

# CAROLINA BEACH

Town Council Regular Meeting

Tuesday, September 14, 2021 - 6:30 PM

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



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## MINUTES

### CALL TO ORDER

Mayor Pierce called the meeting to order at 6:30 PM, followed by the invocation by Pastor Shawn Blackwelder of St. Paul's United Methodist Church and Pledge of Allegiance.

### PRESENT

Mayor LeAnn Pierce

Mayor Pro Tem Jay Healy

Council Member Lynn Barbee

Council Member JoDan Garza

Council Member Steve Shuttleworth

### ALSO PRESENT

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Town Clerk Kim Ward

Town Attorney Noel Fox

Mayor Pierce recognized former Mayor Joe Benson in the audience.

### ADOPT THE AGENDA

**ACTION:** Motion to adopt the agenda

Motion made by Mayor Pierce

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

*Motion passed unanimously*

### CONSENT AGENDA

1. Set a public hearing for October 12th, 2021 to amend Article VI. - Landscaping and Development Specification to consider adopting standards to address Tree Preservation. Applicant: Town of Carolina Beach
2. Set a public hearing for October 12th, 2021 to a Conditional Zoning to consider a Pickle Ball Court located at 209 Peninsula Dr in the R-2 zoning district. Applicant: Terry & Kelly Wyckoff.
3. Budget Amendments/Transfers
4. Approval of Meeting Minutes from 8/10/2021 and 8/24/2021

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

Motion made by Mayor Pierce

Voting Yea: Mayor Pierce, Mayor Pro Tem Healy, Council Member Barbee, Council Member Garza, Council Member Shuttleworth  
*Motion passed unanimously*

## **SPECIAL PRESENTATIONS**

### 5. Centennial Committee Update

Maureen Lewis, Chairman of the Centennial Committee, gave an update on the committee, including accomplishments, vision, and goals for the celebration in 2025.

#### Mission Statement

The mission of this centennial celebration is to honor the past and present of Carolina Beach and inspire its continued growth and prosperity into the next century.

Tagline: Waves of the past carried on the tides of tomorrow.

#### Purpose

The purpose of the Centennial Committee is to identify programs, events, and opportunities celebrating 100 years of incorporated Carolina Beach and work with the community, businesses, and Town staff to prioritize, fund, and execute a plan of action that will delight residents and visitors March-September 2025.

#### A Little Bit of History

The incorporation of Carolina Beach was introduced in the House on February 21, 1925. This process went through channels until being ratified by the Senate and sent to the Secretary of State on March 6, 1925. Wilmington Dispatch, dated September 5, 1925, stated, "Carolina Beach became an incorporated town on this date..." The Mayor and other Town officers assumed office on September 5, 1925. The Centennial Committee recommends kicking off the Carolina Beach Centennial Celebration on Thursday, March 6, 2025, and ending the festivities on the weekend of September 5, 2025. This will allow for a wide range of inclusive programs and events that residents, visitors, and businesses can all participate in throughout the spring and summer.

#### 2021 Goals

- Establish a mission statement and tagline ✓
- Establish the Centennial Celebration timeline (March 6-September 5, 2025) ✓
- Project, programs, and events pitch ✓
- Press release announcing Centennial Committee ✓
- Council presentation – scheduled for September 2021
- Launch official Centennial logo contest – September 2021
- Begin marketing schedule to include Wilmington and Beaches Convention & Visitors Bureau – January 2022 ✓
- Establish a Centennial page on Town website and Facebook page to communicate progress, events, and fundraisers – in progress
- Prioritize projects; discuss risks, cost, and impact of each proposal and assign "owners" to lead the project – ongoing

- Establish goals for 2022, 2023, 2024 – in progress
- Confirm a depository for all donations and sponsorship monies with an established non-profit – in progress

#### Sampling of Proposed Projects

- Painted Venus flytrap resin statues throughout Town (similar program to Airlie Gardens squirrels and owls)
- Car show with cars from each decade
- Install a time capsule on the Boardwalk
- Update the Town seal to incorporate the Centennial with the banner “#100 years”
- Commission interactive 100th birthday mural
- Water tower refresh with Centennial banner
- QR code experience – “CB Past & Present” self-tour
- Dedicate streets for “famous” locals who helped shape or impact the Town
- Boat parade and decades golf cart parade
- Judge Burnett sundial install
- Vintage bathing suit exhibition
- Honor the Freeman family and celebrate their contributions to the Town through the arts

#### Centennial Committee

- Jennah Bosch
- Sharon Carlson
- Ryan Cavanaugh
- Elaine Henson
- Christine Higgins
- Alannah Keeler
- Debra LeCompte
- Maureen Lewis – Chairman
- Vince Losito
- Shelia Marshall
- Frances Massey
- Jasmine McKee
- LeeAnn Tluchowski – Secretary
- Town Liaisons: Fire Chief Alan Griffin and Council Member Barbee

Mayor Pro Tem Healy asked about the logo contest. Ms. Lewis said there would be two contests, one for children under 12 and another for children above 12.

Council Member Garza asked who is in charge of the non-profit that will be overseeing the donations and sponsorship funds. Ms. Lewis said the committee is using the historical society, and a committee member who has a finance degree will work with the Treasurer of that group. Council Member Garza requested that they touch base with the Town Attorney.

Mayor Pierce thanked Ms. Lewis for the committee’s hard work.

Council Member Barbee encouraged residents with an interest in history to attend the committee meetings.

