

MINUTES
OAK ISLAND TOWN COUNCIL
PUBLIC HEARINGS & REGULAR MEETING
July 13, 2017 – 6 P.M.
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Cin Brochure, Mayor Pro Tempore Loman Scott, Council members Sheila M. Bell, Charlie K. Blalock, Jim Medlin and Jeff Winecoff, Town Manager David Kelly, Town Attorney Brian Edes and Assistant Manager/Town Clerk Lisa P. Stites, CMC.

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

PUBLIC HEARING 1: Mayor Brochure said the purpose of the Public Hearing was to receive citizens' comments on a request to rezone two parcels at 6502 and 6504 E. Oak Island Drive from R-6MH to CB.

Betty Hupp, 7916 E. Yacht Drive: Ms. Hupp said the property in question should remain residential. She said Ms. Gullede knew it was residential when she bought it. Ms. Hupp read from the Comprehensive Land Use Plan, that residential property adjacent to commercial should remain residential, primarily single-family. The surveys done at that time showed there was not a desire for additional commercial property on the island. Ms. Hupp said that a row of cedars would protect adjacent property. She said that the Planning Board recommended rezoning 4-3, and of the 4, one was a builder and two live in Kings Lynn which has a totally different lifestyle than the rest of the island. She said the rezoning is in the last area that is most affordable for future residents. Ms. Hupp asked Council to deny the rezoning request.

Bobbie Thompson, 235 NE 64th Street: Ms. Thompson said that she realized a lot of people who had made Oak Island their homes suffered during the recession, and that now that property was moving again, there was a desire to catch up. She said that we should stop and think about the future. She said that the town is one of the few coastal places that is still affordable but that supply and demand would undoubtedly change that. The other reason that people choose Oak Island, though, is the lifestyle here, with family-sized homes, trees, wildlife and a sleepy little town. She said Council could help to preserve that. She asked Council to honor the Land Use Plan and deny the rezoning request.

John Jones, 46 Yaupon Way, owner of Jones Seafood: Mr. Jones said that he opposed the change. He said his uncle had tried a similar map amendment. It was denied then, and he thinks that was the correct decision. Mr. Jones said there was no benefit to the change other than financial benefit for the current property owners, who bought it as residential. He said there is plenty of commercial property for sale. Changing the zoning would devalue adjacent property and would also open the floodgate for other people to ask for similar rezonings. He said he already knew of several people who wanted to make a similar change for their property. His family owns several lots between his restaurant and where commercial starts again in Yaupon, and they would also want to change to commercial if this is allowed.

Art Skipper, 400 Ocean Drive: Mr. Skipper said this was the first time he had ever spoken to Town Council in all the years he had been here. He opposed the rezoning, saying that residential property on Oak Island Drive should not be rezoned to commercial. This change would not be supported by the Land Use Plan. He said others have made similar requests and were denied, such as Ocean View United Methodist Church, which wanted to rezone property to use for parking. He said he owns residential lots on Oak Island Drive, and he opposes the rezoning because it is not in the best interest of the Town and its resident.

Linda Crothers, owner of Captain's Cove Motel: Ms. Crothers said she opposed the rezoning. She said there is already available commercial land. There are also vacant store fronts, though fewer than a few years ago. She said it would be better to keep the commercial areas as they were and there was enough commercial property available to suit our town.

Mayor Brochure asked if there was anyone who came in late who wanted to address this issue.

Rhe Helms, NE 38th Street: Ms. Helms said she was in favor of the rezoning. She said that there was a whole block of commercial on SE 40th Street which was rezoned from commercial to residential, reducing the availability of commercial property. She also said that there were adjacent businesses so it would fit the neighborhood.

Mayor Brochure said that if there was no one else who wanted to speak, she would call for a motion to close the Public Hearing. **Councilor Winecoff made a motion to close the Public Hearing at 6:14 p.m. Councilor Medlin seconded and the motion passed unanimously.**

Councilor Bell made a motion to deny the rezoning application. Councilor Winecoff seconded and the motion passed 4-1 with Mayor Pro Tempore Scott and Councilors Bell, Blalock and Winecoff in favor and Councilor Medlin opposed.

