

# CAROLINA BEACH

Town Council Regular Meeting

Tuesday, March 12, 2024 - 6:00 PM

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



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## MINUTES

### CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation by Mayor Pro Tem LeCompte and Pledge of Allegiance.

### PRESENT

Mayor Lynn Barbee  
Mayor Pro Tem Deb LeCompte  
Council Member Jay Healy  
Council Member Joe Benson  
Council Member Mike Hoffer

### ALSO PRESENT

Town Manager Bruce Oakley  
Finance Director Debbie Hall  
Town Clerk Kim Ward  
Town Attorney Noel Fox

Mayor Barbee recognized former Council Members Tom Bridges and JoDan Garza in the audience.

### ADOPT THE AGENDA

**ACTION:** Motion to adopt the agenda, removing item 8

Motion made by Mayor Barbee

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

*Motion passed unanimously*

### CONSENT AGENDA

1. Set a Public Hearing for April 9, 2024, to Consider a Text Amendment to Chapter 40 Article III Zoning District Regulations, Article XIV Nonconforming Situations, and Article XVIII Definitions to Amend Maximum Height Standards and Maximum Lot Coverage  
Applicant: North Pier Holdings, LLC
2. Set a Public Hearing for April 9, 2024, to Consider a Zoning Map Amendment to Consider a Request to Rezone 204 Harper Avenue from Mixed Use (MX) to Central Business District (CBD)  
Applicant: STLBC LLC
3. Set a Public Hearing for April 9, 2024, to Receive Public Input on the 2024/2025 Budget
4. Set a Public Hearing for April 9, 2024, to Consider a Text Amendment to Chapter 40 Article III Zoning District Regulations, Article V Off-Street Parking and Loading Requirements; Parking,

and Article IX Development Standards for Particular Uses to Amend Standards for Wine and Beer Shops

Applicant: Neapolitan Enterprises Inc.

5. Approve Kure Beach and North Carolina Aquarium Sewer Rates
6. Approve Contract for Auditing Service for Period Ending June 30, 2024
7. Budget Amendments/Transfers
8. 2024 Steve Haydu St. Patrick's Lo Tide Run Raffle Donation Request
9. Consider Retaining Legal Counsel for Any Potential Claims Regarding PFAS
10. Approval of Council Meeting Minutes

Council Member Hoffer asked if some of the funds referred to in the audit, such as those for the Island Greenway and Cape Fear multi-use path project, are still active. Ms. Hall said no, those were previously closed out but were copied over from last time and not removed. She said she can remove any projects that have been closed out.

Council Member Hoffer asked whether there are any restrictions on communication regarding the rezoning coming up on the next agenda. Ms. Fox said there are no restrictions, and Council Members may have discussions about the issue.

Council Member Benson asked about the plan Kimley-Horn is working on regarding a proposed traffic redesign to coincide with paving of Lake Park Boulevard and phase two of the marina. Mr. Oakley said Kimley-Horn is working on several proposed plans for the Town, and he expects them to start coming in soon.

Mayor Pro Tem LeCompte mentioned that the budget transfers include grant money that has come in, which means the Town now owns Freeman Park outright. She thanked the former Council Members in attendance for the work they did to get this done.

**ACTION:** Motion to adopt the consent agenda, removing item 8

Motion made by Mayor Barbee

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

*Motion passed unanimously*

### **SPECIAL PRESENTATIONS**

11. Events Update by Tim Murphy

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

- Pleasure Island Community Blood Drive – March 13 at Rec Center
- Steve Haydu St. Patrick's Lo Tide Run (20<sup>th</sup> anniversary) – March 16 starts/ends at Kindred Weddings & Events
- Silver Dollar After Race Beer Garden – March 16 at Boardwalk
- Nollie's Street Skate Competition – March 23 at Pelican Lane
- Fancy Pants Croquet Soiree – April 14 at Mike Chappell Park