#### 6. Events Update by Tim Murphy

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator for the Town, reviewed special events for September/October:

- Dragon Boat Regatta – September 17-18 at Carolina Beach Marina
- Youth Fishing Tournament – September 25 at Kure Beach Pier
- Pets in the Park – October 9 at Carolina Beach Lake
- Beachin’ Car Show – October 10 at Carolina Beach Lake
- Halloween Golf Cart Rally – October 23
- Halloween Carnival – October 29 at Mike Chappell Park
- Fireworks continue weekly on Thursdays through September
- Movies at the Lake series continues weekly on Saturdays through September
- Carolina Beach Market – May 15-October 2 (Saturdays) at Lake Park

Mr. Murphy said the Netflix series “Florida Man” will return September 22-23 and would like use of the Surfside East and Surfside West parking lots for filming at SeaWitch. He said the production would be back again in mid-October.

Caylan McKay and Lindsay Fort of the Amazon production “The Summer I Turned Pretty” addressed Council about proposed filming on October 12, including plans for intermittent traffic control on Lake Park Boulevard from Cape Fear Boulevard to Hamlet Avenue during a two-hour period of exterior filming.

Council Member Garza asked what the time frame of the Lake Park Boulevard closure would be. Ms. Fort said the work will be on a Tuesday night, and the two-hour period would fall somewhere between 7:00 and 11:00 PM.

Mayor Pierce asked Mr. Murphy if he has spoken to businesses in the area. Mr. Murphy said no. Mayor Pierce requested that he do so and said she would be in favor of the closure if the production and the businesses can work it out.

Council Member Shuttleworth said Council is OK with short-term closures in the off-season as long as the production works with local businesses on the interruptions. He asked how often the production would be coming to Town. Ms. Fort said they won’t be back during this season but may return in the future.

Mayor Pierce said Council appreciates the production being here but wants to ensure the businesses are taken care of. Mr. Murphy said he will make sure the businesses are on board.

Jay Carrillo addressed Council about the new Nollie's Salsa-Shred, a free skateboarding event proposed for December 4-5 at Mike Chappell Park. He said this would be a mobile half-pipe premium experience with competitions and a kids' clinic.

Council Member Garza asked how many people are expected to attend. Mr. Murphy said it would be hard to pinpoint an exact number, but the event stretching over two days would help out with crowding.

Council Member Shuttleworth asked if there is anything else going on at the park during that time. Mr. Murphy said no.

Council Member Garza asked if portable toilets would be installed during the event. Mr. Carrillo said it could be done if necessary. Mr. Murphy said this will be discussed.

Mr. Carrillo said the event will include prize packs that will raise money for the Carolina Beach Inlet Association. He said the event hopes to bring attendees from up and down the East Coast.

Mr. Murphy said the Town has a good relationship working with Mr. Carrillo on previous Surf Dog Experience events. He said Mr. Carrillo has gone to the Events Committee with the latest proposal, and everyone is on board.

**ACTION:** Motion to approve the Nollie's Salsa-Shred as presented at Mike Chappell Park on December 4 and 5

Motion made by Council Member Shuttleworth

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

*Motion passed unanimously*

Mayor Pierce said the Town wants good off-season events, so this will be positive and hopefully draw people to Town during a weekend when two popular holiday events, the parade and flotilla, are already scheduled.

Council Member Garza told Mr. Murphy he heard positive feedback about last month's events and thanked him for a good job.

## 7. Manager's Update

Mr. Oakley gave an update on various projects and events:

- Beach nourishment: Town staff and Mayor Pro Tem Healy met with the U.S. Army Corps of Engineers. There is no good news, but plans and specs are ready to go. The request for funding for this year is still outstanding, and the Office of Management and Budget is reviewing. The project is feasible if notification comes by the end of October, and optimism remains for funding for this year.
- Military Ocean Terminal Sunny Point (MOTSU): Mr. Oakley Mayor Pro Tem Healy attended the Intergovernmental Council meeting, which brought together local government entities that

have MOTSU property in their jurisdictions. He said it was a productive meeting that resulted in improved communication and good discussions. In addition, the Town has received verbal approval to rebuild the Wastewater Treatment Plant headworks, although the project has not yet been budgeted and financed.

- September workshop items: lake dredge update, Canal Drive update, and traffic calming presentation.

Council Member Shuttleworth asked if there had been any discussion about the water storage tank. Mr. Oakley said that is a request that is currently in the works.

Council Member Garza asked if the Town can use the headworks soil. Mr. Oakley said the plan is to use the existing spoils that are on the site to build the headworks.

Chief Griffin gave an update on the Beach Patrol.

#### Timeline

- Budget was approved starting July 1, 2021
- Beach Patrol started on beach July Fourth weekend; ride-along and training
- Uniforms arrived July 9
- Attempted to purchase ticket handheld devices last half of July
- Handheld devices still not available in August
- 65 citations on beach strand
- 213 citations at Freeman Park

#### Next year

- Meeting scheduled for first week of October to discuss software platform
- New system should be in place before January 1
- Season will start Easter weekend
- Improved reporting of daily activities

Chief Griffin said due to the problems with the citation process, the primary purpose of the Beach Patrol this year was to educate and then if there was no compliance to contact the Police Department for assistance. He said people comply during the majority of interactions with the Beach Patrol.

Chief Griffin said there are meetings scheduled with a new vendor for universal citation software. He said plans call for this to be implemented in the very near future with use across various departments for issuing Town ordinance violation citations.

Mayor Pro Tem Healy asked how many vehicles the Beach Patrol officers are using. Chief Griffin said the Town is currently leasing one UTV for this season, and it can be returned in October with no payments over the winter.

Council Member Garza thanked the Beach Patrol and said those officers are the first faces many people see on the beach. He said he is hopeful there is a way to make the process smoother for next year.

Chief Griffin said the officers gave good feedback that can be applied to training for next year. He said this was a new program with learning curves.

