

MINUTES  
BOARD OF ALDERMEN  
SEPTEMBER 10, 2020

Mayor Mills called the meeting to order at 5:30 p.m. in the Town Hall Council Chambers, 321 Causeway Drive, Wrightsville Beach, NC.

Attendance: Mayor Darryl Mills, Mayor Pro Tem Hank Miller, Alderman Ken Dull, and Alderman Zeke Partin; together with Town Attorney Brian Edes, Town Manager Timothy W. Owens and Town Clerk Sylvia J. Holleman.

Absent: Alderman Jeff DeGroot due to a scheduling conflict.

Pledge of Allegiance

Invocation by Planning and Parks Director Tony Wilson

**PUBLIC COMMENTS: SKIPPER FUNDERBURG – 2020 SURFING PROCLAMATION; SUE BULLUCK – CHAMBER AND VISITOR’S CENTER; AND MIKE EDMONDS – PARKING AND PUBLIC WORKS.**

Mr. Skipper Funderburg, 203 Bogey Drive in Wilmington, presented the 2020 State of North Carolina Surfing Month Proclamation to the Board. He said, “The information before you is the discovery that Bermuda wave riding was first witnessed and documented in the North Atlantic Ocean in 1756. Hawaii wave riding was first witnessed and documented in the North Pacific Ocean in 1778. So, wave riding in Bermuda, located near Cape Hatteras, North Carolina, was witnessed and documented 22 years earlier than Hawaii. The US National Register of Historic Districts, Washington, DC includes Masonboro Sound Historic District and Nags Head Beach Cottages ROW District. The facts that we’re learning dovetail our ocean activities, particularly from the 1850s forward.”

Ms. Sue Bulluck, speaking for the Chamber and Visitor’s Center, said, “I will be manning the Visitors’ Center with a couple of volunteers starting tomorrow. We have been monitoring the phones during our closure but we are in tremendous hard shape in terms of getting out our message as to businesses open, etc. The Chamber has been working with the County Ports and Waterway in terms of WRTA and we’re making great progress on ocean issues along with the Board’s work and some of our outreach. We have lobbied some for reopening. The bad news is, because of COVID, the TDA has cut out all staffing for visitor centers on the beaches. Because we are an all-volunteer organization, the Wrightsville Beach Chamber doesn’t qualify for any of the stabilization money. That combined with the operating costs and not being able to have our fundraiser in November, we are trying to raise some money. We will be open through this year to October. Hopefully we will survive. We’ve been here since 1974 and feel a responsibility for pushing to keep it going. But the fact is that we’ve lost our newspaper; we’re losing some of our other businesses and organizations. If we want to stay alive as a community having some clout, we have to keep our institutional organizations afloat.”

Mr. Mike Edmonds, 601 North Channel Drive and representing Wrightsville Beach Baptist Church, said, “I know part of our parking lot permitting requires some fence to be maintained. Hurricane Isaias knocked our fence down on the side of the parking lot and we are having difficulty finding 4x4 posts. As soon as we can, we will have that repaired. Also, I talked to several people about water billing over the summer; we get water bills in the mail and by email. Our June bill for April and May never appeared by mail or email. We did get a doubled up bill that was almost \$500 which brings me to my point. Our water maintenance fee is almost three times what the water usage fee is and that goes along

with the sewer, too. Our house was built in 1958; we do not have a water filter system or water softener. If you wash your car with it, you will not get the residue off of any glass surfaces. If you try to drink it, you better have something to go along with it pretty good to cut the taste. For the amount of water maintenance fees that we get, I think we could produce a better quality product with the water. The second part of the utility bill – 601 is a duplex. Since Barbara's mom passed away almost ten years ago, we haven't rented it out. In fact, after Hurricanes Matthew and Florence, we let members of the church stay there while their houses were being rebuilt. But for ten years, I've been paying for two trashcans. I think I understand by having two trashcans that could be emptied twice a week, I'm charged every two months \$98 just like everybody else that has a duplex. Even if that can doesn't get picked up. If we were to turn the can back in, because it's a duplex, then the property would no longer be a duplex. I want to talk to the fairness of \$98 and on Harbor Island, while we do pick up trash twice a week, I think it's an unnecessary expense. If we wanted to sell it, the dirt (sand) is more valuable than the duplex is. Down the road, I'd like for us to have a discussion about why duplexes that are not currently duplexes have to keep paying for a redundant can that's not necessary. I'd also like to encourage Tim and anybody else that's working with Withers-Ravenel who did a study about storm water; the community on North Channel would be interested in hearing that plan. Also, I wish the citizens to know that I had a parking issue on North Channel Drive today. I sent an email to Tim and probably had a response in less than a minute. I think we have a good Town Manager, a good Police Chief, a good Fire Department and a good Fire Chief. I appreciate you all and the Town staff."