- Tinted Turtle Trot – April 21 at Mike Chappell Park
- Carolina Beach Market – begins May 18 at Lake Park and continues every Saturday through September 28
- Movies at the Lake – begins May 26 and continues every Sunday through September 1
- Family Night – begins June 13 at Lake Park and continues every Tuesday through August 20
- Boardwalk Bingo – begins May 29 at the Gazebo and continues every Wednesday through August 28
- Fireworks/Music – begins Friday, May 24, and continues every Thursday through the season with the exception of July Fourth (Wednesday, July 3) and Labor Day (Friday, August 30) shows

## 12. Manager's Update

Mr. Oakley reviewed the calendar for the FY 24-25 budget:

- Public Hearing for Non-Profit Requests – March 12
- Community Input Public Hearing – April 9
- Budget Workshop – April 23
- Budget Workshop (if needed) – April 30
- Budget Open House – May 7
- Revenue and Expense Projections – May 14
- Budget Message and State of the Town Presentation – May 28
- Budget Adoption – June 11

Mr. Oakley said an Economics Professor from the University of North Carolina Wilmington will be part of the May 28 presentation, providing forecasting and ideas. Mayor Barbee encouraged the public to attend this event because he expects it to contain fascinating data.

Mr. Oakley also gave an update on various projects:

- Brandy Myers Memorial Playground: The project is wrapping up, and a ribbon cutting is planned for mid-April.
- Lake dredge and stabilization: The project is moving along; the contractor is repairing sidewalks.
- Marina: The new electrical panel is in; the electrical project is the last major piece.
- Ocean Boulevard sidewalk: A pre-construction meeting identified some issues that need to be addressed, but this will only delay the project by a few days, not weeks.
- Parking lot: The new lot at Fayetteville Avenue and Hamlet Avenue is almost ready.
- Pre-season prep: Work is underway in the Boardwalk area; benches are being sanded and repainted.
- Roadway maintenance: A 4-ton asphalt hotbox (paving machine) will arrive in 2 weeks; a training course for all applicable Public Works staff is included with the equipment.
- 2024 paving project: The project scope is 12 street segments and 1.05 miles. Proposals have been received and the contractor identified for the 2024 phase of pavement condition index (PCI) paving. The project is to be completed prior to summer.
- Bike and pedestrian plan update: The Bike/Ped Plan Steering Committee will start meeting in April, and a plan should be available by February.

- BeBot beach cleaner: The Town will be using the tool this year on the strand from Hamlet Avenue to Harper Avenue. Planning Director Jeremy Hardison is working with Coastal Area Management Act (CAMA) to secure the permits. This is sponsored by Keep New Hanover Beautiful, an affiliate of Keep America Beautiful, and will not affect the beach rake schedule.
- Freeman Park: The Town used grant money to pay off the debt last week and now owns this free and clear. Other projects will be funded, and \$243,000 will remain to go back into the sand fund. Mr. Oakley thanked staff members and previous Councils for making this happen.

Mayor Barbee asked if there is an update about the South Lake Park Boulevard sidewalk project. Mr. Oakley said estimates were high because of the limited right-of-way, so the Town is now looking at doing a smaller section and is waiting for options to come back. He said he will need to follow up with Council with details.

### **PUBLIC COMMENT**

JoDan Garza of 810 Cape Fear Boulevard said he appreciates all residents who serve on Town committees. He said he is an advocate for using room occupancy tax (ROT) funds for the bathroom project and suggested the Town look into having residents sponsor a brick for the facility. Mr. Garza said the Town needs more bathrooms for beach patrons, and he would like to see shrubbery around all corners of Dow Road and other main streets trimmed before peak season begins. He also spoke against high-rise hotels and said there is a need to bring back the Freeman Park Committee. Mr. Garza encouraged residents to come to Council and Planning and Zoning Commission meetings to share their thoughts about the proposed Embassy Suites project. He said he would like to see budget vs. actual numbers for the marina project.

