

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, February 9, 2021 - 6:30 PM

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



MINUTES

CALL TO ORDER WITH INVOCATION, FOLLOWED BY THE PLEDGE OF ALLEGIANCE

Mayor Pierce called the meeting to order at 6:30 PM, followed by the invocation by Mayor Pierce and Pledge of Allegiance.

PRESENT

Mayor LeAnn Pierce

Mayor ProTem 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

ADOPT THE AGENDA

ACTION: Motion to adopt the agenda, adding a closed session

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. Budget Amendments/Transfers
2. Set Public Hearing for March 9, 2021 to Receive Funding Requests from Non-Profit Organizations from the General Fund
3. Set a Public Hearing for March 9, 2021 to consider a rezoning request by Winner Enterprise of CB, LLC to rezone a portion of 300 Goldsboro Ave from Highway Business (HB) to Residential (R-1).
Applicant: Winner Enterprise of CB, LLC
4. Approve Contract for Auditing Service for period ending 6/30/21
5. ROT Reimbursement Request for \$196,997.96
6. Approval of Meeting Minutes

ACTION: Motion to adopt the consent

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

7. Events Update by Tim Murphy

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator for the Town, reviewed special events for February/March, including the Steve Haydu Lo Tide Run on March 13, which has undergone some changes for this year after being canceled last year due to the COVID-19 pandemic.

2021 Lo Tide Run Changes

Begin and end at Lake Park

1. Limit crossings (pre-race, in race) of U.S. 421.
2. Maximize use of CB Greenway for both showing off this awesome trail and limiting road impact with a longer schedule of running.
3. Create separation between starting area and finish.
4. Connect pathways to local bars and restaurants for maximum commercial impact.
5. Signage to remind people of COVID protocols.

The 5K runs a counterclockwise path west out Clarendon Ave.

South through 8th to a turnaround on Greenway.

Then North Greenway to Greenville Ave.

Greenville Ave to 4th St.

And back into the lake via Clarendon Ave.

The 10K follows the same 5K course but turns right on 4th St.

Then the course runs out and back along Harper Ave. and 8th St.

Then rejoins the 5K course where it departed at Clarendon Ave.

Mr. Murphy showed maps of both routes.

He also reviewed the following:

Parks and Recreation Updates

- Gymnastics
- Volleyball Lessons
- Tennis Lessons
- Lil Scoopers Lacrosse
- Without Limits – Youth Sprint Development
- Basketball Skills Clinics
- Flag Football Tourney 2/21

- PISA (Late Registration Until 2/15)
- PIYB (Registration Ends 2/28)
- Valentine’s Day Card Kits (Replaces Annual Valentine’s Day Dance)
- Free Tax Prep at Community Building
- Ryder Lewis Park – Ribbon Cutting 2 p.m. Thursday

8. Manager’s Update

Mr. Oakley updated Council on current and future projects.

CodeRED

- Localized emergency alerts
- Registration is free
- Police Department webpage; click on CodeRED logo
- Text cbcoded to 99411
- Download app

Pack it in; pack it out

- Alabama to Hamlet and Pelican to Freeman Park
- Trash receptacles will be placed on the beach in the Boardwalk area and at Freeman Park
- Trash receptacles in parking lots and on street end accesses
- Grant for new trash and recycling receptacles

Mr. Oakley also said Utility Billing Customer Service will be closed until noon February 10 for training.

Council Member Shuttleworth asked about the figure of nearly \$500,000 in the fund balance for hurricane additional funds that the Town requested. He wanted to know where things are in terms of FEMA reimbursement. Mr. Oakley said staff is working on this and is fairly close to a resolution.

Mayor Pro Tem Healy said he thinks the trash update is a great idea but will require education such as signage to ensure it works. Mr. Oakley said signs have been designed and there are plans for videos and other promotional messaging. Mayor Pierce said this has been discussed for years and is a great first step to getting the blue barrels off the beach. Council Member Barbee said he knows the program has been effective in other places and thinks it will reduce trash on the beach.

Council Member Garza said CodeRED is an awesome idea and that he would like to see information about it pinned to the top of the Town’s Facebook and other social media pages and on the website.

Council Member Garza also asked how the County’s new ordinance for smoking and vaping will affect the Town and whether the Town is prepared to roll out signage. Mr. Oakley said the Town has started working toward ways to get the word out that smoking and vaping are prohibited on all public-owned property.

Council Member Barbee asked if there is any progress on the lake dredge matter. Mr. Oakley said there has been some interest but no proposals submitted yet in response to the RFP, which closes on February 12 but can be extended.