**CONSENT AGENDA APPROVED WITH A 4-0 VOTE BY MOTION OF ALDERMAN PARTIN AND SECOND BY MAYOR PRO TEM MILLER.**

- a. Approved Board of Aldermen Minutes of June 11, 2020, June 30, 2020 Special Budget Meeting, and July 9, 2020.
- b. Approved special event permits as follows:
  - 1) F3 Nation 10-Year Anniversary Event (*approximately 500-600 participants*)  
Saturday, January 16, 2021 (7:00 – 12:30 pm) (*setup begins at 5:30 am*)  
*Scaffolding setup on Friday, January 15, 2021 (12:00 pm)*  
Location: Beach Strand at JM Pier with activities north and south of the pier
  - 2) Stoked to Go Out Pier to Pier Swim (*approximately 180 participants*)  
Saturday, May 22, 2021 (9:00 – 11:00 am)  
Location: JM Pier to Crystal Pier (swim direction will depend on ocean current)
- c. Acknowledged previously approved special events for October.
- d. Acknowledged departmental quarterly reports for the months of April, May and June, 2020 with the exception of the Planning and Inspections Department.
- e. Approved the disposal of a military-style trailer using GovDeals.
- f. Approved revised 2020 Board of Adjustment Meeting Schedule to cancel the September 24<sup>th</sup> meeting.
- g. Set a public hearing for Thursday, October 8, 2020, at 5:30 pm., or as soon thereafter as possible, to consider a Text Amendment to amend Section 155.7.17 Floor Area Ratio (C) to add elevated pools and hot tubs and to amend the definition of Measured Area.

- h. Set a public hearing for Thursday, October 8, 2020, at 5:30 pm., or as soon thereafter as possible, to consider a Conditional Use Permit for properties located at 103 and 107 Canal Street for an offsite parking lot in the C-5 Commercial District.
- i. Set a public hearing for Thursday, October 8, 2020, at 5:30 p.m., or as soon thereafter as possible, to consider the following: 1) to amend Section 155.2.10 Open Space Requirements to add (12) LP gas tanks; 2) to amend Section 155.1.12.3 Certificate of Zoning Compliance; Exhibit A of Appendix A, Definitions to amend the definition of Marina or Boatminium; to amend Section 155.7.12 to amend floating homes section; to amend Section 150.01 Definition of Pier/Dock, to amend Section 155.6.4 Table of Uses, Appendix A; and to revise Section 155.4.1.3 Action by the Planning Board.

### **CAPE FEAR MOVING FORWARD 2045 METROPOLITAN TRANSPORTATION PLAN.**

Mr. Luke Foreman, WMPO GIS Analyst, gave an overview of the federally mandated Metropolitan Planning Organization and said it was important for the Town to help them and to support their twenty-year plan. He said, “We released the draft plan on February 26<sup>th</sup> and held two virtual open houses. We got 113 total comments from those open houses and three comments made it into the plan. We will continue to look at this plan to see what we are hoping to implement and, hopefully, you can promote that.” When asked if the projects were prioritized within each group, Mr. Foreman replied, “Yes. In the appendix you can look by mode and see which ones did not make it.” Ms. Abby Lorenzo, WMPO Senior Transportation Planner, said, “Each modal committee works on goals and objectives. Our regional project was ranking. Once we had a forecast of how much money we had, and once the money was spent, we had our plan.” When asked if the projects were also ranked by mode, Ms. Lorenzo replied, “Yes.” The Board thanked Mr. Foreman and Ms. Lorenzo for their presentation.

