

MINUTES  
OAK ISLAND TOWN COUNCIL  
PUBLIC HEARINGS & REGULAR MEETING  
May 10, 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, Interim Town Managers Rob Gandy and Lisa P. Stites, CMC, Town Attorney Brian Edes and Administrative Support Specialist Debbie Lasek.

Mayor Brochure called the meeting to order at 6 p.m. Councilor Blalock 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 Chapter 14 – Environment - Article II. - Protection of Sand Dunes, Sea Turtles and Other Wildlife Habitat; Sand Management Projects – to add addition regulations to the Dune Protection Ordinance. There were no public comments. **Councilor Bell made a motion to close the Public Hearing. Councilor Scott seconded and the motion passed unanimously.**

PUBLIC HEARING I ACTION:

**Councilor Winecoff made a motion to accept the proposed amendment to Chapter 14 – Environment - Article II. - Protection of Sand Dunes, Sea Turtles and Other Wildlife Habitat; Sand Management Projects, to add addition regulations to the Dune Protection Ordinance, as presented. Councilor Scott seconded the motion.** Mayor Pro Tempore Medlin questioned if the property line on an oceanfront lot would go to the mean high water line. Steve Edwards, Director of Development Services, said that with beach renourishment there would be a boundary line set in place per the general statutes and that the boundary line was set in 2000. He would have to look at each lot to determine the exact lines of the boundaries. Mayor Pro Tempore Medlin then asked if the Town could control the line with the secondary dune; Mr. Edwards said standard general statutes allow the Town to regulate the land use in that manner. Mr. Edes said 168-375 is the general land use regulation that would apply. **Following further discussion, the motion passed unanimously.**

PUBLIC HEARING II: Mayor Brochure noted that the purpose of the Public Hearing was to receive comments on a proposed amendment to Sec. 14-121. - Definitions; and Sec. 14-125. - Use and development coverage - to establish and define the town ocean front development line which represents the allowable location of oceanfront development. The proposed line stipulates no structures shall be built seaward of the proposed Oak Island development line except as allowed under CAMA regulations.

Tom Burns, 117 NE 67<sup>th</sup> St.: Mr. Burns said his family has two properties on the island; 3518 E. Beach which is a second-row home and also the oceanfront lot across the street. He thanked the Council for the opportunity to share his opinions about the development line. He has been dealing with this for 15 years with the government, and he feels the Town didn't fight for the exception to the CAMA line at that time like they needed to. He hopes that the powers to be will have sympathy for the owners of the oceanfront lots. He is a long-time property owner and feels that he has been patient on this, and is hoping and praying the development line is real. The room occupancy tax is another issue he would like to address.

Dara Royal, 216 NE 47<sup>th</sup> St: Ms. Royal said that nonconformity has many faces on oceanfront property over time. She encouraged Council to approach the location of the development line with respect to the building footprint. Using a 60-foot development line with a 15-foot setback from the street, the average building footprint is greater than 1,500 square feet, with two stories at 3,000 square feet. She provided

numbers for non-conforming properties. They must also consider the potential for end fill needed. When comparing with other lines, they should make adjustments as appropriate. She also encouraged Council to take steps to position the Town to take advantage of future opportunities.

Elizabeth Nelson, Cape Fear Engineering: Ms. Nelson said she said she was here on behalf of the Capel family, who are property owners on West Beach since the 1940s. They have reviewed the proposed development line, and the family would like to offer any support to the Town as they are in favor of this line.

**Councilor Blalock made a motion to close the Public Hearing. Councilor Scott seconded and the motion passed unanimously.**

PUBLIC HEARING ACTION II: Mayor Pro Tempore Medlin said this is the first they have seen of this proposed line and he cautioned Council not to rush into a decision. The maps in the packet are hard to read, and he would like to see more legible maps. Councilor Bell asked about setting up a workshop in order to see better maps; Mayor Pro Tempore Medlin agreed. **Councilor Bell made a motion to set up a workshop so that the Council will better understand the difference in the 60 feet and 85 feet development line. Mayor Pro Tempore Medlin seconded the motion.**

Mayor Pro Tempore Medlin commented that he has not made a decision on this, and feels that he must fully understand the details to make a better decision and would like to have further conversations with Development Services staff to better understand the issues. Councilor Scott asked about the need for a second public hearing after the workshop, and Ms. Stites answered that they would just need to set a date for the workshop and could then have a public hearing. **The motion passed unanimously.**

#### COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilor Scott commented that he had a ride-along with the police department recently; they did a very professional job.

#### PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

1. Proclamation – Safe Boating Week: Mayor Brochure recognized two guests from the Coast Guard Auxiliary and read portions of the Proclamation.

#### ADJUSTMENT/APPROVAL OF THE AGENDA-

Ms. Stites asked Council to schedule a budget workshop. Mr. Edes noted that this item could be added to the Consent Agenda. Councilor Winecoff asked to remove Consent Agenda 3, Approval of Contract for Services – Shallow Draft Inlet Permit, from the Consent Agenda. Councilor Bell removed Consent Agenda 5, Approval of Interest for Sewer Assessment, from the Consent Agenda as well. Planning Board Chairman Ted Manos asked if they could add a Committee report from the Planning Board. **Councilor Winecoff made a motion to accept the agenda as amended. Councilor Bell seconded, and the motion passed unanimously.**

#### PUBLIC COMMENTS - GENERAL TOPICS & AGENDA ITEMS

Bob Jakus, 109 SE 22<sup>nd</sup> St., here for the Beach Preservation Society: Mr. Jakus presented a report of the many activities that this group is involved in, and explained how the money raised is spent for the good of the Town. He thanked Island Way for supporting the Society in its fundraising events. The Committee wanted to express appreciation to the Town for being allowed to contribute; he mentioned the work of

Public Works and the new beach washing stations. They hope to receive continued financial support from the Town. The Earth Day event that they sponsored was also a fabulous success.

Richard Bunce, 125 NE 26th St., written comments provided as follows: There was an interesting article in the *Brunswick Beacon* on May 6, 2016 on the demise of the Utility Transfer from the ToOI to Brunswick County. "[Representative] Iler said Friday that North Carolina Constitution, Section 24 1-a limits local, private and special legislation, prohibiting the General Assembly from enacting any local, private or special act or resolution relating to health, sanitation, and the abatement of nuisances. Iler said he tried to convince the Legislative Drafting Division the legislation was about fees, not sanitation, but was unsuccessful and is postponing the effort for now." I understand that Town officials cannot comment on this topic as there is pending litigation over this issue. I note however that the local legislation was passed by the previous Democratic Party majority in the State Legislature to give three State Chartered Municipal Corporations an additional power to pay for the debt service on a wastewater project by charging property owners in the utility service area a sewer treatment fee. I suspect the current Republican Party majority has little interest in maintaining such an arrangement given their recent views on State Chartered Municipal Corporations powers. Whatever the outcome in court the Legislature may end up repealing the Local Legislation. That would remove ~\$2.5M from the Utility System stream which would translate to ~\$25/mo increase in the Wastewater Base rate. If the Court should agree with the Legislature on the fee then the amount already collected, which should be north of \$10M at this point, might also have to be refunded. In a related note any notion of the Town using debt financing for a major beach renourishment project should be placed on the back burner for at least another 20 years while the Utility System debt, now staying in the Town's name, is repaid.

#### REGULAR MEETING:

##### I. CONSENT AGENDA

1. Approval of Minutes
  - a. April 6, 2016 (Special Meeting)
2. Approval of Agreement with Community Boys & Girls Club
3. ~~Approval of Contract for Services—Shallow Draft Inlet Permit~~ (removed from Consent Agenda)
4. Approval of Release of Taxes and Interest
5. ~~Approval of Interest for Sewer Assessment~~ (removed from Consent Agenda)
6. Approval of Fee Schedule Amendment (habitable rooms)
7. Schedule a Budget Public Hearing for Tuesday, May 17 at 3 p.m.

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

##### II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

Approval of Contract for Services – Shallow Draft Inlet Permit: Councilor Winecoff said this should be part of a workshop, and that there must be a set laid out plan, with money part of that plan, so that Council will have an idea of what would be involved in a renourishment plan. The Council requires information and presentations in order to make a decision. A detailed plan is needed before moving forward on beach renourishment, so they can make reasonable and logical decisions. Ms. Stites said this issue is not time sensitive, but it is separate and apart from beach renourishment; this is for Lockwood Folly inlet dredging. The Town hopes to be a permit holder along with Holden Beach; if the Corps of Engineers, who holds the permit, decides not to dredge a particular year, the Town can save money on environmental studies that could cost \$100,000 before dredging. Steve Foster, chairman of the Beach & Inlet Committee, had provided conformation that the State would pay 2/3 of the cost and said that this would cost Oak Island approximately \$5,000. Councilor Bell added that she had spoken to Ryan Jordan, a local fisherman, who said that the County had a presentation by Steve Stone and they are in the process of appropriating funds as well. Mr. Foster said this was something that goes back to 2011. The coastal towns

