

# CAROLINA BEACH

Town Council Regular Meeting

Tuesday, April 13, 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 Mayor Pierce and Pledge of Allegiance.

### PRESENT

Mayor LeAnn Pierce

Mayor Pro Tem Jay Healy

Council Member Lynn Barbee

Council Member JoDan Garza

### ABSENT

Council Member Steve Shuttleworth

### ALSO PRESENT

Town Manager Bruce Oakley

Town Clerk Kim Ward

Town Attorney Noel Fox

Mayor Pierce commended Fire Chief Alan Griffin and his staff as well as the Police Department on a great job regarding the Paradise Cove fire on April 2. Council Member Garza said he wanted to recognize all first responders from both communities for good teamwork.

### ADOPT THE AGENDA

### CONSENT AGENDA

1. Budget Amendments/Transfers
2. Move position from Wastewater Collections to Stormwater
3. Set a Public Hearing Date for May 11<sup>th</sup> to consider amending Chapter 40, Article III & Article XVIII, to address rooming houses.
4. Set a Public Hearing Date for May 11<sup>th</sup> to consider amending Chapter 40, Article VII, Fence Regulations to review restrictions and how to measure height.
5. Set a Public Hearing Date for May 11<sup>th</sup> to consider amending Chapter 40, Article III & Article VII, to review setbacks for through lots for fences, swimming pools and accessory structures.
6. Request for Right of Way Improvements
7. Approval of Meeting Minutes from 2/23 and 3/9/2021

**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  
*Motion passed 4-0*

### **SPECIAL PRESENTATIONS**

8. New Employee Introduction – Captain Greg Steffens CBPD

This item was removed from the agenda.

9. Request by Girl Scout Troop 4785 to add signage to Island Greenway

Girl Scout Troop 4785 is working to complete a Bronze Award. The proposed project consists of installing six quarter-mile-marker posts on the Island Greenway to help motivate users of the trail to set goals and lead a healthier lifestyle. The trail markers will also serve as an important safety function for first responders by providing an additional reference point for anyone in need of assistance.

Five fifth-grade members of Girl Scout Troop 4785 presented details, including plans for financing the project. They will use a portion of their cookie sales from last year and this year. If needed, the girls will also hold additional fundraising activities to ensure that neither the troop nor the Town would be required to pay for this project. The girls plan to complete it before the end of May. The presentation acknowledged the need for approval from the Army Corps of Engineers due to the Island Greenway's location on Military Ocean Terminal Sunny Point (MOTSU) property.

Mayor Pierce said this was one of the most well-put-together presentations she had ever seen and thinks the project is a wonderful idea.

Council Member Garza said he thought they did an amazing job and encouraged them to use a copy of the video of their presentation to show other troops.

Mayor Pro Tem Healy said the presentation was extremely impressive and that he felt bad for the presenters who had to follow the girls.

Council Member Barbee said they did a fantastic job and joked that the rest of the meeting would probably go downhill after that.

Mayor Pierce said she was impressed that the girls included MOTSU in their presentation and that she knows the project is going to do well.

**ACTION:** Motion to approve the request by Girl Scout Troop 4785 to add signage to the Island Greenway

Motion made by Mayor Pierce

Voting Yea: Mayor Pierce, Mayor Pro Tem Healy, Council Member Barbee, Council Member Garza  
*Motion passed 4-0*

Mayor Pierce asked Mr. Oakley to find a staff liaison to assist the girls with any issues that might come up. She said she was excited to see this and asked the girls to come back with a presentation when they are finished. She said the future looks bright and that she doesn't think MOTSU could tell them no.

10. Events Update by Tim Murphy

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

- 4<sup>th</sup> Annual Surf Dog Experience – May 8 at North End Pier
- CB Street Arts Festival – May 8 at Carolina Beach Lake
- Tinted Turtle Trot – May 16 at Mike Chappell Park

Mr. Murphy said there were three new event requests.

Carey Jones of Island Women presented details about Flo's Food Truck Rodeo proposed for August 29 from noon to 5:00 PM at Carolina Beach Lake. She said this would be a family-friendly event with 10 food trucks, 10 retail vendors, two bands, two bars, and a kids' area with games and activities. In case of a hurricane or other weather issue, the proposed makeup date is September 26.

Council Member Garza said he loves food trucks and thinks the Town should do more events with them.

Mayor Pierce said this looks like a great event.