### **PRESENTATION OF JOINT SWAT EFFORTS AND DISCUSSION AND DIRECTION ON REGIONAL SWAT TEAM PARTICIPATION. (RESOLUTION NO. (2020) 2213)**

Police Chief David Squires gave a brief explanation of his plans for moving forward to join the Wilmington Regional SWAT Team. He said, “This has been in the works for about a year. I joined on August 17<sup>th</sup> for one of the early briefings. The work that had been done for several months to get us ready to join is coming to a head; we had our trials on September 3<sup>rd</sup>. I’m very appreciative of Mr. Edes going over the MOU and making sure everything was appropriate. We sent two officers to the tryouts. One officer is moving on with the team right now; one is still working to get to that stage. Here are the obvious benefits: by joining this team, we now enjoy the opportunity to maintain incident command in the event of a critical incident here in the city that would need the assistance of the Regional SWAT Team. Additionally, we’re going to have regular training for the members of the team. Those officers will be involved in collateral training for improving patrol tactics. Essentially, this is us investing in a posture of preparedness and we’re thinking that is a good investment. The money is going to be very reasonable and is already within our budget. We’re not asking for anything more. We expect to see some good things out of our participation with the team.” When asked how long the training would go on, Chief Squires replied, “Forever in that there is regular training for the team. But the first training is forty hours of formal training for the whole team to meet the National Tactical Officers Association Standards for being a beginner and that will be in October. The goal is to have two officers participate and to keep rotating two. We would be two of ten members of

the team from the region.” When asked if the officers would get paid while in training, Chief Squires replied, “They’re earning their regular wages from us while they’re in training. There is a bit of a risk maybe on our workers comp and if they are required to work some overtime, that would be on us. But all of the equipment that goes into this work, like the SWAT vehicle, that’s on Wilmington.” When asked about any down side, Chief Squires replied, “There’s an obvious down side; you’re taking two people away for regular training to improve their tactics. If you never have any critical incident in your town, you’ve over-prepared. That’s just opposite of my perspective. Those are about the only down sides.” Alderman Partin said, “There’s one other down side and that is someone else could hire them.” Chief Squires said, “There’s two sides to that coin. You tell new people coming in here that are looking to have a career in law enforcement, we have opportunities – a way we can improve your capacity here. That improves recruiting. We need to make sure that we’re making the team we work with prepared for the challenges they may face.” Alderman Dull said, “It sounds like it will make for better law enforcement for the Town of Wrightsville Beach.” Alderman Partin asked if this new training would be an opportunity for an increase in pay because they will have a different certification. Chief Squires replied, “That will probably be down the road. The first priority is to get the endorsement of the Board for moving forward, get these officers equipped and trained, then we will see from there.” Mayor Pro Tem Mills made the motion to adopt Resolution No. (2020) 2213 approving the Memorandum of Understanding. The motion was seconded by Alderman Partin and approved with a 4-0 vote.

Mr. Edes commended Town Manager Owens and Chief Squires because the statute allows the department heads (the chiefs) to enter into the agreement without Board approval but they brought it to the Board for its blessing.

**PUBLIC HEARING FOR CONSIDERATION OF ZONING TEXT AMENDMENTS TO SECTION 155.9.1.6 TO ADD A NEW SECTION (E) AND A NEW DEFINITION OF A PARKING LOT OFF-SITE.**

Planning and Parks Director Tony Wilson requested that this item be continued to the next meeting because the Planning Board had asked staff to bring back more information before it is considered by the Board of Aldermen. Alderman Dull made the motion to open and continue the public hearing to October 8, 2020 at 5:30 p.m. The motion was seconded by Mayor Pro Tem Miller and approved with a 4-0 vote.

**PUBLIC HEARING FOR CONSIDERATION OF STAFF-INITIATED TEXT AMENDMENT TO SECTION 155.6.5.1-D AND SECTION 155.6.5.2-D (MINIMUM FRONT YARD SETBACK – 15 FEET) WITH REGARD TO STONE STREET TO MALLARD STREET SETBACK STANDARDIZATION. (ORDINANCE NO. (2020) 1807)**

Mr. Wilson gave the following overview: “At last month’s meeting, the Board of Aldermen discussed a similar ordinance for R-1 and R-2 for the standardization of front yard setbacks. The difference is that this one does not apply to oceanfront lots. At that meeting, there was opposition for the one with the oceanfront lots. The Board of Aldermen did not vote on that one. They discussed it and said let’s take it back to the Planning Board for review. Staff made some changes to that ordinance so, this ordinance will not apply to oceanfront lots. The zoning districts will be for R-1 and R-2 from Stone Street to Mallard Street. Those are the only properties that this will apply to. On page 150, you have the actual ordinance. The first one is for the R-1 setbacks for the fifteen feet. We made some changes, if you owned a property to the east, you