Mr. Parvin gave an update on additional items:

- Implementing bicycle plan: Plans for connecting 8th Street to multi-use paths across Town are moving forward, including putting designations on the street to identify the sections as bicycle-friendly areas.
- Remove abandoned/sunken vessel: This happened today with many staff members being involved in the process to reduce costs for the Town. Plans call for the Town Harbor Master to use the universal citation software that Chief Griffin discussed.
- Hamlet: This item will be discussed more later in the meeting. The lot was demoed and prepped for development, with staff from various departments working together to get the job done.

Council Member Garza asked about the Tree City USA proposal from last month. Mr. Oakley said the next steps would be establishing a tree board and tree ordinance. Planning Director Jeremy Hardison said the tree ordinance discussion and public hearing will be on Council's October 12 agenda. Council Member Garza asked that the matter go on the agenda for Council's next workshop on September 28. Council Member Shuttleworth asked that the proposed ordinance be placed on the Town website so the public can review and comment.

#### **PUBLIC COMMENT**

Deb LeCompte of 307 Charlotte Avenue, Chairman of the Police Advisory Committee, said the National Night Out would take place on Tuesday, October 5, from 4:00 to 7:00 PM at the Boardwalk gazebo. She said this is a family event with lots of children's activities, including local law enforcement agencies giving out goodies. She read Proclamation No. 21-2242 into record.

Mayor Pierce asked if New Hanover County Sheriff Ed McMahon had been contacted. Ms. LeCompte said yes and that the agency will be sending a representative as well as McGruff the Crime Dog.

Mayor Pierce said she will sign the proclamation and get it over to Mr. Oakley.

In response to Council Member Garza's question about the tree issue, Ms. LeCompte said Pleasure Island Habitat is working with the Town Beautification Committee on placement of trees in public areas.

Byron Hovey of 104 Island Palms Drive said he was worried that the proposed amendment to the Land Use Plan could lead to increased and dense commercial development in the middle of the community. He said this is not keeping with the character of the community, and he doesn't think it's worth the risk because many places are closing down due to lack of business. He said he doesn't think the Town's population can support much more retail or restaurant development, and he doesn't want to see empty buildings in the community.

Mike Hoffer of 608 Seafarer Drive, Chairman of the Bike/Ped Committee, said there have been requests for another safe crossing over South Lake Park Boulevard, and after discussion and research

there was a unanimous decision last month that Spartanburg Avenue is the logical next place to install a crosswalk. He said the next step is to bring in someone from the N.C. Department of Transportation (DOT) to look at the area and make a recommendation, and that person needs to be invited by Council and staff, which he is requesting.

Mayor Pierce asked Mr. Oakley to follow up on this.

Tim Chestnutt of Kure Beach expressed concerns about ongoing charges and tickets for private temporary lots past the allowable time. Mr. Oakley said these agreements involve the property owners and that the Town is not involved in the selection of the private parking company.

Mayor Pierce said parking will be discussed later in the meeting.

Mr. Oakley said the Town is working on potential changes to temporary parking lots, and this specific issue will be discussed as soon as next month.

Patrick Boykin of 712 Glenn Avenue said he and his neighbors at Ocean Heights have not heard anything in response to the five petitions they sent to Council last month as well as a follow-up email. He asked for an update.

Council Member Barbee said the petitions were delivered but that he doesn't recall getting an email about them. Mayor Pierce said she does not recall the email either but asked for some time to allow Council to do homework on the matter.

Mr. Boykin said one part of the petitions addressed concerns about Town vehicles going through Ocean Heights, adding to residential traffic and posing a potentially dangerous situation.

Mayor Pierce asked Mr. Oakley to follow up with Mr. Boykin about the petitions. Council Member Barbee suggested bringing the petitions to the next Council workshop for review.

Susie Kropp of 500 Saint Joseph Street #3101 said she wanted to speak about items 9 and 10 on tonight's agenda. She said the Town can't manage what is already on the island on busy weekends, and she has concerns about water and sewage. Regarding item 10, she said the applicant is trying to bend the rules to put too many buildings on the lot.

James Sattie of 610 Glenn Avenue said he wanted to bring up some issues addressed in the five Ocean Heights petitions delivered last month. He said the property line between 608 and 610 Glenn Avenue divides residential and Highway Business properties and there should be an 8-foot fence separating them, but there is not one currently there. He said there is a lot of noise coming from the nearby solid waste transfer station between 5:00 and 8:00 AM, which is disrespectful and inconsiderate to residents. He said SunFun Rentals is using two exits and entrances on Glenn Avenue, but they should all be on Bridge Barrier Road. He said there are safety concerns about loaded trucks with large trailers



cutting through the neighborhood.

Mayor Pierce asked Mr. Oakley to follow up on these concerns.

Theresa Connors of 213 Carolina Sands Drive said it is unfair that Town residents are paying more for parking passes when there are fewer spaces for them to park.

Brian Connors of 213 Carolina Sands Drive said he would like to know if infrastructure is a priority for the Town as Council discusses the proposed new apartments and other buildings on the Harris Teeter lot. He said his neighborhood experiences frequent flooding and asked if there will be more sewage capacity and road improvements included in the next budget.

Mayor Pierce said this will be discussed later in the meeting and emphasized that infrastructure is the top concern for the Town.

Paul Levy of 1606 Mackerel Lane said a Canal Drive resident recently came to an Operations Advisory Committee meeting with a proposal about Canal Drive flooding. Mr. Levy said the resident believes the issue is mostly due to water coming up through storm drains and the pavement itself, and the resident is proposing that an experiment be done involving closing off some of the storm drains at times of high tide and seeing if the water will still come up.