Mohamed Hassan of 1215 Snapper Lane suggested that dates, times, and places for all events, especially budget meetings, be noted on Power Point slides. He said he wants to get involved with the Town. Mr. Hassan said he is the sole driver of two separate cars and would like for his residential parking pass to apply to both of them.

Kate Dolan of 505 Green Court spoke against the proposed Embassy Suites project and said a traffic study is not feasible until Proximity opens. She suggested staying with the current zoning plan and increasing property taxes for property owners who rent out their property.

### **PUBLIC HEARINGS**

#### 13. Public Hearing Regarding Non-Profit General Fund Contributions

Council receives funding requests from non-profit organizations each budget year. Council will discuss the requests at an upcoming budget workshop.

**ACTION:** Motion to open the public hearing to hear non-profit General Fund requests

Motion made by Mayor Barbee

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

*Motion passed unanimously*

Skip Henson of the Federal Point Historic Preservation Society reviewed what the organization does and how it acquires some of the items in its possession. He said there is one paid staff member, with all other work coming from volunteers. Mr. Henson said the organization is requesting \$9,000, the same amount as last year.

Liz Baird of the North Carolina Aquarium Society reviewed what the organization does and its economic impact. Hap Fatzinger of the North Carolina Aquariums Division detailed the mission of the Fort Fisher facility and future plans. Joanna Zazzali of the Fort Fisher facility discussed community impact and the new reservation system. She said last year set a record with over a half-million visitors.

Jennifer Hufham of the Pleasure Island Sea Turtle Project said the organization is not asking for anything different this year, but she wanted to take the opportunity to introduce herself.

LeeAnn Tluchowski and Jim DeGilio of the Pleasure Island Chamber of Commerce reviewed the organizations goals, priorities, annual events, past accomplishments, and upcoming initiatives.

No one else requested to speak.

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

Motion made by Mayor Barbee

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

*Motion passed unanimously*

14. Text Amendment to Chapter 40 Article V Off-Street Parking and Loading Requirements; Parking to Amend Church Parking  
Applicant: St. Paul's United Methodist Church

Applicant St. Paul's United Methodist Church has petitioned the Town for a text amendment to establish a less restrictive parking requirement for churches. The existing ordinance language has auditoriums, stadiums, assembly halls, gymnasiums, theaters, churches, and convention centers in one category. The parking requirement is 1 per 200 square feet plus 1 per every 4 persons accommodated by the facility at maximum capacity. This has required St. Paul's, Carolina Beach Presbyterian Church, and Seaside Chapel to provide a large number of on-site parking spaces for additions that have been built to the churches. This text amendment is similar to the parking requirement in neighboring municipalities.

The text amendment consists of removing churches from the existing category of uses, putting them in their own category, and requiring 1 space per 300 square feet of indoor gross floor area. Auditoriums, stadiums, assembly halls, gymnasiums, and convention centers will still have the existing parking requirement. This ordinance change creates both an easier interpretation for staff and does not overburden the church with a restrictive parking requirement. A less stringent parking requirement reduces the need for larger surface parking lots and therefore improves stormwater runoff. If adopted, all 5 churches in the Town would be in compliance.

The text amendment is in general conformity with the 2020 Land Use Plan. Staff recommends approval of the text amendment as proposed, and the Planning and Zoning Commission unanimously recommended approval as proposed last month.

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

Motion made by Mayor Barbee

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

*Motion passed unanimously*

Senior Planner Gloria Abbotts presented the details. She said St. Paul's has had to provide off-site parking to meet existing requirements.

Mayor Barbee asked what problems St. Paul's is currently experiencing as a result of existing requirements. Tom Bridges of 600 Ocean Boulevard, who is Chair of the Church Council at St. Paul's, said he does not foresee any events in which the whole building would be full at one time. He said the proposed changes would allow more flexibility with planning. Stuart Milton of 313 Wilson Avenue, Pastor of St. Paul's, said the off-site parking spaces are at least a block away from the church, and he has been told that parking at that location has never been used for church activities. He said the change will allow the church to use that land in different ways.