couldn't block the properties to the west. If you had an enclosed garage, it had to have an eighteen-foot setback. The R-2 is basically exactly the same as the R-1. On page 152, we will go into the proposed details and potential concerns. Proposed details: this would allow for second-row properties and others on the street up to Lumina Avenue to retain views of the ocean. It would allow streets with older development to retain a similar streetscape. When new or substantial development, or if development occurs, you will not increase the Floor Area Ratio of development within this text amendment. It could eliminate the saw-tooth effect or patterns on the houses on those streets. It will only apply, again, to the structures located from Mallard Street to Stone Street and not on the oceanfront. Potential concerns: most of the rights of way are forty feet in the area – Oceanic, Birmingham and Seagull Streets are smaller than fifty feet. A smaller setback could create more of a cabin effect on most of the properties. A smaller setback could create issues with parking in a driveway. Even with fifteen feet, sometimes it's difficult to have a vehicle in there. Also, the opportunity for a home to have setbacks closer to the road and some setbacks to the existing yard are fifteen feet. It would require the enclosed garages to be no closer than eighteen feet of the right of way. The text amendment is consistent with our CAMA Land Use Plan. This went to the Planning Board last Tuesday night. At that meeting, we had two people from Augusta Street that did oppose this ordinance. Some of their concerns were the same as last time. The Planning Board, after discussion, voted unanimously to forward an unfavorable recommendation for this text amendment to the Board of Aldermen. Some of their concerns were: the driveway parking – cars would be on the sidewalks or in the street; the setbacks have been there a long time – let's leave it like it is. They felt like over time, this would take care of itself or maybe some of the older structures would all line up at that time. So, they discussed it at length and talked about line of sight and things like that. This is how we do the average – no matter what, it couldn't be less than ten feet. So you go a hundred feet either way and the surveyor would make that determination. Again, ten feet is going to be the minimum no matter what. With an oceanfront house, it could not block the neighbor's view. If you had a vacant lot and you had a hundred feet on each side, the setback then would be fifteen feet.”

Mayor Pro Tem Miller complimented Planning staff for the Power Point presentation and said, “I understand that one of the people that spoke against it didn't understand that the oceanfront was excluded.” Mr. Wilson said, “That's true. He didn't understand that but once he got up, some of the: Planning Board members reminded him.” Mayor Pro Tem Miller said, “There was an ad hoc committee that studied this and made a recommendation along with the staff for the Planning Board, is that right?” Mr. Wilson replied, “There was an ad hoc committee – we only met one time. I can't say we came up with a recommendation. We did discuss the graduated setbacks; we discussed a couple of things.” Mr. Edes said, “Just for the record, regardless of what the Planning Board member may have discovered after the fact, the recommendation was unanimously against it, correct?” Mr. Wilson replied, “Correct.”

Mayor Mills opened the public hearing at 6:19 p.m.

Mr. Edmonds said, “Everybody owns a little piece of paradise at Wrightsville Beach. That's what makes Wrightsville Beach special. Anything we can do to let people have a view of the water is a big deal. I support stopping the inability of people

to move forward so they can have a better view. It's tough. People pay a lot of money for the right to enjoy these views. In fairness, I do think that we need to keep the setbacks reasonable and don't go any closer to the street."

With no further public input, Mayor Mills closed the public hearing at 6:21 p.m.

Alderman Dull said, "Doing text amendments and zoning changes, you're always protecting for unintended consequences. You could go to school and get a four-year degree and try to understand what we're discussing tonight; it's hard. I spent six years on the Planning Board for New Hanover County; I spent six years on Planning for the City of Wilmington; I spent three years of Planning on the Town Board; I've got a degree in civil engineering; I'm also a builder and a developer. By nature, I'm an engineer and a person of detail. Although I feel like this all makes sense, it's hard for people to get their arms around it and I'm not sure how we get past that. Even though this was crafted through ad hoc – actually the door was originally opened by another third party on the oceanfront issue, which in essence opened up this door that we've been looking at – where this whole beach is a conglomeration of zoning issues that need some sort of repair. What I said from the beginning of this was, if you try to solve all of the problems at one time, it will never happen. I think it has become so cumbersome, I don't think it makes sense to do right now. That's coming from a person who's been working hard on this and spent all my time trying to get this done. Clearly the Planning Board didn't understand it because they voted 0-7. Last time they voted 7-0 for the guy up front and I pulled that off to make sure everybody understood it. They got it – it was 7-0 against the rezoning of the front lots. I do think things like this deserve attention. My personal opinion is – never make a change unless it's in the best interest of the Town's people. So, maybe we need to come up with a little set of rules – I know we have our rules like does it endanger the public safety and all those rules. But I think there are some consistent things that we need to look at moving forward. Just being involved in all these different planning issues, one good hurricane comes through here and we're going to have an "oh crap" moment. I've heard Sue Bulluck get up and talk about the need to come up with something for downtown because once these buildings get damaged, what are we going to do? We should have a plan. 1. I've already said, don't make a change unless it's in the best interest of all people of the Town; 2. Let's figure out what these inconsistent issues are in zoning and figure out what those bites of the elephant are that we need to take; 3. We need to make text changes simple to the average citizen so they can understand what it really means when you're trying to do something like this. 4. We always have to make decisions that add property values without hurting other property values. Again, it's important when we do these items that we make sure that the staff communicates clearly to the Planning Board and then to us, what the intentions are for that particular issue. Finally, let's do some planning now so that we don't have that "oh crap" moment when we do have a major hurricane and you have nonconforming issues on the beach. This was an attempt to try to assimilate some of that now without having to take the whole beach into consideration. I'm not ready to run another ad hoc committee, but it's on the record and at some point, somebody needs to work on it."

