

MINUTES
OAK ISLAND TOWN COUNCIL
PUBLIC HEARINGS & REGULAR MEETING
FEBRUARY 15, 2016 – 6 P.M.
OAK ISLAND TOWN HALL

Present: Mayor Cin Brochure, Mayor Pro Tempore Jim Medlin, Councilors Sheila M Bell, Charlie K. Blalock, Loman Scott and Jeff Winecoff, Town Manager Tim Holloman, Town Attorney Brian Edes and Town Clerk Lisa P. Stites, CMC.

Mayor Brochure called the meeting to order at 6:00 p.m. Councilor Scott gave the invocation and led the Pledge of Allegiance to the flag.

PUBLIC HEARING I: Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment to Sec. 18-669. - Standards for limited residential development; and Sec. 18-663. - Applications for approval; to require a maximum allowable impervious surface area of 35% of total lot area; and 10% allowable impervious surface area for parking and driveways; and that the site-plan on a stormwater application must show the impervious surface areas and its percentage; and that any residential development that creates impervious surface must have a professional engineered stormwater design plan

Bill Easley, Airport Road: Mr. Easley said he owns a lot and is partners with other property owners on the island. About 25 years ago, he was a Council member for the Town of Long Beach. He said he understands the complaints that the Town receives about stormwater. The problem with what is proposed is that it will make a lot of existing homes nonconforming. The front yard setbacks used to be 30 feet and the maximum driveway width was 24 feet. That equals 720 square feet; most of those lots with houses are 6,600 square feet, which is already more than the 10 percent allotment for the driveway. With a 1,200 square-foot house, you couldn't even out a doghouse in the back yard and comply with the impervious surface requirements proposed. He said he favors a policy that allows stormwater to be maintained on the lot and not capping the amount of impervious surface allowed. If a home is set back farther than the 25-foot setback, more driveway will be needed to do that. Mr. Easley said that when roads were cut 50-60 years ago, they were cut lower than the properties on either side. About 25 years ago, the Town got aggressive about paving the roads because so many cars were getting stuck. When the lots hit saturation point, there is nowhere for the water to go but the road. He asked if we had any complaints from Yacht Drive, where there are swales or ditches on the sides of the road. That would cure most of the problems. He said it is not fair to make the new property owners bear the burden for something that this will not even fix; the existing problems will not go away. Mr. Easley also asked about the flag lots; the 10 percent would be used up by the length of driveway. The proposed ordinance amendment also calls for a two-foot separation; many lots don't even have one foot before you hit water.

Peter Smith, 103 NW 29th Street: Mr. Smith asked if someone could explain what is being proposed. What he basically understands is that you can only cover so much of a lot with concrete. He said he has a strip of land and he can't put concrete on it. He said storm drains should have been put in when the roads were built.

Councilor Scott made a motion to close the Public Hearing at 6:10 p.m. Mayor Pro Tempore Medlin seconded and the motion passed unanimously.

Development Services Director Steve Edwards explained that the proposal is aimed at controlling the amount of impervious surface that can cover a lot. A built-upon area is anything that is not pervious, such as concrete, the roof line, any driven-upon area (even gravel), concrete areas around a pool, etc. Councilor

Scott asked where the figures came from. Mr. Edwards said that staff had discussed the numbers. Town Manager Tim Holloman said that the 35 percent was a fairly standard number. Councilor Bell asked about a house on pilings, if would it be allowed to have a driveway and then two parking spaces under the house. Mr. Holloman said that there could be a driveway, but there would probably be open area between the sections of driveway; tire strips could be used. Councilor Scott asked if this was more or less restrictive than what the state prescribes. Mr. Edwards said that the state uses 12.5 percent for a subdivision within a certain distance of the water. Typically, 25 percent is used for a subdivision. Mr. Edwards used the 15-bedroom house as an example; it was under the state's allowable limits but would have covered 50 percent of the lot. He said that he did not think what was being proposed was more restrictive than state regulations for subdivisions. Councilor Winecoff said he is concerned that we don't know the total number of houses that would be classified as nonconforming. He would like to see a second public hearing. He also said he would like more input from the public and also know what the Planning Board members who were absent from that Board's last meeting think on the subject. Councilor Blalock also said that he wanted to know more about this proposal. Mayor Pro Tempore Medlin said he wasn't sure what the purpose of this was. He also said that he did not think the problems we have are caused by the number of houses. The Town already has regulations in place to control the size of a house through the number of bedrooms allowed. He also said we needed more time to consider this proposal. Mayor Pro Tempore Medlin asked if an engineered stormwater plan is required to build a house. Mr. Edwards said that a stormwater plan, even if it's done by a land surveyor, is required once impervious surface reaches 30 percent. Mayor Pro Tempore Medlin said the Town needs to be careful not to make things so restrictive that people can't build houses on their lots.

