

MINUTES
OAK ISLAND TOWN COUNCIL
PUBLIC HEARING & REGULAR MEETING
September 10, 2019 – 6 P.M.
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

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

Mayor Cin Brochure called the meeting to order at 6 p.m. Councilor Scott said that the next day was the anniversary of 9/11, a day when we lost 3,000 Americans in one act, and he asked for a Moment of Silence. He then led the Pledge of Allegiance to the flag.

PUBLIC HEARING I: The purpose of the Public Hearing was to hear citizens' comments on proposed amendments to Section A.3 - Definitions and Section 10.104.1 Fill of the Unified Development Ordinance; to amend the definition and regulations regarding Fill.

Joe Stanton, 110 E. Beach Drive: Mr. Stanton said at the December meeting, he asked about putting signs on Beach Drive at Middleton. He said people would be surprised how many drivers missed 40th Street and Middleton Avenue. He said that signs were needed on the east and west sides of Middleton Avenue on Beach Drive. Mr. Stanton said he was told in March what the signs would say, but they have still not been put up on the road. He also said that he thought the police department did a good job during the storm and that he appreciated that.

Karen Medvedeff, 1718 West Pelican, written comments provided as follows: My name is Karen Medvedeff and I am a resident of Oak Island. My husband and I have owned our home at 1718 West Pelican for 10 years. My concern is an upcoming proposal that will negatively affect our property as well as my Oak Island neighbors. The current proposal to regulate the amount of fill, if I understand it correctly, would allow for lots to be filled to a level two feet above the crown of the road on which they stand. While this would no doubt allow some lots which are virtually unbuildable to become buildable, it will only exacerbate the ongoing problems with the drainage which exist on Oak Island. Increased runoff water onto Beach Drive will certainly increase both the extent, and the duration of flooding along that roadway. The same holds true for Dolphin and Pelican. Our current home in the 1700 block of West Pelican has 3 lots that are left to build on. Our adjacent lot (1720) has been sold and if this amendment were to pass, our road, as well as our home, would be inundated with runoff water. An engineering plan might mitigate the problem for a normal rainfall, but it would most likely fail to provide protection from a tropical storm, high moon tide or even a heavy rain. Since even flood insurance does not provide meaningful coverage of surface flooding, the effect to our home could be catastrophic. There is already considerable flooding of yards on the street, and after even a minor rain, the intersection of 17th place and Pelican is impassable for extended periods due to flooding. Raising the remaining lots, allows yet more runoff to flood not only our property, but the entire street. I believe that Council passed an ordinance dealing with the height of fill allowed toward the end of last year. I would respectfully request Council to revisit that plan, and put a great deal of study into the matter before allowing, what could be, potentially devastating to the residents of Oak Island.

Councilor Bell made a motion to close the Public Hearing at 6:04 p.m. Councilor Bach seconded it and the motion passed unanimously.

PUBLIC HEARING I ACTION: Planning and Zoning Coordinator Jake Vares said that the fill ordinance was adopted in 2015 and amended in November of 2018. He said the proposed cap would set a reasonable

limit on the amount of fill that someone can put on a lot when applying for a LOMR (letter of map revision to take the property out of a flood zone). He said that staff had not seen this as a problem but that they were being proactive so that the exception couldn't be exploited. Mr. Vares said that in any case, when fill greater than one foot is brought onto a site, an engineered plan for capturing stormwater would be required. Councilor Bell asked if someone is applying for a LOMR, and he has to bring in more than one foot of fill, which is the cap previously set, then there has to be an engineered plan? Mr. Vares said that was correct. Mayor Pro Tempore Winecoff asked if that could be reduced to one foot to match what is already in place. He also asked about the lots that back up on Davis Canal, saying that water would be pushed onto adjacent lots that may already flood at high tide; he wondered how that would be addressed. Mr. Vares said that if someone buys a lot next to a water feature, potential flooding has to be a consideration anyway. He said Council could change the proposed cap to one foot. Councilor Scott asked how much this was an issue. Mr. Vares said he had researched that, but what he found was that there had only been four or five times in the last ten years when someone put between 2-4 feet of fill on a lot to obtain a LOMR. Answering a question from Mayor Pro Tempore Winecoff, Mr. Vares said that the fill limit in the ordinance is meant to prevent water flowing where it hadn't flowed before. Councilor Bach said that there wasn't really any case history to demonstrate that we need to be more restrictive. Mr. Vares said that was true but the only way to collect that kind of data would be to allow it to become a problem. Councilor Bach asked what the argument was against the staff recommendation during the Planning Board discussion since it was a split vote. Mr. Vares said that he didn't want to speak for anyone, but that there were a lot of questions. He also said that one suggestion they considered was just removing the exception entirely. Councilor Bell asked how long the LOMR option had been available. Mr. Vares said he wouldn't recommend removing the LOMR option as it allows people to bring properties into better compliance with the Hazard Mitigation Plan, and to decrease flooding on their property and the surrounding area. Councilor Bach asked if removing it was an option. Mr. Vares said that he would not recommend removing it, but that it could be made more restrictive. Mayor Brochure asked what the adverse effect would be in using Mayor Pro Tempore Winecoff's suggestion to allow the exception but cap it at one foot. Mr. Vares said there had been few applications under LOMR anyway. Councilor Bell said that basically, this was brought to Council because there was no cap now. Mr. Vares said that was correct.