PUBLIC COMMENT

None

PUBLIC HEARINGS

9. Consider a Modification to the Conditional Use Permit for the Boardwalk Amusement Rides to be located on multiple properties (PIN - 3130-54-2980, 3130-54-4836, 3130-55-4065, 3130-55-5014, 3130-54-5992, 3130-54-5877, 3130-54-5778, 3130-54-5870, and 3130-54-6839)
Applicant: Carolina Beach Land Holdings LLC

ACTION: Motion to open the public hearing to consider the CUP for the Boardwalk amusement rides to be located on multiple properties

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 following individuals were sworn in: Applicant Matt Murphy, Applicant Attorney Ned Barnes, Courtyard by Marriott General Manager Tom Ullring, Architect Greg Reynolds, Planning Director Jeremy Hardison, Assistant Town Manager Ed Parvin, and Senior Planner Miles Murphy.

ACTION: Motion to open the evidentiary 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

Ms. Fox gave an overview of the proceedings and rules for Council in a quasi-judicial hearing. She asked if any member of Council had any conflict, partiality, or ex parte communications to disclose. Mayor Pierce said she wanted to disclose that she owns property on the Boardwalk adjacent to the proposed amusements rides but that this did not pose any bias or conflict.

Mayor Pierce asked if there was anyone in attendance who contends they are a party with standing. There were none.

Carolina Beach Land Holdings LLC plans to utilize multiple lots they own in the Boardwalk area to bring the amusement rides and vendors back to CB. The lots being utilized are the following:

- 8 Cape Fear Blvd. PIN 3130-55-5014
- 5 Carolina Beach Avenue South PIN 3130-54-5877
- 7 Carolina Beach Avenue South PIN 3130-54-5870
- 9 Carolina Beach Avenue South PIN 5150-54-5778
- 9 Cape Fear Boulevard PIN 5150-54-4836

- 1 Carolina Beach Avenue South PIN 5150-54-5992
- 3 Boardwalk PIN 5150-54-6839
- 101 Cape Fear Boulevard PIN 5150-54-2980

101 Cape Fear is currently under different ownership, but CB Land Holdings is in the process of purchasing the property and has secured permission from the owner to utilize their land as part of this CUP application. A demo permit is being issued for the removal of the current structure on 101 Cape Fear as a precursor to this use and/or future development.

Senior Planner Miles Murphy gave details of the application.

History

- 2009 Amusement CUP approved for one year then review the performance of the amusements.
- 2010 Amusement CUP approved for two years then review the performance of the amusements.
- 2011 Council stated that no future review of the previous year's activities is required in future years. Staff should review for future years their location and estimated impacts the amusements may have on adjacent property owners.
- 2020 Amusements are modifying the footprint to incorporate three additional lots.

The proposal designates some areas where vendors will be asked not to put concessions due to their proximity to existing businesses.

Ned Barnes of 814 Carolina Beach Avenue North, attorney for the applicant, said the proposal meets all of the required seven specific standards and four general conditions and that the applicant is in agreement with everything the Town is requesting. He said the applicant has an excellent track record after operating rides here for 10 years and is looking forward to bringing back family-oriented entertainment to the Boardwalk. Mr. Barnes said it is uncertain whether COVID-19 requirements will allow the rides to operate this summer, so there is not yet a specific vendor with whom the applicant will contract.

Mayor Pierce said Council would like to hear from the applicant about the COVID-19 precautions proposed if operation this summer is possible. She asked if there were any witnesses to call.

Architect Greg Reynolds said the applicant finds the area designated as having no concessions to be restrictive. He said they want to be good neighbors but don't want to be tied into that.

Mayor Pro Tem Healy said the intent is to protect the brick-and-mortar businesses that have been struggling all year through a tough time.

Mayor Pierce asked if the applicant had thought about how operations would go regarding COVID-19 precautions. Applicant Matt Murphy said all the operators they've talked to are geared up to follow safety guidelines.

Council Member Shuttleworth asked the applicant to be sensitive to the placement of concessions. Matt Murphy said they are always sensitive to brick-and-mortar businesses but that they want to avoid being too restrictive because it makes it difficult for the operator to succeed.

Mayor Pierce asked if there were any members of the public who wanted to speak.

Tom Ullring, general manager of the Courtyard by Marriott, addressed Council. He said he was glad the matter was being discussed because many guests have been asking about the rides. Mr. Ullring requested that the parties involved be mindful and considerate of placement of the rides and how they can impact noise levels at the hotel. Mayor Pierce encouraged Mr. Ullring and others to get together to come up with a solution that benefits everyone. Council Member Barbee said the rides are a win-win for all involved, but communication is key.

