

# CAROLINA BEACH

Town Council Regular Meeting

Tuesday, October 13, 2020 – 6:30 PM

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



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## MINUTES

### CALL TO ORDER WITH INVOCATION BY PASTOR SHAWN BLACKWELDER OF ST. PAUL'S UMC FOLLOWED BY THE 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

Town Clerk Kim Ward

Town Attorney Noel Fox

#### ADOPT THE AGENDA

Mayor Pierce said item 11 would be removed from the agenda: Review request from RGL Development LLC for reimbursement of project costs.

**ACTION:** Motion to adopt the agenda with the removal of item 11: Review request from RGL Development LLC for reimbursement of project costs

Motion made by Mayor Pierce

Voting Yea: UNANIMOUS

#### CONSENT AGENDA

1. Budget Amendments/Transfers
2. Approve NCDOT Ordinance No. 1078910 Reducing the Speed Limit on Dow Rd.
3. Set a public hearing date on November 10, 2020 for an 8-Unit Residential CUP located at 202 CBAS (PIN - 3130-54-2234) Applicant: Too Construction Company Inc
4. Set a public hearing date on November 10, 2020 to Consider a Text Amendment to Article III, Table of Permissible Uses Applicant: Town of Carolina Beach
5. Set a public hearing date on November 10, 2020 to Consider a Text Amendment to Chapter 40 – Zoning Applicant: Town of Carolina Beach
6. Set a Public Hearing for November 10, 2020 to Consider a Text Amendment to Article III & XVIII to prohibit Floating Structures in public trust waters. Applicant: Town of Carolina Beach
7. Approval of Meeting Minutes from 8/25/2020 and 9/8/2020

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

Motion made by Mayor Pierce

Voting Yea: UNANIMOUS

**SPECIAL PRESENTATIONS**

8. Special Events

Tim Murphy, Recreation Programs Superintendent/Community Events Coordinator for the Town, gave details about a filming proposal from Kale Murphy of Starz P-Town Productions LLC. The areas requested for filming are the front of Town Hall, Council Chambers, and the Rec Center for a proposed shoot date of Friday, October 23, 7:00 AM-2:00 AM. Prep will be Monday, October 19-Thursday, October 22 8:00 AM-5:30 PM, and wrap will be Saturday, October 24-Monday, October 26 8:00 AM-5:30 PM.

**ACTION:** Motion to approve the filming proposal as presented by Tim Murphy

Motion made by Mayor Pierce

Voting Yea: UNANIMOUS

Mr. Murphy also announced the following upcoming events:

- Surf Fishing Tournament sponsored by Fisherman's Post, October 16-October 18
- Golf Cart Rally sponsored by Island Men, October 24
- Trash to Treasure at Carolina Beach Lake Park, November 7

9. Manager's Update

Town Manager Bruce Oakley updated Council on current and future projects.

He said the Invoice Cloud online payment system went live October 1, offering various ways to pay, some with fees that are passed to the customer but also with a no-fee auto pay option. It will also remain fee-free to mail a check or come to the office to pay by check or cash. Mr. Oakley said 160 people had already signed up to go paperless, while 60 had signed up for auto pay. He said he considered this a successful start that will help free up time staff has been using for mailing out bills.

Mr. Oakley said as a follow-up to last month's presentation from Mike Hoffer about bike/pedestrian issues, including stop signs and bike lanes on Lake Park Boulevard, Town staff had met with the Wilmington Urban Area Metropolitan Planning Organization and the N.C. Department of Transportation to get input. He said Town staff recommends delaying the bike lanes project until the next paving of Lake Park Boulevard.

Mr. Oakley said the design of the Hamlet Ocean Rescue restroom facility came in well over budget, so the Town is considering the following options:

- Revise drawings and eliminate things
- Go out for bid again
- Wait on material prices to drop (construction could overlap into summer season)
- Create a temporary facility for next summer and rebid the project

Council Member Shuttleworth asked how the Town is currently planning to pay for the project. Mr. Oakley said there was a loan for about \$650,000, with the total cost at \$750,000. Council Member Shuttleworth said while he usually opposes spending room occupancy tax (ROT) funds on projects like this, he thinks in this case it could be a good use and money should be available due to fireworks being canceled this year. He said he is disappointed that the cost went up but thinks it's important to provide facilities for the public. He encouraged Mr. Oakley to make a case for using ROT funds and find a way to complete the project before Easter. Mayor Pierce said Town staff should go back to the bidders to see if the Town can get a better offer and then consider using ROT funds.