Mr. Murphy said the Town doesn't usually permit new events between Memorial Day to Labor Day, but due to cancellations from the COVID-19 pandemic he was all for this from a staff perspective.

Council Member Barbee asked if there would be any problem getting the food trucks in and out. Mr. Murphy said no.

Council Member Garza asked Ms. Jones if there were any thoughts about ways to add space between people with such a busy season predicted, such as using the parking lot for the event itself instead of parking. Ms. Jones said they understand these concerns due to the COVID-19 pandemic and will think about ways to space things out. She said they are anticipating about 1,000 attendees.

Mayor Pro Tem Healy said he loves the idea.

**ACTION:** Motion to approve the Island Women food truck event as presented

Motion made by Mayor Pierce

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

*Motion passed 4-0*

Mayor Pierce recognized former Mayor Bob Lewis, who approached the podium with Roy Lee Carter to make a presentation for a new event from Island Men. Mr. Carter commended the Girl Scouts on a great presentation and said Island Men pledges to help them pay for the signs.

Mr. Carter said Island Men is proposing to build on the success of similar previous holiday events to have a Golf Cart Palooza on July 1 from 4:00 to 6:00 PM, leaving from the Publix parking lot. He said plans are to have close to 100 patriotic, non-political golf carts participating in the event, which will have a similar route to the previous events. This will entail crossing Lake Park Boulevard twice for a short amount of time.

Council Member Garza suggested moving the parade to a Wednesday instead of a Thursday as planned because he said Thursday is typically a huge travel day. Mr. Lewis said he would not be against considering that.

Mayor Pro Tem Healy said he had concerns that July might be too busy for an event like this.

Mayor Pierce said she also was concerned about traffic backing up over the bridge.

Council Member Barbee asked if staff brought up any issues about public safety. Mr. Murphy said there should be little burden on staff with the exception of the Police Department. He said the part of the route from Publix to Harper Avenue would be the biggest hiccup.

Council Member Barbee said he would like to defer to public safety officials to speak up if there are any issues.

Mayor Pierce said she thinks it will be important to minimize any time on Lake Park Boulevard as much as possible due to traffic concerns.

**ACTION:** Motion to approve the Golf Cart Palooza to celebrate the Fourth of July conditional on the Police Department's approval

Motion made by Council Member Barbee

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

*Motion passed 4-0*

Brandon Goertz gave a presentation about proposed filming for a Netflix movie called "Along for the Ride," a coming-of-age love story that focuses on a teenage couple. He said the Boardwalk plays a special part in the story and that filming is proposed for several businesses and residences around the Town. He said he wants to make sure things go smoothly with the public.

Mr. Goertz went over the proposed filming schedule, which kicks off April 21-22 at Nauti Dog, 5 Cape Fear Boulevard. Other filming plans include April 22 at Pleasure Island Rentals, 2 North Lake Park Boulevard, and May 11-14 at Nest Realty, 112 Cape Fear Boulevard.

Council Member Garza asked if Mr. Goertz had spoken to public safety officials about any concerns for the filming dates. Mr. Oakley said the filming project was discussed at a recent Events Committee

meeting, where the Police Department was represented, and Netflix representatives were working with staff and coordinating. Council Member Garza said he was all for it.

Mr. Goertz said there are no plans for road closures. Mayor Pierce said streets and access to other properties are the items of concern for Council. Mr. Goertz said he intends to gather as much information as possible about people in close proximity to the proposed locations to try to figure out what their concerns are.

Mayor Pro Tem Healy asked if the crew will be eating local or having their own food. Mr. Goertz said the catering company is part of the crew but that there are other opportunities for the production to patronize local restaurants. Council Member Barbee said this could be the key to future success and help build bridges for upcoming projects. Mayor Pro Tem Healy said it is great for our community when we have film crews here.

Mayor Pierce asked what the end date is. Mr. Goertz said the final day of filming is June 3, but any filming after Memorial Day will be outside of the Town. He said during the last week of filming in the Town, crews will be working inside a house.

Mayor Pierce said she is glad to see this project in the Town but doesn't want to impose on other businesses that are looking forward to their first peak season after COVID-19 pandemic struggles. She asked Mr. Murphy if there were any red flags. He said he didn't think so and that it was a great plan that should go off without a hitch.

Council Members expressed support for the project.

#### 11. Manager's Update

Mr. Oakley updated Council on current and future projects.

Mr. Oakley said the vaccination site at the Rec Center on April 12 was a big success, with up to 30 people per hour coming through at one point. He said those who got vaccinated will come back in three weeks for their second shot.