Council took no action and directed staff to schedule a second public hearing.

PUBLIC HEARING II: Mayor Brochure explained that the purpose of the Public Hearing was to receive citizens' comments on a proposed amendment Sec. 18-32. to add a definition for Outdoor Sales and Displays and to Sec. 18-226 to clarify with additional language standards and conditions of Outdoor Sales and Displays and to Sec.18.116 to specify between Outdoor Sales and Displays as a primary and ancillary use.

Duane Simpson, 121 NW 19th Street: Mr. Simpson said that he has been a vendor for five years, selling hot boiled peanuts in a tent across from Food Lion. He said he was unsure if these rules would apply for him. He also said he was not sure if he still needed a permit to sell peanuts.

Councilor Blalock made a motion to close the Public Hearing at 6:27 p.m. The motion passed unanimously.

PUBLIC HEARING II ACTION:

Councilor Winecoff asked Mr. Edwards if Mr. Simpson would be affected by the proposed amendments. Mr. Edwards said Mr. Simpson would not and that he could apply for an itinerant merchant permit, which are available in the Development Services office.

Mayor Pro Tempore Medlin asked about businesses using tents that use parking spaces that are required for the business. Mr. Edwards said that one of the reasons for this proposal was that tents were allowed to be used through Conditional Use Permits; staff is now trying to change that and will enforce their use. Tents will no longer be allowed to take up parking spaces.

Mayor Pro Tempore Medlin made a motion to approve the proposed text amendments on page 9 and 10. Councilor Winecoff seconded and the motion passed unanimously.

PUBLIC HEARING III: The purpose of the Public Hearing is to receive citizens' comments on Consideration of a Memorandum of Understanding with Brunswick County Regarding the County Acquiring the Town's Utility Systems (6:31)

Richard Bunce, 125 NE 26th Street, written comments provided as follows: I urge this Council to approve the Memorandum of Understanding with Brunswick County Regarding the County Acquiring the Town's Utility Systems. The proposal before you is a well thought out and comprehensive process that will at the very least produce long needed independent engineering and financial evaluation of the ToOI utility system. A water and wastewater utility system is a volume business and should be managed as a regional system. The initial estimates by the County of the monthly retail customer utility rates and the Sewer Treatment Fee (STF) are rightly very conservative. As an example when the Citizens Wastewater Project Committee persuaded the Town Council in 2005 to finally re-partner with the County for the treatment portion of the new wastewater project the County estimate for their portion of the project was ~\$50M and still ~\$50M at completion several years later. Already the conservative County estimates compare very favorably to the Town rates as estimated in the most recent public Town utility system Financial Feasibility Evaluation (FFE) during the same FY2019 and FY2020 period. I expect the engineering and financial evaluations will result in a reduction in the County estimates for the monthly retail customer utility rates as efficiencies in scale and reallocation of all utility resources are identified. Another likely saving is the reallocation of the Town customer 3MGD allocated capacity to meet other County needs which will increase the number of retail and/or wholesale customers covering the debt service for that 3MGD capacity which has been running the Town as a wholesale customer ~\$3M per year. The County STF estimate of \$64 per month is also likely to be reduced due to savings from lower interest rates and extended terms when the County refinances ~\$95M of the existing Town wastewater project State loans and Municipal Revenue Bonds. In addition the County officials have stated their Revenue Bond Covenants do not have the punitive Rate Tests as the Town Revenue Bonds do. My analysis of the estimated County STF charged to all customers and undeveloped tax parcel owners in the Town utility service area produces nearly \$1M more than was needed to cover the Town held debt service in the approved FY2016 budget not including the savings from the recent Town refinance of a portion of its Revenue Bonds. Another reason for a somewhat higher STF estimate from the County may be that per the Town FFE the ~\$2.5M from assessment revenue will only continue until FY2020 and so the County officials did not want to face a an even larger STF in FY2021 to make up for that lost revenue which I would estimate to be an additional ~\$20 a month in the STF. I thought the presentation by the County and Town Managers at the recent Town special meeting were very good although perhaps too kind to the person asking the first question. The reason that no other County undeveloped tax parcel owners are paying an STF is that they were not in a wastewater project service area that had a woefully inadequate special assessment for funding the project. In the case of the Town of Oak Island the ~\$45M in special assessments was less than a quarter of the eventual cost of the project. So this STF is just the rest of the assessment spread out over 30 years instead of just 10 years that special assessment payments are limited to by statute. The real benefit here though is not just in reduced customer rates, it is in risk reduction of a small municipality running a complex utility system costing half of its ~\$30M annual budget versus a County with an existing larger utility system with twice the number of wastewater retail customers and a ~\$225M annual budget of which less than a quarter is for the utility system. It is not easy to put a cost savings on reduced risk but given the Town utility customers experience over the last 15 years they will sure be able to feel it.

