

MINUTES
OAK ISLAND TOWN COUNCIL
SPECIAL MEETING
November 16, 2018 – 9 A.M.
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Cin Brochure, Mayor Pro Tempore Loman Scott, Council members John W. Bach, Charlie K. Blalock, Sheila M. Bell and Jeff Winecoff, Town Manager David Kelly and Assistant Manager/Town Clerk Lisa P. Stites.

Mayor Brochure called the meeting to order at 9 a.m.

I. Consideration of Proposed Amendments to Sec. 26-1 Construction or other improvements within street right-of-way and Sec. 28-9 Parking on or obstructing sidewalks and public right-of-way: Mr. Vares spoke about the proposed amendments. The amendments clarify that the Town can remove items in the right-of-way (ROW), and include the sight triangle requirements for corners, exceptions for mailboxes and newspaper boxes, etc. He said that code enforcement cases for obstructions in the ROW have been put on hold until there is clear direction for how to proceed. Obstructions in the ROW can affect utility work, lead to a lack of uniformity, etc. At the end of the day, he said what staff is asking is that people not be allowed to install items on property that does not belong to them. Mr. Vares said it also affects stormwater; allowing these kinds of things in the right-of-way can affect stormwater retention. Councilor Bell said that this has been the ordinance forever and she is not sure why we should change it now. Mr. Vares said he would prefer that it doesn't change. Councilor Blalock asked how far the ROW extends; Mr. Vares said it varies in town, but typically, the road ROW is 60 feet. Typically, the ROW from the side of the road is 15-20 feet. Councilor Bell said so that basically, people should keep things on their property, which is marked with the property stakes. Mr. Vares said that a lot of stakes are still out there, as well as utility valves or other apparatus.

Councilor Blalock asked if a permit would come in for a 20-foot gravel parking area in the ROW. Mr. Vares said that it would not, and that people usually do this after the fact, without a permit. Answering a question from Councilor Bell, Mr. Vares said that posts and rope or other items in the ROW could be a safety issue too, if someone has to pull off the road in an emergency. Councilor Winecoff said that he has a problem with this because trees that are in the ROW and that were when the CO was approved, people would have to now cut those trees down. Mr. Vares said that trees in the ROW that were already there would not have to be removed, but that people would not be able to plant trees in the ROW after the fact. Posts or other items next to the driveways are considered obstructions. Mr. Vares said that people plant seed in the ROW, and the ordinance amendments would still allow that, but people want to protect the grass, and that's when obstructions appear. Councilor Winecoff said that there must be hundreds of violations throughout town, and people may have to spend thousands of dollars to comply. He said the rules have been on the books but they haven't been enforced. Councilor Bach said that Council could either adopt a single standard for the whole town, or adopt a modified ordinance that would grandfather seven or eight feet and retain the right to enter the ROW; he said the second choice was a more sensible choice. Councilor Bach said that he would prefer spending staff time and resources and addressing the safety and public access issues, not taking apart landscaping. He said there would be hundreds of cases otherwise. Councilor Bell said that if she was speeding on a highway for years, and finally did get caught, it wouldn't mean the speed limit would be changed to accommodate her. Councilor Blalock said that he thought it would be a logistical nightmare to try to retroactively enforce compliance. Mr. Vares said the logistical nightmare would be proving which items were already in the ROW if items already there were grandfathered. He said you'd have to video record every street in town to use it as a record of what was

there. Councilor Bell asked how that was handled for building problems. Mr. Edwards said if it were a life safety issue for a structure, they would make them correct it. Councilor Bell said that even if we give people 10 or 15 feet, that would not apply on the state roads.

