

**Town of Sunset Beach  
Monthly Council  
Work Session, Public Hearings and Regular Meeting  
April 4, 2016**

**MINUTES**

**Members Present:** Mayor Ron Watts, Mayor Pro-Tem Carol Scott, Councilman Lou DeVita, Councilman Peter Larkin, Councilman Mark Benton and Councilman Rich Cerrato

**Members absent:** None

**Attorney & Staff Present:** Susan Parker, Town Administrator; Bonnie Schwerd, Finance Director; Dustin Graham, Public Works Director; Rawls Howard, Planning and Inspections Director; Kevin Dempsey, Fire Chief; Lisa Joyner, Police Chief; and Lisa Anglin, Town Clerk

Mayor Watts called the Meeting to order at 6:00 pm.

**Closed Session**

MAYOR PRO-TEM SCOTT MADE A MOTION TO GO INTO CLOSED SESSION PURSUANT TO NCGS 143-318.11 (a) (3) TO CONSULT WITH ATTORNEY RICHARDSON CONCERNING THE EXISTING LITIGATION WITH WITHERS AND RAVENEL AND TO RECEIVE AN UPDATE FROM THE MEDIATION TEAM AND TO CONSULT WITH ATTORNEY RICHARDSON IN ORDER TO PRESERVE THE ATTORNEY-CLIENT PRIVILEGE. COUNCILMAN CERRATO SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

The Council met in Closed Session for approximately 35 minutes. The Council consulted with Attorney Richardson and received legal advice concerning the litigations with Withers & Ravenel and the mediation session held on March 29, 2016.

MAYOR PRO-TEM SCOTT MADE A MOTION TO RETURN TO OPEN SESSION. COUNCILMAN DEVITA SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

MAYOR PRO-TEM SCOTT MADE A MOTION TO RECONVENE THE MEETING. COUNCILMAN DEVITA SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY A 4-0 VOTE.

**Work Session**

The Work Session convened at 6:45 pm. Mayor Watts called for agenda amendments and general discussions by the Council.

## **Draft Agenda Review**

The Council agreed to make the following agenda amendments and adjustments:

- Consideration of Acceptance of Proposed Settlement Agreement with Withers and Ravenel – added as New Business (a) and the remaining items were renumbered.
- Discussion Concerning Palm Cove Inquiry by Special Investigator - was moved from New Business (c) to (b) and the remaining items were renumbered.

## **General Council Discussions**

Open Meetings and Rules – Mayor Pro-Tem Scott advised, upon advice received from Frayda Bluestein, School of Government, that the open meeting laws are not violated if members of the governing body attend social functions, POA/HOA meetings and organizational meetings where Town business is discussed as long as the members do not deliberate with fellow council members. Mayor Pro-Tem Scott indicated that Council should err on the side of caution when dealing with discussions that might impact open meeting laws.

Brunswick County Free Dump Week – Mayor Watts advised that the dates of the Brunswick County Free Dump Week are April 11<sup>th</sup> – April 16<sup>th</sup>.

Sunset at Sunset Committee Update - Councilman Benton advised that the Committee held a very productive meeting and plans are being made for a successful event.

## **Monthly Meeting**

The Meeting convened at 7:00 pm and the Pledge of Allegiance was recited by those in attendance.

## **Approval of the Draft Agenda**

COUNCILMAN DEVITA MADE A MOTION TO APPROVE THE AGENDA AS AMENDED. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

## **Public Comments on Agenda Items Only**

Charles Nern 647 Oyster Bay Drive – Questioned what the cost of the proposed special investigation will be to the taxpayers.

Faye & Ralph Green 806 Magnolia Drive – Informed Council of an ongoing issue with yard holding water, advised that Staff had attempted to mitigation but the problem still exist. The Council was invited to stop by to look at problem to determine if the Town could do anything else.

Jan Harris 206 North Shore Drive – Listed multiple ordinances that were omitted from the UDO, cited multiple sets of meeting minutes concerning omissions; encouraged Council to proceed with the investigation.

Dave Eastburn 424 32<sup>nd</sup> Street – Urged Council to repeal the Resolution adopted in 2004; Encouraged Council to adopt the Article 5 Section 5.02 Proof of Ownership ordinance; Advised Council to table Chapter 51 until thorough review can be performed.

**Public Comments on Agenda Items Only (Cont.)**

Matt Nichols Palm Cove Owners and POA Attorney – Reminded Council of the Settlement Agreement the Town approved with the Palm Cove Property Owners; Advised Council that the continuing discussions of the Palm Cove Subdivision development and the appearance of Palm Cove on Council meeting agendas is causing a negative impact on the development; Urged Council to move on.