Mayor Mills thanked Alderman Dull and the Planning Board and said, "We've beat this thing back and forth and probably at some point, weariness of the issue is

kicking in. In the law, there's a concept known as "Detrimental Reliance." That's kind of where I keep coming back on this and that is, all the people on these streets have bought properties and spent a lot of money doing so. To change the rules on them, as well-intentioned as those changes may be and as much sense as they may seem to make in some instances, I just have a hard time with it. For that reason, I'm not in favor of this text amendment. But we're here to discuss it and decide."

Alderman Partin said, "Ken, you did an excellent job and I think your point about considering those people that have lived on those streets for many years and have abided by the rules – again, we're going to have to look at everything eventually. I think your point is well made that we probably have some hodgepodge areas that we probably need to fix. But right now, I'm like Mayor Mills; I don't think I can go along with changing anything at this point."

Mr. Edes said, "You're absolutely right about the law of Detrimental Reliance. In zoning, though, there's no vested right to continue zoning. So, in the event in the future we have to do a text amendment similar to this, that is not in and of itself a regulatory taking. I just want the minutes to reflect that."

Alderman Dull said, "This text amendment would protect every existing property owner's rights on those streets – just to make sure we're clear on that. Again, I think you have to read the book 'War and Peace' to understand it. And then Tony has to explain that to everybody that comes through the system. That's where it gets cumbersome for staff. I do look forward, at some point, to working on this kind of thing and some other things that protect current property rights but enhances other property values."

Mayor Pro Tem Miller said, "I keep hearing, 'if I built my house to the rules at fifteen feet, why can't everybody else follow the rules?' This doesn't affect them. It affects people down the street whose houses are seven and a half feet. I haven't heard a lot of people standing up here begging us to do this."

Alderman Dull said, "I'll make a motion to deny because I kind of brought this up. Just based on the feedback I've gotten, people don't want to do this so, I'll make that motion." Mayor Pro Tem Miller said, "The only thing I want to be clear on because I've been asked this several times, this absolutely precludes the oceanfront lots from doing anything." Mr. Edes replied, "If it doesn't pass, it doesn't affect any properties – it goes up to the lot adjacent to oceanfront." The motion was then seconded by Mayor Pro Tem Miller and approved with a 4-0 vote.

**DISCUSSION AND DIRECTION ON EXTENDING THE PIER HEAD LINE AT 300 LINDY LANE. RESOLUTION NO. (2020) 2211.**

Mr. Wilson said staff would like to table this item and bring it back next month because the applicant didn't get everything together for this. There was consensus of the Board for staff to bring this item back next month.

