

MINUTES  
OAK ISLAND TOWN COUNCIL  
PUBLIC HEARINGS & REGULAR MEETING  
April 12, 2016 – 6 P.M.  
OAK ISLAND TOWN HALL

Present: Mayor Cin Brochure, Council members Sheila Bell, Charlie Blalock, Loman Scott and Jeff Winecoff, Interim co-Manager/Town Clerk Lisa P. Stites, CMC, Town Attorney Brian Edes and Administrative Support Specialist Debbie Lasek.

Mayor Cin Brochure called the meeting to order at 6 p.m. The Mayor announced that Mayor Pro Tempore Medlin was excused due to a family emergency. Councilor Loman Scott gave the invocation and led the Pledge of Allegiance to the flag.

PUBLIC HEARING 1: Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a proposed text amendment to amend Secs. 14-31 and 18-32 to better control pools deemed dangerous to the public health or safety. There were no speakers.

**Councilman Winecoff made a motion to close the public hearing at 6:02 p.m. Councilman Bell seconded, and the motion passed unanimously.**

PUBLIC HEARING 1 ACTION: **Councilman Winecoff then made a motion to approve the amendments to Sec. 14-31 and 18-32 as presented. Councilman Scott seconded, and the motion passed unanimously.**

PUBLIC HEARING 2: Mayor Brochure explained that the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-413. Procedure for approval of major subdivisions. (b)(c); to revise the language detailing the preliminary plat approval process. There were no public comments. **Councilman Bell made a motion to close the public hearing at 6:03 p.m. Councilman Blalock seconded and the motion passed unanimously.**

PUBLIC HEARING 2 ACTION: **Councilman Blalock made a motion to approve the amendments to Sec 18-413 (b) and (c) as presented. Councilman Scott seconded and the motion passed unanimously.**

PUBLIC HEARING 3: Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-193. Nonconforming structures; to allow destroyed homes to be rebuilt back to the original height. There were no public comments. **Councilman Bell made a motion to close the public hearing at 6:04 p.m. Councilman Blalock seconded and the motion passed unanimously.**

PUBLIC HEARING 3 ACTION: **Councilman Winecoff made a motion to approve the amendment to Sec. 18-193 as presented.** Town Planner Jake Vares said that staff noticed a small error in the agenda packet and provided a corrected handout for the Council. Councilman Bell noted there is a change scheduled in the FEMA flood maps in July or August and, as a result, some "VE" zones will become "A" zones. She requested clarification for the Council when the changes became available. **Councilman Bell seconded and the motion passed unanimously.**

PUBLIC HEARING 4: Mayor Brochure explained that the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-669. Standards for limited residential development; to require a maximum allowable impervious surface area of 45% of total lot area; and that

the plan on a stormwater application must show the impervious surface areas and its percentage. The proposed change also stated that any residential development that creates impervious surface must have a professional engineered stormwater design plan.

Tylor Newman, Business Allowance for A Sound Economy, an advocacy group for Brunswick County builders and developers: Mr. Newman said there are significant impacts with this text amendment. He estimated that 100-200 existing structures would be immediately impacted by this amendment; this is looking at the primary structure, and not including the driveway or outbuildings. He said the Town should study the impacts before moving forward. He also noted that the State is undergoing amendments of stormwater rules and suggested the Town should wait for the State rules change.

Lynn Gulledge, 126 SW 5<sup>th</sup> St: Ms. Gulledge thanked the Council for the time to speak, and echoed the concerns of Mr. Newman. With the State taking action, she asked Council to table this in the best interests of the property owners in the Town.

Bill Easley, no address given: Mr. Easley said this was a knee-jerk reaction to solving a problem. There are no engineering data or studies to support this. This will be a material fact when someone tries to sell a house. Surveys will need to be done to determine impervious area coverage before people are able to sell their house. It may not make anything better; it can't make anything better. We will have the same problems we have now.