No one else spoke. Council began deliberations on the matter.

Mayor Pro Tem Healy said the rides bring lots of people to the Boardwalk area and that he supported the proposal.

Council Member Barbee said he has concerns about the competition among food vendors and existing restaurants, but he is confident there can be a resolution that doesn't involve specific restrictions. He asked if there was a legal basis for prohibiting concessions in a certain area. Mr. Parvin said this must be tied to specific standards or general conditions, which might be tough to do.

Council Member Garza said he had no problems with the proposal other than some concerns about the age of the rides and safety.

Council Member Shuttleworth asked how Town staff will evaluate concerns about lights and noise. Miles Murphy said many of these issues cannot be worked out until there is a vendor selected. Mayor Pierce said the Town has a noise ordinance with ways to measure decibel levels. Miles Murphy reiterated that this issue may be dealt with by Town regulations.

Council Member Barbee asked about opportunities for neighboring businesses to comment once the site plan starts to form. Miles Murphy said this is not required of the applicant, but Town staff encourages open communication so everyone is on the same page. Council Member Barbee said he thinks that's key. Mayor Pierce said during the long history of this operation, the applicants have been responsive to concerns. She asked them to give special consideration to brick-and-mortar businesses and take COVID-19 guidelines very seriously for the sake of public health.

Council Member Barbee asked whether a motion should strike the concession restriction. Mayor Pierce said she was fine with this because competition can be a good thing and people are going to go where they want to go. Mayor Pro Tem Healy said if there was a history of the applicants not being good stewards this might be an issue, but because they seem to be cooperative he doesn't think it is necessary.

ACTION: Motion to approve the CUP and that it's in accordance with the draft grant order and it otherwise meets the seven specific standards and the four general conditions if developed according to the plan as submitted and approved

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 thanked the applicants for continuing to invest in the Town and said Council looks forward to hopefully seeing rides on the Boardwalk this year.

ACTION: Motion to close the CUP 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

10. Public Hearing to Receive Requests from Non-Profit Organizations for Room Occupancy Tax Funds

ACTION: Motion to open the public hearing to receive requests from nonprofit organizations for room occupancy tax funds

Motion made by Mayor Pierce

Maureen Lewis of 1407 Croaker Lane, founder of the Carolina Beach Mural Project, gave an overview of the organization and its plans. The group is asking for \$10,000 in room occupancy tax funding to support a public art program. Ms. Lewis said the money would help attract the highest-quality artists.

Mayor Pierce asked who maintains the murals. Ms. Lewis said there is a contract with each landlord and the organization has money in reserve to address any issues. She said no advertising or religious or political themes are allowed. Mayor Pierce asked if the property owners pay anything. Ms. Lewis said no because the organization wants to ensure portrayal of historical accuracy without any financial interests driving content.

Council Member Garza asked about maintenance beyond a five-year period. Ms. Lewis said the initial contract is five years to keep from limiting the landlord on what can be done with the property, but after five years the contract can be extended.

Mayor Pierce said there will not be a vote on the funding yet and that Council will hear more during the budget process over the next couple of months. She asked Ms. Lewis when the current mural at Town Hall would be finished. Ms. Lewis said within a couple of weeks and that Council would be invited to come to the unveiling.

No other nonprofit organizations asked to present.

Council Member Garza asked how much the Town is willing to give to causes on average. Mr. Oakley said the Town was tight with donations last year and that more information would be available during the budget process.

Council Member Shuttleworth said in the past most contributions to nonprofit organizations have come from the general fund rather than room occupancy tax dollars. He said Council must be cautious with how those dollars can be spent until the funding issue with beach nourishment and other items is resolved.

ACTION: Motion to close the public hearing for room occupancy tax requests

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

11. Consider adopting the Southeastern NC Regional Hazard Mitigation Plan

ACTION: Motion to open the public hearing to consider adopting the Southeastern North Carolina Regional Hazard Mitigation Plan

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

Planning Director Jeremy Hardison said Town staff is asking for a motion to adopt the plan and a public hearing to give people an opportunity to speak on the plan and ask questions, which is mandated by the federal government.

Mr. Hardison said hazard mitigation describes actions taken to help reduce or eliminate risk caused by hazardous events or disasters while measuring risk to the community. He said the Town's top risks are hurricanes and flooding. Mr. Hardison said the plan must be updated every five years, and the current plan is set to expire in April. He said the endeavor is a funded federal mandate that does not require any Town funds to produce the plan. The plan is a requirement if the Town wants to apply for federal grants or ask for disaster relief or FEMA reimbursement. Mr. Hardison gave a short rundown of the plan, which identifies general goals the following actions: prevention, property protection, public education, and awareness.