Helen Cashwell, 3407 E. Yacht Drive, written comments as provided as follows: Good Evening, Council Members. I would like to address the moving forward with the Memorandum of Understanding with the County and its pertaining to their acquiring our Enterprise System in its entirety. I am extremely appreciative of your current efforts and the Council Members, before you, that brought this agenda item

to tonight for consideration. This has been a long and very troubling time coming, and it is certainly appropriate, not only for the Town of Oak Island, but for the long range planning of Brunswick County. Explaining how the Enterprise System functions in very simple terms would go a long way in alleviating the anxieties of citizens of the County as well as Oak Island. The only question that is on every one's mind is will it make my utilities cost go up and for how long? As anyone would know dealing in finances there is a definite savings in numbers. In essence, this is a win, win, for both Oak Island and Brunswick County. This is a great fit for Brunswick County that will enable them to provide sewer service for the many small communities that are in desperate need for service and will greatly enhance our credit rating as a Town. Since Oak Island does not have an engineer on staff, this will be a great savings going forward in that we will not have to hire additional staff maintaining the Sewer System as the Town will surely grow and meeting that growth will require expertise that the County already has. I encourage you to vote tonight to move forward as quickly as possible on this project.

Councilor Winecoff made a motion to close the Public Hearing at 6:37 p.m. Councilor Scott seconded and the motion passed unanimously.

PUBLIC HEARING III ACTION:

Councilor Winecoff made a motion to adopt the Memorandum of Understanding regarding Brunswick County Acquiring the Town of Oak Island's Enterprise Systems for Water and Sewer as presented. Councilor Scott seconded the motion. Mr. Edes suggested adding the following language under paragraph 2 "An inventory of all assets to be acquired shall be listed as Exhibit A and attached to the final agreement." He said that would make sure there was no question about what assets were to be acquired by the County. **Councilor Winecoff amended his motion to add that sentence and Councilor Medlin seconded the amendment.**

Councilor Bell said that it has been difficult getting answers on the assets to be included and the exact numbers on the debt. She said she still has issues, such as Bill Smith Park and whether the Town could keep it. Mr. Edes said that this agreement did not mention the possibility of keeping Bill Smith Park, though there will be a final agreement forthcoming. Mr. Holloman said that he believes the County will work with the Town on that issue. Mayor Pro Tempore Medlin asked if the Town would have to clear the transfer of Bill Smith Park with the state; Mr. Holloman said that none of those agencies had been contacted yet as there is nothing formal in place between the Town and the County stating that this transfer of the utilities systems is being considered. Answering a question from Councilor Bell, Mr. Holloman said that the County is planning to take the employees who currently maintain Bill Smith Park. Councilor Bell asked if the Memorandum is approved tonight, can the Town still look into refinancing and selling capacity to Southport. Mr. Holloman said that the County would prefer the Town not refinance the bonds and that could complicate the issue. Regarding the Southport issue, Mr. Holloman suggested that a provision be included that if capacity were sold, it would result in lower fees for Oak Island customers. He said he thought the Town trying to refinance would muddy the waters in negotiations with the County. Mr. Edes said that adopting the Memorandum would not prevent the Town from doing its own research into the issues Councilor Bell raised. Mr. Holloman suggested Council selected one or two members to attend discussions. The Town Clerk was asked to read the motion.

The amended motion passed 4-1 with Mayor Pro Tempore Medlin and Councilors Blalock, Scott and Winecoff in favor and Councilor Bell opposed.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Winecoff said that the newly-elected officials recently attended the required ethics training. He said that he learned a lot about public perception. He said that 2,000 people answered a survey as to what they wanted the Town to look like. He said that Council should listen to what the people want, not one

man, which is what happened at the meeting last month. If the Council won't listen to what the people want, the surveys, the new Unified Development Ordinance and the CAMA Land Use Plan mean nothing.

Councilor Blalock said that he would be working on the brown and white goods issue; he asked anyone with any suggestions or idea to let him know. Community Watch is starting up again. It's possible that Community Watch could help with the issue of trash being dumped illegally.

Mayor Pro Tempore Medlin said a new resident had called about whether there was a newcomers group in the Town. He found out there is not and said that he would like to see that materialize. He said that would be a good way to introduce new people to the Town.