PUBLIC HEARING 2: Mayor Brochure said that the purpose of the Public Hearing was to receive citizens' comments to proposed amendments to Chapter 32 – Vegetation. There were no public comments. **Council Bell made a motion to close the Public Hearing at 6:16 p.m. Councilor Blalock seconded and the motion passed unanimously.**

Planning and Zoning Coordinator Jake Vares explained that the Town used a grant to have a new tree protection ordinance. That ordinance was pared down and simplified; the Planning Board's recommended ordinance changes are before Council tonight. Mr. Vares explained that the revision would require a permit to remove trees on developed properties. It would only apply to the island portion of town, and would not apply to hazardous trees. A tree fund would be set up to receive payments for tree cutting and that money would be used to plant trees.

Councilor Bell made a motion to reopen the Public Hearing at 6:20 p.m. Mayor Pro Tempore seconded and the motion passed unanimously.

Pete Laffey, 3403 E. Yacht Drive: Mr. Lafferty asked if the \$50 fee would apply to new construction to stop the clear cutting he sees going on all over the island. He asked if the Town had an ordinance to address that and who was enforcing it.

Mr. Vares explained that the Town does have an ordinance addressing trees on lots during construction; he explained what the current ordinance says. Mr. Vares said that he gets calls about lots being clear cut and that they do investigate; typically the required number of trees are placed in one corner of the lot, meeting the ordinance requirements.

Councilor Bell made a motion to close the Public Hearing at 6:24 p.m. Councilor Medlin seconded and the motion passed unanimously.

Councilor Medlin said that part of the problem we're experiencing right now is the new stormwater regulations. He also said that when he bought his property, he bought all of the property, and he shouldn't have to get a permit for cutting down a tree. Councilor Bell agreed and said she shouldn't have to get a permit to cut down a skinny pine in her yard. Mr. Vares acknowledged the issues dealing with stormwater

retention. Mayor Pro Tempore Scott said he could understand how the average person would think that a lot was being clear cut, but with the size of lots, and the size of houses being built, there wasn't much left. He asked if the "tree inspector" would be a new position; Mr. Vares explained it would be a current employee assigned to do inspections. He also reviewed the process for applying for development permits.

Councilor Blalock asked what would happen if he were building a house and cut down every single tree on the lot. Mr. Vares said that it would be in staff's discretion to implement a \$500 per-tree fine, depending on whether it appeared to be a clear violation or a misunderstanding. Mr. Vares said that he had only seen three instances when a lot was actually clear cut. He said issuing fines could also depend on the builder's willingness to replant trees of comparable size.

Councilor Winecoff said that issuing a tree removal permit would help Town staff keep track of trees of a certain size being cut down and placed in the right-of-way for pickup when the contractors that cut them down should be hauling them. Mayor Pro Tempore Scott asked if it was really a huge problem; Mr. Vares said he didn't have good data for that. Mayor Pro Tempore Scott said he thought people usually had a reason for cutting down trees.

Councilor Bell made a motion to deny the proposed text amendments. Mr. Edes advised simply not taking action if Council did not want to approve the text amendment. Councilor Bell withdrew her motion. Council took no action.

PRESENTATIONS:

NCDOT: Chad Kimes, Deputy Division Engineer gave a presentation on the planned interchange at the intersection of N.C. 211 and Midway Road/Middleton Blvd. A copy of the presentation is attached and is hereby made a part of these Minutes. Answering a question from Mayor Brochure, Mr. Kimes explained the various traffic problems. He also spoke about the included accesses in the plan and the agreements and money (approximately \$4.5 million) previously paid to the property owner, Tom Young, for the property needed for the interchange. He also said that NCDOT would deny the property owner's request for an access onto the loop road; they would consider another right-in/right-out access to the west. Councilor Medlin asked if when the right-of-way was purchased, was the plan for a cloverleaf at the intersection; Mr. Kimes said that may have been one of the plans considered but that NCDOT is much further into the planning at this point. Councilor Medlin said that it seemed like dumping all the traffic from development on the Young property onto N.C. 211 without a traffic light was a safety issue. Councilor Medlin said that the Town's concern was not how much money had been paid to Mr. Young but the accessibility of valuable commercial property at the entrance to town. Mayor Brochure said if we can't attract large stores to that property, the Town would be losing a lot of revenue because we can't have a driveway. Karen Collette explained the history of the previous project and land purchases; she believed it was in 2012 when the plan at that time went away and then the Lowes project started and now the plan has come back. She said that NCDOT purchased land from Mr. Young five and eight years ago. She also explained what additional accesses that NCDOT would allow for the Young property. Councilor Blalock said that when this was being considered, the Town was not involved and it seemed that the community affected should be involved. Mr. Kimes said that Mr. Young could apply to the Controlled Access Committee for a break in the access but that he would have to pay the value of it; Ms. Collette said she would not support that break in access. Mr. Kimes and Ms. Collette said they would support adding an additional right-in-right-out access farther west on N.C. 211. Councilor Winecoff reviewed the planned traffic flow and said that would be putting people in harm's way. Mr. Kimes said that what accesses would be allowed also depends on what needs the development will have; Councilor Medlin said that the concern was that there would be no interest for commercial development with the existing