Mr. Oakley said the Town has been discussing the possibility of former Congressman Mike McIntyre helping with legislative relations. He asked Council for authority to negotiate an interim agreement with Mr. McIntyre to provide legislative affairs services. Mayor Pierce said this is a great idea because he has connections the Town needs to get things done.

**ACTION:** Motion to authorize staff to engage Mike McIntyre in a capacity that staff deems fit

Motion made by Council Member Shuttleworth

Voting Yea: UNANIMOUS

Mr. Oakley said CARES Act funding was initially \$20,000 but has increased. This will cover COVID-related expenses such as personal protective equipment, sanitizers, Zoom licenses, remote working materials, the Cityworks upgrade, and HVAC improvements at Town Hall. Assistant Town Manager Ed Parvin said Cityworks is a public-facing portal to help people obtain building permits online, eliminating the need for visits to Town Hall. He said this is a huge asset for customer service.

#### **PUBLIC COMMENT**

None

#### **PUBLIC HEARINGS**

10. Consider a Conditional Use Permit to approve the operation of day care facilities at 105 Dow Road (PIN - 3130-15-3639) Applicant: Seaside Chapel

The following individuals were sworn in: Jeremy Hardison, Ned Barnes, Jerry Vess, and Dana Vess

Mayor Pierce: All right. At this time, I'll make a motion to open the evidentiary hearing. All in favor?

**Council: Aye (motion passed unanimously).**

Mayor Pierce: And Attorney Fox, would you like to speak on the quasi-judicial process?

Ms. Fox: Yes. Y'all are familiar with what I'm going to say, but for those in attendance who may not be, Mayor, Council, and those in attendance, this is a quasi-judicial matter. That means it's an evidentiary hearing much like a court hearing. The board has to follow very specific procedures tonight when they are deliberating and make their decision in accordance with state law. All testimony this evening has to be competent, substantial, and relevant evidence, and it must be under oath. You've just been sworn

in. If you are speaking as a witness, please focus on the facts and standards, not any personal preference. If you speak, the applicant's attorney may cross-examine you about your testimony. Don't offer any unsupported opinions or speculation. The board cannot consider this testimony. Limit your testimony to relevant, competent, substantial, material evidence. Mayor, Council, before the parties begin tonight, they are entitled to have this matter heard by a neutral board and judged by impartial decision makers. You must not participate if you have a conflict or any bias. Does any member of the board have any conflict partiality to disclose or recusal to offer?

Council: No.

Ms. Fox: OK, and does anybody have any ex parte communications to disclose, any emails you've received regarding this matter, any site visits, anything like that?

Council: No.

Ms. Fox: OK, all right. Thank you very much.

Mayor Pierce: All right. Are there any persons in attendance who contend that they are a party with standing? OK, I'll take that as a no, and we'll move right into your presentation, Jeremy.

Jeremy Hardison (Planning Director): Thank you, Madam Mayor, Town Council. Good evening. This is the Conditional Use Permit for a day care facility located at 105 Dow Road in an existing structure where Seaside Chapel is located. This was constructed as a multi-use facility. This houses their fellowship, some classrooms, and a kitchen facility that was constructed in 2005, and this will the proposed day care facility will be on the ground floor and have classrooms above. Day cares are permitted in the R-3 zoning district with a Conditional Use Permit. That's why we're here tonight. The proposal will meet the dimensional requirements of the R-3 zoning district. Before you is the floor plan showing the layout of the fellowship area. Uh here's the kitchen area and then this is our the the bathrooms, and this is the area that will encompass the day care facility. They won't be going upstairs or anything, as they're heavily regulated by the state for day cares and have to meet ratio and also safety standards. As I mentioned, there was a Conditional Use Permit when the church expanded in 2005, and much all the site improvements were regulated and permitted at that time, the landscaping and parking, so a lot of the work that would be normally required has already been done, so the only additional improvement that the Technical Review Committee recommended was uh for a proposed outdoor area which is gonna be located behind the parsonage, and direct access to the fellowship hall is a landscape buffer on the east side. All the other landscaping is in place, but staff would require that. That is something optional that could be waived by Council, but from my understanding the church did not have any problems with that condition. And again, this just shows you an aerial view of the property. Here is, as required by the state, all day cares have to have an outside area that's fenced in.

Council Member Barbee: So, Jeremy, can you go back to that picture? Where was the landscape buffer on that? I'm just trying to correlate the two pictures.

Mr. Hardison: We look at it here.

Council Member Barbee: OK, thank you.

