

**BOARD OF ALDERMAN MINUTES**

*JUNE 9, 2022, 5:30PM*

*TOWN HALL COUNCIL CHAMBERS, 321 CAUSEWAY DRIVE, WRIGHTSVILLE BEACH*

The meeting was called to order at 5:30pm by Mayor Mills. The following were present:

**Board of Aldermen**

F. Darryl Mills, Mayor  
Hank Miller, Mayor Pro-tem  
Vivian (Zeke) Partin, Alderman

**Staff**

Timothy W. Owens, Town Manager  
Brian E. Edes, Town Attorney

The Mayor recommended that due to the absence of two Board members and having agenda items to consider that needed the attention of the full Board, the meeting be recessed to 6/20/22 at 5:30pm. Upon motion by Partin, seconded by Miller and carried unanimously, the meeting was recessed at 5:35pm to be reconvened on 6/20/22 at 5:30pm at the Town Hall Council Chambers.

*JUNE 20, 2022, 5:30PM*

*TOWN HALL COUNCIL CHAMBERS, 321 CAUSEWAY DRIVE, WRIGHTSVILLE BEACH*

The meeting was reconvened at 5:30pm by Mayor Mills. After the pledge of allegiance, the invocation was provided by Tony Wilson, Director of Planning & Parks. The following were present:

**Board of Aldermen**

F. Darryl Mills, Mayor  
Hank Miller, Mayor Pro-tem  
Ken Dull, Alderman  
Jeff DeGroote, Alderman  
Vivian (Zeke) Partin, Alderman

**Staff**

Timothy W. Owens, Town Manager  
Brian E. Edes, Town Attorney  
Lance G. Heater, Town Clerk

**REQUEST TO AMEND THE AGENDA**

Upon motion by Miller, seconded by Partin and carried unanimously, the agenda was amended to add a closed session in order to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as provided for in NCGS 143-318.11(a)(3).

**PUBLIC COMMENTS** – *None.*

**CONSENT AGENDA**

Upon motion by Partin, seconded by DeGroote and carried unanimously, the Consent Agenda was approved. It consisted of the following items: 1) acknowledgement of previously approved special events for July; 2) adoption of Resolution No. (2022) 2274 adopting the 2022 Hurricane Operations Plan; and 3) setting a public hearing for 7/14/22 to consider a request from 1 Stone Street Partners, LLC, located at 4 North Lumina Ave., for a mixed use permit to add three residential units and one storage unit above the Tower 7 restaurant.

**PRESENTATION ON PROPOSED 1/4 -CENT SALES TAX INCREASE RELATED TO PUBLIC TRANSPORTATION**

Owens stated that this item would be deferred until the July meeting.

**PRESENTATION, PUBLIC HEARING, AND CONSIDER THE APPROVAL OF THE PROPOSED FISCAL YEAR 2022/23 BUDGET BY APPROVING BUDGET ORDINANCE (2022) 571-B AND THE BUDGET DOCUMENT IN ITS ENTIRETY**

Owens provided an overview of the budget proposal with the following General Fund highlights: 1) no property tax rate increase (\$.0923 per \$100 in assessed value); 2) no change in employee health insurance coverage but increases in premiums are budgeted; 3) 10% pay increase implemented in April is reflected; 4) maintains a healthy projected year end fund balance of nearly \$15 million and a sizable CIP Fund; and 5) no new positions were budgeted. Owens stated the budget included an increase of lifeguard starting pay of \$15 per hour and used \$410,765 in Fund Balance to balance the budget. Owens reviewed the major General Fund revenue sources and forecast total General Fund revenues of \$14.38 million which were matched by departmental expenditures which were also reviewed. In reviewing the Water and Sewer Fund, Owens reported the inclusion of a 25% water rate increase and revenues and expenditures totaling \$3.89 million.

The Mayor declared the public hearing open at 5:40pm. Neal Braggi, 4 West Henderson St., inquired as to the impact of inflation and increased fuel costs on the proposed budget to which Owens stated that, as the Town had conservatively budgeted revenue estimates, it should be able to absorb expenditure increases from those sources. There being no other persons who wished to comment, Mills declared the public hearing closed at 5:43pm.