of North Carolina were worried that the Corps would get out of dredging shallow drafts inlets; they held the permits. Separately, we pay to get this dredge that has been done yearly in the past. The sidecast dredges are frail, inefficient, and the feeling was that the towns could not handle this job. The State suggested that the towns be able to use the permits to get sand and keep the inlets clear. This would also allow the towns to bypass the costly environmental studies generally needed to put the sand back on the beaches. They feel like they need to be able to hold this permit; it costs \$15,000, and the Division of Coastal Management will cover 2/3 of the cost. This \$5,000 would be the best money the Town has ever spent, as it will save hundreds of thousands in environmental costs. The Corps will be getting out of this business eventually and it will be the Town's responsibility to do the dredging. The other advantage is that it is in-shore sand, the cheapest sand that can be used. Using off-shore sand is a great deal more expensive. He believes it is to the Town's advantage to pass this and get the permit.

Ms. Stites reported that she had spoken with Johnny Martin, our engineer with Moffatt & Nichol. He called her and encouraged the Town to take part in this permit, even though they are not the engineering firm that would be used for the project. Councilor Winecoff asked that if the Corps stops dredging, then environmental studies and permitting would cost over \$100,000, and wondered if the Town discussed a coalition with other communities. Mr. Foster said this would be more of an independent nature with the five inlets. Mayor Brochure said one benefit is that the Town would have control of the sand. Councilor Bell clarified that this is just the permit, not the dredging itself, and that the cost is approximately \$5,000. **Mayor Pro Tempore Medlin made a motion to approve the Contract for Services with O'Brien & Gere for engineering services to add the Town of Oak Island to the permit for dredging the Lockwood Folly Inlet. Councilor Scott seconded and the motion passed unanimously.**

Release of Interest on Sewer Assessment: Councilor Bell explained that it was important to review each one separately. She referred to a letter received from the property owner, and explained that the ten-year payment allowance does not carry over from property owner to property owner at the sale of the property and must be paid for at closing. There had to have been a closing attorney, who should have been knowledgeable about the sewer assessment being due at the time of closing. **Councilor Bell made a motion to deny the release of the interest of \$1,058.78 from the sewer assessment in question. Councilor Scott seconded.** Councilor Blalock said that the responsibility goes back to the closing attorney, and Mayor Brochure added that the title company also holds responsibility. **The motion passed unanimously.**

### III. COMMITTEE REPORT

1. Water Quality Working Group/Environmental Advisory Board (included in packet)
2. Ted Manos, Chairman of the Planning Board, 3022 W. Beach: Mr. Manos said he wanted to make a report because he thinks he sees a disconnect between the Planning Board and the Council and is here to ask for input. When the Council raised concerns about understanding the development line issues, this was a big red flag for him and the Planning Board. At the last meeting, the Planning Board spent over 1.5 hours regarding the new development line issue, and had additionally studied volumes of information to prepare for this discussion. He wanted to know that the Council is getting the information and benefiting from the efforts and information gleaned by the Planning Board. He said he is more than happy to do what is needed for the Council, and if they need to attend the workshop to give the Council the benefit of all the input Planning Board has undertaken, the members will do it. They need to make sure the Council gets the information well in advance so that they have the information they need to make decisions at the time. If they have a workshop in the next two weeks, he personally will not have the opportunity to be there. That development line was done on one particular basis; they wanted to stretch as much as reasonably to get into the ability of every conceivable, possible individual lot owner to have rebuildable lots in order to get the CRC to approve it and they wanted to be first in the door. He is truly

disappointed that they didn't feel comfortable enough to go forward with it tonight, and asks that they let him know what the Planning Board needs to do to ensure the Council is educated. Mayor Pro Tempore Medlin said he appreciates what the Planning Board does and has read their approval, but this is the first time the Council has seen the information on the development line and he will not vote on something he does not fully understand. He explained that he cannot attend every Planning Board meeting, and he is not going to vote on anything until he completely understands it. The workshop may take a little time, but they will be voting secure in their knowledge and understanding of the issue. Mr. Manos suggested that, in the future, perhaps a presentation submitted by Mr. Vares, Mr. Edwards and himself be helpful to ensure the Council understands the issues at hand; he would know that they have had the opportunity to understand the presentation, and he would like to be a part of it. Mr. Winecoff then suggested that information could come to Council at the same time as the Planning Board; Mr. Manos agreed that it would be a great idea and added that he is available to the Council if they have any questions.