Mayor Pierce said this is an interesting theory and asked Mr. Oakley to look into it.

Mayor Pierce recognized former Mayor Dan Wilcox in the audience.

No one else requested to speak.

#### **PUBLIC HEARINGS**

8. Consider amending the Land Use Plan & Article IX Mixed Use Commercial-Residential Development and the Mixed Use Commercial-Residential Classification. Applicant: Cape Fear Four LLC

Mayor Pierce said she wanted to make it clear that this public hearing is about a text amendment and not a specific project.

**ACTION:** Motion to open a public hearing to amend the Land Use Plan and Article IX Mixed Use Commercial-Residential Development and the Mixed Use Commercial-Residential Classification  
Motion made by Mayor Pierce

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

*Motion passed unanimously*

Mr. Hardison presented the details.

#### Existing Mixed Use Commercial-Residential Language

- Building contains at least one floor devoted to an allowed commercial use and at least one devoted to an allowed residential use
- Ground floor – commercial uses
- Upper floors – can be either commercial or residential

#### Proposed Mixed Commercial-Residential Language

- Amend the definition to Mixed Commercial-Residential, which means the development as a whole contains both uses and offers more flexibility by not looking at each building
- Must be 10 acres or more
- Cumulative commercial uses shall occupy a minimum of 3,000 square feet per acre, which is an increase from the previous proposal of 1,500 square feet that was made by the applicant in response to comments from the Planning and Zoning Commission and public
- Standalone residential buildings shall not be located any closer than three times the setback distance to a major thoroughfare (Lake Park Boulevard and Dow Road)

Mr. Hardison said Mixed Commercial-Residential would be allowed in the Central Business District and Highway Business and that two lots would now qualify for this: Publix, which is already developed, and the Lake Park Boulevard parcels containing the former miniature golf course and proposed Harris Teeter site.

Mr. Hardison said if Council chooses to make the amendment, it would also be necessary to change the Land Use Plan to add language that residential uses are allowed only on upper stories “unless associated with a mixed commercial-residential use on a 10-acre or greater lot with a minimum of 3,000 square feet of commercial space provided per acre.”

Mr. Hardison said the Planning and Zoning Commission heard the request last month and recommended denial based on the 1,500-square-foot minimum per acre. He said the Commission did not have issues with allowing flexibility for orientation of the uses. He said staff is recommending approval based on what is currently presented.

Brian Eckel of 1051 Military Cutoff Road in Wilmington, a partner with applicant Cape Fear Four LLC, gave a brief overview of the company. He said he is a co-founder of Cape Fear Commercial, which recently celebrated its 20<sup>th</sup> anniversary. Mr. Eckel said he and his team members are lifelong residents of New Hanover County and recognize the importance of doing a good job on the development. He reviewed other projects they have developed, including Publix Commons at Federal Point. Mr. Eckel said he and his team members have solicited community input about this matter via seven community engagement meetings, more than a dozen informal meetings, and the website [www.theproximitycb.com](http://www.theproximitycb.com).

Mike Brown of 1922 Brookhaven Road in Wilmington, a partner with applicant Cape Fear Four, said the

proposed text amendment represents what he believes is a natural evolution of the zoning code that is consistent with the objectives of the Land Use Plan. He said the code does not currently take into account the possibilities of large mixed-use sites with multiple buildings and a mixture of uses among those buildings. Mr. Brown reviewed policy goals in the Land Use Plan and pointed out how he thinks the text amendment would serve those, including allowing developers the ability to be more creative with designs while allowing more room to protect trees and other natural features, including open space and green space.

Sam Franck of 127 Racine Drive Suite 101 in Wilmington, who represents the applicant, said the code currently contemplates mixing of uses in a very small area, such as in a single building on a small site. He said the applicant is proposing to adapt the code to allow flexibility on a larger site so commercial uses can be focused along a major thoroughfare and interior buildings can incorporate a greater percentage of residential use. He said the benefits of this approach include getting one step closer to the overall goal of reducing vehicular traffic while promoting the possibility of on-site enjoyment of those commercial facilities by people who live on the property.

Fred Tolhurst of 212 Saint Joseph Street #303 said he thinks there is no justification for the text amendment and that it would not result in improved regulations for all residents. He said the proposed Resolution No. 21-2241 contains an error where it states that on August 12 the Planning and Zoning Commission recommended approval of the draft amendment to the Coastal Area Management Act (CAMA) Land Use Plan. Mr. Tolhurst said he also has concerns about the 10-acre limit and thinks it could invite legal issues.

Bonnie Bird of 405 Marina Street said she thinks the developer's plan offers aesthetic advantages for the Town and warrants serious consideration for the interpretation of the text amendment. She said the project would create a park-like setting with walking trails in a key location and that she supports the text amendment that would allow this project to move forward.

Dan Bell of 1200 Saint Joseph Street, who has lived on the island for 26 years, said it's difficult to talk about the text amendment without talking about the project because this is the only project that fits the amendment. He said he is concerned about infrastructure, including the ability for the Town's water system to handle the type of large development that this text amendment would allow. Mr. Bell said this project is not for the benefit of the citizens of the Town.

Wayne Rouse of 508 Monroe Avenue, Vice Chairman of the Planning and Zoning Commission, distributed materials to Council and said he thinks some opinions have been substituted for facts in this matter. He said while the Commission did vote to deny the text amendment, the proposed amendment that is before Council now is substantively different than what the Commission considered. Mr. Rouse said the applicant has listened to concerns and made revisions based on this feedback. He said the belief that the Town doesn't have the capacity to provide water and sewer to this project is inaccurate based on what Town staff is telling him. Mr. Rouse said taxpaying property owners have every right to expect basic services on their property, regardless of what they put there.