**DISCUSSION AND CONSIDERATION OF ORDINANCE NO. (2020) 1810 AMENDING THE TOWN'S NOISE ORDINANCE.**

Mr. Edes gave the following overview: “What you have before you is a proposed revised noise ordinance. If you recall, last month we had a couple for you to consider but with Chief Squires coming in the very next week, we recommended that we wait and get his input since his department would be tasked with enforcing it. Mr. Owens, Chief Squires and I discussed the various federal and state law. In 1972, the United States Supreme Court upheld a state noise ordinance, and in that holding, it deferred to some cases where that particular state court had interpreted words such as unreasonable and ruckus noise and things like that. Essentially, that stands for the proposition that if certain phrases have been accepted by a state court, federal courts will defer to the state courts and find those to be constitutional. Based on that premise, we then looked to the North Carolina State Appellate Courts as to what type of language has been upheld in various noise ordinances. We took the Boone, which was upheld in a federal court a few years back, and we superimposed the language from these other various state court holdings where they upheld the language of the noise ordinance. We removed the portion regarding decibels and that’s what you have before you tonight. There were a few final tweaks. That’s why you have an additional copy in front of you that was outside the agenda packet. The first tweak, is on subsection G on the second page; we changed that title to ‘Loading, Unloading and Waste Disposal.’ We also inserted the phrase ‘prolonged noise.’ There could be a situation where there needs to be a disposal of trash or unloading of a vehicle in the normal course of events, so we added the word ‘prolonged’ as a qualifier. In subsection I, with respect to letting out the air brakes or jake brakes, we inserted the qualifier of ‘the unnecessary release or use of those brakes.’ In subsection G, Loading or Unloading of Commercial Vehicles – this is very similar to the previous section but we added the qualifiers of the word ‘prolonged.’ I believe those were all of the changes we made since the ordinance went out in the agenda packet. A few other items to bring to your attention – Mayor Mills brought this point up – on page 3, subsection F, where it talks about vehicles (97.03F). I’m going to insert ‘watercraft’ as well. I want to be as broad as I can on that. I will note that a catch-all is under subsection J and that would apply to any source of noise but I still think it’s a good idea to specify watercraft.”

Mayor Mills said, “Perhaps under B also under 97.03, we may want to address watercraft in that as well.” Mr. Edes replied, “We’ll do that and just for the public benefit, that’s the section dealing with Horns, Signaling Devices, Sirens and the Like. This particular proposed ordinance has old sections 97.05 through 97.12. If this ordinance passes, they will be renumbered or re-codified as sections 97.07 through 97.14. Also on the enforcement in section 97.99, we also added a criminal component for two violations in any one twelve-month period as opposed to just a civil fine, then it could be a misdemeanor. We kept the graffiti criminal element, which is the very first violation, as a misdemeanor. We kept the existing fines for the noise component and nuisance at \$100 first violation within any twelve-month period; second fine would escalate to \$250; and then, if you get a third within a twelve-month period, it’s \$500 for every fine thereafter.”

Mayor Pro Tem Miller said, “I’m assuming this takes care of some of these people in the trucks that have been running up and down the roads that we’ve been hearing about.” Mr. Edes replied, “Yes. The Chief, Tim and I talked about that. In the vehicle section, it reads verbatim, ‘The use of any motorized vehicle so out of repair or so loaded, altered or operated (so whether it’s modified or not modified) that creates a grinding, rattling – and then I added – amplified exhaust sound(s), or other noise which would tend to annoy or disturb.’ So, if it’s operated in a manner to create an unreasonably annoying noise – and the Chief is comfortable with that language. Once we get this on the books, as it’s working out in the field, we may need to tweak it down the road but I’m comfortable, based on the legal research and my discussions with Mr. Owens and Chief Squires, that this is a workable, enforceable document.”

Following a brief discussion regarding the hours for construction noise and the fact that 8:00 a.m. to 6:00 p.m. was reasonable, Mayor Mills referenced ‘noise sensitive areas’ in Section 97.02 (B) 2 and asked where that was defined. Mr. Edes replied, “I don’t believe we have defined a noise sensitive area, but we can if you’d like.” Mayor Mills said, “At first blush, it sounds good but we’ll need to define what they’re referring to.” Mr. Edes said, “At this point, Chief, unless you feel like you need that phrase in there, we can either delete it or we’ll have to add a definition and I’m not prepared as I sit here right now to define a noise sensitive area.” Chief Squires replied, “I’m okay with eliminating it.” Mr. Edes said, “In light of Chief Squires’ comments, I recommend that, in addition to the addition of the watercraft components, we delete Section 97.02 (B) 2.”

Mayor Pro Tem Miller said he thought this ordinance had more teeth than the last one. He asked how we would enforce it on the water at night. Mr. Edes said, “Let’s not get into hypotheticals because it may be blatant and not be difficult. I don’t want the minutes to reflect a hypothetical that may or may not happen. I’m assuming we would deploy whatever resources we had available to try to ascertain the source of the noise and do an investigation.” Chief Squires said, “I think that’s fair and, obviously, very often the source of noise on the water comes to the shore. Absolutely, we have the capacity to follow up.”