Pete Laffey: Mr. Laffey said he was kind of surprised this is being discussed with the lack of familiarity with this plan. With the current development plan, he believes this is out of left field. He suggested waiting until more information is available and it can be compared with the standards of the State.

Peter Key, 238 NE 38<sup>th</sup> Street: Mr. Key said he is a Realtor on Oak Island. Environmentally, he supports it 110% as it is good for the island. However, as it stands now, it is an impediment to homeowners and is an additional burden on them. Working on an HVAC system, doing plumbing or electrical work or even adding a deck would require getting a permit due to the home being non-conforming and require an engineered stormwater plan. This could cost the homeowner thousands. He said he believes there is a better way to do this; he is not sure what it would involve, but would like to be part of the discussion. Property owners would also run into issues when they want to sell their homes, and could be forced to spend thousands of dollars. He would like the Council to open the floor to more discussion.

**Councilman Scott made a motion to close the public hearing. Councilman Blalock seconded, and the motion passed unanimously.**

Mayor Brochure suggested that, this being such a complicated issue, that Mr. Vares and Development Services Director Steve Edwards may need to answer some questions for the Council. Councilman Winecoff asked them to answer to some of the comments. Mr. Edwards first addressed the permitting issues: permits are required whenever repairs to the home, with exceptions for mechanical, plumbing and electrical. Building permits would be required for anything structural, regardless of the cost; there is an exception for up to \$15,000 in additional work as long as it is not structural. The Town's policy right now was that a 300 square-foot building would not require permits. A local engineer who just did some work on the island said that a stormwater plan would cost \$350-750 depending on the job and design. She said these are simple calculations and could be supplied by a surveyor or homeowners. Mr. Edwards would like to get away from relying on the Town's standards, as the water table is too high and something must be changed. With pervious designs and alternative designs for driveways or walkways, one can design to above the 45 %. They are also trying to bring this together with the tree ordinance and incorporate it all

together. The need for a cap on impervious surface has been in the CAMA Land Use Plan for years and is not a knee-jerk reaction, and the Town is following policy that has been set in place for decades.

Councilman Winecoff asked about progress with the arborist on the tree ordinance; Mr. Vares spoke with her today and gave a quick synopsis of the stats. The arborist is currently putting together resources for the website, and then will submit the first draft of actions to the Town. He said he hopes to have something in hand in August. Councilman Blalock said his major concern is the trees; he sees lots with no trees left, and he feels there is some way that they can accomplish both goals. His contact at the State was very helpful; the key is that they must work together and explore other ways to make it work. Councilman Scott asked what the main goal was here. Mr. Edwards said it was reducing the amount of stormwater runoff, and that this has been in the CAMA land use policies for years and is now in the draft Comprehensive Plan. He and former Public Works Director John Michaux discussed this for the last three years, and he is simply bringing forward what has been put in place. Some of our waters will never be open again for shellfishing. Councilman Scott asked about the 20% remaining to be built out; Mr. Vares said this figure came from our consultants doing the Land Use Plan. Councilman Bell said some of those parcels are more than one lot, and Mr. Edwards agreed that this was true, especially with the combining of lots to avoid paying multiple sewer assessments. Councilman Scott said that Atlantic Beach has a 40% impervious surface coverage, Ocean Isle has 50%; he asked what the average was. Mr. Vares said the numbers they have are in the memo. Mr. Edwards said they looked at several beaches and went online to look at ordinances; some areas do not have a maximum build upon surface area. On the average, they are between 30-50%; again, they must think outside of the box and look at alternative designs with the driveway and parking areas. Using geotextile fabric with the appropriate stone can provide a pervious surface for a driveway. Councilman Scott said for years they have used surveyors and now they are talking about engineers. Mr. Edwards said that with more complex lots and higher water tables, an engineer can provide on-ground storage and other alternatives to accomplish the stormwater retention. He wants to put the burden back on the developers and homeowners and get away from the Town standards. Councilman Bell said her biggest concern was the non-conforming structures and getting a mortgage; she can understand if someone is building out and wanting a pool, two driveways and a 20x24 garage, but she cannot support it if it involves just a house, a driveway and a storage building in the back. She received an email today with an alternative recommendation, in that an engineered plan for stormwater would only be required for new builds and not affect existing structures. She said she still feels this should be tabled until the State takes action in July. Mr. Edwards expressed concern that the State may not do anything. Mayor Brochure asked about current rules; Mr. Edwards said there are no maximum built-upon area rules now. Councilman Blalock said he was surprised that there was no plan already in force. Councilman Winecoff said he received the same email as Councilor Bell and that he agrees with the comments; with the new UDO and Comprehensive Land Use Plan, the comments say to keep our small town charm and our tree lines. The citizens made very clear that this is what they want to see in our town. He does not feel they should punish the homeowners with a lot of fees for stormwater design unless they exceed the threshold; he is in favor of doing something, but disagrees with the engineered fees until they get to a point. They are 3-4 months out from having a tree ordinance. **Councilman Winecoff made a motion to approve the ordinance with the 45% with no engineered design unless it exceeds the 45%; that until a tree ordinance is put in place, no lots are to be clear cut, with a \$10,000 fine for clear cutting and trees put back on the lot. Once the tree ordinance is in place, this ordinance can then be amended.**

