

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, December 13, 2022 - 6:00 PM

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



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation by Pastor Shawn Blackwelder of St. Paul's United Methodist Church and Pledge of Allegiance.

PRESENT

Mayor Lynn Barbee

Mayor Pro Tem Jay Healy

Council Member Joe Benson

Council Member Mike Hoffer

Council Member Deb LeCompte

ALSO PRESENT

Town Manager Bruce Oakley

Assistant Town Manager Ed Parvin

Finance Director Debbie Hall

Town Clerk Kim Ward

Town Attorney Noel Fox

ADOPT THE AGENDA

Mayor Barbee said item 9 regarding acquisition of 1101 North Lake Park Boulevard will be removed from the agenda.

ACTION: Motion to adopt the agenda

Motion made by Mayor Barbee

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

Motion passed unanimously

CONSENT AGENDA

1. Budget Amendments/Transfers
2. Adoption of 2023 Meeting Schedule
3. Request Approval to Submit ROT Reimbursement Request
4. Approval of Council Meeting Minutes from November 3, 9, and 22, 2023

Mayor Barbee asked for some clarification about item 3 regarding the Town's room occupancy tax (ROT) reimbursement request, which Mr. Oakley provided.

ACTION: Motion to adopt the consent agenda

Motion made by Mayor Barbee

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

Motion passed unanimously

SPECIAL PRESENTATIONS

5. Events Update

Mr. Parvin reviewed upcoming special events:

- Christmas by the Sea – last event is December 17 at the Boardwalk
- Summer Boardwalk Blast – May 26 through September 1 (events will be every Thursday with the exception of May 26, June 30, and September 1, which are Fridays)

Council Member LeCompte thanked members of Town committees who volunteered each week to help with Christmas by the Sea.

6. Manager's Update

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

Golf Cart/Low-Speed Vehicle

The Town is proposing to discontinue new golf cart permits after July 1 and require all carts to be registered with the N.C. Division of Motor Vehicles by January 1, 2024. This would affect unregistered golf carts and not low-speed vehicles (LSVs).

Mayor Barbee said this is happening too fast for a 20-year problem that was kicked down the road. He said it would be too financially burdensome for affected residents to move on this in one year. Mayor Barbee proposed a five-year grandfathered clause through 2027, which would give everyone a chance to adjust to LSV requirements. He said he is fine with stopping new golf cart passes after this year.

Boardwalk Bathroom

The Town submitted a request to the Coastal Area Management Act (CAMA) for a new Boardwalk bathroom facility. This was denied, so the Town is now going back for a variance and must propose what the two-story building will look like. Council Members reviewed two options, and all said they liked option A. The project will be paid for by ROT funds and will not use property tax dollars.

Brandy Myers Memorial Playground

State Rep. Charlie Miller helped the Town get \$1 million in funding to build a playground in honor of Brandy Myers, a young leukemia patient. The concept has been submitted, and the Town is deciding about equipment. The next steps are finalizing the design and going out to bid, and staff is hoping to have a final plan to show Council by spring. The playground will be accessible for all kids.

Council Member Hoffer asked if the Town is holding some of the money aside for projects not related to the playground itself, such as improving the gazebo and bathrooms. Mr. Oakley said there was an

additional \$175,000 from the Land and Water Conservation Fund to make other improvements. He said all of the work will be by grant or State funding.

CBP3

In 2014, the Town transferred the deed to two Town-owned parking lot properties to be used as collateral for the \$2.2 million balance due on the CBP3 loan when the hotel property was sold. The principal balance after making the December debt service payment is \$887,431. The value of the properties after the last tax revaluation was \$1,686,600 for 110 Carl Winner Avenue (Weeks Lot) and \$825,000 for 309 Carolina Beach Avenue North (Harbor Master Lot). On October 1, 2014, Council approved Resolution No. 14-2071 agreeing to accept title to the property when released by Truist. Truist has agreed to release 110 Carl Winner Avenue as collateral for the loan, which will save the Town \$12,137 in property taxes and insurance. The CBP3 Board unanimously approved moving forward with the release at the organization's annual meeting on December 12.

Ms. Hall presented the details.

ACTION: Motion to authorize the Town Attorney to prepare the deeds for 110 Carl Winner Avenue to come back into possession of the Town

Motion made by Mayor Barbee

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

Motion passed unanimously

Mr. Oakley praised Ms. Hall for her work on this.