Mayor Barbee asked if anyone from the public wanted to speak.

JoDan Garza of 810 Cape Fear Boulevard expressed concern that getting rid of the need for the secondary parking lot could pose problems if the church grows on its current footprint. Mr. Hardison said a different use on the church site would require the church to provide parking for the addition.

No one else requested to speak.

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

Motion made by Mayor Barbee

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

*Motion passed unanimously*

Council Member Hoffer said he thinks paring down parking for churches is a good thing. Council Member Benson said common sense is in line with the proposed change.

**ACTION:** Motion that Council, whereas in accordance with provisions of the NCGS, does hereby find and determine that the adoption of the following ordinance amendment to amend Chapter 40 Section 40-150 Off-Street Parking Standards to amend standards for church parking is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans as presented

Motion made by Mayor Barbee

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

Benson, Council Member Hoffer  
*Motion passed unanimously*

**ITEMS OF BUSINESS**

- 15. Text Amendment to Chapter 34 Streets, Sidewalks, and Rights-of-Way, Article III Obstructions to Amend Sidewalk Cafe Encroachment Allowances  
Applicant: The Silver Dollar

Applicant The Silver Dollar has petitioned the Town to amend sidewalk cafe encroachment allowances. The Town amended the sidewalk cafe regulations in November 2023 with input from business owners. Upon the adoption of the current sidewalk cafe ordinance, The Silver Dollar built a barrier without permits. The Silver Dollar was sent a violation letter on December 20, 2023. The barrier that was installed for the business' sidewalk cafe was in violation of the following:

- 1. The base shall be flat-footed and squared, no more than a half-inch in height.
- 2. The barrier shall be detached from the building.
- 3. There shall be a minimum of 2 but no more than 3 horizontal rigid connections on each barrier.
- 4. The bar tops attached to the windows shall be removable, not a permanent encroachment.
- 5. The sidewalk measures 20 feet. The barrier shall not extend more than 5 feet from the building.

The applicant's proposal addresses the area of permitted encroachment. The applicant proposes that sidewalk cafe encroachments shall be allowed to encroach one-third of the sidewalk width. The existing ordinance allows for one-fourth of the sidewalk width for encroachments.

This change would allow for a 6-foot encroachment on Pavilion North, Pavilion South, Carolina Beach Avenue North, and Cape Fear Boulevard. No changes are proposed for Lake Park Boulevard and the oceanfront Boardwalk. The expansion of the encroachment area includes all allowable encroachments, not just sidewalk cafes. The existing encroachment area has been in effect since 2007. The existing area has created a balance between business interests and pedestrian safety.

Staff does not recommend approval of the text amendment as proposed. Based on Technical Review Committee (TRC) comments, the larger encroachment would reduce the walkable area in an already congested area of the Boardwalk during peak season. The one-third encroachment would prevent the Town from providing the 2-foot buffer in between the pedestrian walkway for trash cans, benches, plantings, and other amenities on either side of the right-of-way

Ms. Abbotts presented the details. She reiterated that the proposed changes would apply not only to sidewalk cafes but also to other encroachments such as signage, merchandise, and clothing racks.

Attorney Lee Levinson, representing The Silver Dollar, said the applicant is pursuing this change on behalf of all businesses in the area in an attempt to clarify everything and ensure everyone is treated equally.

Council Member Benson asked if the Town has defined a minimum width for public conveyance on the right-of-way. Mr. Hardison said the Town went through this 15 years ago when crafting the sidewalk

cafe allowance and considered what the appropriate area for pedestrian travel would be. He said they came up with a minimum width of 4.5 feet for travel within these areas.

Mayor Barbee said he had concerns about the area across from The Silver Dollar eventually having a use that could also apply for a sidewalk cafe permit, causing further encroachment.

