

**MINUTES OF THE SPECIAL MEETING  
OF JUNE 23, 2009 OF THE TOWN COUNCIL  
TOWN OF CAROLINA BEACH**

**June 23, 2009**

The Town Council of the Town of Carolina Beach met in a special session on June 23, 2009 at 5:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor Joel Macon; MPT Wilcox; Councilman Gilbert; Councilwoman Efirm and Councilman Jerry Johnson. Also present were Town Manager Tim Owens and Town Clerk Lynn Prusa.

Mayor Macon called the meeting to order.

***UPDATE, DISCUSSION AND REQUEST REGARDING FUTURE ACTION TO REVERSE COASTAL INSURANCE RATE INCREASES BY KATHLEEN RIELY***

Ms. Kathleen Riely presented this item. She thanked the town for allowing her to bring forth information regarding this insurance rate increase which the realtors and other groups have been fighting legislatively and judicially. At this time she gave Council a brief overview. She showed the territory map and said it is important to note that 52 and 8 are two different territorial areas. Area 52 is known as the coastal area which is west of the Intercoastal Waterway and area 8 is east of the Intercoastal Waterway and that is known as the beach area. They are both part of the Beach Plan for insurance. She showed the breakdown of rates for 2009. The ordered insurance rate increase for territory 8 (beach area) is 17.5 but area 52 (coastal area) the ordered increase is 29.8. The Rate Bureau attempted to level out the insurance rates by hitting the intercoastal areas with 30%. If you look at the ordered percent increase you will see that not only did New Hanover, Brunswick, Pender - the Cape Fear area get hit with some of the highest rates but the areas for Gaston, Mecklenburg and Union actually got a decrease of 6%. A lot of other counties got a decrease of 1.2%. One of the numbers that has been put out by the Department of Insurance and the Rate Bureau is that they increased by 4%. The overall increase for the entire state is 4% but 43 counties out of 100 got a decrease, some by as much as 6% while we were hit with 30% or 17.5%. She showed the rates since before 1993 to now which showed rate increases of 139%, 163% and consistent increases all along while some of the smaller areas, Gaston, Mecklenburg and Union with -7%. Their rates keep going down and our rates keep going up. In talking to the Department of Insurance and the Rate Bureau on the Beach Plan, they use what is called modeling which is based on the 100 year storm or forecast but when you dig up the actuarial data from 1986 to 2005, which she was able to get through a subpoena and lawsuit, the percentage of total wind and hail losses paid out to those coastal communities is 26%. The remaining 74% went to the counties in the rest of the state. We have been paying increases for over 16 years, we have been zinged with another 30% or 17.5% but when you look at the actuarial loss data, which the Department of Insurance claims they do not use in their negotiations with the Rate Bureau, the opposite is true. As a result of this,

there was a lawsuit filed by Dare County which is the judicial remedy that is being sought. In December 2008 the Department of Insurance approved those 30% increases and in November 2008 they also okay with the Beach Plan a 10% increase in surcharges from 5% to 15% or 15% to 25%. It is her responsibility to negotiate with two separate entities on the insurance issue - the Rate Bureau, which sets the manual rates for basic homeowner rates, not necessarily wind and hail and the Beach Plan, which is North Carolina Underwriting and Joint Underwriting which she has to negotiate with as well. The procedures, the statutes that govern the negotiations are very different. The Beach Plan is governed by Article 15, Section 58 and the Rate Bureau is another set of procedures. In November 2008 when the Department of Insurance negotiated with the Beach Plan, the judge in that case found that the Department of Insurance did make procedural errors and put a stay on the surcharges and also increasing the deductibles 2% on this particular entity and group and this set of negotiations. When the Department of Insurance negotiated with the Rate Bureau, the judge's order denied the stay because the judge found that the procedures used and the negotiations with the Rate Bureau he did not find procedural error, he just found procedural error with the Beach Plan and the Beach Plan is the surcharges and increase in deductible where the Rate Bureau is the 30%. There were two separate entities, two separate rulings, there were two separate decisions and they are governed by two separate sets of statutes and procedures. The Beach Plan now has surcharges of 5% for wind and hail and 15%. They wanted 15% and 25% which have been stayed as well as the 2% deductible but not the rate increases with the Rate Bureau. The effort is to draft legislation for increased accountability, increased transparency and a number of items they would like to see put into the House bill. There have been a lot of bills but a lot of them have died. Bill 1305, which was proposed by Representative Holliman, is the only bill proposed that actually implements a joint study committee's recommendations. That bill is probably the most powerful. Anything can happen. The Legislature in Raleigh has been so bogged down with budget issues, this issue has not been fully addressed. 1305 is sitting there and they are supposed to meet on Thursday. She decided to put together a coalition, Cape Fear Coalition of Concerned Citizens (CFC3) which is a citizen's advocacy group to educate people, to address the issues and get someone to legislate on our behalf in the Cape Fear region. They are there to support elected officials and people in Raleigh. They are willing to read the statutes, draft legislation, research what Florida did, what Texas has done and take some of their language, put it in a bill and give it to elected officials to represent the coalition. They are not asking for funds at this time, just support. They drafted a resolution which will be given to Council after corrections have been made. This will address the Cape Fear region. We were hit the highest.