ACTION: Motion to adopt the attached Southeastern North Carolina Regional Hazard Mitigation Plan

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 reminded Mayor Pierce about the public hearing. Mayor Pierce asked if anyone wanted to speak. No one came forward.

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

ITEMS OF BUSINESS

12. NCDEQ Stormwater Audit Update

The N.C. Department of Environmental Quality (NCDEQ) recently completed an audit of the Town's stormwater program for the first time in 10 years. As a follow-up, NCDEQ requires an approval of this resolution by the Council. The resolution indicates the Town's support for a National Pollutant Discharge Elimination System (NPDES) compliant stormwater program.

Public Works Director Brian Stanberry said the plan covers five years and addresses things the Town is already doing. He said it is due by May 4.

Council Member Garza asked about the recommendation for the frequency of the audit. Mr. Stanberry said the Town gets about a 30-day notice and the audit is supposed to be every five years but can be longer per the discretion of NCDEQ.

ACTION: Motion to adopt Resolution 21-223, a resolution affirming the Town of Carolina Beach Council's support regarding implementation of the compliant NPDES MS4 Stormwater Program

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

13. Easement at 402 Oceana

Mr. Parvin presented the details. The intent of this request is to withdraw the 10-foot utility easements to the extent that they burden Lot 2 of Oceana and grant a utility easement to the Town of Carolina Beach. The Town has reviewed the existing utility easement. There are no utilities beyond the sanitary sewer manhole. There are no anticipated needs to have public utilities beyond the sanitary sewer manhole. The Town would request to have clear and unobstructed access to the manhole. For this reason, it is recommended that the easement remain only on this portion of Lot 2.

Mayor Pierce said she thinks this is the first time Council has heard a motion to remove the easement. She asked Ms. Fox if Council had her approval, and Ms. Fox said yes.

ACTION: Motion to remove the easement located at 402 Oceana based on Attorney Fox approval

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

NON-AGENDA ITEMS

Mayor Pierce said she received an email from the Federal Point Historic Preservation Society about a funding shortfall due to a reduction in the Town’s contribution and the inability to rely upon usual fundraisers due to the COVID-19 pandemic. Mr. Oakley said in previous years the group has requested \$7,500 and last year requested \$9,000 but was only given \$1,000 in the Town’s budget. Mr. Oakley said while all contributions to nonprofits were cut in the last budget, this one was a more drastic reduction than others for reasons that were not immediately clear. Mayor Pierce asked Council to consider adding funding to the group because they provide the valuable service of preserving the Town’s history. Other Council members also expressed support for the request.

ACTION: Motion to direct the Town Manager to supplement the Federal Point Historic Preservation Society for \$3,000 to balance their budget for this year/last year

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 he would love to see the group become the welcome center for the Town.

Council Member Shuttleworth started a lengthy discussion about how the Town will pay for beach nourishment. He gave detailed background information about the matter and possible funding sources. He said there should be a conversation about how the community wants to handle this and an exploration of ways to accomplish the goal without raising property taxes.

Council Member Barbee said he would like to look at redistribution of room occupancy tax funds, much of which currently go to advertising. He said it is tough to explain that the beach is eroding and doesn’t have as much room for visitors while advertising to get more tourists here.

Council Member Barbee said he encourages organizations involved with summer activities to begin planning while keeping in mind that events may need to be postponed or canceled due to the COVID-19 pandemic. Council Member Shuttleworth said weekly fireworks starting in late May through summer should be strongly considered to move forward because people can still enjoy them while social distancing. Mayor Pierce asked Mr. Oakley to head up a meeting with stakeholders to explore creative suggestions for summer activities similar to the alternatives during the holidays. Mr. Oakley said he has spoken to Parks & Recreation Director Eric Jelinski and he’s already planning for a normal year with precautions.

Ms. Fox reminded Council about the virtual Coastal Resources Commission meeting next Thursday.

CLOSED SESSION

ACTION: Motion to go into closed session for an attorney/client matter in accordance to NCGS 143-318.11(a)(3). Matters being discussed are:

18 CVS 3151 Town of Carolina Beach vs. Carolina Freeman LLC

18 CVS 3152 Town of Carolina Beach vs. B&F Enterprises LLC

18 CVS 3153 Town of Carolina Beach vs. DRDK LLC

18 CVS 3154 Town of Carolina Beach vs. Freeman Beach LLC

18 CVS 3155 Town of Carolina Beach vs. Winnie Futch Heirs

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

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 9:00 PM.