

MINUTES
OAK ISLAND TOWN COUNCIL
PUBLIC HEARING & REGULAR MEETING
May 8, 2018 – 6 P.M.
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Pro Tempore Scott, Council members John W. Bach, Sheila M. Bell, Charlie K. Blalock, Jeff Winecoff, Town Manager David Kelly, Town Attorney Brian Edes and Assistant Manager/Town Clerk Lisa P. Stites. Mayor Brochure was out of town and not able to attend.

Mayor Pro Tempore Loman Scott called the meeting to order at 6 p.m. Councilor Blalock gave the invocation and led the Pledge of Allegiance.

PUBLIC HEARING 1: Mayor Pro Tempore Scott said the purpose of the Public Hearing was to receive citizens' comments on proposed amendments to the Comprehensive Land Use Plan to incorporate the newly adopted flood maps. There were no comments. **Councilor Bell made a motion to close the Public Hearing. Councilor Winecoff seconded the motion and it passed unanimously.**

PUBLIC HEARING 1 ACTION: **Councilor Bach made a motion to approve the Land Use Plan Amendment Resolution as presented and to direct staff to request the Land Use Plan amendment. Councilor Blalock seconded the motion and it passed unanimously.**

PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

1. Proclamation – Municipal Clerks Week: **Councilor Bach read the Proclamation.**
2. Proclamation National Safe Boating Week: **Mayor Pro Tempore Scott read the Proclamation and presented it to members if the U.S. Coast Guard Auxiliary present.**

ADJUSTMENT/APPROVAL OF THE AGENDA

Councilor Bach removed Item 4 Approval of the Audit Contract for FY 2017-2018, from the Consent Agenda. **Councilor Bach made a motion to approve the agenda as amended. Councilor Blalock seconded and the motion passed unanimously.**

PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Catrina Purser, here for the Beach Preservation Society: Ms. Purser spoke about the recent wine tasting fundraiser, saying it was an outstanding event. Ms. Purser also spoke about the many events the Society participated in and the service hours the members have given. She said the group wants to make the beach better for everyone now and in the future. She also reminded everyone there would be openings coming up on the Trust Fund Advisory Board.

Betty Monin, 3501 E. Yacht Drive: Ms. Monin said she was concerned, embarrassed and angry about the sand used on the dune project. She showed examples of the sand used. She said she didn't care that the Town got a waiver and she doesn't understand why the sand was accepted; someone owes Oak Island for the polluted sand. She said that it is not the same quality that existed on the beach. Ms. Monin also said that she has seen a tunnel through the new dune, and she doesn't blame them as there is an 8-foot drop off. She said that her tax dollars were being squandered on sub-standard work and materials. She asked what Town Council was doing to fix the problem.

Mr. Kelly said that turtle nests will have to be relocated, as will the turtle nests laid during the Wilmington Harbor Project coming in the next few months. The Town has permission to drag down escarpment until May 15. Mr. Kelly said that the grain size of the sand is compliant and that there is not a State standard for sand color. He said once there was concern expressed about the sand color, the

contractor moved to a different area in the borrow area. Mr. Kelly said the Town had to have permission to do anything to the dunes; the dune project was a federal project, and the Town had to have permission to address the escarpment. From the audience, Ms. Monin asked the Council members if they were proud of the project. Councilor Winecoff said that they were not, but that they had to have approval for any corrective measures to be taken.

Helen Cashwell, 3407 E. Yacht Drive: Ms. Cashwell said that she has come to the conclusion that words and actions are soon forgotten and didn't have much meaning in the first place. She said what was most memorable was that Council had passed an ordinance that the house size was limited to 3,999 square feet because of the possible impact on the sewer system. She said that ordinance has never been followed and that mini hotels are being built with the permission of Council. She said that no one is asking how much capacity is left or who will be responsible for paying for upgrades. During a particularly heated campaign, one of the sitting Council members stated that he would make certain that the finances of the Town would be presented at each Council meeting. She said she can't remember hearing the first one presented. She asked why people continue to attend these meetings and that one can only hope and dream.