Councilman Gilbert asked if the 1305 bill is the same as what was in the paper about spreading the cost evenly at 6%.

Ms. Riely said that in the last couple of days things have picked up very quickly. There is a Senate bill to be introduced by Mark Basnight, an additional house bill that the insurance companies have worked on. On Thursday the Committee on Insurance meets. Right now they haven't met to decide on anything. There are a lot of things out there.

Councilman Gilbert asked if there is legislation going forward to help with the Rate Bureau side of it.

Ms. Reily said she spoke with their lobbyist in Raleigh and, at this time, 1305 only addresses the Beach Plan. It's going to be a lot easier to muster support from both the House and Senate for just the Beach Plan fairness than the Rate Bureau because a lot of them are getting decreases and they don't want to vote on something that goes against what their constituency wants. If you look at the most recent resolution that has been put forth, that outlines a lot of the changes they would like to see put forth next time. This is not going away. Hopefully we'll get it started now, there is a short session next year - we need to keep building on this.

**Councilman Gilbert made a motion for the Mayor to go forward and sign the resolution and copy Council when the resolution has been wordsmithed and make note of any challenges. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER REQUEST FOR CONDITIONAL USE PERMIT EXTENSION FOR PARK PLACE AT CAROLINA BEACH, LLC***

Tim Owens said the applicant has asked to table this until the second meeting in July to be held on the 28<sup>th</sup> at 5:30 p.m. or soon thereafter. Council was in agreement. No action was taken at this time.

***DISCUSSION REGARDING THE ENFORCEMENT OF PARKING HOURS (2 HOUR PARKING METERS AND 3 HOUR PARKING METERS)***

The Town Manager, Tim Owens, presented this item. He said at their last discussion on parking there was some discussion about how they currently enforce parking. He summarized the different types of parking they have. Council/town officials need to decide those areas where they want to have parking turnover. He is not sure why having the 2 hour or 3 hour parking spot and be able to keep feeding the meter is even an option. He feels it should just be paid parking and unlimited. They currently have 3 hour parking spots on the oceanfront. When he goes to the beach it is probably for more than 3 hours. If you keep feeding the meter for more than 3 hours you don't get a ticket. If you have a resident permit, there is not a lot of enforcement in those areas even though it says that in our ordinance. That is troublesome and we need to decide those parking areas along the beachfront. We need to decide what the enforcement would be Lake Park, Cape Fear and our parking areas around town. There are generally different types of areas. There is free beach parking on Lake Park at the south end of town. It's 2 hour parking but he is not sure that is enforced in turning that over. Council has talked about placing meters at these locations so we would need to determine how we wanted to enforce this parking. We would need to consider being very consistent with what we do on our beachfront parking. If we want it to be 3 hours, we need to enforce it that way and make the meters 3 hours as well. There is 2 hour free parking on Lake Park and we talked about putting

meters there. If we want to encourage turnover at Lake Park then we probably need to consider 2 hour meters and enforcing the 2 hour maximums. Our signage needs to be more definitive depending on what is decided. Another type of parking is the 3 hour beach surface metered lots at Alabama, Hamlet, etc. where you can feed the meter for more than 3 hours or use a parking permit for 3 hours. There is little enforcement there as well. There are parking lots in the CBD with unlimited parking for \$7 for the day. He is not recommending any changes to those. We have 2 hour metered spaces on the eastside of Cape Fear where you can also feed the meter for more than 2 hours. On the west side, where we are looking at putting meters in, there is a variety of different types of parking -20 minute parking, residential parking and 2 hour parking by signage. He is not recommending changes to the residential parking. He does not see any additional parking spaces coming out of this. There is a potential when they redo some of the streetscapes to add some of the residential parking spaces. Most houses when they get redeveloped will be required to have on-site parking for occupants. We also have some on-street 3 hour parking meters on Hamlet. We have a variety of different types of parking and the key is what do we want to turn over. There are some enforcement challenges with turning over the parking. If we decide in certain areas to have 2 hour metered parking, they have to chalk tires and the enforcement takes a little longer. We're going to have to do that probably on Lake Park depending on what Council decides. Staff is seeking direction. Our signage, depending on what we do, may be out of date. He is not sure when they would really need to implement any new changes but the next thing would probably be to come back with an ordinance change to spell out all the different areas and different types of parking. Then they would work on implementing the signage. As far as parking pay stations and getting those up and running, Freeman Park should hopefully be up and running this week with the new fee. They had some trouble getting power hooked up. We have 2 or 3 other pay stations in, they'll be coming on line and then a day or two to change the meters. He is looking for direction on the different parking areas.