#### Legislative Update

Beach Nourishment: The Town is working to get federal money and is cautiously optimistic that some appropriations will come through.

#### Community Project Funding

- Lake Park Improvements
  - Playground
  - Restroom
  - Picnic Shelter

Mayor Pro Tem Healy asked if the Town gets federal funding whether it is still feasible to do beach nourishment this year. Mr. Oakley said the Town is moving forward with plans for this year as if the federal funding is coming.

Mayor Pro Tem Healy said he was at the Rec Center around 3:00 PM during the vaccination event and at that time over 200 people had been vaccinated. He said that's a big win for the Town.

Mr. Oakley gave an update on the Hamlet Ocean Rescue/Public Restroom Facility. He said after building costs went up, the Town has looked at doing a value-engineered design that would reduce materials and get rid of the elevation of the structure to save money. He asked for Council's thoughts on whether to move forward with the original design or the value-engineered design.

Council Member Garza asked if the value-engineered design meets the needs of the Town and what the cost difference is. Mr. Oakley said he thinks it would meet basic needs, but he does not yet have specific savings figures.

Mayor Pro Tem Healy said he is fine with the value-engineered design.

Council Member Barbee said while Council always wants things as cheap as possible, he is concerned that re-engineering would result in less than what is necessary to do the job. He said he would encourage Mr. Oakley to target the design that is needed to perform the job properly first and foremost.

Mayor Pierce said since the Town has already waited so long, it's important to get what is needed. She said she would defer to Mr. Oakley and Chief Griffin about what they think is best. Mr. Oakley said that is the direction he was seeking.

#### Pack It In, Pack It Out

Mr. Oakley said Public Works crews are reporting that the effort has been successful on their part outside of the Boardwalk area. Mayor Pierce said she wanted to clarify for the public that nothing has changed in the Boardwalk area and that no trash cans have been removed there, but there is still lots of trash. Mr. Oakley said at other beach accesses there is less trash, and the Town plans to add more stickers and signage to the trash cans, which are now on the street side and not on the beach. He said the Town is also giving magnets to hotels and property managers to remind visitors to take their trash with them when they leave the beach strand.

Mayor Pro Tem Healy said he think it's is working and recommended asking beach and umbrella rental vendors to give out trash bags to their patrons.

Council Member Garza said he liked that idea and also recommended having two or three volunteers to randomly walk the beach on weekends to give out bags and remind visitors of the rules. Mr. Oakley said there have been conversations about a beach ambassador program to promote rules and the Town itself.

Mayor Pierce commended Shelia Nicholson, Executive Assistant to Mr. Oakley, for her communication with hotels and property managers. Mayor Pierce said with the Town already very busy, now is a good learning curve to show where the focus needs to go.

Council Member Barbee said he recently visited a number of places that have pack it in, pack it out rules and that in some instances there are no trash cans anywhere. He said in these cases visitors take all of their trash with them, and if that can work then surely the Town's new program can work. He said people are posting pictures on social media of overflowing trash cans that aren't even in the Town, and this is doing a disservice to the Town's efforts. He encouraged those with concerns to bring them to Mr. Oakley and have patience.

Council Member Barbee asked whether private parking lots are supposed to have trash cans and daily trash service, even during times when they aren't charging for parking. He said some do not appear to have trash service. Mr. Oakley said he believes there are trash cans in these areas, but he doesn't believe they are serviced daily like they will be when they start charging for parking. Council Member Barbee said if private property owners are filling their lots with cars, they have a responsibility to deal with trash even if they are not charging.

Mr. Oakley said there was a malfunctioning trash compactor over the past weekend that contributed to problems in the Boardwalk area. He said there are also issues with people using trash receptacles for their businesses without authorization and that there were plans to put up signage and cameras to catch them in the act.

Council Member Barbee asked for a breakdown of the timeline of the response to the Paradise Cove fire on April 2. Chief Griffin said the call came in to 911 at 12:59 PM, and the Fire Department received dispatch at 1:00 PM and arrived at 1:04 PM. Council Member Barbee asked if this is considered a great response time. Chief Griffin said that's probably about as fast as they could respond and he doesn't think it could get any better. Council Member Barbee also asked who participated in the investigation. Chief Griffin said the command post at the fire site brought in by the EMS hospital system included Mr. Oakley, Mayor Pierce, and Police Chief Vic Ward. He said the State Bureau of Investigation also showed up, which is typical for a large fire, and that the investigation continued all day until it got dark. Chief Griffin said when everyone met back on the scene the next day, at that point the Bureau of Alcohol, Tobacco, Firearms and Explosives became involved. Council Member Barbee asked Mr. Oakley if there was any communication from the state or federal agencies indicating that the Town's fire response violated protocol in any way. Mr. Oakley said no. Council Member Barbee said his point in asking these questions was to let the public know that the Town's emergency crews are doing a great job, and he thanked them.

