

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, November 14, 2023 - 6:00 PM

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



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation by Pastor Jonathan Bowling of Carolina Beach Presbyterian Church and Pledge of Allegiance.

PRESENT

Mayor Lynn Barbee

Mayor Pro Tem Jay Healy

Council Member Joe Benson

Council Member Mike Hoffer

Council Member Deb LeCompte

ALSO PRESENT

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Finance Director Debbie Hall

Town Clerk Kim Ward

Town Attorney Noel Fox

ADOPT THE AGENDA

Mayor Barbee said there would be a change in the order of special presentations due to time considerations, and the purpose of the closed session has changed to a legal matter.

ACTION: Motion to adopt the agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

CONSENT AGENDA

1. Resolution of Support for the N.C. Department of Transportation Application for a Federal Grant to Rebuild the Cape Fear Memorial Bridge
2. Budget Amendments/Transfers

ACTION: Motion to adopt the consent agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

SPECIAL PRESENTATIONS

3. Presentation by the Volunteer Income Tax Assistance Program

James Lucas, filling in for Cully Shelton, presented information about the Volunteer Income Tax Assistance (VITA) program. He said the program is requesting continued use of the old library at 300 Cape Fear Boulevard to provide the free tax return service. Mr. Lucas said 18 volunteers completed 575 returns at this location in 2023.

4. Presentation of Annual Financial Audit

Victor Blackburn of Bernard Robinson & Company presented a summary of the annual financial audit, which included the following:

- Unmodified opinion on the audited financial statements, which is the cleanest opinion.
- Due to the amount of Federal and State funding received by the Town, the Town was required to have both a Federal and State single audit.
- Testing of those audits noted no findings or internal control issues, which resulted in unmodified opinions on the Federal and State funds subject to additional audit procedures.

The audit determined that the unassigned fund balance has increased to 47%, which is up from 31% last year. Mr. Blackburn said this is well above the 35% threshold that is considered to be the minimum for a municipality of similar size.

Mayor Barbee and Mayor Pro Tem Healy praised Ms. Hall for her hard work during the audit process.

5. Events Update by Tim Murphy

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator, reviewed upcoming events:

- Holly Jolly Trolley – November 18 at various locations
- Letters to Santa – November 20-December 4 at the Recreation Center
- Santa by the Sea – November 25, December 9, and December 16 at the Boardwalk
- Christmas Parade – December 1 on Lake Park Boulevard from Lake Park to Publix
- Holiday Market – December 2 at Lake Park
- Neon Bike Brigade – December 2 beginning at Good Hops Brewing (rescheduled from November)
- Flotilla – December 2 in the Boat Basin
- Tour of Homes – December 9 at various locations (returning for the first time since 2019)
- New Year's Eve Celebration – December 31 in Kure Beach this year

6. Manager's Update

Mr. Oakley congratulated Mayor Barbee, Mayor Pro Tem Healy, and Council Member LeCompte on their recent re-election and gave an update on various projects:

- Ocean Boulevard sidewalk – The project has gone out to bid. Bids are expected to come in \$100,000 or more higher than originally expected due to relocation of the sidewalk.
- New lamp posts – After a trial run on Harper Avenue, these are now being installed on Lake Park Boulevard and should be completed before the parade. There are approximately 45 lamps being installed.
- Bulkheads – These are being installed at Scotch Bonnet Lane and Florida Avenue. Permits for both are in the works.
- Boardwalk/Marina staining – To get ahead of the pre-season, staff will begin this project within the next few weeks. Council Member LeCompte asked that benches and swings be included in the work.
- 2025 Lake Park Boulevard paving – Kimley-Horn representatives will be at Town Hall on Wednesday morning to discuss this.
- Stormwater open house – Staff will go over projects and answer questions for the public December 5 4:00-7:00 PM. Council Member Benson asked staff to invite Marc Hortsman from WK Dickson to discuss his ideas on the dune infiltration system.

Mayor Barbee asked about the closure of Myrtle Avenue behind McDonald's. Mr. Oakley said this is to fix the broken sidewalk that was damaged during the paving project.

PUBLIC COMMENT

Paul Levy of 1606 Mackerel Lane handed out information to Council Members and expressed support for having free parking in December. He also asked Council to consider reinstating non-resident parking passes and said without them the Town is missing a revenue opportunity and alienating people who are willing to spend money here.