Mayor Macon asked if he heard back from DOT about meters on Lake Park.

Mr. Owens said he did but he is waiting until they do the resurfacing because he is sure they will have to present some kind of plan. They directed him to the General Statutes which he interpreted that they can do metered parking but he hasn't gotten anything formal yet.

Councilman Gilbert said that when they were talking about the 3 hour parking there was the concern of condominium overflow filling up those spaces which they wanted to keep open for people going to the beach. If you didn't allow overnight parking then the condominium folks would have to find a place and those early beach spaces wouldn't be taken up by that. If they got rid of the 3 hour turnover and did not allow overnight parking that might take care of a portion of it.

Mr. Owens someone could have a day pass and then move their car later that night but he can't see a lot of cases like that. He would say you wouldn't want to have overnight parking at the oceanfront.

Councilman Johnson said the problem he is seeing is at Sandpiper is the Freeman Park crowd who are filling that lot on the weekends/holidays and coming and going at all hours of the night. His neighbors have complained about that.

Mr. Owens said Council may want to allow some parking areas to continue to have overnight parking, such as the north end parking lot. Overnight parking would need to be defined between specific hours such as midnight to 5:00 or 6:00 a.m.

Councilman Gilbert said the merchants he has spoken with would like some turnover, and keep it 2 hours but with turnover for a period of time.

Shawn Cook, representing Pleasure Island Rentals, said he likes the 20 minute idea, especially the two spots in front of the rental shop. People park there, go to the beach and come back 6 hours later and it says 2 hours per block. If it's not policed, it's not going to happen. He has seen them write tickets once. He tells people where the \$5 lots are. If you did meter Lake Park, make it at least 3 hours. Parking lots could be for overnight. Employee parking is a big issue, they don't know where to put them. The majority live on the island and can get parking passes. As an employer he would buy parking passes out of pocket and give them to employees if he could buy them in bulk. Maybe the merchants could work something out with the town for employees. The CBD might be the same way now.

Mr. Owens said the Marriott recently asked him about this. The problem is if everybody is filling up the CBD lots, where do the visitors park.

Councilman Gilbert asked if it would be reasonable to look at larger lots, like the green lot which is underused, and offer the merchants a special hangtag for only the green lot. He said the ordinance, with regard to the 2 hour meters, can be interpreted several ways.

Mr. Owens said the key would be the signage and would need to be clearer.

Councilman Gilbert said as they are mid season maybe just take it under advisement that they would like to see the 2 hours enforced and the 3 hours maybe go away. The business development group mentioned that they were going to study it so maybe sometime between now and December that is done and then make the recommendations for next season.

Mr. Owens said the sections he would like to get some direction on are: the free beach parking on Lake Park near the south end of town and do they want that to turn into unlimited parking, no overnight parking, meters? Down by the Scotchman there is parallel parking span from the lake on down to almost Carolina Sands which will be metered at some point. Do you want to treat them similar to what they are thinking about with the beach where it is unlimited parking, no overnight parking? You can feed the meter as long as you want from 8:00 a.m. to 7:00 p.m.

Councilman Gilbert said he didn't feel they needed to worry about overnight parking there.

Mr. Owens said they are going to resurface and he doesn't feel they should paint and meter until after that. Wait until after the season. He will clean up the ordinance and bring an ordinance back at some point and maybe set up another meeting with Lanier towards the end of the season. Council agreed to enforce 2 hour parking this season. We can write some warning tickets this year and change the signage next year.

Mr. Cook said if we are going to enforce the 2 hour parking on Lake Park then he needs to really think about where he is going to tell his employees to park.

Councilman Johnson suggested he meet with the town manager to discuss arranging something in the green parking lot.

Mr. Owens said that is what some folks have done. They just don't allow hangers at this point and it is something they will have to work out for next season.