Jim Thomas 1520 North Shore Drive – Advised that the citizens of Sunset Beach need to ensure that developers are the owners of the properties; Urged Council to proceed with the investigation.

Sammy Varnam 1574 Monster Buck Estates – Read an excerpt of the October 2004 Council Meeting minutes where the reconveyance resolution was adopted; Expressed that upon re-entry of the property the owner has continuously paid the town and county taxes; Urged the Council not to repeal the 2004 Resolution.

Tim Jackson 1510 North Shore Drive – Advised that he is the builder of the two (2) homes under construction in the Palm Cove subdivision and that all local, state and federal regulations have been adhered to; informed the Council of breaking and entering, and trespassing that is occurring on the construction sites.

**Minutes for Approval Consideration**

COUNCILMAN DEVITA MADE A MOTION TO APPROVE THE MARCH 7, 2016 MINUTES AS WRITTEN. COUNCILMAN CERRATO SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Town Administrator Report**

Susan Parker, Town Administrator, advised that the Pre-Dredging Scoping Meeting went well and additional information has been requested. Once the requested information is obtained a second scoping meeting will be scheduled.

**Departmental Reports**

Police – Report on file.

Public Works – Dustin Graham, Director, advised that the First Street Beach Access Walkway renovations have been completed and it is open. Graham advised that the extension project on the ten west-end walkways is underway. Graham advised that the Main Street Paving Project start date has been delayed until April 11<sup>th</sup> and the Park Restroom facility construction is starting tomorrow.

Planning & Inspections – Rawls Howard, Director, advised that Lee Browning has joined the staff as a Level 2 inspector. Howard advised that the Town has completed its CRS Rating review resulting in the Town receiving a score of 7 which is the lowest rating a Town can achieve. This rating score means that Town property owners will recognize a 15% premium reduction on flood insurance.

Fire – Chief Dempsey advised that Beach Patrol started last week for Easter week, continuing on weekends only until Memorial Day then daily for the remainder of the summer season.

Finance – Bonnie Schwerd, Director, reviewed the February 2016 report with the Council.

## **Board Chairman Reports/Committees**

### **Planning Board**

Tom Vincenz, Planning Board Chairman, advised the Council of the current projects and Ordinance amendments the Planning Board is working on and discussing including:

- CAMA Land Use Plan Update – Survey completed on 03/31/16 with 900+ responding to the survey; Board has reviewed Chapters One (1) through Six ( 6), currently reviewing Chapter Seven (7) now with the expectation to complete all 10 Chapters by July. Public Input meeting scheduled for 04/14/16 at 7:00 pm in Town Hall to hear comments.
- Gateway Corridor District – Board appointed a subcommittee to review the corridor which covers (300’ from center of roadway) from Old Georgetown Road to the Boat Ramp on Sunset Blvd. North. The committee is nearing completion and the Board will submit to the Council with recommendation soon.
- General Regulations – Board reviewing Ordinances for Council consideration including the sign ordinances and the excavation, grading and filling ordinance.

### **Old Business**

#### **Consideration of Scheduling Special Meeting for Council to Outline 5 year Vision Plan**

Mayor Watts called a Special Meeting of the Council for Monday, April 11, 2016 at 9:00 am in the Town Hall Conference Room to outline a five (5) year Vision Plan.

#### **Consideration of Adoption of Environmental Committee Mission Statement; Establishment of Environmental Committee with Number of Members and Scope of Work, and Authorization for Clerk to Advertise for Committee Members**

The Council briefly discussed the scope of work to be performed by Committee if formed. The Council reached a consensus to table this item until the April 19, 2016 Meeting.

#### **Discussion Concerning Procedure for Interviewing Candidates For Board of Adjustment, Planning Board Members and other Positions Created by Council**

The Council upheld the current procedure for interviewing Candidates as follows:

- Applicants provide written answers to the Council approved questions depending on which positions is sought,
- Applicant answers are reviewed by all Council members for additional follow-up questions to be asked by the Council members conducting the interviews,
- Two (2) Council members interview the applicants. The Council members will rotate to conduct interviews for the appointed or created positions. Additional Council members might choose to interview applicants also.
- The interviewing Council members will make appointment recommendations to the Council.

Councilman Larkin and Councilman Benton will perform the interviews for the Board of Adjustment vacancy and term expiration positions currently available.

#### **Consideration of Ordinance Amendment of Chapter 94 Noise Regulations concerning Construction on Sunday**

The Council discussed the omission of no construction on Sunday from Chapter 94 Noise Regulations. The Council discussed prohibiting Sunday construction to certain hours and only in emergency situations. The Council reached a consensus to adopt the language from the prior Noise Regulations concerning Sunday construction. Staff will prepare the amendment and add it to the 04/19/16 agenda.