planned accesses. Councilor Bell said it seemed like the plan was to make it easier for truck travel out of a port in Southport. Councilor Medlin asked about the additional entrance at St. James; Ms. Collette said that was a complicated process and Mr. Kimes said that had gone through the Controlled Access Committee. Mr. Kimes said that they would make sure to give access to a fire station located on the mainland. Ms. Collette also noted that it might be possible, if a new state law is passed, for NCDOT to give land to a municipality if it would be used for public purpose. Councilor Medlin said that would be good, but that the most important thing for the Town right now would be to ensure good access to this commercial property. Mr. Kimes said the cloverleaf design would have taken a lot of property and that this was a better plan. The entire interchange is expected to take nine months to build. NCDOT and staff will set up a meeting to discuss other transportation issues citizens have.

Oak Island Pier: E.B. Pannkuk with Andrews Consulting gave a presentation on the status of plans for the new Oak Island Pier. A copy of the presentation is attached and is hereby made a part of these Minutes. Mr. Pannkuk also discussed the timeline; he is working on the permitting process and we will hopefully be able to start before the end of turtle nesting season. He and the Town Manager have a meeting scheduled for next week.

Council took a brief recess at 7:05 p.m.

Adjustment/Approval of the Agenda: Mayor Brochure added New Business 4, the “Brunch Bill.” The Mayor also added committee applications from Larry Airey for the Par 3 and from Lisa Nolin for the Parks & Rec Advisory Board. Mayor Brochure removed #2, Confirmation of Previous Action Taken Regarding Speed Limits on Town Streets, from the Consent Agenda. **Councilor Blalock made a motion to approve the agenda as amended. Mayor Pro Tempore Scott seconded and the motion passed unanimously.**

PUBLIC COMMENTS:

Donna Italiano, 212 NE 54th Street: Ms. Italiano said she would like to see a crosswalk and a pedestrian light for crossing Oak Island Drive at 58th Street. Ms. Italiano spoke about the dangers of crossing there and said that we need to provide a visual warning for vehicles that there are pedestrians in the crosswalk. There should be safe pathways for residents and visitors and enough signage to drivers.

Catrina Purser, 5001 O’Quinn Blvd: Ms. Purser spoke on behalf of the beach Preservation Society. She spoke about all the events the members have participated in this summer so far. There is another aquarium program on sharks this summer. There is a cleanup day scheduled in September. Ms. Purser thanked Public Works and Parks and Recreation staff for their support and hard work.

Mary Brewer, 3524 E. Pelican Drive: Ms. Brewer said she understood that South Harbour residents are residents of town. She also knew they didn’t have the same utility bills as island residents, which would give them money to buy memberships. She said the Town should not have to pay rent or pay for electricity in the Pro Shop. She also suggested that allowing the Rec Department to offer water aerobics classes in the pool.

Ben White (no longer present)

Miles Varner, 114 NW 3rd Street: Mr. Varner said that there was apparently some confusion among staff about what was adopted regarding speed limits. He said he thought it was clear to him and to Council and the Planner that it was meant to include Dolphin and Pelican Drives and that they should have been reduced to 25 mph. He said that at one time Oak Island Drive was to be included but then that was removed. He said there was room for discussion and he thought it was an issue of safety, not how long it

takes to get from one end of the island to the other. He said that pedestrians do have the right-of-way and that drivers should slow down for them.