***DISCUSSION AND DIRECTION REGARDING THE TOWN'S CAMA ACCESS GRANT FOR CAPE FEAR BLVD.***

Mr. Owens presented this item. He said they could probably decide a lot of this once Peter J. Smith comes back with some of their recommendations. They received \$100,000 CAMA access grant which they match with another \$100,000. The completion date is scheduled for July 30, 2010. They have not done any engineering or planning at this point for it. He has talked to DCM on several occasions about trying to move this grant to somewhere else or purchasing some land with it and they do not allow you to transfer grants to other projects. The original proposal was to add 19 parking spaces done by Engineering Services. Peter J. Smith is proposing is only going to give about 5 parking spaces. DCM will not allow us to go through with the grant unless we have somewhere around 19 parking spaces. There are several issues he sees. We can implement as a stopgap interim measure. They could do the Engineering Services plan, address some of the underground utilities, not go underground with the utilities and spend \$100,000 of our money to do that and then who knows what's going to happen with other projects down the road. One of his concerns is getting planning, permitting at the eleventh hour. There are also some items they haven't submitted to DOT that they may not like with the proposal they submitted. They could require stacking at Lake Park which would eliminate a lot of those parking spaces and it may not even be feasible. The other part is they would have to redo the street lighting at Lake Park and Cape Fear and that may not be feasible maybe not even cost feasible. At this point this may not even be the best plan for the future. At some point they will have to decide what to do, whether to turn the grant in and hope to get it back someday or decided if they want to implement the Engineering Services plan despite what Peter J. Smith may be recommending. They have until July 30, 2010 to make a decision. They can have a little more discussion with Peter J. Smith.

Councilman Johnson said with all these studies he has yet to see a plan that shows how they are addressing unloading for vehicles that service all the businesses within the CBD and the answer is they are using Raleigh. Raleigh is disappearing and whatever plan they use on Cape Fear (talking about the east side) if they put parking down the center, those people who have been coming in there and parking, where are they going to stage? No one has addressed that.

Mr. Owens said they need to ask Peter J. Smith to come up with something. If we want to stage vehicles on Cape Fear for parking then we can't get enough parking spaces.

Councilman Johnson said if some of the parallel spaces were used for staging during certain hours for commercial loading and unloading and still meets your grant parameters.

Mayor Macon said they should focus on the grant and the two different designs. The problem is with what they are trying to accomplish with the streetscape, doing wider sidewalks and we hope it is the grand entrance to the future pier. You stick to the grant with more parking or do the streetscape.

Mr. Owens said he is leaning towards turning the grant back in as a recommendation. Hopefully they will get it back at some other point when they need it. Maybe they should wait until they meet with Peter J. Smith in a couple of months and make a decision then.

Mayor Macon said Council needs to be ready to make a decision at that time.

***CONSIDER AMENDING CHAPTER 15 ARTICLE III SECTION 15-37 DISPLAY OF GOODS TO ADDRESS ALLOWANCE FOR OBSTRUCTIONS ON PUBLIC SIDEWALKS, STREETS OR OTHER PUBLIC RIGHTS OF WAYS***

Council was in agreement to table this item until later.

***CONSIDER AMENDING CHAPTER 8 LICENSE & BUSINESS REGULATIONS, ARTICLE IX SIDEWALK CAFES TO ADDRESS OPERATIONAL PARAMETERS***

Ed Parvin gave update. He gave a handout with the layout of the different sidewalks. At Cape Fear Blvd. and Carolina Beach Avenue N., the boardwalk proper where Blackhorn Bar and Kitchen is located, shows a 20' sidewalk with 3' delineated in the center for the planters and benches and trash cans. So you have 8'6" on either side to work with for sidewalk cafes in those areas. The next area is the boardwalk and the street name is one called oceanfront and there are no encroachments in this area. It is 18'5" wide - the oceanfront sidewalk. North and South Pavilion, the streets that run east and west, the streets are a little smaller. They are 18'4". That gives you a 7'8" working area on either side of the encroachments in the center of that area. The west side of Lake Park north of

Harper has a sidewalk only by Linda's Fashions which is 14'4". He has 2' broken out on the street side and that is for meters, car overhangs and different encroachment signs and cannot be included in the accessible area. The last area are the 8' sidewalks on most areas of Lake Park, Cape Fear west of Carolina Beach Avenue N. or the boardwalk, and Harper east of Lake Park. There is 2' taken out by the street for overhangs, signs and meters which leaves 6' of workable area between that area and the building. The other parameter spelled out in the memo is a minimum 3' for accessibility. He talked to Laurel Wright who is the chief enforcement for accessibility for the Department of Insurance and you have to have 3' from the building to the end of the sidewalk café and 3' on the other side. If you had a sidewalk café in the 8' area, you couldn't have the barricade around it and you couldn't have a chair on the outside - you would have to have 3' for the table and 3' for a wheelchair to get by the table. He said he put this together the last few days and the Town Manager and Planning Director have not looked at it. This will be back on the July agenda.