Pavement Condition Index (PCI) Paving

The paving projects went out to bid, and the work was awarded to Highland Paving, which had a bid of \$646,000. This will all be done with Powell Bill money, and the Town hopes to begin in February.

Council Member LeCompte asked if this includes Carolina Beach Avenue North. Mr. Oakley said no, the Town will have to bid out this project separately.

Council Member Benson asked if anything left in rollover Powell Bill funds can be applied to Carolina Beach Avenue North. Mr. Oakley said the Town can assign anything leftover to other projects or roll it over to build up the fund for future paving projects.

Starfish Lane Public Access Grant

The Town will use a \$130,000 grant from CAMA to rebuild the pier, install a bulkhead, and replace the stormwater pipe and valve at the Starfish Lane public access. Previously, staff had reached out to neighboring properties to try to shift the location of the pier, but the Town failed to get the required signatures. More recently, however, property owners on both sides reached out and signed. The Town is in the process of getting permits to move forward.

Snow's Cut Bridge Entrance Beautification Project

The Beautification Committee has submitted plans, and there has been a lot of back and forth with the N.C. Department of Transportation (DOT) regarding the beautification project for the entrance to the Town. DOT will not allow some of what the Town wanted, and there are a lot of rules. Staff is hoping to have more details soon.

Strategic Planning Schedule

- Community survey – This is available now and has already generated 500 responses. Mr. Oakley thanked Executive Assistant Sheila Nicholson for putting it together.
- Town Hall open house – January 18
- Budget retreat – January 26-27

Recognition of Detective James Tice

Detective James “Nick” Tice was awarded a National Computer Forensics Institute Top Examiner Award by a U.S. Secret Service agent on December 13. Out of over 1,500 participating examiners, he is among the top 50 local law enforcement graduates trained in digital forensics examination techniques. Mr. Oakley said the Town is very fortunate to have him.

Project Updates/Map

Mr. Parvin reviewed online resources available to the public, including a map that gives the status of Town projects. Clicking on “Projects” from the home page will bring users to a map with icons that may be clicked for individual detail about most projects. Mr. Parvin said general maintenance items do not appear on the map. Mr. Oakley said the completion dates are estimates and subject to change.

PUBLIC COMMENT

None

PUBLIC HEARINGS

7. Voluntary Annexation to Annex a 20,853-Square-Foot Parcel Located at 601 Augusta Ave (PID 313017.12.6484.000) into the Town’s Municipal Boundaries
Applicant: Parris Stratton

The owner of 601 Augusta Avenue, Parris Stratton, is requesting a voluntary annexation of the 20,853-square-foot vacant tract. Council may annex by ordinance any area contiguous to its boundaries upon a petition signed by the owners of the area. The proposed property annexation is owned by one entity. This area of undeveloped land is situated between the Carolina Sands neighborhood and developed lots on Augusta Avenue. The lot abuts the Military Ocean Terminal Sunny Point (MOTSU) buffer area to the west. It is on the corner of 6th Street and Augusta Avenue, which terminates 285 feet west to the MOTSU buffer area. MOTSU acquired the adjacent property in the early 1950s. Carolina Sands and the surrounding area’s owners petitioned the area to be annexed in 1980. The owner of the lot located at 601 Augusta Avenue at the time was not part of the petition, and the property subsequently has never been annexed into the Town.

The property is zoned Conservation, which allows single-family dwellings. An annexation does not change the zoning district or how the area could be developed. This is the only private land that is not incorporated into the Town. In 2000, the Town zoned all the properties that are outside the Town

limits as Conservation. This includes the subject property, MOTSU, State Park, and Freeman Park. The property is in the Town's extraterritorial jurisdiction (ETJ). The Town has the authority to regulate how property is developed and zoned within a certain distance from Town limits. Any property owners may petition the Town to annex their property into the Town limits. There would not be any additional cost to the Town with this request because the property abuts a paved street and water and sewer lines. Because of the proximity to Town limits, Police and Fire would respond to any emergency situations for the property as they would with the Island Greenway, which is not in the Town limits.

Staff recommends this parcel to be annexed into the Town limits. Mr. Hardison presented the details.

Mayor Barbee asked how this situation occurred. Mr. Hardison said the property was in the same family for over 60 years, and the owners were not interested in developing it. He said the new owner now wants to incorporate it into Town limits.