He said the idea of some residents that the Town should enact a building moratorium could open a can of worms because this would send a red flag to Raleigh that the Town can't provide services, so the State may come in to do it and then expect the Town to pay. Mr. Rouse said while some people believe the Town can't handle the traffic, this is a DOT determination. He said some are questioning why the Town is considering changing a Land Use Plan that was recently adopted but that this was not a scenario ever envisioned by the Land Use Plan Committee, on which he served. Mr. Rouse said no one thought about taking vertical and horizontal and mixing them together versus just vertical. He said it is encouraging that a local company wants to invest \$65 million in the Town. Mr. Rouse said if Council does not allow this text amendment, the land could be parceled off into 10,000-square-foot lots with 100-foot road frontage and 12 road cuts going on the property. He said he would encourage Council not to say no now because there will be various other channels for the actual project to go through later to determine if it's a good fit.

No one else requested to speak.

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

Motion made by Mayor Pierce

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

*Motion passed unanimously*

Mayor Pro Tem Healy reiterated that this possibility never came up during the previous Land Use Plan Committee discussions. He said the Town has a right to make changes as necessary and that this has been done various times in the past. Mayor Pro Tem Healy said the Planning and Zoning Commission was on the fence about the proposed text amendment until the very end due to the need for clarification and numbers, so the 6-0 vote for denial was misleading. He said this land will be developed in some fashion and could wind up with a Jiffy Lube, car wash, or boat storage if the Town isn't careful. Mayor Pro Tem Healy said the applicant's work is top-notch. He said the Town can't support all that retail on the bottom floors and cited the existence of open retail spots in Town right now, adding that empty buildings are not a good look.

Council Member Barbee asked Mr. Hardison to review the steps that the specific project would have to go through if Council approves the text amendment. Mr. Hardison said there would be a community meeting, then the project would go to the TRC (Technical Review Committee) for analysis of all aspects from multiple Town departments, then it would go to the Wilmington Metropolitan Planning Organization (WMPO) and DOT for review. Council Member Barbee said this is a long process and that the project would ultimately come back to Council again with a more detailed plan. Mr. Hardison said there would be public hearings and consideration by both the Planning and Zoning Commission and Council. Council Member Barbee said it is important for Council to focus on the Land Use Plan and text amendment because there will be much more discussion down the road about infrastructure, traffic, and other aspects of the specific project. He said the real question now is whether the Town wants to allow lateral distribution of uses in a large parcel as opposed to vertical.

Council Member Garza said he wanted to clarify a couple of things. He said he disagrees that Saint Joseph Street is not commercial, citing dry stacks and businesses. Council Member Garza said he also thinks that even though Lake Park Boulevard is a DOT road, it runs through our Town and what is started now sets a precedent. He said Council must think about this in terms of harmony of the community. Council Member Garza said his main concern is the traffic issue because the DOT doesn't want more stoplights and might not want to restructure the Publix configuration to require interconnectivity. He said he thinks the market will determine if the retail spots are not filled and added that the majority of empty retail space now is over 40 years old. Council Member Garza said he's on the fence and thinks the Town needs to find a balance between what is best for the developer and residents.

Council Member Shuttleworth said he agrees with Council Member Garza. He said it is difficult to require mixed use in every single building and that smart growth calls for clustering and density to allow better opportunities for open space, preservation of features, and accommodation for infrastructure such as stormwater. Council Member Shuttleworth said he sees no problem with the text amendment because the project would subsequently be subject to a long process and the market will dictate what's workable and what's not. He said the text amendment would allow developers to design something that meets goals and objectives while fostering creativity in the private sector.

Mayor Pierce said the property is going to be developed one way or another and that the text amendment allows developers to make the best project for the Town. She said she thinks it's a good idea because during the Land Use Plan update process, residents expressed that they wanted to see mixed-use projects in this area. Mayor Pierce said the Town knew the Land Use Plan would have to be amended as these projects came forward, so this is not a surprise. She said the specific project would have to go through a number of hoops to ensure it meets infrastructure requirements.

**ACTION:** Motion that whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the following ordinance amendment to Article IX Mixed Use Commercial-Residential Development and declaring that this also amends the Land Use Plan, along with the explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment, and includes adoption of the resolution

Motion made by Mayor Pro Tem Healy

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

Voting Nay: Council Member Garza

*Motion passed 4-1*

9. Consider a Text Amendment to Chapter 40 Article XII Section 40-354 Review Criteria to update standards related to Major and Minor PUD applications. Applicant: Town of Carolina Beach

**ACTION:** Motion to open a public hearing to consider a text amendment to Chapter 40 Article XII Section 40-354 Review Criteria to update standards related to Major and Minor PUD applications  
Motion made by Mayor Pierce

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

*Motion passed unanimously*

Staff was directed to address issues involving Planned Unit Developments (PUDs) with non-conforming structures and incomplete site plans being submitted for Major and Minor PUDs. This language would eliminate the option to have a PUD without making all structures conforming and reiterate the site plan requirements for PUDs as set forth in Article XIII.

Mr. Hardison presented the details.

#### Background

- PUD submissions have been inconsistent in their standards.
- Non-conforming properties are being utilized to place a second structure while the first is in violation of one or more building, CAMA, fire, flood, or zoning ordinances.
- To ensure that these projects, which don't always require Council approval, are still meeting high standards.

#### Proposed Language Additions

- Any lot which has an existing non-conforming structure shall not be permitted to add an additional primary structure as part of a Major or Minor PUD unless the non-conforming structure is fully brought up to current code.
- In addition to all regulations and requirements set forth in Article XII, all Major and Minor PUD applications must submit a site plan which meets the standards set forth in Article XIII, Section 40-394, Site Plan

Council Member Shuttleworth asked some questions specific to the example pictured in the presentation slide, and Mr. Hardison addressed them.