Lynn Gulledge, 126 SW 5th Street: Ms. Gulledge said she stood up here laughing because she thought that she would have an opportunity to talk that was separate from “the public.” Regarding her rezoning request, Ms. Gulledge said that it was not the spot re-zoning Mr. Skipper claimed it was. She said that his properties were scattered along Oak Island Drive and not contiguous with existing commercial property. Ms. Gulledge said that she didn’t know there was a law against investing money to make money. She also said this was not a ghost town and that we needed to be ready for growth, which includes commercial. She also said it was very costly to remodel commercial property. She said there were no new places for commercial development or to provided amenities or services for residents as well as tourists. She said she was excited about the future of the town.

Donna Turner, 250 NE 64th Street, written comments provided as follows: After emailing the mayor and talking with Mr. Kelly he suggested I email my concerns to you to be part of the minutes/record of the town council meeting, Thursday July 13 at 6:00. I have noticed especially with the increase in tourism and traffic at Oak Island, that it has become increasingly difficult to cross Oak Island Drive from the Tranquil Harbor side to the beach side safely. To the best of my knowledge there is not a pedestrian crossing anywhere from 1st Street at Middleton and the new bridge to the opposite end near the BB&T bank. I also noticed there is not even a safe crossing button at the traffic light at 58th and Oak Island Drive. The area between 58th and about 70th Street is very congested due to businesses in the area and residential traffic. I hope NCDOT will consider a traffic study and traffic count for this area to help us cross safely. I enjoy the walkability of Oak Island as well as the bike lanes on Beach drive but I think with a 35 mph speed limit and such increased traffic we need some ways to cross safely. Thank you for your consideration of this matter.

COUNCIL REPORTS: There were no reports.

CONSENT AGENDA

1. Approval of Minutes
 - a. June 5, 2017 (Special Meeting)
 - b. June 13, 2017 (Public Hearings & Regular Meeting Meeting)
2. Authorize Staff to Apply for Smoke Detector Grant

Councilor Bell made a motion to approve the Consent Agenda as amended, Councilor Blalock seconded and the motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA:

Confirmation of Previous Action Taken Regarding Speed Limits on Town Streets: Councilor Bell said she thought their intention was for the side streets, and not to include Oak Island Drive, Yacht, Pelican, or Dolphin. Councilors Winecoff, Blalock and Medlin agreed. **Councilor Bell made a motion to confirm that previous action taken to reduce the speed limits on the side streets to 25 mph did not include Dolphin or Pelican Drives. Councilor Winecoff seconded the motion and it passed unanimously.**

COMMITTEE APPOINTMENTS

1. Community Center Advisory Board (one unexpired term ending October 2019): **Council unanimously appointed Ron Jernigan to the Board.**
2. Parks and Recreation Advisory Board (one term ending March 2020): **With votes from Mayor Pro Tempore Scott and Councilors Blalock and Medlin, Lisa Nolin was appointed to the Board.** With votes from Councilors Bell and Winecoff, applicant Bill Saja was not appointed to the Board.

3. Par 3 Golf Course Committee (one term available for a resident of Oak Island but not South Harbour): **Council unanimously appointed Larry Airey to the Committee.**

ADMINISTRATIVE REPORTS:

Manager's Report: Town staff has met with an engineer regarding possible solutions for the odor problem at the Middleton pump station; the wet well is servicing about two times the amount it was supposed handle. Staff will have something for Council to consider in August. Councilor Medlin asked if that was a design flaw and for the record, who designed that. Mr. Kelly said that was designed by Black & Veatch. Rather than add another wet well the same size, the plan was to replace it with a larger one.

Town Attorney's Report: Mr. Edes gave an update on the Nies vs. Emerald Isle case; the response to the U.S. Supreme Court will be filed August 12.