Mayor Pro Tempore Winecoff made a motion to amend the text amendment to one foot, and to still require an engineered fill plan to show how water would be directed and retained on site and not runoff to an adjacent neighbor. Councilor Bach seconded the motion and it passed unanimously.

Councilor Bell asked if that meant that anything over one foot would require an engineered plan; Mayor Pro Tempore Winecoff said that was correct. Ms. Stites clarified that the motion included the amendment to A.3 Definitions as presented and the amendments to 10.4.1 but changing the limit to one foot instead of two feet; Council agreed.

ADJUSTMENT/APPROVAL OF THE AGENDA

Ms. Stites said that the Budget Ordinance Amendment for the Golden Leaf Foundation Grant needed to be amended (item 2c on the Consent Agenda). Mr. Kelly said the numbers on the second line needed to read \$1,444,414 as they did on the first line. **Mayor Pro Tempore Winecoff made a motion to approve the agenda as amended. Councilor Blalock seconded the motion and it passed unanimously.**

PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Gerry Hardee, 134 NE 11th St., for the Beach Preservation Society: Mr. Hardee said they had established the group as a 501(c)(3). A new roll-out accessibility mat will be placed between the Oak Island Pier and 801 Ocean Drive. The first membership meeting will be Sept. 20 in Council Chambers. There is an international coastal cleanup on Sept. 21. There will be a lecture in October about micro-plastics.

Dara Royal, 216 NE 47th Street, written comments provided as follows: In the fall of 2017, the Golden Leaf Foundation awarded a grant to the Town of Oak Island in the amount of \$1.5 million to demolish and rebuild the Yaupon Pier when it was condemned after being severely damaged during Hurricane Matthew. Like many grants, Golden Leaf Foundation funds are released on a reimbursement basis. So, you need to have the money up front to do the project, and after the project is completed you get your money back. In this case, council has approved the transfer of funds from the 3% Accommodations Tax Fund to the Pier Capital Project Fund over the course of the project as needed. The use of the 3% Accommodations Tax is not restricted to use for beach nourishment. Even if it were, money could still be borrowed from the fund and paid back later. I heard over the weekend that an individual was pulling numbers from the 2017-18 audit to raise doubts about how the Town was spending money to build the pier. Specifically, the audit shows that \$663,549 was transferred from the Accommodations Fund to the Pier Project Fund to finance the building of the pier. The 2018-19 audit will show an additional transfer from Accommodations Tax to the Pier Project. But the 2019-20 audit will show a transfer in the opposite direction. The budget amendment council will approve tonight will receive revenue from the Golden Leaf Grant in the amount of \$1,444,414 in the Pier Project Fund and then transfer that same amount of money out of the Pier Project Fund and back into the Accommodations Tax Fund as a reimbursement. GASB, the Governmental Standards Accounting Board, is the authoritative body that establishes GAAP, generally accepted accounting principles, for local governments. The use of funds is fundamental to governmental accounting and reporting for the purpose of carrying on specific activities in accordance with special regulations, restrictions, or limitations. When a grant provides that the grantor will pay the grantee on a reimbursement basis, GASB standards require that the grant revenue not be recognized until the qualifying expenditures have been incurred. In short, any doubts raised about how the Town is paying for the pier project have no basis in reality when those doubts come from one individual who is taking out of context one number from one audit for a multi-year capital project funded with a reimbursement grant.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Mayor Brochure said that we just came through a week of stress and worrying about our residents. She thanked staff for the work and communication they provided all week.

Councilor Blalock echoed the Mayor's comments, and said he was glad to see neighbors helping neighbors.

Councilor Bach also gave kudos to staff, and said that the communication spot-on and precise and was much improved from the last storm. Councilor Bach also added to Councilor Scott's comments earlier in the meeting about 9/11, saying that the horror of that day is indelibly burned into everyone's memory. He recommended reading "Report from Ground Zero" which tells the story of Ladder Company 3 from the East Village, which had the second-highest fatality rate. Their truck was entombed and is now in a museum. Councilor Bach said thinking about that kind of heroism, when people went straight into danger, helps us not to forget.