Councilman Gilbert asked for an update from the town manager on the platforms because he feels it is a trip hazard.

Tim Owens said he talked to the owners of the Blackhorn right after the meeting and asked them to move them in every evening and if they are not doing that then they would get a ticket or we would take them to our yard. They will look at them in the morning.

***APPOINTMENTS TO MASTER DEVELOPMENT PLAN COMMITTEE AND  
CONSIDER BUSINESS ECONOMIC DEVELOPMENT COMMITTEE TO SERVE  
AS THE MASTER DEVELOPMENT PLAN IMPLEMENTATION COMMITTEE***

Mr. Owens said that Alan Pacek said the Business Economic and Development Committee would be interested in performing the role of Master Development Plan Implementation Committee. We had a committee appointed and held two meetings and only three members showed up at each meeting. The Business Economic and Development Committee would like to be considered as the entity that maybe form a subcommittee and help with the implementation of the Master Development Plan. If Council decides to do that, he would recommend that Fred Grady, Carolyn Thomas and Andrew Pasedag also be part of that subcommittee. If all members of both committees were combined that would be a 14 person committee which Mr. Owens feels would be too large.

Mayor Macon said to call another meeting, call the members and set a date. We have 4 applicants with different gifts they can bring to the table.

Councilman Gilbert said to tell them it is a mandatory meeting, invite the Business Economic and Development Committee, maybe they can pick a chair who can facilitate the meetings and the ones who want to be there show up.

Fred Grady said he thinks a lot of the people who got on it were for their own personal agenda and the meeting date didn't fit and they weren't that interested. The only time they will be interested is when the town starts bulldozing a hole in 421. They went to the meeting with the engineers and there wasn't but about 4 people on the island there.

Mayor Macon said to call those folks and find out who wants to be on it and then bring it back to Council at the next meeting so they can appoint people who have actually applied and want to be there as well and we'll go from there.

#### ***APPOINTMENT TO THE PLANNING AND ZONING COMMISSION***

Ed Parvin said he spoke with Shawn Underwood and Jim Reese. Mr. Underwood cannot serve another term but Mr. Reese would like to. Both of their terms expire in August and are up for reappointment.

**Councilman Gilbert made a motion to appoint Noelle Marie Winstead to the Planning and Zoning Commission because of her background in the environmental consulting end of it and CAMA and Division of Water Quality. MOTION DENIED 3-2 WITH MAYOR MACON, MPT WILCOX AND COUNCILWOMAN EFIRD VOTING NO.**

**MPT Wilcox made a motion to appoint Robert Lewis to the Planning and Zoning Commission. MOTION CARRIED 3-2 WITH COUNCILMAN GILBERT AND COUNCILMAN JOHNSON VOTING NO.**

**Councilman Gilbert made a motion to reappoint Jim Reese to the Planning and Zoning Commission. MOTION CARRIED UNANIMOUSLY.**

#### ***APPOINTMENT TO THE AD-HOC BUDGET COMMITTEE***

Mayor Macon said there were no applicants.

Councilman Johnson suggested that the remaining members be contacted to see who is still interested.

Mayor Macon said to advertise one more time to see if anyone is interested. We need at least two new members. It is a 5 member committee.

Councilman Gilbert said he knows an ad-hoc committee is together for a specific purpose and maybe they need to reevaluate that purpose and working with staff on some of the challenges staff might have at looking at certain things they might need a committee to work with them on.

***APPOINTMENT TO THE FREEMAN PARK COMMITTEE***

Mayor Macon said there were no applicants. This will also need to be readvertised.

***APPOINTMENT TO THE HARBOR COMMISSION***

Ed Parvin said they are two members short on the Harbor Commission.

**Mayor Macon made a motion to appoint Richard Knott to the Harbor Commission.  
MOTION CARRIED UNANIMOUSLY.**

***NON-AGENDA ITEMS***

Councilwoman Efird asked if anything had been done about the tow truck situation. She received a call about 3:00 a.m. Sunday saying they had been up all night and they had been driving around all over the beach looking for cars to pick up. She feels that is terrible.

Chief Younginer said the towers have contracted with all of the homeowner associations and it's private property and if there is something there with out a tag, they tow it. When people complain he tells them to call the HOA and complain to them.

Tim Owens said they adopted a fee schedule which was given to Council.

Councilman Gilbert asked what we could do ordinance-wise with respect to permitting these towing agencies with the town helping the HOA's understand that we have a tremendous hospitality issue right now, that people will not be coming back. We need to stop the predatory aspect of it. The property owner needs to get information on the aggressiveness of it.