No one else requested to speak.

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

Motion made by Mayor Pierce

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

*Motion passed unanimously*

Council Member Garza said this is a tough call because property owners would have to bring everything up to code if they want to add a second structure on a lot.

Council Member Shuttleworth said he has heard concerns from the public about preserving older housing stock that allows affordability, which might go against this proposal because it would result in more demolition and total reconstruction, specifically if the property must be elevated to meet flood standards. He said he worries about unintended consequences, such as property owners tearing down houses and instead building duplexes because they can't afford flood-proofing requirements.

Mayor Pierce said she doesn't know if Council has had enough time to think through all of the properties this might affect.

Mayor Pro Tem Healy said wanted to know how many possible units this could affect.

Council Member Shuttleworth said he would like to find out more about the legal considerations of carving out an exception for the flood requirements.

**ACTION:** Motion to table this item and ask staff to bring back more information

Motion made by Mayor Pierce

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

*Motion passed unanimously*

## **ITEMS OF BUSINESS**

### 10. Special Use Permit Extension Request – 402 N. Lake Park Blvd. Applicant: Charles Poindexter

A Special Use Permit (SUP), issued by Council, shall become null and void if the start of construction or occupancy of the proposed use as specified on the SUP has not commenced within 24 months of the date of issuance. At the request of the permittee, and for good cause shown, Council may extend the period required for start of construction or occupancy for up to 12 months. For this particular project, no work or permits have been issued since the Conditional Use Permit (CUP) was issued on October 8, 2019.

Applicant Charles Poindexter is requesting a SUP extension for 12 months for a multi-family project to construct 36 residential condo units located at 402 North Lake Park Boulevard. As part of the NCGS Chapter 160D rewrite, CUPs are now referred to as SUPs. In 2015, the applicant was issued a previous CUP for a building measuring 52 feet and 7 inches tall with 36 one-bedroom units. That permit was good for two years but expired due to construction not starting. On October 8, 2019, the applicant was issued another CUP for a 57-foot-tall building consisting of 36 units (28 one-bedroom units and eight two-bedroom). That permit is set to expire on October 8, 2021.

The ordinance and the 2007 Land Use Plan were amended prior to the 2019 CUP to state that the building height may be permitted up to 60 feet maximum with one additional foot on the required front setback and one additional foot added cumulatively to the required side setbacks for each additional foot. The height allowance is still mentioned in the ordinance with the approval of a SUP, but that specific verbiage did not carry over to the 2020 Land Use Plan. The Land Use Classification in this area does not address a specific height allowance.

Council member Garza asked what the definition of "good cause" is. Mr. Hardison said it's in the ordinance and that determination is in Council's hands and up to the applicant to prove.

Mayor Pierce asked if the permit can be extended again after 2022. Mr. Hardison said no and if the permit expires, the applicant will have to reapply and go through the Conditional Zoning process.

Council Member Shuttleworth asked if this is Highway Business. Mr. Hardison said the zoning for this is Marina Business, so no commercial element is involved.

Council Member Barbee said it is unusual that this project was approved under a CUP, a process that the Town no longer has. He asked if there were any legal concerns. Ms. Fox said no, the code still has provisions for situations like this.

Council Member Barbee said he would like to hear from the applicant about the reasons for the holdup.

Mr. Poindexter of 7923 Reunion Road in Wilmington said the project has run into delays with insurance and electrical regulations as well as the COVID-19 pandemic. He said he expects to break ground within 30 days and that civil work will begin with a week or 10 days.

David Edmonds of 4 Palmetto Drive in Wrightsville Beach, who recently joined the project, said all intentions are to move construction forward this year.

Mayor Pro Tem Healy asked about issues with ingress and egress. Mr. Poindexter said this is something that he and Council have discussed multiple times, and the determination was that this is a Town issue. He said the project's ingress and egress are on Saint Joseph Street. Council Member Shuttleworth asked if Council talked to the applicant about participating in a solution. Mr. Poindexter said this came up, but he said no and Council said OK.

Council Member Shuttleworth asked if the project just needs to break ground to remain active. Mr. Hardison said it needs to be coming up out of the ground by definition to be considered the start of construction.

**ACTION:** Motion to approve the Special Use Permit extension request for one year

Motion made by Mayor Pro Tem Healy

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

*Motion passed unanimously*

## 11. Parking Season Updates and Recommendations

Reef Parking Assistant Manager Jennifer Braxton gave an update on the 2021 parking season and recommendations for the 2022 season.

### Current Operating Status

- Approximately 1,200 managed parking spaces
  - 20 surface lots
  - 165 metered on-street spaces
  - 69 PayByPhone-only spaces
  - 60 two-hour limited parking spaces



- Carolina Beach Lake
  - Katie B. Hines Senior Center
  - Community Center
- Freeman Park
    - Drive-on beach access
    - 21 rental campsites

#### 2021 Operational Improvements: Focus on Guest Experience

- Increased lot signage
- Redesigned and simplified signage
- \$5,000 investment from Reef for signage and decals, including the wrapping of existing pay machines to increase visibility for parkers
- Inventory
- Strategic operations
- Education of rules and regulations

Council Member Shuttleworth asked of the 20 surface lots, how many are restricted and don't honor the Town decal. Ms. Braxton said only two: Surfside East and Surfside West.