Councilors Scott quoted a Supreme Court Justice in reference to Councilor Winecoff's comments: Nothing can destroy a government more quickly than its failure to observe its own laws or worse, its disregard of the Charter of its own existence."

Councilor Bell said that she was very excited about the Citizens Academy kickoff tomorrow night.

Mayor Brochure said she appreciated the staff and all the hard work the employees do.

PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

Councilor Blalock read a Resolution of Appreciation for retiring Chief Van Eddinger, a copy of which is attached and is hereby made a part of these Minutes.

1. Beach Plan -- Moffatt & Nichol: Johnny Martin said that the original plan was to be prepared by the end of February, and he will present a preview of that plan tonight. (A copy of the Power Point presentation is attached and is hereby made a part of these Minutes). Since 2001, there has been roughly 4.7 million cubic yards of sand placed on Oak Island beaches. Engineers looked at dune height and how the beach would behave in storms. Some of the areas of the Town's beach have more data collected over a period of years than others; those numbers could be sharpened if the Town decides to move forward. Mr. Martin said that a project should put at least 1 million Cubic Yards on the beach to be considered economically feasible. Mr. Martin reviewed projections for what level of damage the beach would take depending on the dune height for a ten-year storm event and a 25-year storm event. Mr. Martin also discussed possible sand sources, all of which would require further testing for compatibility. The initial project would cost an estimated \$30 to \$37 million and annual maintenance would be approximately \$3 million a year. If the Frying Pan Shoals is really the only sand source the Town could use, those numbers would increase. Regarding permitting, Mr. Martin said their suggestion would be to consider a 30-50 year plan rather than try to get environmental studies done every time they're needed. Regarding the Lockwood Folly Inlet, Mr. Martin recommended working with Holden Beach and the U.S. Army Corps of Engineers on a plan to share sand from material dredged from the inlet. The final part of the shoreline management plan would be dredging Davis Canal; the permitting approach would be an uphill battle and the cost would be approximately \$6.5 million. Recommendations include establishing a monitoring program to collect data that will assist in future planning and developing an engineered beach, develop a plan for the Lockwood Folly Inlet/Eastern Channel, monitor the Wilmington Harbor sand management plan so that material can be better utilized for everyone's benefit, and develop a plan for funding,

Councilor Winecoff asked if any consideration had been given to windmills; Mr. Martin said that had not been considered at this time.

Council took a recess from 7:26 p.m. to 7:42 p.m.

ADJUSTMENT/APPROVAL OF THE AGENDA

Mr. Holloman asked to remove Committee Appointments for the Par 3 Ad Hoc Committee from the agenda. Mayor Pro Tempore Winecoff added a discussion of adding a Council liaison to Parks and Rec Advisory Board as New Business 1a. The Resolution of Appreciation of Retiring Chief Van Eddinger was added to the Consent Agenda. An application from Raymond Wycoff was added to consideration of Committee Appointments for the Parks and Recreation Advisory Board. **Mayor Pro Tempore Medlin made a motion to approve the agenda as amended. Councilor Blalock seconded and the motion passed unanimously.**

PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Ted Shipley, attorney on behalf of C&D Homes for Old Business 1. He also noted that Elizabeth Nelson with Cape Fear Engineering and applicant David Purser were also present.

Marge Bell, 139 NE 30th Street: Good Evening Mayor and members of our Town Council. As someone who has been an elected official, I thank you so much for your service. It is often a thankless job, but the good you can accomplish is without limit. My most recent service has been to the Town of Oak Island as a Market Ambassador for the Farmer's Market. I wanted to give you a very brief history of our town's market. Prior to last season, our market had been run as a very "fly by the seat of your pants" operation. People could show up in the morning and be assigned a spot for the day. The result was that our market was a small, ragged affair with an extremely loose structure. No one knew who was actually showing up and what they were bringing to sell. The market was not well advertised, attended or regarded. That all changed last season. The market was run by the Recreation Department headed by Rebecca Squires and assisted by Billie Jayroe. There were also three Ambassadors of which I was one. We volunteered to assist in making our market a professional farmer's market. Starting last January up to 10 hours per week were spent in planning, creating rules and putting a structure in place. We trekked to Greensboro to NC State Farm Market Management meetings. We spent hours setting up a new configuration for the soccer field to maximize the space and to make it more user friendly for shoppers. Weekly maps were also created. The result of all the hard work was that the Oak Island Farmer's Market transformed into being regarded as one of our region's best. The market is now among the top markets in two counties. We have plenty of local artisans and farmers, but we also have those from New Hanover, Pender, and other counties vying for the opportunity to be included in our extremely well run market. Visitors to our Island as well as locals love the farmer's market. It is a boon for tourism. Additionally, revenue from the fees paid by vendors more than doubled last year. In past years, there had also been some vendors in the market who had been rude, nasty, bullies and nobody knew what to do with them. They terrorized management and other sellers in the marketplace. Many vendors stated that they intended not to return because of these individuals' mean, rude behavior. When the question was asked about whether they should be allowed to continue to stink up the market, much deliberation occurred and the overall consensus was no! It was decided that enough was enough! Having increased structure and official rules finally provided relief from bullies who quite frankly are unable to play well with others. That is unfortunate. Everyone should be permitted to play but when a neighbor's child visits your home and makes your children cry every time they come, soon you will let their parents know that they are no longer welcomed. There has also been a push for the market to cease being a "farmer's market" and that it be turned into a more general "flea" type market. NC State Farm Market guidelines prohibit the inclusion of mass produced and/or imported products. Products that are not handmade by the person selling them are not allowed in the market. I make all my products from scratch. When I am up until 1a.m. the night before putting the last label on the last bottle, it is unfair for someone to bring in a box of mass produced items they have purchased, open up a box, set things out on the table and go to selling. We have Wal-Mart and plenty of local retail establishments for these items. Please keep