Steve Coggins said he is concerned of the ability of the town to regulate private property owners with respect to activity taking place on their private property to remove trespassers on their private property through private means, however, the town does have the ability to regulate activity that goes on its public streets outside that private property. Clarifying a question to Chief Younginer - the activity they are talking about, regarding HOA's, he takes it what they do is aggressively move to go onto private property immediately to secure the property and they take it immediately off site, not to the ultimate destination but to off site. What do they have to do to cross town controlled property to do that? To what extent do they use town streets or town controlled property to secure the towed vehicles?

Chief Younginer said some of the tow companies are grabbing cars and taking them to places like the Food Lion parking lot or, at night, across the lake to the car wash, which is another private property and they drop them there, stack them up, and when they get enough cars they take them to Wilmington.

Mr. Coggins asked if they have permission from Food Lion or the car wash owners to do that?

Mr. Owens said that is a zoning issue that they can resolve if that is happening.

Mr. Coggins said it is also part of the police power of the town as to what towing vehicles and towing services can do in the course of using town maintained streets to further secure the vehicle. They are giving the town a black eye in the eyes of the public.

MPT Wilcox said they could do two things if they wanted to in the ordinance, they're not allowed to use public property for that purpose but, also, they would only be allowed to use private property with express permission.

Mayor Macon said the key here is that there is not a whole lot they can do about it except tighten our regulations as much as possible and staff has not brought anything to Council to do anything with.

Councilman Johnson asked the town manager and chief of police if they are addressing the noise situation from the rides. Last night when he was trying to slow down traffic during the flooding and his neighbors were standing in his yard, you could hear the rides at his house. This was about 8:30 - 9:00 p.m.

Chief Younginer said they have been calming things down later in the evening. He has not had any complaints earlier in the evening.

Tim Owens said he has met with the Marriott and gotten whatever complaints they might have had. They were going to turn over some written complaints which he has not received yet. He has also met with Matt Murphy and talked to him about whether they could swap those two rides. He would rather swap the one ride that goes around and the guy is out there chanting with something else but he is not sure they can do that at this point. He has not had a chance to talk to the owner about that.

MPT Wilcox said he talked to him about it the other day and he said they might be able to do that but he's not sure they can do it now.

Mr. Owens said he would rather give up our sidewalk in order to make that swap. He did sit by the pool, it wasn't that obnoxious but when the guy starts yelling it gets obnoxious.

Councilman Gilbert asked about the siren.

Chief Younginer said he has been pretty receptive to anything they have asked him. If there are some complaints they need to take to him, they can do that and ask him to turn it off.

Mr. Owens said he will talk to him about it tomorrow.

Fred Grady said he lives at the 600 block of Cape Fear Blvd. and he thinks it sounds like opera music, it's the most beautiful sound he has ever heard. People are having a good time, the bands are going - it's beautiful.

Councilman Johnson asked if there is a proposal to have bike week here. No one was aware of anything other than inquiries from the paper.

Dawn Johnson gave Council a memo which is serving as notification of budget transfers for the year end. No action is required.

Mr. Coggins said they are prepared to do collection procedures on the significant amounts owed for water and sewer fees and asked for Council's authorization for them to proceed forward with a firm doing that on a contingency type basis and proceeding with that ASAP to try to collect some of those fees. Also, deferring to the town manager, they are poised to go ahead and submit to the Division of Coastal Management at the Coastal Resources Commission our application for static vegetation line exception status which led to a lot of our efforts at the General Assembly. The General Assembly is apparently going to be busy for quite awhile and so the bill of disapproval of the setback rules is apparently going to be in place for quite awhile and that gives us a chance to get in our application to have it approved by the CRC before the new setback rules that would make a lot of our properties non-conforming come into effect. A lot of hard work has gone into that and are pretty much ready to submit that to DCM.

Mr. Owens said they have a draft of it and he can give that draft to Council. He talked to the Director of DCM and he said they would be glad to look at it and see if there is anything else that needs to be added.

Mr. Coggins said he wanted Council to be aware that they are in a position to tell the constituency that the town is working hard to preserve the values of their property and it is of significant concern to the town itself and they are taking active steps to do that. Similarly, in response to the concerns that were voiced at the last meeting, he has prepared for the benefit of the town comments regarding the new CBRA maps that have been submitted, probably inadvertently, and have caused a lot of existing developed properties in the Georgia, Florida Avenue sector and the extreme northern part of Canal Drive to be ineligible for any kind of federal flood insurance or any kind of disaster insurance. Those comments are due by July 6<sup>th</sup>. He understood there was some sense of a desire by Council to notify those particular property owners that they need to get their comments in but being concerned that those individual owners would not know quite how to do that in a responsive way, he prepared comments on behalf of the town itself saying just a moment they have these particular properties that are in fact developed or

are capable of being developed and that is not within the contemplation of what they are trying to do and to alert that and to submit that. It can also be used as a template for the individual property owners for distribution.