#### IV. COMMITTEE APPOINTMENTS

1. Environmental Advisory Board: **Council unanimously appointed Randy Ollice to a term ending June 2018.**

#### V. ADMINISTRATIVE REPORTS

1. Town Manager: Ms. Stites reported that there were 68 participants in Ride the Tide and that Parks and Recreation Department will have kayak fishing this classes this weekend. CPAC will be meeting June 7<sup>th</sup> at 3 p.m. The next UDO meeting will be July 27<sup>th</sup>. The regular Planning Board meeting will be on Friday, May 20<sup>th</sup> instead of the usual Thursday time due to training the members will be attending.

Councilor Bell asked how many committees there are, along with subcommittees. It has come to her attention that staff is spending an inordinate amount of time with all of these committees and subcommittees. Ms. Stites said she can compile a list and provide Committee Charters.

#### VI. OLD BUSINESS (none)

#### VII. NEW BUSINESS

1. Consideration of Final Plat for Lowes Foods: **Mayor Pro Tempore Medlin made a motion to accept the Final Plat for Lowes Foods. Councilor Blalock seconded and the motion passed unanimously.**

2. Consideration of Proposal for Engineering Services with Moffatt & Nichol (on-call services): Mr. Edes had several observations; both contracts have similar provisions and he recommends that North Carolina law should govern both instead of California law. He also noted that their liability was capped; this should be indexed to their insurance coverage. Councilor Bell confirmed they are considering the contracts separately. The \$25,000 on-call services contract, per her understanding, is just for incidentals if they need to step in on our behalf for permitting processes. Ms. Stites answered that with the inlet management plan they would do just that; stormwater engineering services could be through a separate contract. Councilor Medlin said that this was spelled out in what they would provide in on-call services; he feels this is a cheap price in that it includes our stormwater issues. Mr. Martin has also been very helpful to all concerned. Ms. Stites also added that the Town does not have an engineer on staff. **Mayor Pro Tempore Medlin made a motion to accept the contract with Moffatt & Nichol as presented with the removal of stormwater services with the understanding that a separate proposal with be forthcoming and will include changes recommended by the Town Attorney. Mr. Winecoff seconded, and the motion passed unanimously.**

3. Consideration of Proposal for Engineering Services with Moffatt & Nichol (beach monitoring): Mr. Edes had the same two observations with this proposal as the last. Councilor Bell said she would really like to see this included in the workshop as it is such a large contract, to see what would be actually covered under the contract; she would also like to know if a separate contract will be needed each year and if this would negate all data collected the first year. Mr. Foster was asked by Mayor Brochure to review this question; they had a lengthy phone call with Mr. Martin at the Beach & Inlet Committee meeting. This is a building block or foundation for any beach renourishment project and for the use of sand; nothing can be done unless this is done first. This will provide detailed information necessary for the beach renourishment project. Whether it is used now or later, this is still information that the Council will need to have. Councilor Bell said she was still in favor of it, but there were some questions regarding spending this much money. She would like to see this covered in a workshop. Mayor Pro Tempore Medlin said that he had come prepared to vote on this item tonight but is good with talking further about it; Councilor Blalock agreed that including this proposal in a workshop will help understanding. **Councilor Blalock made a motion for the Proposal for Engineering Services with Moffatt & Nichol (beach monitoring) be included in a workshop for consideration. Councilor Scott seconded the motion. The motion passed with Councilors Bell, Blalock, Scott and Winecoff in favor and Mayor Pro Tempore Medlin opposed.**

VIII. Closed Session: **Councilor Blalock made a motion to go into closed session 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 Scott seconded and the motion passed unanimously.**

Mayor Brochure called the meeting back to order 8:05 p.m. and noted that no action was taken in Closed Session.

**Councilor Bell made a motion to approve Interim Town Manager Rob Gandy's contract as presented. Councilor Blalock seconded and the motion passed unanimously.**

**Councilor Winecoff made a motion to adjourn the meeting. Councilor Blalock seconded, the motion passed unanimously and the meeting adjourned at 8:06 p.m.**

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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.*