Mr. Edwards also spoke about three photos, two showing utility work in the ROW and how much room is necessary to do that work, and a picture of a yard with extensive landscaping done all the way to the pavement. Mr. Vares said that violations are not considered ‘grandfathered’ over time; they are still violations. Councilor Blalock asked if they could go back on a case-by-case basis and permit items already in the ROW; Mr. Vares said that was a different conversation. Councilor Bell said that would put a lot of liability on staff. Councilor Bach said that from a legal point of view, in terms of creating immunity, we would need 4,000-some individual contracts and that would not be practical. Councilor Bach said that the Blalock/Winecoff proposal would allow the Town to handle the major safety issues. He said that chasing down 20-year old violations would be “massively destructive.” Asked how many violations exist, Mr. Vares estimated about 10 percent of the lots that have violations, and that NCDOT would handle the violations on state roads. Mr. Kelly said that we could give a list of addresses to NCDOT for that agency to enforce those violations.

Councilor Winecoff said that he measured, and that at 10 feet, there would be several hundred violations to handle, but that at 8 feet, there would be far fewer. Mr. Kelly said that whatever they allow in the ROW, it would take manpower to enforce. Council and Mr. Kelly discussed whether the Police Department could help enforce the ROW ordinances. Councilor Bach said that he hoped there would be a clear plan to educate the public and to deal with the safety hazards and denial of public access. Mr. Vares said that the most resistance he gets about code enforcement comes from ROW violations. Councilor Blalock said that public education would be key, as most people don’t understand that they do not own the ROW. Mr. Vares said that a citizen publication plan was included with his agenda memo. Mayor Brochure said that there are people who will comply when they realize there is a rule.

Councilor Winecoff asked if we have something that addresses what is and is not allowed as far as the ROW that is provided during the permitting process; Mr. Edwards said that could be implemented. Mayor Brochure suggested including it in a package homeowners would get when they turn on the water.

Mr. Edwards said that he believed current staff could handle the current ROW violations, and suggested giving people time to comply. He said that a clean ROW should be the Town’s objective.

Councilor Bach said he liked the communication plan, and suggested adding two things to it -- a date certain when enforcement would begin, and an abatement period. He said there would always be people who won’t comply, but that the majority of people would want to comply if our message is about public safety and ensuring public access. Councilor Blalock said we had beat this horse forever and that we need to get out there and enforce this.

Councilor Bach asked about a sentence in the memo stating that staff was given a directive to halt enforcement. Mr. Vares clarified that cases have been put on hold until there is a directive on what the ordinance should say.

II. Consideration of Proposed Amendments to Sec. 28-10 Parking Prohibitions and Sec. 28-10.1. Public parking on town right-of-way: Mr. Vares said this was not paid parking, but that these proposed amendments were to clarify regulations and to clean up contradictions in the ordinances. Mayor Brochure asked if it was legal to park a boat in the ROW and leave it there. Mr. Vares said that it could be in the ROW for 72 hours. Councilor Blalock said he’d seen boats in the ROW with the trailer tires rotted, clearly in violation.

Councilor Bach said that these changes seemed relatively minor. He asked Mr. Kelly if this would be emphasized with our new police philosophy. Mr. Kelly said it would. Mr. Kelly said that officers are patrolling in specific districts and that we get reports showing where officers were and what they found, etc.

Mayor Brochure said that a lot of these things would have to change if the Town implements paid parking. Mr. Vares recommended adoption of these ordinances, and said that he has a list of violations ready to enforce.

Eric Crouse, with NC Parking Co. (dba United Parking Partners), spoke about what the company could offer in terms of parking management. The company has over 250 locations nationwide. Regarding the Town's consideration of paid parking, Mr. Crouse suggested clarifying the RFP to focus on revenue creation rather than enforcement. He said that they would want to make sure everyone understood the rates, and that there was clean signage and personnel visible in the community. He said the company offers more of an owner's mentality, working as a partner to the Town. The company would guarantee the Town a certain level of revenue and then use a split, with a cap on the company's revenue. The company would pay for the infrastructure upfront and amortize that expense over the term of the contract. Mr. Kelly explained that the Town would be looking to implement paid parking in three Town-owned lots and along the beach.

Mr. Crouse spoke about some of the specifics, and fielded questions about technology used, signage, enforcement, kiosks and their possible locations, staffing levels, handling upset customers with tickets, etc.

Council took a recess from 10:18 a.m. to 10:27 a.m.