the structure for the farmer's market intact. Whether you choose to keep the Market Ambassador Program or not, the Oak Island Farmer's Market as it was run last season is on its way to becoming the best. If called upon, I am happy to volunteer once again to help the market and the town in any way I can. Nothing is more gratifying than having our market and our town seen in such a positive light!

Ted Manos, 3022 West Beach Drive: Mr. Manos said he was addressing Council as Chairman of the Planning Board. He said that something came to his attention regarding the Lucas Cove project that he wanted to mention to Council. He said that he recommended the motion that resulted in the passing of the planned development from the Planning Board to Council. He said he told the Planning Board that it looked like a worthwhile project and the Planning Board could not make a decision on the zoning; that was for Council to decide. The Planning Board thought the actual development itself was innovative, attractive and that it would be a welcome additions; however, the Board was concerned that it was not to be a gated community. If Mr. Purser had not agreed that this would not be a gated community, it would not have passed at the Planning Board. He said the Planning Board has no desire to see a gated community on the island that would provide exclusivity. He said if Mr. Purser would change that, he would urge Council to approve the project; otherwise, he asked Council to reject the project.

REGULAR MEETING:

I. CONSENT AGENDA

1. Approval of Minutes
 - a. January 12, 2016 (Public Hearings and Regular Meeting)
 - b. January 19, 2016 (Council Retreat)
 - c. February 2, 2016 (Special Meeting)
2. Approval of Resolution Awarding Chief Van Eddinger His Badge and Sidearm
3. Approval of Request to Release Assessment and Accrued Interest
4. Approve Amendments to Sec. 24-68 Burning of solid waste prohibited in all areas within the city limits
5. Approval of Accepting a Grant from NC Coastal Management Public Beach and Coastal Waterfront Access Program
6. Approval of Submitting a Grant Proposal for the Parks and Recreation Trust Fund grant (PARTF) Program
7. Approval of Proposed Amendments to the Council Rules of Procedure
8. Acceptance of a Grant from the Clean Water Management Trust Fund to Repurpose Septic Tanks as Stormwater Collection Apparatus
9. Resolution of Appreciation for retiring Chief Van Eddinger

Mayor Pro Tempore Medlin made a motion to approve the Consent Agenda as amended. Councilor Bell seconded and the motion passed unanimously.

II. COMMITTEE APPOINTMENTS

1. Board of Adjustment (three alternate positions available): **With votes from Mayor Pro Tempore Medlin and Councilors Bell and Blalock, Martyn Hawkins was appointed to one of the positions.** With one vote from Mayor Pro Tempore Medlin, Catrina Purser was not appointed to the Board.
2. Parks and Recreation Advisory Board (one term ending March 2018): **With votes from Mayor Pro Tempore Medlin and Councilors Scott and Winecoff, Art Seifert was appointed.** Applicant Ray Wycoff was not appointed to the Board, with votes from Councilors Bell and Blalock.