Council Member LeCompte said the property is already getting all the benefits of being in the Town without paying Town property taxes.

Mayor Barbee said if the Town doesn't annex the property, then most Town ordinances would not apply to it.

ACTION: Motion to open the public hearing on the annexation of 601 Augusta Avenue

Motion made by Mayor Barbee

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

Motion passed unanimously

Susan Keelin of 1213 Culbreth Drive in Wilmington, who represents the applicant, said annexation would benefit the Town because it would result in more property taxes with no additional cost. She read a September 10 email in which the former property owner expressed disappointment that the new property owner had recently not been allowed to build on the land. Ms. Keelin said the former owners were not well-informed about what was going on with the property, and she doesn't think they intentionally wanted it in the ETJ vs. Town limits.

William Baranoski of 945 Carolina Sands Drive, who lives directly adjacent to the property, said he has no problem with a single-family home on the property, although he hopes more vegetation and trees can be left. He said the developer previously wanted to build four single-family homes on the parcel, but the Planning and Zoning Commission did not recommend approval and the neighborhood was against it. Mr. Baranoski said he has concerns about flooding if the property is subdivided and developed.

Sandie Cecelski of 941 Carolina Sands Drive questioned why the owner would want the property to be annexed when he is already receiving Town services there without paying taxes. She said the only apparent reason is that annexation is his only hope to upzone the tract and thus increase the density allowed on the property. Ms. Cecelski said the new owner knew he was purchasing a lot zoned as Conservation, which only allows single-family dwellings. She said neighbors have invested and built

their lives based on the current zoning of the property, and allowing anything else would not be a good-faith effort to follow the Town's Land Use Plan. Ms. Cecelski said over 1,000 citizens have signed a petition against upzoning 601 Augusta Avenue from its long-standing designation as Conservation, and she asked Council to follow the people's wishes and maintain the current zoning of this tract.

Richard Cecelski of 941 Carolina Sands Drive said the new owner would not want the property to be annexed and pay more taxes unless he believed it would put the property in a better position for consideration of upzoning. He said everyone who lives adjacent to the property has been there for decades and made the decision to be there based on the current zoning.

Leni Knowles of 602 Augusta Avenue said she understands this is a request for annexation and not rezoning, but she thinks it's a gateway to rezoning. She said allowing annexation is a mistake, will hurt the neighborhood, and will only benefit the developer.

Mark Miller of 702 Seafarer Drive said he thinks there is an ulterior motive for this annexation request. He said if the property gets annexed and asks for rezoning, that will be on Council's shoulders.

Ms. Keelin said this is a hearing only on the annexation application, not rezoning, so it's inappropriate for Council to consider any of the comments about rezoning. She said the property owner wants the annexation because without it, the Town does not have an absolute obligation to provide services to the property. Ms. Keelin said the situation is such an anomaly that the property should be annexed into the Town.

ACTION: Motion to close the public hearing

Motion made by Mayor Barbee

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

Motion passed unanimously

Mayor Barbee said even if Council denies annexation, the property owner can still seek rezoning. Mr. Hardison said this is correct.

Council Member LeCompte, who was previously Chairman of the Planning and Zoning Commission, said a former application for this property tied the annexation and rezoning requests together, so the Commission denied both. She said the consensus was that if the property owner had made the two requests separately, the Commission would have approved annexation.

Mayor Pro Tem Healy said this property not being in the Town limits is an unusual situation that has gone on for a long time. He said tonight's request is for annexation, and zoning has nothing to do with this. Mayor Pro Tem Healy said what the applicant is asking for is reasonable.

Mayor Barbee said annexation would allow services that the property is not currently eligible for, such as a resident parking pass or membership to the Recreation Center.

Council Member Hoffer asked if the Town could be subject to a lawsuit if Council turned down the annexation request. Ms. Fox said there must be a reason for denial, and staff is recommending approval.

Council Member Hoffer asked how long the property owner would have to wait to make another annexation request if tonight's request is denied. Mr. Hardison said the property owner would have to wait a year or until some substantial change has occurred.

Mayor Barbee said he hears residents' concerns about upzoning but thinks it's Council's responsibility to hear the annexation petition separately. He said a rezoning request should be tackled when and if it's ever made, and it would be unfair to let this possibility bias tonight's request.