OLD BUSINESS:

1. Approval of Grant Contract – NC Department of Environmental Quality (2nd grant for handicapped access fishing T at Veterans Park): Parks and Recreation Director Rebecca Squires said the cash match is \$5,900. Answering a question from Council Medlin, Ms. Squires said that we could use money from the other grant to cover the cash match for this grant. The hope is that the project could be completed this fall. **Councilor Medlin made a motion a motion to accept the NC Department of Environmental Quality grant contract as presented. Mayor Pro Tempore Scott seconded and the motion passed unanimously.**

2. Consideration of Amending Committee Charge for the Environmental Advisory Committee: **Councilor Medlin made a motion to resume the original number of members for the Environmental Advisory Committee and set the roster at 9 members. Councilor Bell seconded and the motion passed unanimously.**

NEW BUSINESS:

1. Consideration of Changing the August Meeting Date: **Councilor Bell made a motion to amend the list of regular meeting dates by changing the date for the August meeting to August 15. Councilor Medlin seconded the motion and it passed unanimously.**

2. Consideration of Request to Amend Contract – Holland Consulting Councilor Winecoff said that when the contract was approved, it was stated that there would be as many meetings as it took to complete. He said that he could agree to half the amount requested. Mr. Vares said that the amount of work that needed to rewrite the zoning ordinance was substantial. The Planning Board meetings were long and often went off on tangents. All of the review is finished; the Planning Board wanted to look at the final draft before recommending approval to Council. There were two public engagement meetings not used for the Comprehensive Plan Ad Hoc Committee that were used instead for the UDO review and it was still not finished. The contract recommended 8 and there have been 12 meetings with the Planning Board thus far. Councilor Bell said their intent was not to cause more work for staff but neither was it to hand out \$5,000 if the UDO was close to being finished. Councilor Blalock asked if it was made clear to the Planning Board that time was not being used appropriately; Mr. Vares said it was. **Mayor Pro Tempore Scott made motion that we hold Mr. Holland to the original contract. Councilor Winecoff seconded the motion and it passed unanimously.**

3. Consideration of Nuisance ordinances (Secs. 1-7, 4-1, 14-30-33, 14-36, 14-92, 14-94, 14-98, 12-121, 24-66, 24-69, and 28-10.1) and Proposed Addition to the FY2017-18 Fee Schedule Nuisance ordinance amendments: Councilor Bell clarified that beekeeping was allowed. She also asked about the cart fees for installing a cart rack and said she thought that fee wasn't necessary. In 24-69, Councilor Winecoff suggested adding "rear" to the setbacks as well. Mayor Pro Tempore Scott asked Mr. Edes to

review the section on odor control to see if it was worded correctly. He asked what would happen if the Town were causing an odor; Mr. Edes said that Town property is neither residential nor commercial. **Mayor Pro Tempore Scott made a motion to adopt the amendments to Secs. 1-7, 4-1, 14-30-33, 14-36, 14-92, 14-94, 14-98, 12-121, 24-66, 24-69, and 28-10.1 with the changes made tonight. Councilor Blalock seconded the motion and it passed unanimously.** Mayor Brochure thanked Mr. Vares for his hard work on code enforcement issues.

4. Consideration of Adopting the “Brunch Bill”: **Councilor Bell made a motion to add Section 10-62, Sunday Sales, to the Code of Ordinances. [The ordinance reads as follows: Section 10-62 Sunday Sales: Pursuant to the authority granted by S.L 2017-87, any establishment located in Oak Island and holding an ABC permit issued pursuant to G.S. 18B-1001 is permitted to sell beverages allowed by its permit beginning at 10:00 a.m. on Sundays. (1) All laws and clauses of laws in conflict herewith are repealed to the extent of any such conflict. (2) The sale of malt beverages, unfortified wine, fortified wine, and mixed beverages is permitted beginning at 10:00 A.M. on Sunday pursuant to the licensed premises' permit issued under G.S. 18B-1001. (3) This ordinance is effective upon adoption.] Councilor Blalock seconded the motion and it passed 4-1 with Mayor Pro Tempore Scott and Councilors Bell, Blalock, and Winecoff in favor and Councilor Medlin opposed.**

CLOSED SESSION: Councilor Winecoff made a motion to go into Closed Session at 8:39 p.m. to discuss Specific Personnel, to Consult with the Town Attorney and to Discuss Pending and Potential Litigation pursuant to N.C.G.S. 143-318.11(a) 1, 3, 5, and 6. Councilor Bell seconded and the motion passed unanimously.

Council returned to open session at 9:20 a.m. Mayor Brochure noted that no action had been taken in Closed Session.

Councilor Medlin made a motion to adjourn. Councilor Winecoff seconded and the motion passed unanimously.

Cin Brochure, Mayor

ATTESTED: _____
Lisa P. Stites, CMC
Assistant Manager/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.