Mayor Brochure asked for clarification; Ms. Sites said ordinance amendments must be in writing before they are adopted. Council can direct staff to write the proposed ordinance amendments. **There was no action taken on the motion.** Ms. Stites then clarified that the tree ordinance is not part of chapter 18 and would not be required to be sent to the Planning Board, through usually amendments to that chapter are reviewed by that Board. Councilman Winecoff said this should come back directly to Council. Mr. Vares

asked for clarification; the 45% part of the text amendment will come back next month and they will consider the tree ordinance in August. Councilman Bell asked what would be considered clear cutting; Mr. Edes said this would need to be defined.

**PUBLIC HEARING 5:** Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-32. Definitions; to alter the single-family dwellings definition to remove the language limiting the number of bedrooms and to have the definition of bedrooms in Sec. 18-32 match the definition in the state building code and to amend Sec 18-683. - Terms defined - to have the definition of Built-Upon-Area match the definition in the state building code and to amend Sec. 18-148. - Minimum parking requirements – to adjust the Parking requirements for residential development and to have the definition of habitable space in Sec. 8-141 adjusted. There were no public comments. **Councilman Bell made a motion to close the public hearing at 6:41 p.m. Councilman Blalock seconded and the motion passed unanimously.**

**PUBLIC HEARING 5 ACTION:** Councilman Winecoff said Council had previously required one parking space per bedroom. They are now they are defining bedrooms (and other rooms such as family rooms, media rooms, etc.) as “habitable rooms” and are using off-street parking; there is an ordinance in place that limits right-of-way parking for 72 hours. Councilman Bell clarified that off-street parking is not in the right-of-way but is on the property, and that this language sounds like the parking space is allowed to be on the street. Mr. Edwards agreed and said this definition has been on the books for years; they could not count the right-of-way as parking space but that “off-street” parking is on their property. The number of parking spaces is changing with the definition of “habitable rooms.” Councilman Winecoff said he would prefer one parking space per habitable room. The whole idea is to make sure the house conforms to the sewer system; if they build over 3 bedrooms, they are charged \$880 per bedroom in impact fees. Councilman Bell said a habitable room could be a den, media room, sewing room, etc. Mr. Edwards said they were specific on the definitions, and that this puts them back to a minimum of 2 parking spaces for a 3-bedroom house. Councilman Winecoff said that if the habitable rooms are changed to sleeping quarters, they can have 7-8 cars there, and that the Town cannot afford another vacuum station to keep up with these large homes that tax the sewer system. David Kelly said the \$880 impact fee keeps the number of bedrooms in line.