Council Member Shuttleworth asked for a report on how many pay meters were inoperable. Ms. Braxton said issues with meters are common because of the salty environment. Council Member Shuttleworth asked over the past year, how many have been replaced. Wes Knight of Reef Parking said this season about 10 were replaced. Council Member Shuttleworth asked how quickly Reef finds out when a meter is inoperable. Mr. Knight said Reef checks for issues twice per day and follows up immediately if people report meter problems. Council Member Shuttleworth asked if there was an inventory problem with adequate materials and equipment to replace broken meters. Mr. Knight said not currently.

Council Member Barbee asked if Reef has the capability of knowing whether a meter hasn't accepted any money for a certain period of time, such as 24 hours, as an indicator of possible problems. Mr. Knight said meters communicate with the back office and send a signal to say they're working, so Reef sees daily when a meter last communicated. He said there are always additional ways to pay if a meter is down.

The presentation also included a review of parking revenue. Ms. Braxton went over total revenue figures for 2019-2021. She said in 2019 and 2020, enforcement started on April 1, but in 2021 enforcement began in March for the first time. She said a decline in revenue from May to June of this year may be attributed to the COVID-19 Delta variant.

Ms. Braxton said 2021 shows a steady increase in violation revenue. She said fines changed from \$30 in 2019 to \$50 in 2020 and 2021. She said the number of tickets issued was also significantly up in 2021.

Ms. Braxton said meter revenue has declined due to the implementation and increased use of touchless pay options, an expected trend. She said in 2019 there were over 300 meters on Town streets, while there are now 165.

Council Member Shuttleworth asked about a drop in Text2Park revenue from July to August. Ms. Braxton said Text2Park is only available in the Surfside East and Surfside West lots. Council Member Shuttleworth said this is noteworthy because as the Town starts to analyze individual lots that have third-party agreements with landowners expecting to generate a certain amount of revenue to share with the Town, the Town may have to look at prepaying landowners upfront. He said the Town lost several large surface lots because the private sector told lot owners they could make more revenue without honoring the Town deals, so the Town lost revenue and residents lost parking places covered by a residential pass. Council Member Shuttleworth said Council will want to see lot-by-lot revenue to determine where the Town should focus resources. Ms. Braxton said Reef can provide that.

Mr. Knight said the Text2Park fluctuation was due to a problem with the paystation machine in that lot, so instead of the typical main source of payment people could only use Text2Park during that brief period. He said once the pay machine was working again, Text2Park revenue dropped back to where it normally is. Council Member Shuttleworth said this was a better clarification because he understands now that it's not so much a decline but a peak.

Ms. Braxton said there has been an increase in touchless pay options because people would rather stay in their car to make payment and then get out. She said Reef wants to work on outreach with restaurants and lodging options so visitors are aware of PayByPhone.

Ms. Braxton said paystation revenue overall has increased in 2021.

#### Text2Park

- No complaints: In five months of use, a call has never come in about getting a citation after paying with Text2Park.
- Easy to use: No app to download. You text the name of the lot to a number or scan a QR code.
- Recommendations: Staff would recommend using Text2Park at all locations throughout Town, as touchless transactions have exceeded paystation transactions in 2021.

Council Member Shuttleworth asked what it costs the Town in revenue for fees associated with Text2Park and PayByPhone. Ms. Braxton said there is a transaction fee of 25 cents, which is passed to the consumer. She said touchless payment options have increased in popularity due to their ease of use, convenience, and ability for people to use their own devices without touching buttons on a machine.

The revenue and transaction figures for traditional vs. touchless payment options that Ms. Braxton reviewed did not include parking meters. Council Member Shuttleworth said he wants to know total revenue, and Ms. Braxton said Reef can provide this.

Mayor Pierce said she'd like to see lot-by-lot revenue so Council can know what the producers are.

## Areas for Expansion

- Staff suggests turning all residential parking spaces into street-side parking spots and issuing a free residential parking pass to residents.
- 2 golf cart spots will also be added in space in front of the Buccaneer Motel.

Steve asked for clarification about the free residential parking pass for residents. He wanted to know if this means the Town will give out 6,000 free passes. Mr. Parvin said these passes would only be for those residents in a non-conforming home with no parking on the property. Several Council Members expressed concerns about this.

Council Member Garza asked if Reef is on the lookout for where handicapped parking can be added. Ms. Braxton said this is a conversation happening weekly with handicapped visitors.

Council Member Barbee said he would like to see a complete review of handicapped spots. He said he doesn't know if there are enough or not enough, but he thinks they're in the wrong places.

## 2022 Parking Pass Changes

- New design for increased visibility and ease of enforcement
  - Size: 3 x 3
  - Increased font size for year
  - Removal of unnecessary wording

Town Hall will design all 2022 parking permits, including residential, non-resident, re-entry only, and golf cart permits.

## 2022 Parking Recommendations

- Year-round enforcement
  - November 1- February 28: 8:00 AM-5:00 PM
  - March 1-October 31: 8:00 AM-10:00 PM
- Limit number of residential permits per property to a maximum of two for vehicles and two for golf carts
- Propose a visitor weekly parking permit for \$100; this would allow visitors to park at any meter in any lot that honors Town decals without paying at the kiosk or meter or using the PayByPhone option
- Offer 24-hour parking in the Weeks, Fisherman, and Marina lots

Mayor Pierce said she would not be in favor of year-round enforcement. Council Member Shuttleworth said if residents have a pass this would not affect them. Mayor Pierce said it's a disincentive for businesses and does not encourage people to visit during the traditionally slow off-season. Council Member Shuttleworth said he would like to see a projection of the revenue this would generate before walking away from the possibility. He said this could save residents money on property taxes. Mayor Pierce said she is more concerned about businesses in the off-season and would have a problem supporting year-round enforcement.