**Old Business (Cont.)**

**Consideration of Draft Letter Regarding NC 2015 SL 286 Section 4.38 Concerning Coastal Building Height Calculation Methods**

Rawls Howard, Planning and Inspections Director, advised that a proposal has been submitted to the NC General Assembly for standardizing height calculations methods along the coast of North Carolina. Howard has prepared a draft letter for Council consideration. Mayor Pro-Tem Scott made a few grammatical corrections to the letter. Councilman Larkin advised the deadline to submit comment is April 6, 2016.

COUNCILMAN LARKIN MADE A MOTION TO APPROVE THE PROPOSED LETTER AS AMENDED. COUNCILMAN DEVITA SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Meeting Rules and Procedures**

Mayor Watts distributed a draft of proposed meeting rules and procedures for the Council to consider as the current Town Code of Ordinances is silent. The Council was requested to provide feedback to Mayor Watts and to add this item to the Tuesday June Meeting agenda.

**New Business**

**Consideration of Acceptance of Proposed Settlement Agreement with Withers and Ravenel**

Attorney Richardson advised that mediation was held on March 29, 2016 concerning the Withers and Ravenel litigation. The Town mediation team was comprised of Mayor Pro-Tem Scott, Councilman DeVita, Susan Parker and Attorney Richardson. Mr. Bob Beason was the mediator. Attorney Richardson advised that the terms of the proposed Settlement Agreement include a lump-sum payment of \$190,000 to the Town and a good faith effort by Withers and Ravenel to assist the Town with disposing of the perma-trek materials.

MAYOR PRO-TEM SCOTT MADE A MOTION TO ACCEPT THE SETTLEMENT AGREEMENT WITH WITHERS AND RAVENEL. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Discussion Concerning Palm Cove Inquiry by Special Investigator**

Councilman Cerrato advised that the investigation is needed to determine accountability, to ensure the accuracy of the procedures utilized by Staff and to determine how so many vital ordinances were omitted from the UDO. The Council discussed the conversion procedure from the prior Land Use Code of Ordinances to the current UDO and the numerous committee members, Planning Board Members, Council members, consultants and Staff that reviewed the draft versions which were converted, reformatted, redrafted and reorganized making a comparison from old to new impossible. The majority of the Council agreed that the omissions were honest errors not made malicious intent.

COUNCILMAN CERRATO MADE A MOTION TO EMPOWER SUSAN PARKER, TOWN ADMINISTRATOR, TO CONDUCT AN INTERNAL INVESTIGATION INTO THE CAUSE OF THE UDO OMISSIONS AND TO PROVIDE A STATUS REPORT OF THE INVESTIGATION TO COUNCIL DURING THE JULY 19<sup>TH</sup> MEETING. MAYOR PRO-TEM SCOTT SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE. MAYOR PRO-TEM SCOTT, COUNCILMAN BENTON, COUNCILMAN LARKIN AND COUNCILMAN CERRATO VOTED YES. COUNCILMAN DEVITA VOTED NO. THE MOTION CARRIED BY MAJORITY VOTE.

**New Business (Cont.)**

**Consideration of Resolution Repealing the Resolution Adopted on October 4, 2004 titled “Resolution Authorizing Reconveyance of Property Pursuant to G.S. 153A-177”**

Attorney Richardson advised that in October 2004 the then Town Council adopted a Resolution to reconvey property to Ed Gore that he gifted to the Town in 1987 by way of a reentry deed because the deed restriction to construction a parking lot on the property (now known as Sunset Beach West) was not fulfilled. However, a reconveyance deed was never recorded. Attorney Richardson advised that the Town may in fact still be the owner of the property and that a Superior Court judge would need to decide who owns the property.

COUNCILMAN BENTON MADE A MOTION TO REPEAL THE RESOLUTION ADOPTED ON OCTOBER 4, 2004 TITLED “RESOLUTION AUTHORIZING RECONVEYANCE OF PROPERTY PURSUANT TO G.S. 153A-177”. COUNCILMAN CERRATO SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Discussion Concerning UDO Amendment to Add Article 5 Section 5.02 Proof of Ownership**

The Council discussed the revised version of the proposed amendment for Article 5 to add Section 5.02 Proof of Ownership. Attorney Richardson advised that the Planning Board is required to review and make a recommendation to the Council concerning any land use ordinance amendments or adoptions.