Councilman Winecoff asked if everyone was in consensus for a parking space for every habitable room; Councilman Bell said that this definition would require that a 2-bedroom, 2-bath house would need 3 parking spaces. Mr. Edwards said the most common house built has a 3-bedroom, 2-bath with a great room; this would require 4 parking spaces for a 3-bedroom house. Councilman Bell said this would be difficult. Ms. Stites mentioned that the Planning Board had also discussed houses built on slabs; there was a house being built now with a garage that did not have enough parking places in front of the house to meet the requirements, and that the homes may have to be set back on the lots farther. Mr. Edes suggested that they could consider staggering; they could set a threshold once a certain number of habitable rooms was met. Mr. Edwards agreed, and said that a 3-bedroom house with a great room would only need 2 parking spaces. After further discussion, there was consensus on this idea.

**Councilman Winecoff made a motion to adopt the text amendment as amended (to require 2 spaces for the first three habitable rooms and one space per habitable room thereafter). Councilman Bell seconded and the motion passed unanimously.**

**PUBLIC HEARING 6:** Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-32. Definitions; to remove the language limiting the number of bedrooms and to clarify maximum square footage applies on the island-side only. There were no public comments.

**Councilman Scott made a motion to close the public hearing. Councilman Blalock seconded and the motion passed unanimously.**

**PUBLIC HEARING 6 ACTION: Councilman Winecoff made a motion to approve the amendment to Sec. 18-32 as presented. Councilman Scott seconded and the motion passed unanimously.**

**COUNCIL REPORTS:** Councilman Blalock thanked Becky Grizzle for taking over the Community Watch Program. Mayor Brochure thanked the dedicated staff that joins them at the meetings and answers questions.

**ADJUSTMENT/APPROVAL OF THE AGENDA:** Ms. Stites said there were now 2 positions on the Beach Preservation Trust Fund Advisory Board, and that two items needed to be added to the agenda; Consent Agenda 8 Request to release sewer assessments and Consent Agenda 9 Release of an assessment that was levied on a half lot that is not buildable. **Councilman Bell made a motion to approve the agenda as amended. Councilman Blalock seconded and the motion passed unanimously.**

#### **PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS**

Jan Gallagher, 1100 Elizabeth Drive: Ms. Gallagher said she lives on a beautiful drive that is used by residents, joggers, tourists and elderly dog walkers. The posted speed is 15 mph; cars rarely do that. Many drivers drive 45 mph or more on this curvy street, especially in the summer when Oak Island Drive is congested. As a potential solution, she suggested making Crowell and Elizabeth Drive a 3-way stop. This is a neighborhood, not an alternate throughway. She said she feels it is important to keep this a quiet neighborhood and asks the Town Council to help keep this island safe.

Betty Hupp, 7916 E. Yacht Drive: Ms. Hupp said that in this Town, a differing opinion from those not in power is not easy to get expressed. The Town Clerk no longer reads statements aloud from those that cannot attend the meetings. She said she wanted to let the Town know that when Mr. Purser, the developer of the 62<sup>nd</sup> street area, had his tent meeting, she attended and listened. She said she walked the property with Joey Brochure, the estranged husband of Mayor Brochure. She thought she saw a tidal creek there. She got a card from Mr. Brochure, a licensed surveyor. The Town Council voted to let Mr. Purser proceed with his development, with the new mayor Cin Brochure casting the tie-breaking vote. Ms. Hupp said Mr. Brochure was the surveyor of Mr. Purser's property; Mr. Brochure also donated \$100 to the new Mayor's campaign. She said she believes the Mayor had a conflict of interest due to the \$100 contribution, big time. She said that until the wetlands are protected on both sides, the Town should not ask for renourishment of the beaches.

