Static Vegetation Line, then it could be rebuilt in the same footprint. The issue was brought to the Coastal Resource Commission. Commission found that some communities had demonstrated a long-term commitment to beach nourishment and maintenance of their nourished beaches. Due to this long-term commitment, the vegetation had become stable and migrated oceanward of the static line. To recognize local government efforts to address erosion through long-term beach nourishment and offer relief from the Static Vegetation Line requirements, the CRC adopted the “Development Line” option. A Development Line is an established line adopted by the local government that represents where structures can build up to, as long as the structure meets the setbacks utilizing the vegetation line when measuring oceanfront setbacks.

The Town was approved for a Development Line by the CRC, which utilized the 1963 Building Line as the Development Line. This abled the majority of the oceanfront buildings to be rebuilt in its current footprint. The only area that does not benefit from the rules are the non-conforming homes located along the rock revetment because of the limited vegetation.

2016 Amended Non-Conforming Regulations

CAMA amended the non-conforming regulations that allowed structures to be rebuilt that are below 10,000 sq. ft. if they meet the 60’ setback from the natural stable vegetation line or the middle of the rocks where the rock revetment is located. There are several structures that are adjacent to the rocks that would still not be able to be rebuilt.

2016 Amended the Static Line Exception Rule

Removed the condition that limited development to 2,500 sq. ft. in order to utilize the exception.

2020 Static Line Exception or Development Line

The Town must decide which line it wants to utilize for oceanfront setbacks according to the CRC, although the CRC did grant the town the Static Line Exception in 2009 and the Development Line in 2016.

2020 Version of the Static Line Exception vs. Development Line

Both the Static Line Exception and the Development Line can now measure from the existing natural stable vegetation line, but the graduated setbacks still would apply to the building line, but not the Static Vegetation Line Exception. With the Static Vegetation Line Exception, however, you cannot go oceanward of the adjacent structures and must provide an updated beach management plan every 5 years, demonstrating a financial plan, sand resource and a committed storm reduction plan. With the flexibility of not having graduated setbacks and being able to develop to the Development Line, there are only 6 non-conforming buildings. If the Town decides to go with the Static Vegetation Line Exception, then 27 structures would not be able to build in the same footprint on the lot because they sit further out from the adjacent structure. If the Town decided to go with the Development Line, then 18 structures would be non-conforming because of their size with the graduated setbacks.

Council Member Barbee said he doesn't want to see more non-conforming structures and feels there is not a clear answer as to which option Council should choose. He said either way somebody is going to lose and that Council is not in the business of taking property rights away from people if they can help it. He asked what the chances are of the Town making a case to keep both options. Mr. Hardison said Town staff could speak to the CRC at its upcoming virtual meeting on November 18.

5. Manager's Update

Mr. Oakley updated Council on current and future projects. He said the Police Chief search resulted in 71 applications, some of which are very qualified, and the Town is in the process of scheduling interviews.

Mr. Oakley said the November Council workshop will be moved to November 17 and that former Congressman Mike McIntyre would be present to discuss some of the things approved last month. Mr. Oakley said there also may be a presentation on the efficiency study, which is currently being finalized. Council Member Garza said the new date would be too early to discuss the outcome of the CRC meeting, but Mr. Oakley said the workshop can be continued to another date if necessary.

Mr. Oakley also presented the following based on a previous inquiry from Council Member Barbee:

5-Year Capital Improvements Program

Enterprise Fund Capital

Water Projects - \$11,781,021

Sewer Projects - \$9,093,021
Stormwater Projects - \$6,867,511

General Fund Capital Projects

Planning - \$26,000
Police - \$800,000
Fire - \$1,496,445
Marina - \$600,000
Parking - \$14,000
Parks and Rec - \$1,615,000
Misc. - \$565,445

Enterprise Fund- \$27,241,553
General Fund - \$5,797,097

TOTAL: \$33,038,650

Mayor Pierce asked where the Town is with the Hamlet and marina projects. Mr. Oakley said the Town is going out to bid to get better pricing for the Hamlet project, and for the marina project the Town is working with the engineer and met with CAMA on site about options. He said that project is estimated at \$3 million and there is a \$2.1 million Golden LEAF Foundation grant, so the Town is still looking at how to come up with the shortfall. Mayor Pierce also asked about Military Ocean Terminal Sunny Point (MOTSU) permissions, and Mr. Oakley said there was nothing new to report at this time.

Council Member Barbee said the Town needs to find a way to make the Hamlet project happen for the 2021 season. He also asked whether a new Police Chief would be hired before Police Chief Spivey's retirement so there is some overlap. Mr. Oakley said he hopes so, but it will be a tight window. Council Member Barbee asked whether there had been any feedback from the engineering firm the Town had engaged to look at options for the MOTSU lake dredge issue. Mr. Oakley said the Town had heard recommendations but was waiting for proposal of a design-build method.

Council member Garza asked if the Town had any ideas for how to make up for lost Freeman Park revenue. Mr. Oakley said the parking program had a good year and would serve to offset this. Council Member Garza said he was curious to see how much this will impact the budget. Mayor Pro Tem Healy said he was pleased to see how many Freeman Park day passes were sold.

NON-AGENDA ITEMS

Council Member Garza mentioned resident complaints about the poor condition of Boardwalk bathrooms. Mr. Oakley said he will follow up on this.

Council Member Barbee said he had received an email complaint about a surf contest and asked if it was permitted by the Town. Tim Murphy of Parks & Recreation said there were several surf contests permitted for the North End this year. He said the Town could look at limiting usage if there were problems. Mayor Pierce said these types of events are clean and successful, and therefore she would hesitate to place limits on them. Mr. Murphy said he will follow up with the organizers to make sure

they know the Town can't move people from the beach. Council Member Garza suggested introducing the person with the complaint to the organizers to break the communication barrier. Mr. Murphy said he will make sure the people on the North End are aware of dates for future events.

Mayor Pro Tem Healy brought up Ordinance 20-1146 and the section that focuses on the conduct of visitors to Freeman Park: "not do anything commonly considered to be offensive, distasteful, or insulting to other visitors." He said he had a discussion with a neighbor about some of the flags flying on vehicles out there. Ms. Fox said the Town cannot restrict flags based on content and would therefore have to ban all flags or allow all flags. Mayor Pierce said this issue goes back to freedom of speech. Council Member Barbee said if no flags are allowed, then the Town would have to tell people they can't fly the American flag. Mayor Pierce asked Bruce to look into the issue and said what's offensive to one person may not be offensive to someone else.

CLOSED SESSION IF NEEDED

ACTION: Motion to enter in closed session in accordance with NCGS 143-318.11(3) to consult with the Town Attorney to include a discussion about 20 CVS 1444 CBYC LLC vs. Town of Carolina Beach

Motion made by Mayor Pierce

Voting Yea: Mayor Pierce, Mayor Pro Tem Healy, Council Member Barbee, Council Member Garza

Motion passes 4-0 (Council Member Shuttleworth was not present at this time)

Council went into closed session at approximately 11:40 PM. Upon Council's return from closed session at 12:00 PM, Mayor Pierce stated that no action was taken.

ADJOURNMENT

ACTION: Motion to adjourn

Motion made by Mayor Pierce

Voting Yea: Mayor Pierce, Mayor Pro Tem Healy, Council Member Barbee, Council Member Garza

Motion passes 4-0 (Council Member Shuttleworth was not present at this time)