Council Member Garza and Council Member Shuttleworth said limiting the number of residential permits in a household may not be feasible for families that have children of driving age. Council Member Barbee said he would like to know how much revenue the Town will lose by limiting the number of residential permits to two.

Council Member Shuttleworth said he thinks the visitor weekly permit is a good idea. Mayor Pro Tem Healy said this would result in savings over more than five days. Council Member Barbee said visitors would be likely to use it just for the convenience factor even without any savings. Mayor Pierce said she's not sure if she likes the weekly pass idea but wants to talk about it more later.

Council Member Shuttleworth asked if neighboring municipalities charge for parking year-round or during the period of November 1-February 28. Mayor Pierce said they don't even charge through October. Ms. Braxton said Wilmington charges at its meters year-round. Council Member Garza said Wilmington has some decks with free parking for short periods of time, such as the first hour and a half.

Mayor Pierce asked Ms. Braxton to skip the portion of the presentation about Freeman Park.

Council Member Garza recommended that Ms. Braxton compile as much data as possible in anticipation of Council questions and return for a workshop this month or next month.

Council Member Shuttleworth said he wants to know which lots have third-party agreements, which ones the Town lost, and how they were lost.

Mayor Pierce asked Mr. Oakley to bring a proposal and thoughts on private lots to an upcoming workshop.

## 12. Bid Approval for New Fire Apparatus

Chief Griffin presented bids for the new fire apparatus. He said money for this was not allocated in this year's budget because the build will take more than 400 days, so the Town is looking at financing this in the December 2022/January 2023 window, or during next year's budget. He said there are four bids ranging from \$622,000 to \$780,000, and all were vetted to ensure all vendors were bidding on the same thing through the bid specifications. Chief Griffin said he is requesting Council approval to move forward into a contract with Atlantic Coast Fire Trucks for \$622,959.84, which includes a 2 percent contingency that the Town may not need.

Council Member Shuttleworth asked if the Town will need to go to the State for approval of financing. Finance Director Debbie Hall said State approval is not necessary for an equipment loan.

Council Member Shuttleworth asked if any deposits are due. Chief Griffin said no, he just needs a signed contract. He said the Town can't finance the vehicle until there is a title, which is not produced until the vehicle is completed.

Council Member Shuttleworth asked how long the Town will be financing the vehicle. Ms. Hall said 10 years.

**ACTION:** Motion to go into contract with Atlantic Coast Fire Trucks as presented

Motion made by Council Member Garza

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

*Motion passed unanimously*

### 13. Hamlet Ocean Rescue and Bathrooms

Staff received bids back for the Ocean Rescue and public bathroom facility planned for the Town's property at 100 Hamlet Avenue. The lowest responsible and responsive bidder was determined to be IMEC Group LLC for \$777,000, and to move forward staff will need to enter a contract this vendor.

Mr. Oakley said the facility will be constructed in 180 days and that the Town has already handled clearing of the lot, so the project will be ready to go on September 20 once there is a contract. He said he is requesting approval to enter into an agreement subject to Ms. Fox's legal review and approval.

**ACTION:** Motion to approve and award the contract as presented, conditional on review by the Town Attorney

Motion made by Council Member Barbee

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

*Motion passed unanimously*

### 14. Committee Appointments

Council made appointments to the following committees:

- Board of Adjustment – Ken Thompson
- Marketing Advisory Committee – Tim Howard Hickey
- Parks and Rec Committee – Eric Lachance

Mayor Pierce said there will be no appointment to the Bike/Ped Committee at this time because Council is awaiting a recommendation from that committee. She welcomed the new members and thanked everyone who applied to volunteer.

### **NON-AGENDA ITEMS**

#### Council Member Garza

- If Council wants to revisit the Municipal Service District idea for next year, now is the time to start the conversation with those in the Central Business District.
- There should be an employee survey to get overall ideas about morale, etc.
- Is the Town planning to consolidate loans for the Hamlet and Mike Chappell Park restroom facilities? Mr. Oakley said they are two separate loans, but the Town is trying to request room occupancy tax reimbursement for both.

- With this being an election year and the possibility existing of an open seat, there is no process for how that seat would be filled, so this needs to be discussed publicly for transparency. Ms. Fox said the Council in place at the time the vacancy occurs would determine this. She said this has happened at least twice during the 10 years she's been Town Attorney.
- The Town should consider the skiff that used to clean up muck at the lake because the lake has looked bad for the past two weeks.
- The Town should follow up on Dare County and the State looking into better language for the derelict vessel issue.
- House Bill 781, which allows open containers in certain business districts, and Senate Bill 436, which supports tree ordinances, are worthy of review and consideration.
- Thanks to staff members for all their hard work during the summer season.

#### Council Member Barbee

- Council should be aware that CAMA is looking into whether it can dictate how the Town spends revenue from parking lots on land financed by CAMA. Ms. Fox said this is CAMA's interpretation of an existing rule, and she will email a packet of information to Council tonight. Ms. Fox said she plans to virtually attend the Coastal Resources Commission meeting tomorrow to listen in on the discussion.
- Before changing any parking rules, Council should make it a priority to determine an overall plan to improve parking operations.

#### Mayor Pro Tem Healy

- The Parks & Recreation Department deserves praise for a fantastic job of coordinating fireworks and music at the Boardwalk this year.
- The Town needs to come up with a process for reviewing ordinances to get rid of those that are outdated. Council Member Garza said last month the Planning and Zoning Commission presented this as an upcoming goal the Commission would like to tackle.

#### Council Member Shuttleworth

None

#### Mayor Pierce

None

### **ADJOURNMENT**

**ACTION:** Motion to adjourn

Motion made by Mayor Pierce

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

*Motion passed unanimously*

The meeting adjourned at 10:20 PM.