Alderman Dull asked if it was clear to the public in this document who they are supposed to call for a complaint. Mr. Edes replied, “I don’t know that we addressed that.” Chief Squires said, “I think public education, business owner education and boat owner education is going to be a part of how this gets rolled out. In most cases, it will be the non-emergency number to dispatch. The non-emergency number to dispatch will get you to the same people that answer 911, it’s just in a different priority. Then, they dispatch our officers to investigate it. You won’t be in trouble if you call 911 and say it’s a noise complaint; they will reroute you. We’ll make sure that the number is posted and easy to understand for the residents.” When asked if there would be anonymity for the person that calls because of fear of retribution, Chief Squires replied, “Yes and no. If you had an argument with your neighbor about noise and ten minutes later the police show up, they might figure it out. We would never reveal the name of the complainant. We also would encourage citizens to give us their number so we can call them and not have to go to their porch. It depends on the nature of the complaint. We will publish something like a tri-fold and get something to the Board as well regarding what to do and what to expect from us.”

Mayor Pro Tem Miller made the motion to adopt Ordinance No. (2020) 1810 with amendments to Section 97.02, Subsection (B)-2 to delete that section; and amendments in Section 97.03 (B) and (F) to add the watercraft component. The motion was seconded by Alderman Dull and approved with a 4-0 vote.

**DISCUSSION AND CONSIDERATION OF THE CONSTRUCTION OF A RESTROOM FACILITY AT 88 SOUTH LUMINA AVENUE. RESOLUTION NO. (2020) 2212 TO APPROVE A CONTRACT. BUDGET ORDINANCE NO. (2020) 530-B.**

Mr. Owens said, “Staff gave you some supplemental information. The grant was for \$220,000 plus \$55,000 for our match with \$35,000 in architectural fees. That leaves \$198,000 to build the building. We brought this to the Board about four months ago and decided to try to do some things to lower the cost. We accomplished that but not as much we had hoped. The lowest bid is from the Imac Group. The second lowest is Kyle Construction. I don’t think we should act on this tonight because we just got the bids back and we’re still trying to do due diligence on the Imac Group.” When asked if they would hold their bid, Mr. Owens replied, “They should for that amount of time.” Mr. Edes agreed with Mr. Owens and said, “I think we need to vet it out a little bit more. If we need to, we can call a special meeting.” Mayor Pro Tem Miller said, “I think we need to build the bathrooms. But I also think we need to vet these contractors because I’ve never heard of them. So if we need to call a special meeting – I just don’t want to wait until next month because we don’t meet for a month.” He asked Mr. Owens to check see if it was thirty days or forty-five days so we would know for sure. Mayor Mills said the Board would not act on this tonight and wait to hear back from Mr. Owens.

**CONSIDERATION OF RESOLUTION NO. (2020) 2210 TO AMEND THE RULES AND REGULATIONS FOR CONDUCTING THE 2020 FARMERS’ MARKET TO EXTEND THE SEASON AND TO ADD FIVE CRAFT VENDORS.**

Program Supervisor Katie Ryan said, “The 2020 Farmers’ Market is scheduled to end on September 28<sup>th</sup>. This has been a successful season. In speaking with a lot of the vendors, they are all eager to extend the market. This was presented to the Parks and Recreation Advisory Committee and they agreed we should extend this year’s season to December 14<sup>th</sup>. And if we could add more craft vendors, it would be good at Christmas. We are requesting to add five more craft vendors.” Mayor Mills clarified that this was just for this season. Ms. Ryan replied, “Correct. I do not see a downside unless the number of shoppers drops but we could cancel it if that happens.” Following a brief discussion regarding tracking information, Alderman Dull made the motion to adopt Resolution No. (2020) 2210 to amend the Rules and Regulations for Conducting the 2020 Farmers’ Market by extending the season through December 14, 2020 and adding five more craft vendors. The motion was seconded by Mayor Pro Tem Miller and approved with a 4-0 vote.

**DISCUSSION AND DIRECTION ON TRIMMING LIVE OAKS.**

Mr. Owens said, “We never got a quote for the live oaks on Pelican. Then we had a hurricane and now we have some hurricane damage and broken branches that may never fall. We’ve got two areas that we haven’t finished; we’re going to use ROT funds for Live Oak Drive. Budget Ordinance No. (2020) 529-B would include live oaks

on Pelican (out of fund balance); address storm damage that probably will not get FEMA funding (out of fund balance); and the other two can come out of ROT funds.” A brief discussion followed regarding why there were no ROT funds for the last two areas and when these would be completed. Mayor Mills made the motion to adopt Budget Ordinance No. (2020) 529-B in the amount of \$58,000. The motion was seconded by Mayor Pro Tem Miller and approved with a 4-0 vote.