Council Member Hoffer asked if Council turning down a request for R-1 zoning for a property surrounded by R-1 would result in possible legal action against the Town. Ms. Fox said she would be happy to give an answer to this question, but she encouraged Council Member Hoffer to refrain from asking this during tonight's hearing because it's about annexation and not rezoning. She said Council should make a determination based on the petition at hand and whether it meets the requirements of the statute.

ACTION: Motion to approve that whereas in accordance with the provisions of the NCGS, the Town Council does hereby find and determine the adoption of the annexation request of 601 Augusta Avenue

Motion made by Mayor Barbee

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

Motion passed unanimously

8. Conditional Zoning to Consider a Planned Unit Development Consisting of 22 Townhome Units Located at 205 and 211 Spartanburg Avenue in the Residential (R-1) Zoning District
Applicant: WB Coastal Development LLC

Applicant WB Coastal Development LLC applied for a Conditional Zoning (CZ) application for a Planned Unit Development (PUD) project in the Residential R-1 district. The proposal includes 22 townhome units. PUDs greater than four units are allowed through the approval of CZ in R-1. CZ allows a particular use to be established only in accordance with specific standards and conditions pertaining to each individual development project.

The applicant is proposing to construct 22 townhomes located on the properties at 205 and 211 Spartanburg Avenue. The project will include 10 two-unit buildings and two single-family buildings with three to four bedrooms each. There is currently one single-family home on the entirety of the property, a cottage built in 1951. A pool, pool house with bathrooms, pickleball court, and walking trail are also proposed on the site.

The purpose of the Residential (R-1) district is to provide for moderate-density single-family and two-family residential use. The regulations of this district are intended to discourage any use which, because of its character, would not be in harmony with the residential community and which would be detrimental to the residential quality and value of this district.

Setbacks in R-1 are 20 feet (front), 10 feet (rear), and 7.5 feet (sides). The applicant is requesting a 10-foot front setback from Greenville Avenue, 2nd Street, and Spartanburg Avenue. A setback of 10 feet shall be the minimum allowed for a PUD. A written request was made and submitted along with the CZ application, and it must be recommended for approval or denial by the Planning and Zoning Commission and formally approved or denied by Council.

As part of the application process, a community meeting is required. The applicant held the required meeting on September 6, and 14 people attended. Concerns mentioned during the meeting included:

- Stormwater
- Pickleball court location
- Sidewalks
- Setbacks

Proposed conditions

- All stormwater must meet state standards for containment on site
- Utilities must be installed in accordance with Town requirements
- Install new fire hydrant on the corner of Spartanburg Avenue and 2nd Street
- Recombination plat required prior to issuance of a building permit
- Outdoor lighting not to disturb neighboring properties
- Type B landscape buffer required
- Two-year expiration date from Council approval
- Add sidewalks on Spartanburg Avenue and Greenville Avenue (proposed by applicant)
- Screening of existing stormwater pump on 2nd Street (proposed by applicant)

The project is in general conformity with the 2020 Land Use Plan for medium-density residential. Staff recommends approval as proposed. The Planning and Zoning Commission recommended approval with the additional condition of a 2-inch waterline installed along Spartanburg Avenue to eliminate multiple cuts to the street. Staff believes this will be satisfied under the proposed condition that utilities must be installed in accordance with Town requirements.

Ms. Abbotts presented the details. She showed aerial photos, the site plan, and floor plans and reviewed surrounding uses, 12 of which are single-family residences and nine of which are two-family buildings.

ACTION: Motion to open the public hearing

Motion made by Mayor Barbee

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

Council Member LeCompte
Motion passed unanimously

Richard Collier of McKim & Creed at 243 North Front Street in Wilmington, representing the applicant, gave a brief presentation and highlighted the intent to keep roughly 50 percent of the land as open space and retain stormwater management on site.

Council Member Hoffer asked if the developer intends for three cars to park under the houses. Mr. Collier said three cars will fit under the houses per the standards required.

Howard Fineman of 901 South Lake Park Boulevard (Paradise Towers) said he has no objection to the development but is concerned about the increased number of pedestrians at Spartanburg Avenue and South Lake Park Boulevard. He said it's a matter of time before somebody gets killed there. Mr. Fineman suggested the applicant foot some of the bill for a crosswalk being planned in that area.