Roseanne Fortner, co-chairman of the Beach Preservation Trust Fund Advisory Board: Ms. Fortner said the Beach Ambassadors have trained 26 people but they need more, and she encouraged everyone to consider participating in this program. The Beach Preservation Society is putting out 10 new dog boxes and supporting the development of rinsing stations for beachgoers. They need more money for these good works, and they are having a fundraiser this weekend; she encouraged all to buy tickets and attend. They also need more volunteers, and hopes the Council will approve 2 of the 3 applicants that have applied for Board membership.

Helen Cashwell, 3407 E. Yacht Drive: Ms. Cashwell said she attended the Council Retreat in January, where the Town Manager passed out a packet that was not read nor discussed or voted on. She later learned that the Council made a decision to restrict public comments from 5 to 3 minutes, and that Committee Reports would be submitted and not read. Volunteerism is extremely important in any town,

and especially so in Oak Island. Having Committee members be reduced to submitting for the record is a slap in the face for all concerned. Constituents would like to know what is happening with these committees, not just those in favor. This Council ran on a mantra of transparency; this has become a non-existent mantra. She said that no one knows where the record is, and this agenda tonight states that public comments are limited to 5 minutes. She wondered what the real amount of time was. She said every citizen does not get channel 8 or has internet access; however, they have no problem in sending each citizen a tax bill. Consistency in record keeping was also a concern; she referenced a recent bill for transferring funds for a stormwater pump. In observing this Council's actions for the last 3 months, she believes the concern is in making Council meetings short; they deserve more attention than that.

Jack Moore, 113 SW Yacht Drive: Mr. Moore said he opposes Consent Agenda item 5, forgiving interest on sewer assessments. He was at the first meeting where the first exception was made when comments were made that this would lead to more requests for an exception. The original concept was that this was a part of the funding for the sewer, and the interest was to recover the cost that the Town incurred from the lack of use of these funds. Every time they forgive this interest for whatever reason, the Town is shifting the costs from that person who did not pay what they owed to the rest of the taxpayers. He asked them to please stop making these exceptions; the first one was an exception, and this will lead to "norm," which is not what an exception is supposed to be.

Mayor Brochure said she wanted to address the Council with one short statement. Neither she nor her former husband, in the past, present nor future, have ever had any financial connection with the builder David Purser or any of his company.

#### REGULAR MEETING:

##### **I. CONSENT AGENDA**

1. Approval of Minutes
  - a. March 8, 2016 (Public Hearings & Special Meeting)
  - b. March 16, 2016 (Special Meeting)
  - c. March 23, 2016 (Special Meeting)
  - d. March 30, 2016 (Special Meeting)
2. Approval of a Budget Ordinance Amendments
  - a. Appropriate funds received as donation from Woodmen of the World
  - b. Appropriate funds (transfer from Capital Reserve) for purchase of a pump (stormwater)
3. Approval of a Memorandum of Understanding with the Beach Preservation Trust Fund Advisory Board
4. Adoption of a Resolution Adopting the Southeastern Regional Hazard Mitigation Plan
5. Approval of Requests for Release of Interest Accrued for Sewer Assessments
6. Approval of Revised List of Signatures of Those Authorized to Act on the Town's Behalf With Banks and For Bond-Related Matters
7. Approval of Authorization to Advertise the 2015 Delinquent Taxes
8. Consent Agenda Item 8 (release interest and hold assessment in abeyance for unbuildable properties)
9. Consent Agenda 9 (release sewer assessment and interest for parcel that was only a half lot and not buildable)

**Councilman Scott made a motion to approve the consent agenda as amended. Councilman Blalock seconded and the motion passed unanimously.**

##### **II. COMMITTEE APPOINTMENTS**

1. Board of Adjustment (one term ending March 2016 – both applicant are applying for the regular term, but there are two open alternate positions available as well): **Council voted unanimously for**

**Nicola Cutler. Councilman Bell suggested asking Mr. Coffee if he would be willing to serve as an alternate. The Council voted to appoint Charles Coffee as an alternate if he is willing to serve in that role.**

2. Beach Preservation Trust Fund Advisory Board: **Council appointed Mary Frere to a term ending September 2018 and Ben White to a term ending September 2017.** Applicant Kevin Lindsey was not appointed.