III. COMMITTEE REPORTS

1. Parks and Recreation Advisory Board, Dennis Maneri, Chairman of the Parks and Recreation Advisory Board: Mr. Maneri said that the Board recommends that Ballfield 1 be dedicated to former

employee Jim Barbee, a recently-retired employee. Mr. Barbee was dedicated not just to the park, but to the experience of all the children who played there. The total number of participants for all Parks and Recreation activities and programs last year was 57,456. The Recreation Center was open 3,666 hours. The Community Center was open 2,652 hours. There were 10,256 rounds of golf played; the Board thinks that number will be higher this year. There are 5 fulltime employees plus two maintenance staff for the golf course. A survey for a Parks and Recreation Master Plan was recently conducted, though as it came soon after the Comprehensive Plan survey, participation was not high. Of the respondents, 90 percent were residents. Nearly 56 percent said they had visited the Farmers Market. More than 70 percent had visited the Recreation Center while 81 percent visited the beach accesses. Nearly 30 percent of those surveyed approved the idea of having a splash pad. The Town could apply for a PARTF grant for money for a splash pad, a small stage and a pickleball court. The Board is excited about the possibilities and is seeking Council support for the grant. Mayor Pro Tempore Medlin asked if there would be a fee for the splash pad; other towns charge between \$1 and \$5 and also collect \$200 for a 2-hour rental for parties, etc. Mr. Holloman said that the Town could also seek donations toward the cost of building a splash pad. Answering a question from Mayor Pro Tempore Medlin, Ms. Squires said that the one she was looking at would recirculate chlorinated water.

2. Beach Preservation Trust Fund Advisory Board: Chairman Rosanne Fortner said that the Wine Tasting was scheduled for April 16 from noon until 2:30 p.m. at Island Way Restaurant. Membership forms for the Beach Preservation Society are available at Town Hall. She said she hoped to see everyone at Island Way on the 16th – it's all about the beach.

IV. ADMINISTRATIVE REPORTS

1. Town Manager: Consultant Peter Ravella addressed the Council regarding his work on beach nourishment funding and public outreach. Mr. Ravella has already been meeting with selected stakeholders in the community. The first public workshop will be March 17 at 6 p.m. There will be another workshop on March 19. A new website will be posted next week and postcards will be mailed to property owners with that information as well.

Bonnie Bray gave a report on installation of the new financial software; a copy of the report is attached and is hereby made a part of these Minutes. The initial implementation is completed.

a. Department Reports: Department reports are attached and are hereby made a part of these Minutes.

V. OLD BUSINESS

1. Consideration of Application for Major Subdivision – (Lucas Cove): Planning and Zoning Coordinator Jake Vares noted that at the last meeting, the minimum lot depth was the only issue that didn't meet Town codes. These homes will not create a hardship for the utility systems. The minimum lot depth issue has been fixed and he recommends approval. Once this preliminary plat is approved, the applicant goes to the construction plat phase; the applicant will have 24 months to submit those plans to Development Services staff and obtain all the necessary permits. Site improvements can begin in that phase, which triggers the improvement guarantees requirements of the Town's major subdivision ordinance. Councilor Bell asked if there would be a gate. Mr. Vares explained that nothing in the Town ordinances prohibited a gate. Councilor Winecoff asked if it was submitted to the Planning Board with the gate; Mr. Vares confirmed that it was and said he gave the same answer to the Planning Board at that time. Councilor Winecoff asked if the Planning Board had been told the development would not have a gate. Mr. Vares said there was a lot of back and forth discussion, but he did not believe so. Councilor Blalock asked how it could offer the required public access to the water with the road having a gate. Mr. Vares said that as long as access is provided, it meets the standards; the access is a sidewalk that connects to timber bridges to the water. Councilor Winecoff asked about the 15-foot utilities access. Mr. Vares said that was in addition to the required right-of-way. Councilor Winecoff said that it didn't say that on the paperwork provided. Ms. Nelson said the 40-foot road was already the right-of-way; there is

an additional 15 feet on the front of the lots; the note is included so that potential buyers understand it is there. That 15-foot area is where the utilities will be located (with sewer on one side of the road and water on the other). From the center of the street, there is a 25-foot right-of-way. Councilor Winecoff also asked if the U.S. Army Corps of Engineers had its certificate on the plat and if it was signed. Ms. Nelson said it had been provided as part of the application packet. Mr. Vares said Council had received the survey that shows all the wetlands areas at a previous meeting for the rezoning request. Councilor Winecoff said that he was looking at what he was being asked to approve and that it wasn't on there. Mr. Vares said that all the wetlands that will remain are shown. Ms. Nelson said the Corps-approved, signed map was submitted with the preliminary plat for the project. She said she was not sure how to address that if staff had not included it in the most current packet. Mr. Holloman noted that Councilor Winecoff had previously been recused from this matter. Councilor Winecoff said he had cancelled his contract with the real estate agency involved and that he had the right to discuss this. Mr. Edes said that since the recusal was done by a vote, he would prefer another vote to allow Councilor Winecoff to participate.