**DISCUSSION AND DIRECTION ON HOLIDAY DISPLAY OPPORTUNITIES AT THE SALISBURY STREET OCEAN ACCESS.**

Mr. Owens said, “We thought we were going to be able to do the normal decorative lighting like we have around Town – we were going to be able to buy smaller versions of that. At this point, they don’t have a retrofit for those types of poles. It’s not out of the question that it could happen in the future but right now, it’s not going to happen this holiday season. Some things we can think about is what we could do to make that area look like Christmas. One of the things the Garden Club was talking about was, if we do decide to do wreaths, to do more coastal-looking bows.” Mr. Owens showed an assimilation of what it would look like during the daytime and nighttime and said, “We’re going to attempt to put some solar-powered lights in those trees which I think would be a nice effect. We’ll have some annual plantings there.” When asked if that area had any power, Mr. Owens replied, “There’s only low voltage power in that area. We talked about putting a crab pot Christmas tree in this area as well. We do have \$7,000 in the budget now so we can absorb this in the current year’s budget. We’ve given you an estimate on the cost for everything. If the Garden Club does do this, we will purchase the bows from them.”

Alderman Partin said, “I don’t particularly like these because they don’t blend with the rest of the Christmas decorations we have – they don’t blend with all of our nautical lights around Town. But if we’re going to spend this kind of money and then maybe try to go back and buy something else next year....” Mr. Owens said, “We could use some of these in other locations next year. I would much rather have the nautical lights, too. They were smaller versions but, unfortunately, at this point we cannot do that. It’s either nothing or something like this for this year.” Following a brief discussion regarding solar lighting, Alderman Dull made the motion to approve the expenditure of funds for holiday decorations. The motion was seconded by Mayor Pro Tem Miller and approved with a 4-0 vote.

**MAYOR MILLS: OTHER ITEMS AND REPORTS.**

- The TDA had a meeting (I was in a mediation). Sue Bulluck gave the report I would have given you.
- A 911 observance will be held tomorrow at 9:45 a.m. at the fire station. Social distancing will need to be observed.
- Thank you to our Police and Fire Departments for their participation in the 100<sup>th</sup> Birthday Car Parade for Reva Gornbein.

**MAYOR PRO TEM MILLER: OTHER ITEMS AND REPORTS.**

- The MPO did not have a meeting this month but we have been working on the 2045 plan for the last two and a half years.
- “Santa Clause” has not been decided this year. We may have a drive-through type situation depending on the Governor’s guidelines for the pandemic.

**ALDERMAN DULL: OTHER ITEMS AND REPORTS.**

- There was a Ports Waterway meeting online yesterday and Layton gave the following update: We are funded through 2035 and we are now working on our plan for the next fifty years. There is nothing that is blocking our way right now for continuing our beach re-nourishment and potentially, because of the feasibility study, we might get a larger swath of oceanfront re-nourished if all of the pieces fall in place – extending north past the Holiday Inn. And there's plenty of beach-grade sand available for our next re-nourishment.

**ALDERMAN PARTIN: OTHER ITEMS AND REPORTS.**

- The Flotilla is cancelled for this year.

**MR. EDES: OTHER ITEMS AND REPORTS.**

- I was not here for Chief Squires' swearing in so I want to properly welcome him and thank him for the work we have already accomplished.

Meeting recessed at 7:10 p.m. and reconvened at 7:15 p.m.

**CLOSED SESSION FOR ADVICE FROM THE TOWN ATTORNEY PURSUANT TO G.S. 143.318.11 A-3.**

Mr. Edes asked for a brief Closed Session pursuant to G.S. 143.318.11 A-3 to consult with the Town Attorney and preserve the attorney/client privilege. Mayor Pro Tem Miller made the motion to go into Closed Session at 7:15 p.m. for the reason stated by Mr. Edes. The motion was seconded by Mayor Mills and approved with a 4-0 vote.

**MEETING RECONVENED.**

Mayor Mills reconvened the Regular Meeting at 7:25 p.m. and asked the record to reflect that the Closed Session had been held for the reason so stated with no action taken.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 7:26 P.M.

Respectfully submitted,

Sylvia J. Holleman  
Town Clerk