Mr. Hardison: The adjacent uses to the west across from Dow Road is the Duke Energy substation, which is zoned Industrial. To the north are two single-family homes and a fire station. To the east are two more single-family homes, and on the west side there are four single-family homes. The applicant must make provisions for seven specific standards. Ingress and egress to the property with safety in mind. It will be for the dropoff will be via Charlotte Avenue. They do have a loop driveway already existing with driveway cuts, and it will be sufficient to meet parking, as the church has for the addition in 2005, they provided the parking, and this is essentially a dual use so no other parking would be required. The refuse the trash collection will be uh would not be changed. Right now, they just have rollout cans. They don't see any additional trash that would be accumulated. If they do, then they would have to come in and show us where they would like to put a container. Utilities will not be changed. There's no upgrades with this service. The landscape buffer off of Eighth on the Eighth Street side is proposed along the fence playground area. As I mentioned before, there's no proposed or additional signage and the requires in open space will be met. Before you is the four general conditions. The property is in general conformity with the Land Use Plan. This is in Residential-3. It is a single-family with prohibited for any multi-family. They will meet the height requirement, lot coverage, density, as the site is two and a half acres, and as an accessory of two that accommodates the residential areas as in institutional uses, so staff recommends approval that is in general conformity. Planning and Zoning did hear this last month, and they recommended approval for the project. I'll answer any questions that you may have.

Mayor Pierce: Are there any questions for staff?

Council Member Shuttleworth: I have none.

Council Member Barbee: I don't have any.

Mayor Pierce: OK, would the applicant like to come up? Mr. Barnes, good to see you.

Ned Barnes: Mayor Pierce, Council Members, Ned Barnes, 814 Carolina Beach Avenue North, right here in beautiful Carolina Beach. Um as Jerry indicated, I mean Jeremy indicated that the just briefly hitting the seven specific issues. There's going to be absolutely no change in ingress and egress. Ah the parking will remain the same as it had always been for the since the church has been there in 2005. Refuse is the same. Utilities will be the same. The church has agreed all the buffering requests that the Planning Department has made, they have no issue with that. They plan to do not plan to install any signs. The open space will be the same, uh and really the only change you'll see is is the buffering that the Planning Department has requested and also the 50 by, I think it's 50-by-50-foot fence that the state requires as far as the day care facility is concerned. They're looking at approximately uh having around 25 children there just for now about four hours uh during the afternoon. When schools are out full-time, they will be they are contemplating accommodating children when they're out of school for the full day. Um as far as the four general, again nothing's changed as far as the church is concerned. Uh it's in harmony with what the neighborhood. It has been for the past 30-some-odd years. Uh it meets all the requirements of the Town, and again if there being the church, I don't think there's any issue with it being in any shape, form, or fashion endangering to the neighborhood. Uh I can tell you from 35

years I've had my practice here at the beach, when I started the vast majority of permanent residents and the vast majority of folks we were doing work for about the age I am today, which is pretty old, and as my practice has progressed, we're seeing more and more young couples buying property here at the beach, finding it a great place not only to visit but also to raise a family. If you visit Mike Chappell Park or if you walk the Greenway on Saturday, uh you'll see the number of children who actually live here on the island year-round, so I think this is going to be a great asset for the beach. Ah I can answer any questions you have. Dana Vess with the facility is here if you have questions for her.

Mayor Pierce: Council do you have any questions?

Mayor Pro Tem Healy: Actually, I do have one. Was there ever any discussion of, is that playground right now is across from two residences on a street. Was there ever any discussion on moving that playground further behind the building at all ever?

Mr. Barnes: Jeremy will know better than I. As far as I know, it when they went through TRC there was no issues at all raised with that, as far as I'm aware.

Mr. Parvin: She would need to come up to the mic.

Mayor Pierce: Our folks online can't hear you unless it's in the microphone.

Dana Vess: The only concern that we had was when we originally drew out the first layout. We had it where parking was, so we would have to relocate parking lots. We originally had it in that first little square area that already had buffers that were that were grown that were probably 5 or 6 feet high already, but we would need to relocate parking. That was the only concern that we had there, so we moved it. We are gonna, once we do the layout, we want to wait on our approval. We do the layout, we're gonna get it as close as we can to our facility so our children, you know, are closer when they come out the door. There's a ramp that comes off the back side, so as soon as, you know, as close as we can get to that building is our preference.

Council Member Barbee: And I would think you would want it as far away from Dow Road as you could possibly get it.

Ms. Vess: Absolutely.

Mayor Pro Tem Healy: That's true.

Ms. Vess: So the only other option would be to relocate um parking area closer to Dow Road and kind of flip-flop that, so we were proposing this way.

Council Member Barbee: Thank you. I appreciate it.

Mayor Pierce: There any other questions?

Council Member Barbee: I have none.

Mayor Pierce: OK.

Council Member Barbee: Thank you very much.