Mayor Macon said there is a big notice on the town's website.

Mr. Owens said that Gary Ferguson has prepared some letters which were sent to the Governor, all the congressmen, legislators and senators they could find. Mr. Coggins said as yet there is not a letter officially from the town and he is prepared to do that. Mr. Owens suggested he talk to the planning director because there is a draft letter.

Mr. Coggins said it would probably be appropriate for a blank bill that might be available to give our Council delegation to allow the setting up of state legislation that would allow the Town of Carolina Beach to have the authority to run its marina and be the authority on that as opposed to being preempted by a state wildlife commission and water resources and their particular rules and be subject to only federal rules on that. We need to ask our local representatives and staff to come up with some legislation on one of these blank bills to do that for us. This will give the town legislation to regulate our own marina.

Mayor Macon asked if we try to include the harbor as well because they are putting the mooring field out there.

Mr. Coggins said the question is what does the town have jurisdiction over and they need to make it clear that they have jurisdiction over areas of Myrtle Grove Sound that is not exactly abutting or leading up to the private property that the town owns at the marina.

Mr. Owens said he is aware of this. The gist of what the town attorney is getting at is that he wants to go ahead and try to secure one of those blank bills. Would it say that we have the ability to create ordinances to regulate thus and such?

Mr. Coggins said yes and that we would have jurisdiction over that and wouldn't have to be concerned about turf jurisdictional situations with state agencies.

Mr. Owens said he guesses the down side would be enforcement. What do we enforce and what are we responsible for.

Mr. Coggins said we have a Harbor Master and there is no statutory authority that exists that allows someone to have a Harbor Master. There was a long time ago but those statutes were repealed. He has gone over this in great detail with planning staff and he doesn't want to see all the ambitious plans to be not worth the paper they are written on because of state jurisdiction.

MPT Wilcox asked how we work out the enforcement jurisdictions. We have state and county folks out in those waters now that are doing some enforcement.

Mr. Coggins said his understanding is the state has very little activity that goes on in Myrtle Grove Sound as a practical matter.

MPT Wilcox said there is Wildlife in there and the Sheriff's Department, the county, everybody but the Harbor Master.

Mr. Owens said it is a very complex issue.

Mayor Macon said to consider Council so notified and have staff look at it and make that determination if we need to include Myrtle Grove Sound of whether we just need to do the marina and bring this issue back to Council once staff comes to a conclusion.

Tim Owens said the county adopted a budget which said instead of having \$1.75 increase on solid waste had a \$4.65 increase. That is something they did not plan for in the town budget. He will bring something back in July to talk about a little more.

MPT Wilcox asked the Town Manager for an update on beach renourishment funding.

Mr. Owens said they met the other day with the Ports Waterway Commission who recommended that the county front the state for their portion of the funding that the state can't write a check for. At this time they can supposedly write a check for it after the budget is adopted. There is supposedly sufficient funds to cover that in the budget at this time but that could change when the budget is adopted. In order to keep this thing moving forward the check has to be in the Corps' hands on July 7<sup>th</sup>. The County Commissioners meet on July 6<sup>th</sup> and hopefully they will take the commission's recommendation to write the check for the portion of the beach renourishment that the state will hopefully reimburse. There is a good portion of the beach this year that is going to be renourished which will start at the north end (town limits) and will terminate where the lake is. The other part will begin somewhere around North Carolina and extend into Kure Beach. He has the plans if anyone wants to see them.

Councilman Gilbert asked, with regard to renourishing the entire beach, wouldn't they have an opportunity to try to spend some of the room occupancy tax funds to complete that. His other question is why we are relying on the County Commissioners part of their budget when we have \$24+ million dollars in the room occupancy tax funds. Who administrates those funds? Mr. Owens said the county does.

Mayor Macon said they are talking about the funds that are for beach renourishment. They are wanting to go ahead and take it out, the portion that the state would pay, because they need to go ahead and write the check.

Councilman Gilbert said the feedback he has gotten is that they are letting the Corps administrate the need of renourishment and what doesn't get renourished is considered more recreation beach. When you read the legislation it is very clear where the committees come out and say that the recreation side is listed before the renourishment side. What is the opportunity for us to get our entire beach renourished.

Mr. Owens said he would guess very slim because the plans are already done, they need the check by July 7<sup>th</sup>, and it goes out to bid as soon as they get the check.