Councilor Bell made a motion to allow Councilor Winecoff to participate in the discussion, Councilor Blalock seconded and the motion passed unanimously. Councilor Winecoff said that he has to vote on what he sees and what he had been given. Councilor Winecoff said that the Corps' approval had not been provided to him in this meeting's packet. Ms. Nelson referred to notes on the map. Mr. Shipley said that it seemed the only issue was whether the wetlands approval was in a packet that was already in the public record. He said that he could show where the paperwork was submitted and has appeared in a packet and the public record. Mr. Vares noted that plan consistency statements are not required for preliminary plat approval. Councilor Blalock asked if the water access would be handicapped-accessible; Mr. Vares said the sidewalk would have to meet ADA requirements. There is nothing in the major subdivision ordinances that specifically addresses handicapped access for the public access requirements. Councilor Blalock said that was something that would need to be addressed. Mr. Vares agreed, but said that the ordinances don't currently address it, and that's what he has to work with. Mr. Edes advised Council that the decision before the board tonight was whether the plat complied with the Town's existing ordinances. Mayor Pro Tempore Medlin also noted that this was the preliminary plat and that a final plat would still have to come before Council for approval. Mr. Vares concurred and said that once the preliminary plat is approved, the applicant would have vested rights. Councilor Bell asked if Council could send this back to the Planning Board since the preliminary plat was not the way it was presented to the Planning Board. Mr. Edes said he didn't know that that statement was true. He also reminded Council that what was before Council tonight was whether the plat complied with the Town's code and that the Town's Planner is saying that it does. Councilor Winecoff said that there was a statement included from the Corps, but that it was not signed, as is required. Mr. Edes asked staff if a signed statement had been received. Mr. Vares said that it had and that it was one of the things that was reviewed at staff level and maintained in the case file. Mayor Pro Tempore Medlin said the subdivision couldn't move forward without that anyway. Councilor Winecoff again stated that was something Council was to have when considering the plat. Mr. Edes said Council had been told by staff it was received and that the applicant said it had been submitted. Councilor Winecoff said that the zoning issue was something staff was supposed to have handled on the map and that wasn't done so he wondered how he could now take staff's word on something he hasn't seen personally. Mr. Holloman said that staff wouldn't necessarily make copies of everything to include in the packet; he said if Council would like to take a recess, staff could provide the document. Mayor Pro Tempore Medlin said that if it were on file, he didn't see what difference it made that it wasn't in the packet. Mr. Shipley suggested that Council could give approval contingent upon that document, which has already been submitted, being provided to the Council members. Councilor Bell if the street would be public or private; Mr. Vares said it would be private. Mayor Pro Tempore Medlin asked if that meant that the owners would be responsible for the upkeep and maintenance; Mr. Vares said that was correct. Answering a question from Councilor Bell, Mr. Vares said that Lot 3 does meet the minimum lot depth. Councilor Blalock said he was disappointed to see this was to be a gated community. He asked if the Planning Board had been told that, overlooked

it, or where the disconnect was. Applicant David Purser said if we want to give the people what they want, the best thing to do would be to not put a gate on it, make it ready for a gate and then let the Homeowners Association make that decision. He said that all the feedback was to not have a gate, and he did not have a problem with that. Councilor Bell asked Mr. Edes if the preliminary plat meets all of the Town's requirements, Council does not have a choice but to approve it. Mr. Edes said that if it meets the requirements, it should be approved. Mr. Purser said that he thought it would be best to leave the gate issue to be decided by the residents of the subdivision; the required public access would still be provided via sidewalk. Mr. Holloman said if there were a gate, access would still have to be provided to emergency services. Mayor Pro Tempore Medlin read from the packet regarding the duty of Council to approve the plat if it meets all of the Town's codes and staff's recommendation for approval. Mr. Edes clarified that it was staff's recommendation that the plat be approved as it meets the Town's codes. Mr. Vares said that the only scenario in which the plat could meet all the codes and still be denied is if the infrastructure couldn't handle the increased capacity; he said that staff verified that was not an issue. **Mayor Pro Tempore Medlin made a motion to approve the preliminary plat as presented in the agenda packet.** Councilor Blalock asked if Council had to approve this. Mr. Edes said that staff is recommending approval because of the staff's opinion based on its review of everything, that it meets the Town's ordinance, and if that is the case, it would be Council's duty to vote to approve it. He also said he believed it was clear that staff was telling Council that the duly-executed map with everything from the Corps on it was received and that the applicants have said they would be fine with Council approval being contingent upon resubmission of that paperwork. **Councilor Scott seconded the motion.** Councilor Blalock said that this was poorly put together and that Council had not been kept advised of what was going on. **The motion passed 4-1 with Mayor Pro Tempore Medlin and Councilors Bell, Blalock and Scott in favor and Councilor Winecoff opposed.** Councilor Winecoff said that he voted against the motion because the sealed document from the Corps was not in the packet; Council had to vote on this, not staff. If something is not in front of him, in his mind it doesn't conform. Mr. Holloman said that the streets and utilities could be dedicated to the Town at some point, but that the Town would have the right to not accept them and would likely not accept them with a gated road.