COUNCILMAN CERRATO MADE A MOTION TO SUBMIT THE PROPOSED UDO AMENDMENT FOR ARTICLE 5 TO ADD SECTION 5.02 PROOF OF OWNERSHIP TO THE PLANNING BOARD FOR REVIEW AND RECOMMENDATION. COUNCILMAN BENTON SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Consideration of Adoption of the Southeastern NC Regional Hazard Mitigation Plan**

Rawls Howard, Planning and Inspections Director, advised that Brunswick, Pender and New Hanover Counties including the municipalities within collectively developed the Southeastern NC Regional Hazard Mitigation Plan which will replace the independent plans maintained by each entity. Mayor Pro-Tem Scott requested Council to table this item until the April 19, 2016 Meeting as she would like to meet with Rawls concerning amendments to the plan. The Council agreed.

**Consideration of Adoption of Amendment to Add Chapter 51 Building Code to the Sunset Beach Code of Ordinances**

Howard advised the Council that the proposed Chapter 51 Building Code was previously included in Chapter 150 of the Land Use Section however this chapter needs to be in the general code of ordinance section. Mayor Pro-Tem Scott requested Council to table this item until the April 19, 2016 Meeting and for Howard to provide material showing what the previous building code provided, and his rationale for any proposed changes to the old code. The Council agreed.

**Consideration of Acceptance of Planning Board Recommendation For Amendment to Article 11 Sign Ordinance and Schedule Public Hearing for May 2, 2016 at 7:00 pm.**

Howard advised that the Planning Board is submitting amendment recommendations to Article 11 Section 11.03 (K) and Section 11.08 (A) (11) and (A) (12) to Council for acceptance and to schedule a public hearing.

### **New Business (Cont.)**

Consideration of Acceptance of Planning Board Recommendation For Amendment to Article 11 Sign Ordinance and Schedule Public Hearing for May 2, 2016 at 7:00 pm. (Cont.)

COUNCILMAN DEVITA MADE A MOTION TO ACCEPT THE PLANNING BOARD RECOMMENDATION CONCERNING ARTICLE 11 AMENDMENTS FOR SECTION 11.03 (K) AND 11.08 (A) (11) AND (A) (12) AND TO SCHEDULE A PUBLIC HEARING FOR MAY 2, 2016 AT 7:00 PM. COUNCILMAN LARKIN SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

Consideration of Adoption of the Veteran's Memorial Memorandum Of Understanding (MOU)

Councilman DeVita reviewed the proposed Veteran's Memorial Memorandum of Understanding (MOU) from the Committee to Honor American's Veterans to the Town outlining the operation and maintenance of the Veteran's Memorial site in the Town Park going forward. Mayor Pro-Tem Scott requested Council to table this item until the May 2, 2016 Meeting to allow her time to meet with Councilman DeVita concerning amendments to the MOU. The Council agreed.

Establish Budget Public Hearings for May 17<sup>th</sup> and June 6<sup>th</sup>

COUNCILMAN BENTON MADE A MOTION TO ESTABLISH THE BUDGET PUBLIC HEARINGS DATES FOR TUESDAY, MAY 17, 2016 AT 9:00 AM AND MONDAY, JUNE 6, 2016 AT 7:00 PM. COUNCILMAN LARKIN SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

### **Public Comments**

Walter Seidel 620 Millslough Lane – Advised the Council of six (6) trees along the Town owned pond bank adjoining his property that he would like removed; Advised that the Town has had the trees pruned and an arborist has reported that the trees are not diseased or dying however, he feels that the trees are endangering his property. Requested Council to reconsider having the trees removed.

Dave Eastburn 424 32<sup>nd</sup> Street – Advised that the Palm Cove owners might have ownership but do not have title to conduct the work underway; advised that the omitted ordinances need to be the top priority and suggested incorporating the old sections into the UDO as written.

Karen Joseph 915 Sandpiper Bay Drive – Agreed with Council decision to accept the Withers and Ravenel settlement; advised that the UDO investigation is a waste of time as nothing was left out on purpose but by mistake.

Charles Nern 647 Oyster Bay Drive – Advised that a lot of good people worked on the UDO and good discussions were held but no one ever said leave sections out.

Review upcoming Agenda Items and Identify New Agenda Items for April 19, 2016 Meeting

Susan Parker, Town Administrator, requested Council to not add additional items to the April 19, 2016 Meeting agenda due to budget. The Council agreed.

### **Adjournment**

COUNCILMAN BENTON MADE A MOTION TO ADJOURN THE APRIL 4, 2016 COUNCIL MEETING. MAYOR PRO-TEM SCOTT SECONDED THE MOTION. MAYOR WATTS CALLED FOR A VOTE AND THE MOTION CARRIED BY UNANIMOUS VOTE.

**Town of Sunset Beach**

*Ron Watts, Mayor*

Submitted by:

*Lisa Anglin, Town Clerk*

\*The April 4, 2016 minutes were approved by Council during the May 2, 2016 meeting.