REGULAR MEETING:

I. CONSENT AGENDA

1. Approval of Minutes
 - a. August 13, 2019 (Public Hearings & Regular Meeting)
2. Approval of Budget Ordinance Amendments
 - a. Appropriate fund balance for funds encumbered but not expended in FY2018-19 for a Freightliner M106
 - b. Appropriate fund balance for new utility door
 - c. Appropriate funds received through the Golden Leaf Foundation Grant

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

II. COMMITTEE APPOINTMENTS (no applications received)

III. ADMINISTRATIVE REPORTS

1. Town Manager: Mr. Kelly thanked staff for all the work they did with the storm. He said for now, we are picking up yard debris on our regular schedule and will continue to evaluate if that works; we may bring in a contractor to assist if needed. Regarding the request for signs on Beach Drive, Mr. Kelly said that we had been working with NCDOT to get those signs installed. NCDOT had installed the Hurricane Evacuation Route sign and said that should serve as a directional sign telling people where to turn. Mr. Kelly said we had also been working with the regional office for informational signage and that he would follow up with the Wilmington office.

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

2. Town Attorney: Mr. Edes said that the N.C. General Assembly passed a House bill that clarifies that towns have the right to close NCDOT roads within their jurisdiction during a declared state of emergency. He said that that right already existed, but that we would amend our ordinances accordingly.

Councilor Bach asked Development Services Director Steve Edwards to explain a memo included in Department reports regarding the Town's ISO rating being reduced; a copy of the memo is attached and is hereby made a part of these Minutes. In May of 2020, a reduced CRS rating to a 6 could mean a 5% reduction in flood insurance rates for Oak Island citizens. The Town hasn't had these grades since 2001. Mr. Edwards said it was due to a number of factors, including being staffed at an acceptable level and the Town's ability to provide detailed reports.

IV. OLD BUSINESS (none)

V. NEW BUSINESS

1. Consideration of Amendment to Chapter 32, Sec. 32-1.1 Definitions (to amend the definition of hazardous tree): Mayor Brochure read the proposed amendment to the definition of Hazardous Tree in Sec. 32-31.1. **Councilor Scott made a motion to adopt the proposed ordinance amendment. Councilor Bach second the motion and it passed unanimously.**

2. Consideration of Request to Phase Major Subdivision: Councilor Bach asked if the proposal was in accordance with our UDO and if all the documentation had been submitted. Mr. Vares said it was still compliant and that nothing had changed on the preliminary plat approved last month, but that the applicant was now asking for it to be phased. Councilor Bach asked about the timeline. Mr. Vares said one had not been provided, but that the vested rights would expire after two years if no activity had taken place, which seems unlikely. **Councilor Bell made a motion to approve the major subdivision phasing request for parcel 250BL022. Councilor Blalock seconded and the motion passed unanimously.**

3. Consideration of Water Tower Lease: Mr. Edes suggested that a motion to approve include a condition that it be dependent on his review. Councilor Bach asked if this lease was proposed as a result of an RFP. Mr. Kelly said no, that the vendor is asking to go on the tower to provide additional coverage for customers. Councilor Bach asked if the number proposed, \$317,000 was the correct price point. Mr. Kelly said it was in line with everything else currently in place, and Mr. Edes said it was in line with what other jurisdictions use. **Councilor Bell made a motion to approve the agreement with CELLCO**

PARTNERSHIP d/b/a Verizon Wireless as presented, contingent on approval by the Town Attorney. Mayor Pro Tempore Winecoff seconded the motion and it passed unanimously.

VI. CLOSED SESSION: Councilor Bell made a motion to go into Closed Session at 6:43 p.m. to Consult with the Town Attorney to preserve the Attorney/Client Privilege pursuant to N.C.G.S. 143-318.11(a)(3). Mayor Pro Tempore Winecoff seconded the motion and it passed unanimously.

Council returned to open session at 7:21 p.m. Mayor Brochure stated that no action had been taken in Closed Session.

Mr. Edes said it had been brought to his attention that the motion to adopt the text amendment did not include the plan consistency statement. He asked Council to pass a motion to suspend the Rules of Procedure and for Council to adopt the associated Land Use Plan consistency statement.

Councilor Bach made a motion to suspend the Rules of Procedure to add action for Public Hearing I. Councilor Bell seconded and the motion passed unanimously.

Mayor Pro Tempore Winecoff made a motion to adopt the associated plan consistency statement for the fill amendment passed earlier in the meeting. Councilor Bell seconded the motion and it passed unanimously.

Councilor Bach made a motion to adjourn at 7:23 p.m. Mayor Pro Tempore Winecoff seconded the motion and it passed unanimously.

Cin Brochure, Mayor

Attested: _____
Lisa P. Stites, MMC
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.