Mayor Pierce said Council stands behind the Town's emergency crews 100 percent and added that her son was a resident of the building that burned, so this is very personal to her. She asked Chief Griffin to convey Council's appreciation to his staff.

Chief Griffin said many of the firefighters who responded had multiple decades of experience, so he didn't think there could've been a better crew and he was very proud of how they performed. He said that shift will appear before Council at an upcoming meeting.

Mr. Oakley said the response showed great leadership and team effort from fire, police, and utility crews and that it was impressive to watch.

Mayor Pierce said the fire investigation is still active and there was not yet an answer about the cause.

#### **PUBLIC COMMENT**

None

#### **PUBLIC HEARINGS**

##### 12. Public Hearing to Receive Public Input on the FY21/22 Budget

**ACTION:** Motion to open the public hearing to receive input on the 21/22 budget

Motion made by Mayor Pierce

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

*Motion passed 4-0*

Mr. Oakley said Town staff is still preparing the budget and there will be additional chances for public input. He said the purpose of this agenda item was mainly to hear requests for funding needs outside of the non-profit organizations that already reached out.

No one requested to speak.

Mayor Pierce said there will be other opportunities for the public to speak as Council goes through the budget cycle.

**ACTION:** Motion to close the public hearing on the 21/22 budget

Motion made by Mayor Pierce

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

*Motion passed 4-0*

##### 13. Consider a Text Amendment to Chapter 40 Article VIII Signs

**ACTION:** Motion to consider a Text Amendment to Chapter 40 Article VIII Signs

Motion made by Mayor Pierce

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

*Motion passed 4-0*

Due to recent case law, Town staff has updated the Town's sign ordinance to comply with the direction that signs, and other similarly managed items, may not be regulated by their content. The ruling allows the regulation of signs by location, size, zoning district, and number but not by what they display. Ms. Fox completed her initial review, and staff has made her requested changes in preparation for Council review.



Senior Planner Miles Murphy presented the background and details. He said the purpose is to update the sign ordinance to comply with the 2015 Supreme Court decision in Reed v. Town of Gilbert.

#### Background

- Sign ordinances are utilized primarily for aesthetic and economic purposes
- Free speech generally overrides any state, county, or local sign ordinance
- Sign ordinances may not be “content-based” in almost all circumstances

#### Supreme Court Decision

- In 2015, the Supreme Court heard the case of Reed v. Town of Gilbert
- The Town of Gilbert had a sign ordinance with 23 exempted categories, and each category was treated differently based on the content
- The Ninth Circuit Court of Appeal initially upheld the exceptions
- The Supreme Court determined that the sign ordinance, and its exceptions, were based on the “face” since the content of the signs dictated their limitations

#### Local Ordinance Implications

- Town sign ordinance currently has 11 sign categories that are regulated individually and are based on content
  - Governmental
  - Window/door signs
  - Real estate/off-site
  - Political
  - Open
  - Patriotic
  - Government required
  - Construction/future development
  - Subdivision
  - Non-profits
  - Special events

#### Revisions

- Addition of location restriction to prevent traffic sight distance triangle obstructions
- Addition of a catch-all category for “temporary non-commercial signage” with regulations pertaining to aesthetics and time frames only
- Remove categories specifically regulating signs by content
- Clarified/corrected language throughout Article VIII

#### Example: Yard Signs

Four temporary signs related to non-commercial activities or events may be placed on a parcel 30 days prior to said activity/event, may remain up during said activity/event, and must be removed within 10 days of the conclusion of said activities/event. These yard signs shall follow the regulations below:

1. The sign shall be non-illuminated and may not exceed 20 square feet or 5 feet in height.
2. The sign shall be setback at least 5 feet from the road and not impose upon the intersection sight triangle (Sec. 40-232 c).