Mayor Pro Tempore Scott noted that he had the financial report for April 2018 if she wanted to see it.

Joy Easley, 5219 E. Oak Island Drive (law office address), here on behalf of property owners Todd and Tammy Leonard, who own property at 43 Yaupon Way: Ms. Easley said that the lot is relatively large compared to other parts of the island. They have plans for a personal residence there of approximately 3,800 square feet. Historically, there are larger homes in the Oak Island Estates golf course area. As they began the building process, they were informed by staff that the house would be required to have a sprinkler. That requirement was only because of Appendix B, which she said is not part of the Fire Code unless specifically adopted. Oak Island adopted the appendix a few years ago. Ms. Easley said that the Leonards feel like they are being punished financially. Ms. Easley said that if there is a kitchen fire, and the sprinkler goes off, what you'll have is a mess. She said that Appendix B was not required and she asked Council to consider a text amendment to rescind the prior adoption of Appendix B.

Mr. Kelly suggested preparing a text amendment to for Council's consideration; consensus of Council was for the Town Attorney and staff to draft the text amendment.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Winecoff said he and Councilor Blalock and Mr. Kelly attended the NCBIWA conference in Pine Knoll Shores. He said while they were there, they toured the beach towns in that area. He said that he found it interesting that they have the same stormwater regulations as we do, but yet they don't enforce them like we do. He wondered why we were going through the trouble to take all these trees out when one size does not fit all.

Councilor Blalock said they learned a lot at the conference. He also thanked those who had helped him through a difficult situation.

Councilor Bach said that he thought it was clear that the citizens want managed growth, a sensible policy that addresses size, density, congestion, and that preserves the environment. He suggested looking at that as they began reviewing the draft Unified Development Ordinance in June. The tools to do that are limited, but that they needed to be looking at those. Councilor Bach also said that at the Council retreat in January, five goals were set. He said that he has given Council a Strategic Plan; it is a strategic snapshot that looks at the next 3 years. He said they looked at environment, infrastructure and the economy. He said that he believes they need to address beach nourishment for a recreational beach, ordinance enforcement, a revenue-generating buildout of the Pier, and a plan to develop the mainland that builds

sustainable rateables, a plan to monitor traffic flow, parking and a paid parking system. He said he hoped Council would adopt the plan and give it to staff to come up with a more detailed plan for accomplishing those goals.

REGULAR MEETING:

I. CONSENT AGENDA

1. Approval of Minutes
 - a. April 5, 2018 (Special Meeting)
 - b. April 9, 2018 (Public Hearings and Regular Meeting)
 - c. April 13, 2018 (Special Meeting)
2. Approval of Grant Contract with North Carolina Coastal Management – Pier Replacement Project
3. Approval of Encroachment Agreement – ATMC
4. ~~Approval of the Audit Contract for FY 2017-2018~~ – removed from Consent Agenda

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

II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

Approval of the Audit Contract for FY 2017-2018: Councilor Bach asked Finance Director David Hatten if this was the end of the 5-year contract; Mr. Hatten said it was. He asked if Requests for Proposals had been done prior to this contract; Mr. Hatten said that they had. Councilor Bach asked Mr. Hatten if the firm had been providing “clean audits” in his view; Mr. Hatten said that had. Councilor Bach said that the contractor submission was troubling, because they had passed with deficiency because they omitted data on employee benefits; he asked if they had omitted our data. Mr. Hatten said that this comment came from a peer review on a 401(k) review. There was not any financial information left out from our audit; it was regarding a footnote disclosure and had nothing to do with the Town’s audit. Mr. Hatten said that he knew other CPA firms had received a similar letter. Councilor Bach asked Mr. Hatten if he had any concerns with the ability of the firm to conduct the audit. Mr. Hatten said he did not. **Councilor Winecoff made a motion for Council to grant authority to enter into a standard audit contract, subject to approval by the Local Government Commission (LGC), with S. Preston Douglas & Associates, LLP for audit and financial statement preparation services for Fiscal Year ending June 30, 2018, at a fee not to exceed \$44,000. Councilor Bell seconded and the motion passed 4-1 with Mayor Pro Tempore Scott and Councilors Bell, Blalock and Winecoff in favor and Councilor Bach opposed.**