Councilman Gilbert asked who is looking out for our interests. The people who are telling him that you are not going to get it renourished unless the Corps says so are the people who appear to be that you guys are talking to.

Mr. Owens said we don't have permits. The permits are under the Corps' name. It is not our name or our project. If we don't get reauthorized and the Corps doesn't continue to look out after our interests, then we have to get our own permits and would assume we could plan whatever project we wanted to.

Councilman Gilbert said that year after year we don't get our beach renourished where we really need it. That same section that is not getting renourished this time certainly has a good dune system but there is functionally no beach there. When you talk to Mike McIntyre he talks about every dollar invested and the recreation end of it, the return on that. When you read the legislation and what came out of committee on that, it's about recreation beaches but the Corps doesn't approach it that way, the Byway Committees don't approach it that way. It doesn't look like there is anybody who is looking out after our interests to get our entire beach renourished.

Mr. Owens said that right now the project that is approved is a storm damage prevention project, it is not a recreation project. If Council wants to move forward and say we want to consider a recreational beach and these are the parameters then he guesses we would have to get our own permits and go through our own process.

Mayor Macon suggested we get the Corps to come in and explain renourishment. His understanding is that it is based on scientific formulas and that is why certain areas of the beach and basically they are expecting certain portions of this stuff to drift down and fill in the areas that aren't being renourished and maybe we could get them here to explain why and what is going on with that.

Councilman Gilbert said the Corps of Engineers is never going to renourish this beach unless their models speak to it. They renourish it for the storm impact side of it, they don't renourish with respect to the recreations side of it. There isn't any lobbying. Our legislation that allows us to charge a room occupancy tax for renourishment specifically says, in that language, recreation beach but it never happens. His question is who is going to start lobbying for Carolina Beach to get these beaches renourished with respect to the recreation side of it. Nobody will give him the answer or the dollar amount about how much of room occupancy tax money has been spent on Carolina Beach on renourishment, how much was collected that goes into that pot specifically for renourishment and how much was spent on Carolina Beach for that. If we can't get the federal funds with respect to the recreation side of the beaches also, then we're going to have to lobby for it. That has been his question over and over to the Corps of Engineers who say that is not what they do. When are we going to step up and coordinate some of

the recreation end of it with respect to when the Corps is doing their renourishment?

Mr. Owens said the problem is going to be the funding. They saw a chart on that funding and it is expected to end based on the current room occupancy tax so the funding would go quicker if we did beach renourishment, depending on how we did it, and also sand source which might not be there. He feels we have a pretty adequate beach.

Mayor Macon said to get representatives from the Corps and whoever else we need to come see us. He would like Council to get their questions together for the Town Manager to forward that information to these representatives so they can come prepared to answer them.

Councilman Gilbert said he is getting some e-mails about blocking off the beach, about the legality of it so he just wanted the Town Manager to know that is someone comes with a concert or something where they want to block off the beach that he look at the legality of it. The Town Attorney said he is prepared to discuss that in executive session. He has also been approached by a few people, non-profit and art groups that would like to use the FEMA lot. He knows there was a discussion on a park there and was curious where that is. He has noticed that it has been used as a parking lot more regularly and was wondering if we could restrict the parking on that and allow that park scenario to go forward where some of these groups could do some of their events there.

Councilman Gilbert asked if we could put some signs up or block it off so people can't park there. Mr. Owens said yes.

MPT Wilcox said they put things there on family night and some other things on other nights, maybe they need to make a gate.

Councilman Gilbert asked if they are charging reservation fees for these things. Mr. Owens said that none of the Boardwalk Makeover stuff is being asked to pay fees, nor does the Chamber pay fees for the stage or FEMA lot. He would think that is more for private entities or someone making money. They would not charge non-profit type groups. If it is over burdensome then they might. We usually don't allow church groups to have fundraisers.

MPT Wilcox thanked Council for funding the pilot program for the Tuesday night family night. It has been very successful and is a good use of funds.

Mayor Macon asked if there was anything they could do about the library hours that have been cut. Mr. Owens said they could write a letter to the county. Mayor Macon said to draft a letter.

Councilman Gilbert said they have alternated the hours at a number of them, they weren't going to raise taxes and didn't have the revenues to keep the libraries open at full strength.

**Mayor Macon made a motion to go into closed session to discuss legal, real estate and personnel matters in compliance with [NCGS 143-318-11(a)(b)6]. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion to return to open session. MOTION CARRIED UNANIMOUSLY.**

There being no further business to discussion, **Councilwoman Efirm made a motion to adjourn. MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

Approved: \_\_\_\_\_