Mayor Pierce: Any discussion, Council Members?

Council Member Garza: I don't need any.

Council Member Barbee: I don't think so. I agree with what Ed said, I mean, Mr. Barnes said, was this is much needed on the island. I think it'd be a good asset for us.

Mayor Pierce: And I think it's an activity that's already currently happening on the church grounds with their activities on a daily basis, so with that said, **I'll make a motion to approve the Conditional Use Permit for the operation of a day care at 105 Dow Road, that it meets the five seven specific standards and four general conditions and that it is in harmony with the Land Use Plan. Motion on the table. All in favor?**

**Council: Aye (motion passed unanimously).**

Mayor Pierce: All opposed? Motion passes. Thank you. Take care of our children.

#### **ITEMS OF BUSINESS**

11. Review request from RGL Development LLC for reimbursement of project costs.

This item was removed from the agenda.

12. Committee Appointment

Council made the following committee appointment via written ballot:

- Business and Economic Development – LeeAnn Tluchowski

#### **NON-AGENDA ITEMS**

Council Member Garza said he noticed recently that the Boardwalk restrooms had multiple stalls that were not functional. He also said Town staff might want to consider putting the showers on a timer to prevent constant running and flooding. Council Member Garza also brought up the idea of the Town taking a stand to change Columbus Day to Indigenous Peoples' Day moving forward. Council Member Barbee said he would support this. Mayor Pierce asked Mr. Oakley if there would be a problem with this. Mr. Oakley said Town staff would not have a problem with this and had already been discussing removing Columbus Day as a holiday and replacing it with Juneteenth. He said Town staff would be fine with whatever Council wants to do. Council Member Barbee said he would be fine with letting Town staff decide. Mayor Pierce said she would like to have some more background and possibly get input from the public before making a decision. Council Member Shuttleworth said he wants to hear from the public because he has mixed feelings about it. He said he's not sure he's ready to do away with Columbus Day, even though he understands the atrocities and negative history associated with it.

Council Member Shuttleworth said he had heard lots of negative feedback regarding the Island of Lights decision to cancel all holiday events due to COVID-19. He said many residents feel strongly about having a Christmas parade and are considering creating their own. He said at this point in the pandemic he thinks it's a decision of personal responsibility for people to participate or not. Council Member Barbee asked about the current statewide limit on mass gatherings. Mr. Oakley said it is 50 people for outdoor events, including parades. He said Town staff has been brainstorming alternatives to the parade that would stay within this limit and not encourage crowds to gather. Mayor Pro Tem Healy asked if Council has the authority to override the decision to cancel the parade. Mr. Oakley said the Town could put on its own parade. Mayor Pierce said she is torn because while the parade has been going on for many years, when the Town puts on an event there is a bigger responsibility to protect the public. She said she is not sure it makes sense for the Town to get involved in holding a mass gathering after so many events have been canceled all year. Council Member Barbee said there is too much risk involved and was in favor of following the same strategy that has been used throughout the pandemic. He said while he doesn't like having to cancel the parade, it's the right thing to do. Council Member Garza said he agreed it was a tough call but thought from a safety standpoint the Town should follow the previous precedent of canceling large events. Mayor Pierce said she wanted to challenge Mr. Oakley and other Town staff to come up with alternatives for children to have normalcy for the holiday season while staying within the mass gathering limits.

Mayor Pro Tem Healy said the Census end date has been extended to the end of October and that participation by Carolina Beach residents is at 39 percent. He urged those who have not participated to please do so because it's an important factor in securing federal funding for the Town. Mayor Pierce asked about the Carolina Beach Mural Project. Mayor Pro Tem Healy said during the upcoming weekend residents can stop by Good Hops Brewing to make their handprints a part of a current mural work in exchange for a donation to the project. He said the Carolina Beach sign mural should be up by the end of the month, and plans call for three murals to be done by the end of the year. Council Member Barbee said during a recent trip to West Jefferson he saw many murals and was stunned at what a difference they made and how they helped to tell the story of the area's history.

Council Member Barbee asked when Council would see feedback from the efficiency study. Mr. Oakley said this would be available possibly as early as the next workshop. Council Member Barbee also asked for an update on the Police Chief search. Mr. Oakley said the application period has closed with over 50 applicants. He said the goal is to hire someone who will be able to spend a few weeks to a month with current Police Chief Chris Spivey before his retirement in December. Council Member Barbee also said for upcoming workshops, he would like to see long-term capital projections on one piece of paper so Council can fully understand what's coming.

## **ADJOURNMENT**

**ACTION:** Motion to adjourn at 7:30 PM

Motion made by Mayor Pierce

Voting Yea: UNANIMOUS