Mayor Barbee asked if anyone from the public wanted to speak, although a public hearing is not required for this item.

JoDan Garza of 810 Cape Fear Boulevard said the Town has done a lot of work in the past few years to make the beach accessible to those with disabilities. He said he would be against the proposed changes.

Mohamed Hassan of 1215 Snapper Lane said the purpose of regulations is to ensure the public has room to move back and forth, and this would be setting a standard that doesn't make sense. He suggested observing each area to decide what is appropriate.

Cynthia Temoshenko of 1311 South Lake Park Boulevard said as a person with a disability, she is aware of the need for space for people to navigate. She said she likes outside seating, but safety must be considered.

No one else requested to speak.

Council Member Benson said he would be in favor of allowing The Silver Dollar's sidewalk cafe to encroach one-third of the sidewalk width as long as there is not a business across the right-of-way doing the same thing.

Council Member Healy said he agrees that the proposed changes could be a safety issue, especially on Thursday nights during the summer.

Mr. Hardison said there are different rights-of-way around the Boardwalk because the oceanfront area is owned by the Town and will not be developed.

Mayor Barbee said the proposal would invite traffic into an area that will then be pinched off, so he doesn't think it will work.

Mayor Pro Tem LeCompte said the Town worked on the sidewalk cafe ordinance for months and invited the public and business owners to give input on multiple occasions. She said a standard has been set, and for the applicant to say they were unaware means they ignored what was happening. Mayor Pro Tem LeCompte said the Town has worked hard to make the Boardwalk accessible, and she doesn't think it impedes people to have different standards on different blocks because of the one area that won't be developed. She said no one knows what will happen with the property across from The Silver Dollar.



Council Member Benson suggested starting with one-third of the sidewalk width, and if a business locates across the way and wants to submit for a sidewalk cafe permit, then that could be rescinded.

Mayor Pro Tem LeCompte said she doesn't like the idea of going back and forth, and she is not willing to risk public safety for The Silver Dollar to have an extra foot.

Council Member Hoffer said he is sympathetic to what Council Member Benson is saying, but granting the proposed changes makes him nervous because pressure could result if another business locates across the way.

**ACTION:** Motion of denial to amend Chapter 34 Article III as presented

Motion made by Mayor Barbee

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

Voting Nay: Council Member Benson

*Motion passed 4-1*

Council Member Healy said The Silver Dollar has done some great things for the area.

#### 16. Committee Appointment – Bike/Ped Committee

A member of the Bike/Ped Committee resigned, leaving an unexpired term ending June 30, 2026.

Council made the following committee appointment:

- Bike/Ped Committee – Crystal Lee

Mayor Barbee said those who were not appointed can come to meetings and participate in conversations.

#### **COUNCIL COMMENTS**

Mayor Pro Tem LeCompte reminded everyone about the blood drive Wednesday at the Rec Center and said it was scheduled later in the day for those who can't make it earlier.

Council Member Healy urged everyone to wear sunscreen.

Mayor Barbee asked Mr. Hardison if there is a height limit on hotels in the Central Business District. Mr. Hardison said there is not.

Council Member Hoffer said this Friday the Friends of CB Parks & Greenways will be giving away trees to residents. He said March 22 is NC Arbor Day, and the group will do some plantings in the public areas around the Lake, elementary school, and municipal center. Council Member Hoffer said April 20 is the 5-year anniversary of the Island Greenway, and he suggested having a celebration. He said he and Mayor Pro Tem LeCompte have been having discussions about the plantings on the south side of the Lake to determine what was planted, what is thriving, and how to keep that area vibrant and expand the program.

Council Member Benson said the Operations Advisory Committee will submit line of sight issues at intersections. The committee will also be working on 6 street-end projects, and members may need to borrow some tools from the Town.

**ADJOURNMENT**

Mayor Barbee adjourned the meeting at 8:00 PM.