3. The person, party, or parties responsible for the erection or distribution of any such signs shall be jointly liable for the removal of such signs.
4. The lot occupant or, in the case of unoccupied lot, the lot owner, shall be responsible for violations on a particular lot.
5. No temporary signage is permitted in the public right-of-way
  1. With the exception of N.C. Department of Transportation (NCDOT) rights-of-way in accordance with Session Law 2011-408
6. Off-site directional signage shall be related to an event, will only be permitted while the activity/event is ongoing, and shall be removed within 48 hours of the conclusion of said activity/event.
7. No commercial signs shall be placed off-site on a residential lot which are unrelated to ongoing activities on that residential lot.
  1. Signs related to ongoing activities shall be removed within 10 days from the completion of said activity.

#### Recommendation

- Staff recommends approval of the ordinance
- Planning and Zoning approved the ordinance 7-0

Council Member Barbee asked if the changes include signs on a person's private property, such as a sign in the front yard, regardless of content. Mr. Murphy said yes and that debates could arise over the nature of what is considered an activity or event or whether something is continually ongoing. He said there will be some flexibility and that staff will deal with challenges appropriately.

Mayor Pro Tem Healy asked if the Code Enforcement person is who will enforce this. Mr. Murphy said yes, predominantly, and other Planning staff and the Police Department may also get involved.

**ACTION:** Motion to amend Chapter 40 Article VIII Sign Regulations as presented

Motion made by Council Member Garza

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

*Motion passed 4-0*

Ms. Fox asked Council to adopt a statement of approval.

**ACTION:** Motion for a Statement of Approval – The Council, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Article VIII to update the sign ordinance to comply with the 2015 Supreme Court decision is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans. If applicable, list any recommended restrictions or requirements. (Ms. Fox said there should be none.)

Motion made by Council Member Garza

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

*Motion passed 4-0*

**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

*Motion passed 4-0*

**ITEMS OF BUSINESS**

14. Committee Appointments

Council voted March 9 to establish an 11-member Centennial Ad-Hoc Committee. Two members of the former Business and Economic Development Committee will transfer to the new committee, leaving nine spots vacant; 11 individuals have applied.

Council Member Barbee said the new committee was striving to be as inclusive as possible and that he thought the 11 applicants were a good cross-sectional representation of the community. He said he'd like to expand the committee to 13 members so all applicants could serve. Council Members expressed support for this.

**ACTION:** Motion to expand the Centennial Committee to 13 and appoint all noted applicants

Motion made by Council Member Barbee

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

*Motion passed 4-0*

The members are:

1. Maureen Lewis (Business and Economic Committee transfer)
2. LeeAnn Tluchowski (Business and Economic Committee transfer)
3. Alannah Keeler (Chamber)
4. Christine Higgins (Non-profit – Island Arts)
5. Debra LeCompte (At-Large)
6. Elaine Henson (History Center)
7. Frances Massey (Non-profit or At-Large)
8. Jasmine McKee (At-Large)
9. Jennah Bosch (Non-profit and At-Large)
10. Ryan Cavanaugh (At-Large)
11. Sharon Carlson (At-Large)
12. Shelia Marshall (At-Large)
13. Vincent Losito (At-Large)

**NON-AGENDA ITEMS**

Council Member Garza asked when the next budget meeting is. Mr. Oakley said April 27.

Council Member Garza said with this being an election year, there is the possibility of having three new Council Members in December. He said there is a steep learning curve and suggested that staff begin putting together a welcome packet that contains previous budgets, Planning and Zoning Commission activity, events from first responders, legal issues, and more.

Council Member Garza said the meeting had been a highlight for him due to the Girl Scouts presentation. He also said he wanted to thank first responders and expressed appreciation for all they do for the community.

Mayor Pro Tem Healy said they can't thank first responders enough. He also said the water tower is looking a little shabby. He said he agrees that a Council 101 book would be a good idea.

Mayor Pierce said it had been a very emotional week and that the community is tough and always pulls through. She thanked the Fire Department, Police Department, and Mr. Oakley for a good job.

Mayor Pierce asked where the Town is with the Saint Joseph Street bike lanes. She said her understanding was that all that needed to be done was apply with NCDOT. Mr. Oakley said he is working with staff to submit the information needed to get started. He said he hopes to have a response soon.

**CLOSED SESSION**

15. Closed Session to Discuss an Attorney/Client Matter

**ACTION:** Motion to go into closed session to discuss an attorney/client matter in accordance with 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 Pro Tem Healy, Council Member Barbee, Council Member Garza

*Motion passed 4-0*

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

*Motion passed 4-0*

The meeting adjourned at 9:00 PM.