III. COMMITTEE APPOINTMENTS

1. Parks and Recreation Advisory Board (one term ending March 2021): **Council unanimously re-appointed Jody Britton.** Applicant Leslie Weinhold-Stone was not appointed.

IV. ADMINISTRATIVE REPORTS (heard following New Business)

1. Town Manager
 - a. Department Reports are attached and are hereby made a part of these Minutes.
2. Town Attorney

V. OLD BUSINESS (none)

VI. NEW BUSINESS

1. Consideration of Resolution Requesting the NC. Department of Environmental Quality to Reconsider Its Stormwater Requirements for the Town of Oak Island: Councilor Bach said that during the Town Hall meeting, it appeared that people were looking for reconsideration from the State. Without relief, he said we will denude the remainder of the island. He said that it seemed we have a compelling case for hardship. Councilor Winecoff said he agreed that we should approach the State to try to ease

some of the burden in the homeowners and builders. Councilor Blalock said he was surprised as to how much room a stormwater system used. Mayor Pro Tempore Scott said that he recalled there being some concern that we were already on the State's radar. Mr. Kelly said that about 9 months ago, the State doubled the requirements and that after enough municipalities complained, the State pulled back and kept the current policy in place. **Councilor Bach made a motion to adopt Resolution Requesting the North Carolina Department of Environmental Quality Reconsider Stormwater Regulations for the Town of Oak Island. Councilor Winecoff seconded and the motion passed unanimously.**

2. Consideration of Proposed Amendments to Chapter 32 – Vegetation: Councilor Bach reviewed his proposal, which would double the required number of trees to be saved and would create an incentive program which would give a \$100 tax credit when trees are preserved and/or replanted. He said that it would require more careful design, but he thinks it is worth the effort to preserve as many trees as we can. Councilor Bell asked if it was legal to give a tax incentive. Mr. Edes said that if Council were inclined to give a \$100 break, he would recommend it be in the way of fees rather than the taxes, unless the General Assembly gave us specific permission to give a tax credit for that. Mr. Edes also said that it would have to be uniformly applied. He also recommended adding some criteria, such as a minimum lifespan for the trees, etc. Mr. Edwards said that the lot development fee was \$100. Councilor Bach clarified that this would apply to new construction only. Councilor Bach confirmed that Mr. Edes' recommendation included language to limit to one fee reduction per lot. Councilor Bach said he would be concerned about the time and effort to enforce a minimum lifespan requirement, however. Mr. Edes said a better way may be to take a look at it after a year or so and assess whether more trees were being protected. Councilor Bell asked Mr. Edwards if they would need an arborist to determine if the trees planted were on the approved list. Mr. Edwards said that they could hold the certificate of occupancy until it was confirmed the trees had been planted. He said he would not need more staff to enforce that. Councilor Winecoff said that they'd heard from contractors that with the current stormwater requirements, it was already difficult to save trees and asked if it would be possible to meet double the requirements. Mr. Edwards acknowledged that it would be a challenge. Councilor Blalock asked if we have a list of native trees and if it included palm trees; Mr. Edwards said that we do have a list and that we do have a native palm. Mr. Vares said that there are a few lists of native tree lists available. He also suggested requiring some specific standards for the size of tree, etc. **Councilor Bach made a motion to direct staff to prepare ordinance amendments to send to the Planning Board. Councilor Winecoff seconded the motion and it passed unanimously.**