VI. NEW BUSINESS

1. Consideration of Changes to the Oak Island Farmers Market:

1a: Consideration of Adding a Council member liaison to the Parks and Recreation Advisory Board: Mayor Brochure said this was first discussed at the retreat, along with the idea of possibly hiring a part-time Market manager. Mayor Brochure said that the Ambassador Program is wonderful, but that it could change at any time. **Councilor Bell made a motion to add Mayor Brochure as a liaison to the Parks and Recreation Board. Councilor Blalock seconded.** Mayor Brochure asked Council to consider the issue of hiring a Market manager first. Ms. Squires said that the Market is a 16-week program, but the planning starts well before the first Market day. She said a part-time market manager would be a great help. She said that staff and the Market Ambassadors start work in January with planning, advertising, etc. Mayor Brochure asked about the Market growing larger. Ms. Squires said that too many vendors would saturate the Market and the vendors and their customers wouldn't return. The Advisory Board meets monthly, so it wouldn't really be feasible for that Board to review vendor applications weekly. The part-time person would be hired for the time period for running the Market only. Last year the Market generated a little more than \$11,000. There were advertising and other expenses. **Councilor Winecoff made a motion to hire a part-time employee to oversee the Farmers Market under the supervision of the Parks and Recreation Director. Councilor Scott seconded and the motion passed unanimously. Councilor Bell renewed her motion to add Mayor Brochure as a non-voting member of the Parks and Recreation Advisory Board. Councilor Blalock seconded and the motion passed unanimously.**

2. Consideration of a Request for an Extension for Preliminary Plat Approval – SeaWatch Phase 15: Mr. Edes noted that at the March 2014 meeting, there was a motion to approve an extension. There were

no votes in favor. There was not a motion made to deny the extension and it is his opinion that no action was taken on it at that time. Mr. Vares said that the applicant has submitted information and renewed the request for extending the permit. Mr. Vares said that Rule 20 of Council's Rules of Procedure highlighted what Mr. Edes noted; Mr. Edes said it didn't because he didn't think that applied. Mr. Edes said it was not a situation when people refused to vote. Mr. Holloman said that the applicant was requesting approval of a 5-year extension from today's date. Mr. Edes said the length of the extension would be Council's discretion. Councilor Blalock asked for clarification on why the Town would handle this if the development is outside the Town limits. Mr. Edes explained that part of the development lies within the Town's Extra Territorial Jurisdiction. Councilor Winecoff asked if the Town had done away with the ETJ. Mr. Holloman said that was not done. Ms. Stites clarified that Council had directed staff to pursue it but that no further official action had been taken. Elaine Jordan, attorney with Coastal Companies, addressed Council. Ms. Jordan said that the Town had notified the developer last year that it would not provide water and sewer. The developer is working with Brunswick County for that to be provided. She said there are two requests – one is to extend the preliminary plat approval for Phase 15 five years and the other is to extend the Conditional Use Permit for the marina (the major amenity for the community). **Mayor Pro Tempore Medlin made a motion to approve the 5-year extension for SeaWatch Phase 15 as presented in the packet effective today. Councilor Scott seconded.** Councilor Winecoff asked if the County provides sewer for this part of the SeaWatch development instead of the Town, would it take away from the Town's capacity. Mr. Holloman said that it should not affect the Town's capacity. Councilor Bell asked when the preliminary plat was first approved. Ms. Jordan said it was October 2010 for Phase 15 and for the marina it was February 2008. Mr. Edes asked Ms. Jordan if the applicant had any objection to the requests being considered in one motion; she said they did not. **Mayor Pro Tempore Medlin amended his motion to include both extension requests. Councilor Scott seconded. The amended motion passed 3-2 with Mayor Pro Tempore Medlin and Councilors Blalock and Scott in favor and Councilors Bell and Winecoff opposed.**

VII. Closed Session: **Councilor Scott made a motion to go into Closed Session at 8:59 p.m. 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). Councilor Bell seconded and the motion passed unanimously.**

Mayor Brochure called the meeting back to order at 9:40 p.m. and noted that no action had been taken in Closed Session. **Councilor Blalock made a motion to adjourn, Councilor Bell seconded and the motion passed unanimously.**

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.