Kerry Machovec of 309 Georgia Avenue said Freedom Boat Club is causing traffic problems and other issues in the areas of Georgia Avenue and Florida Avenue. She said any proposal for expansion of the operation should take the community into consideration.

Wayne Rouse of 508 Monroe Avenue said he is willing to give the Town two Facebook pages he manages, Christmas by the Sea and Carolina Beach Downtown Initiative (formerly Boardwalk Makeover), each with thousands of followers.

ITEMS OF BUSINESS

7. Text Amendment to Chapter 34 – Streets, Sidewalks and Rights-of-Way, Article III.
Obstructions to Amend Sidewalk Cafe Encroachment Allowances
Applicant: Town of Carolina Beach

Council directed staff to amend the ordinance for sidewalk cafes. The concerns included removal of encroachments, size and extent of encroachments, barriers, purpose, and indemnification. A meeting was held with staff, the Pleasure Island Chamber of Commerce, and 13 business owners on November 9.

PROPOSAL

The text amendment clarifies the purpose and allowances of sidewalk cafes and other obstructions within the public right-of-way. The right-of-way is multi-modal and has Town utilities. The purpose of sidewalk cafes and other obstructions in the public right-of-way is to increase pedestrian activities by also balancing uses and ensuring they are temporary and do not interfere with safety and accessibility. The permit shall be issued annually for the calendar year. Each year the permittee shall sign an indemnification agreement. The proposed fee will be \$100 plus \$2 per square foot of the encroachment area.

All encroachments utilized for a sidewalk cafe shall be removed upon 24-hour notice from the Town. Removal of encroachments must happen for scheduled maintenance activities, such as cleaning and power washing. Failure to remove encroachments will result in a \$100 fine. For corner lots, encroachments shall not extend beyond the façade of the building. The intent of this regulation for corner lots is to ensure pedestrian accessibility and visibility along the corner. The Town will install medallions along the Boardwalk to ensure code compliance and provide a visual guide of the maximum allowable encroachments and area for alcoholic beverage consumption.

Barriers are required if patrons are drinking and being served alcohol per State statute. The existing ordinance requires patrons to remain seated while drinking alcoholic beverages. Barrier design standards are proposed and shall be:

1. A minimum of 36 inches tall and a maximum of 48 inches
2. Freestanding, stable, and removable
3. The base shall be flat-footed and square and no more than a half-inch in height
4. A minimum of two and a maximum of three rigid wood or metal poles shall be used to connect each barrier
5. Signage may be attached in accordance with the zoning ordinance

Senior Planner Gloria Abbotts presented the details. She said business owners have asked for notice before scheduled maintenance activities, so the Town plans to email owners and deliver a hard copy. Ms. Abbotts said the Town will no longer regulate operating hours for sidewalk cafes and will follow what State law allows. She said medallions on the sidewalk could be used to show encroachment limits, and the Town is looking at estimates for placing them every 10 feet.

Mayor Barbee asked which business owners attended the meeting. Council Member LeCompte said there was representation from the following: Hurricane Alley's, Salty's, Shuckin' Shack, Malama Cafe, Silver Dollar, Latella Gelato, and Beach Bumz. She said there was some question about whether medallions would be allowed because State Alcohol Law Enforcement (ALE) requires barriers, but downtown Wilmington is under the same enforcement and just has medallions marking sidewalk cafes, so the Town is going to take the same position.

Council Member LeCompte asked if retailers are required to have permits to put merchandise outside. Ms. Abbotts said they don't have to have a permit but must meet encroachment setbacks.

Mayor Barbee asked what the previous fee was for sidewalk cafes. Ms. Abbotts said it is currently \$400 and was \$200 before that. Mr. Parvin said with the new fee structure, some businesses will pay less

and some will pay more than \$400, but the idea is to make the fee more equitable based on space, which is more in line with other communities of this size.

ACTION: Motion to approve Ordinance 23-1217 amending Chapter 34, Article III. Obstructions to amend sidewalk cafe encroachment allowances

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Ms. Fox said the motion should reference changes to the Town's Rates and Fees Schedule.