ADMINISTRATIVE REPORTS

Mr. Edes reviewed a newly-created notice regarding how sewer assessment are credited when lots are subdivided; the notices will be included with tax certifications. A copy of the notice is attached and is hereby made a part of these Minutes. He explained that the Town cannot give credit to a parcel that did not exist when the assessments were levied. He also explained the situation that led to the creation of this new notice. Councilor Bell said she was concerned that closing attorneys and others will become complacent and not pay attention to the notice after a period of time. Mr. Edes said that the Town was doing what it could in providing a service that it was not required to. Mr. Edes also said there would be a joint memorandum from the County and the Town and that it would be circulated to the closing attorneys. Mr. Edes also compliments County staff for its very productive meeting with the Town.

Mr. Kelly spoke about the rights-of-way. One of the things that had been suggested was an 8-foot area where property owners could plant vegetation; they reviewed driveway widths, etc. The question was whether the Town would essentially be giving property owners rights by allowing activity within the right-of-way. Mr. Edes said that generally what you do is provide a licensing agreement per person who wants that, though he acknowledged that would be on a much larger scale here. He reviewed what such a licensing agreement should include and said that we would want the property owners to agree to hold the Town harmless and indemnify the Town should anyone get hurt by the property owners having something

in the right-of-way. He said he didn't know that would be accomplished through ordinances. Councilor Winecoff said that he and Councilor Blalock had reviewed a lot of the Town, and that there are all sorts of things in the rights-of-way. He said he didn't think it would be fair to make everyone remove things up to 10 feet off the right-of-way when it's been allowed so long. He said it seemed like the majority of items were 7-8 feet off the road. Councilor Blalock asked Mr. Edes if he was saying that the Town should address it on a case-by-case basis. Mr. Edes said the best way to handle it was with a license agreement, which would not be conveying property rights, but that he didn't see how we would do that if the goal were to allow everyone to do that. Councilor Blalock asked if they could include a "grandfather clause." Mr. Edes said that he would suggest an amortization schedule for coming into compliance with any new rules. Councilor Bell asked what the purpose of this was. Councilor Winecoff said that this was something that was brought to them, to clear everything out that people have along the road. He said that would create a lot of havoc and destruction of yards that people have had for years. He said there was no sense in that. Councilor Bell asked how many more employees would be needed to enforce new ordinances. Mr. Vares said that if there were a junk vehicle in the right-of-way, that would be a police matter. A junk vehicle on a lot would be handled by code enforcement, as would be post or other items in the right-of-way. Mr. Vares said that as far as implementation, he would recommend using an amortization period. Councilor Bach said that safety issues and denial of public access in the rights-of-way should be the top priority. He said that he thinks 7 feet is probably reasonable. Mr. Edes said that if staff were aware of a safety issue, it needs to be addressed, regardless if any proposed ordinance amendments are forthcoming. Councilor Blalock said that at one lot, he saw metal posts in the ground that were 5 feet tall; if someone riding a bicycle falls into that, that person will be hurt. Mr. Edes said that people do have a duty to not be negligent themselves. Councilor Winecoff said that this still needs work, but that there is not clear guidance for homeowners and developers. Councilor Blalock said that we need to let people know that changes are coming.

VII. CLOSED SESSION: Councilor Bell made a motion at 7:17 p.m. to Consult with the Town Attorney on Pending Litigation pursuant to N.C.G.S. 143-318.11(a)(3). Councilor Bach seconded and the motion passed unanimously.

Council returned to open session at 7:40 p.m. Mayor Pro Tempore Scott noted that no action had been taken in Closed Session.

Councilor Bell made a motion to suspend the rules to add an agenda item for consideration of the Fire Code appendices and to direct staff to suspend enforcement of the Fire Code appendices until Council can take action at the June meeting. Councilor Bach seconded and the motion passed unanimously.

Councilor Bell made a motion to adjourn at 7:40 p.m. Councilor Blalock seconded and the motion passed unanimously.

Cin Brochure, Mayor

Attested: _____

Lisa P. Stites, MMC
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.