Diane Radcliffe of 109 Greenville Avenue said she has concerns about the ditch, which is frequently filled with water now and would likely result in more runoff and flooding with additional development. She said the proximity of the pickleball court to her home and traffic are also issues for her.

Rich Serra of 1101 South Lake Park Boulevard, a part-time resident, said he has an issue with the proposed 10-foot front setback. He said almost all of the houses on nearby streets have a 20-foot setback, and 10 feet will change the ambiance of the neighborhood. Mr. Serra said open space should be preserved on the streetscape and not in the back. He said he doesn't think the current plan is consistent with the Town's Land Use Plan and encouraged Council not to agree to the 10-foot front setback.

Mark Miller of 702 Seafarer Drive said this is a good-looking project, but he is concerned about stormwater and flooding.

Wayne Rouse, Chairman of the Planning and Zoning Commission, said he is available for any questions about the Commission's recommendation for approval, which was a 6-0 vote. Mayor Pro Tem Healy asked about the conversation regarding setbacks. Mr. Rouse said agreeing to the 10-foot front setback was a tradeoff to keep the ditch open.

Mr. Collier said all the comments are valid and explained that the developer is doing everything that can be done on site to address stormwater, which will infiltrate into the ground. He said the project is not increasing traffic from what the underlying zoning sets today, and it is improving walkways.

Council Member LeCompte asked if there will be pervious pavers in the street. Mr. Collier said yes.

ACTION: Motion to close the public hearing

Motion made by Mayor Barbee

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

Motion passed unanimously

Mayor Pro Tem Healy said he likes the open space, sidewalks, and pervious pavers. He said having the road inside the property makes perfect sense, and the builder builds a good product.

Council Member Hoffer said he likes the developer but doesn't like the project. He said he doubts the sidewalk on Spartanburg Avenue will be usable due to being blocked by cars and trucks. Council Member Hoffer also said he doesn't like the idea of tall, identical buildings with only 10-foot setbacks because this doesn't mesh with the neighborhood and Land Use Plan.

Mayor Barbee said concerns about parking on the sidewalk should be addressed by current Town ordinances. He said he wanted to add a condition that the property not have any lighting to accommodate night play on the pickleball court. He said he's OK with low-level lighting around the pool but worries about the possibility of noise from late pickleball games.

Council Member Hoffer said he would like to ask the developer to try again, work with normal setbacks, and find a compromise agreeable to everyone. Mayor Pro Tem Healy said the project has checked all the boxes, including the Planning and Zoning Commission, staff, and the public meeting. Council Member Hoffer said Council is a box that still must be checked.

ACTION: Motion for approval that whereas in accordance with the provisions of the NCGS, the Council does hereby find and determine the adoption of the Conditional Use District to allow for a townhome project consisting of 22 townhome units located at 205 and 211 Spartanburg Avenue is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans and the potential impacts on the surrounding area are mitigated by the approved conditions with the additional condition that there be no lighting for the pickleball court for night play

Motion made by Mayor Barbee

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

Voting Nay: Council Member Hoffer

Motion passed 4-1

Council Member LeCompte said the applicant must agree with the condition proposed by Mayor Barbee regarding no lighting for night pickleball play. Mr. Collier said the applicant accepts that condition.

9. Approval of Financing Terms, Resolution of Necessary Finding, and Reimbursement Resolution for Acquisition of 1101 North Lake Park Boulevard

This item was removed from the agenda.

COUNCIL COMMENTS

Council Member LeCompte asked for an update on The Proximity. Mr. Hardison said representatives from this project are meeting with the Stormwater Department to go over design and applying for a State stormwater permit.

Council Member LeCompte said she met with Stormwater System Manager Daniel Keating this week and praised him as an asset to the Town.

Council Member Benson asked if Mr. Oakley can bring something to Council in January regarding the proposed redesign for the base of Cape Fear Boulevard and Canal Drive. He said while there was support for the project as a whole, there was concern about the roundabout turnaround for emergency vehicles.

Mayor Barbee praised staff for all of the Christmas activities happening in the Town.

Mayor Barbee said there is only a two- or three-month window for handicapped parking realignment, so whatever the Town is going to do needs to be happening. He said he would like to see this occur before the start of next season.

Council Member Hoffer recognized his daughter Sarah Hoffer, Student Body President of Ashley High School, in the audience. He said she was visiting to learn about local government.

ADJOURNMENT

Mayor Barbee adjourned the meeting at 8:25 PM.