Councilor Bach said that paid parking is inevitable. He reviewed some of the data collected from other beach towns with paid parking. There are several factors, such as a nominal charge for paid parking, the type of technology used, the hourly rate (most use \$2/hour), renters pass, non-resident provisions, etc. He would recommend a five-year contract with the first year being a benchmark year and the other four years including a guarantee for revenue. One of the things to consider is collecting enough revenue to justify the disruption. Councilor Bach said that the Town is looking at \$20-\$30 million for beach nourishment, and that even \$100,000/year from parking revenue would be \$1 million in 10 years. Councilor Blalock said he'd like to see the numbers, because that's the selling point, and we'd have to show citizens what they would be getting for this, because a lot of them are not for it. Councilor Blalock said that the main target was daytrippers who come to the beach, leave their trash, don't buy anything, and leave. Councilor Bach said that the data shows that businesses are not negatively affected by paid parking, that actually the opposite was true and they benefitted from it. Councilor Bach said that we certainly want to be a tourism-friendly town, and that was a key consideration. Councilor Winecoff said that we had beat this subject to death. He suggested sending out the RPF and scheduling presentations for the Town Hall meeting in January. Mayor Brochure said that coastal towns have to pay for things like extra trash pickup, police, etc. that accommodations taxes don't cover, and that parking revenue would help. Councilor Bell said she was one of the naysayers, especially if there would be so many groups that would have free parking. Council also discussed how to handle season-long passes for rental companies; Councilor Bell said that vacation rentals have parking at the house. Councilor Bach said the cost of a pass would be a pass-along cost to the renters.

Councilor Winecoff asked for a consensus to send out the RFP and to have companies attend the January meeting. Mr. Kelly said that there would be another meeting with Councilors Blalock and Bach on Monday and that they could finalize the RFP then. Council consensus was to proceed. Mayor Pro Tempore Scott said his concern with paid parking was the fishing pier; Mr. Kelly said when people pay to fish, parking fees could be included. Councilor Bach said the fee for parking decals for residents should cost more than \$5.

Obstructions ordinance amendments: Mayor Pro Tempore Scott asked if they could get a consensus on the distance from the roadway that must remain clear of obstructions. Councilor Bach said he supported 8 feet, said there should be a robust public communications plan and a focus for enforcement of safety and public access issues. Councilor Bell said she'd like to leave it the way it is with a focus of enforcement on water access and safety issues. Mayor Pro Tempore Scott said he would support 8 feet. Councilor Blalock said he would support 10 feet, which would leave room for police officers to work when on the side of the road. Councilor Winecoff said he supported 8 feet; nothing would be allowed in that 8 feet except what NCDOT allows. Council also discussed what would be allowed between the line at 8 feet and the property line. Councilor Winecoff said they had previously discussed allowing shrubbery up to 4 feet high. Councilor Winecoff said that what staff had previously suggested would still apply in the section between the 8 foot line and the property line. Councilor Bell said she would be concerned about blocking the sight line around the corners. Mr. Edwards said that the sight triangle language would still be included. Councilor Blalock said for the sake of consistency, if it was going to be 8 feet, it should be 8 feet everywhere and nothing should be allowed in that area. Councilor Bell said, just to clarify, this would not actually apply to Beach Drive, Kings Lynn, etc. and that we would have different standards for Town roads versus NCDOT roads. Councilor Winecoff said that we have different standards now, such as the Town allowing 72-hour parking in the ROW and NCDOT allowing 24 hours. Mr. Kelly said that staff would compile what was discussed here today and ask the Town Attorney for a legal opinion.

Consideration of Proposed Amendments to Sec. 28-10 Parking Prohibitions and Sec. 28-10.1. Public parking on town right-of-way: **Councilor Winecoff motion to adopt the amendments 28-10 Parking Prohibitions and Sec. 28-10.1. Public parking on town right-of-way as presented. Councilor Blalock seconded and the motion passed unanimously.**

Councilor Bell made a motion to adjourn at 10:56 a.m. Councilor Bach seconded the motion and it 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.