3. Par 3 Golf Course Ad hoc Committee (one term for a South Harbour resident): **Council appointed Raymond Wycoff.** Applicant Daniel Russo was not appointed.

4. Parks and Recreation Advisory Board (two terms ending March 2019): **Council re-appointed Dennis Maneri and J.C. Moss.**

### III. ADMINISTRATIVE REPORTS

1. Town Manager: Ms. Stites spoke about the Citizens Academy; they had a tour on Saturday with the Public Utilities department and visited the Middleton station, the Fish Factory Road plans and the SWRF. Despite the subject matter, the participants seemed to really enjoy it and had many positive comments. Also, there was a second set of questions about the utilities transfer sent to Brunswick County regarding fees so that comparisons can be done. The next round of Beach Nourishment public meetings are upcoming. She also addressed the changes in public comments and committee reports; these were approved by Council on the Consent Agenda in February. The agenda is published well in advance of the meeting; she simply needs to revise the time limitation section from 5 minutes to the correct time limit of 3 minutes on the agenda form.

2. Town Attorney: No report.

### IV. OLD BUSINESS (none)

### V. NEW BUSINESS

1. Consideration of a Request to Release a Sewer Assessment: Linda Harris, Tax Collector, explained the situation regarding the release of the assessment. Her staff has been working on delinquent taxes and delinquent assessments. These assessments before the Council tonight are a result of work they have been doing recently. This property was purchased from RBC bank, and there was no tax certification done at the sale and they all know this is not an acceptable thing to do. This assessment was missed. The old finance system is not user friendly, the tax and sewer systems do not communicate and updates are not always changed in all systems. Investigation noted that although he was given notice, the attorney said he did not request a tax cert and the seller, RBC Bank, said it would not pay any assessments. The foreclosure notice was the first communication this property owner had received. The purchase and the billing were done very close, in 2010. She explained the bills were sent to RBC bank. She referred to his email that relayed he had place his trust in his realtor and his attorney. He bought the lot next door to his and combined the lots and will now pay the double assessment, and is asking that the Council accept his payment of \$4200. Councilman Bell questioned why the closing attorney would not be responsible; she is not in favor of any release. Ms. Harris said the property owner asked for the assessment and interest to be released. Councilman Scott questioned whether this was a fineable item; Ms. Harris agreed that it was, they are approached by lenders and attorneys and that tax certifications are normally completed. Councilman Bell said this was not a clerical issue, that this situation had an actual closing with an attorney; Ms. Harris said she has approached this attorney and some of them will handle this with a check, and others will not. Councilman Bell said it is not good practice to do a closing with a lean on a property and Ms. Harris agreed, saying that most attorneys know about these assessments. Councilman Blalock agreed and said his team dropped the ball, not us, and that the attorney should pay it. Councilman Scott asked why staff was recommending releasing interest; Ms. Stites said that this was in case the Council decided that collecting the assessment in full would take care of the issue. **Councilman Winecoff made a motion to deny the release of sewer assessment interest. Councilman Bell seconded and the motion passed unanimously.**

**CLOSED SESSION: Councilman Bell made a motion to go into closed session to consult with the Town Attorney on pending and potential litigation and to discuss specific personnel pursuant to N.C.G.S. 143-318.11(a)(3) and (6). Councilman Blalock seconded, the motion passed unanimously and Council went into closed session at 7:22 p.m.**

Mayor Brochure called the meeting back to order at 8:08 p.m. She said no action was taken in the Closed Session.

**Councilman Bell made a motion to adjourn. Councilman Blalock seconded and the meeting was adjourned at 8:08 p.m.**

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Cin Brochure, Mayor

ATTESTED: \_\_\_\_\_  
Lisa P. Stites, CMC  
Town Clerk

*Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 so that the Citizens and the Public may view and listen to the meetings in their entirety.*