ACTION: Motion to approve an amendment to Chapter 34 to also amend the Town Rates and Fees Schedule

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

8. Appropriate Funds for the Acquisition of 1808 and 1810 Canal Drive

For the past nine years, the Town has been leasing the properties at 1808 and 1810 Canal Drive for use as a public parking lot. The property owners informed staff they wish to sell the parcels and asked if the Town would be interested in purchasing the properties. A letter of intent to purchase was presented to the owner's contingent upon the Town being able to obtain a grant to assist with the purchase. Council authorized staff to pursue a Coastal Area Management Act (CAMA) grant to assist with the acquisition cost. The grant was approved for a purchase price of \$1,000,000, with \$600,000 CAMA grant (60%) and \$400,000 Town match (40%).

Staff is asking Council to appropriate \$1,005,000 to account 10-570-074 Parking Capital, and \$10,000 from the General Fund, fund balance to cover the purchase price plus estimated closing costs. The target closing date is December 15, 2023. The Town's fund balance will be reimbursed when the grant funds are received. In lieu of financing \$400,000 at a 7% interest rate, the Town's match will come out of funds that will reimburse the purchase of Freeman Park. The appropriation will affect the budget until grant funds are received.

Mr. Parvin presented the details. He said this is a very popular lot that offers great public access to the ocean and Freeman Park.

Mayor Barbee said the Town is required to have parking for beach nourishment permits, and it may be difficult to meet the numbers without these properties.

ACTION: Motion to approve Ordinance 23-1216 establishing a budget for the acquisition, to accept the CAMA grant award, and to approve the contract to purchase

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte
Motion passed unanimously

COUNCIL COMMENTS

Council Member Hoffer congratulated Mayor Barbee, Mayor Pro Tem Healy, and Council Member LeCompte on their re-election. He said he thinks there hasn't been a repeat Council with all five of the same people since the mid-1990s or earlier, something he is glad to see because he thinks continuity in local government is underrated. Council Member Hoffer said because of this, he thinks Council should be open for business at the December meeting if necessary instead of just having the traditional ceremonial proceedings.

Council Member Hoffer said he would like to see an item about the possibility of free parking in December on the November workshop agenda.

Council Member Benson said during the January workshop he would like to see an agenda item about beach access repairs, and he also asked for an update on the paving schedule and the availability of Powell Bill funds.

Mayor Pro Tem Healy congratulated the Ashley High School football team for winning a playoff game for the first time first time in 30 years. He said he wants Council to start publicly recognizing local athletes for their accomplishments.

Council Member LeCompte said she met with Town staff at the Community Center to come up with a plan to improve that building, and she plans to bring this to Council during the January budget retreat. She said it has historical value to the community and needs to be preserved, and there are plans to put a mural for the centennial celebration around the building.

Council Member LeCompte said she has received numerous calls about dead birds at Lake Park, but this no longer seems to be an issue. She said she visits every day, and the Lake appears to be healthy and thriving. Council Member LeCompte said the Town must be vigilant, however, so she asked if staff or the current project contractor would remove the microfilament around the south side of the Lake to keep turtles and birds from getting caught in it.

Mayor Barbee asked if staff would come back to Council with details about the process for turning the newly acquired Canal Drive properties into a beach access. Mr. Oakley said the beach access would be designed, and then staff will come back to Council with any budget requirements.

Council Member LeCompte said 275 kids came to the Police Department Bike Rodeo this past weekend. She said it was a successful event that focused on safety, with kids being required to go through a safety course before they could get a raffle ticket to win a bicycle.

Mayor Barbee thanked volunteers who assisted with the Bike Rodeo.

CLOSED SESSION

9. Closed Session – Attorney/Client Privilege Case #23CV003744 Carolina Beach Land Holdings LLC vs. the Town of Carolina Beach

ACTION: Motion to go into closed session to discuss an attorney/client matter in accordance with NCGS 143-318.11(a)(3); the case being discussed is 23CV003744 Carolina Beach Land Holdings LLC vs. the Town of Carolina Beach

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem Healy, Council Member Benson, Council Member Hoffer, Council Member LeCompte

Motion passed unanimously

Mayor Barbee called the meeting back to order and said Council took no action during closed session.

ADJOURNMENT

Mayor Barbee adjourned the meeting at 7:45 PM.