The Mayor thanked the staff and the Board for their work on the budget. Upon motion by Partin, seconded by Dull and carried unanimously Ordinance No. (2022) 571-B and the Budget Document in its entirety were adopted.

**CONTINUED PUBLIC HEARING TO CONSIDER A TEXT AMENDMENT TO SECTION 155.8.9 EXPANSION OR ENLARGEMENT BY ADDING A NEW SUBSECTION (N) EXCEPTION FOR RESIDENTIAL ELEVATOR/WHEELCHAIR LIFT IN THE R-1 DISTRICT**

Planning and Parks Director Tony Wilson noted that the Town had received an application for a text amendment from R. Henry Temple, M.D, 210 N. Channel Dr. to amend the Town's UDO to add a new subsection (N) to Section 155.8.9 to allow a nonconforming pre-FIRM (1970) single-family residence in the R-1 District to be expanded or enlarged for the purposes of adding an external residential elevator/wheelchair lift which would encroach into the applicable side yard setback under specific conditions as follows: 1) that the lift be located no closer than 3 feet to the side property line; 2) that the resulting separation between the lift and all other structures is greater than 15 feet; 3) that the lift be screened from the adjoining property; 4) that the application for installation of the lift be accompanied by written consent of the property owner adjoining the side yard subject to the encroachment; 5) that there be no objection from the Planning Director or Fire Marshal based upon public health, safety and welfare; and 6) that the lift be installed in compliance with all applicable codes and regulations.

Wilson reported that the Planning Board had voted to not forward a favorable recommendation to the Board of Alderman by a vote of 6-1. In response to a question from Partin, Wilson stated that the Planning Board felt that there were areas other than the setback in which the elevator could be placed. In response to a question from Dull, Wilson reported that the Board of Adjustment had denied a variance request related to this issue.

Matt Nichols, attorney representing the applicant, stated the request would allow his clients better accessibility to their non-conforming home while preserving off street parking and garage access. Nichols presented an overview of the property, noting that the home was closer to the street than that of the affected neighbor. Nichols distributed a letter of support from the adjoining property

owner and read emails from area residents in support of the request. Nichols argued that 1) placing the elevator in the rear of the house was not a good alternative; and 2) the provision that written consent from the affected adjoining property owner be received would limit the extent to which other persons could utilize this exception.

Temple presented emails from residents of N. Channel Dr. and the surrounding area in support of the request. Temple stated that he realized that text amendments should be rare, however, this change addressed a unique circumstance which would allow older persons with mobility issues access to the house. Temple argued that the Town had allowed other items such as generators and propane tanks to be placed within setbacks but did not have a provision for lifts.

The Mayor declared the public hearing open at 6:16pm. Josh Haraway, Fire Chief, expressed concern over the proposed location of the lift in that it could impede Fire Dept. access to the second floor. There being no other persons who wished to comment, the Mayor declared the public hearing closed at 6:20pm.

In response to a question from Miller, Wilson said the Town had received a number of requests for various items to be placed within setbacks over the years, however, most of those requests had not been approved. DeGroote stated that he felt the request was reasonable and would help aging residents remain in their home. DeGroote stated that the diagram of the lift demonstrated to him that it would be a low-impact item and with the restrictions proposed by the applicant, it would be unlikely that the Town would receive many requests under this proposed exception and, therefore, he supported the request. The Mayor stated that any number of text amendments could be written, that when presented by a good attorney, would seem that they would not apply to any other situation.

Dull stated that 1) this issue was about amending the UDO and potentially opening “Pandora’s box”; 2) he did not like putting the onus on a neighbor for approval; and 3) this was a bigger issue affecting the entire Town. For these reasons, Dull stated he could not support the request.

Miller stated that he had dealt with the same issue at his father’s house and ultimately found a location to place it that was not in the setback. Miller said he was also concerned about the amendment applying to other properties.

In response to a question from Partin, Temple stated that the lift could not be moved closer to the house by further encroaching on the existing deck because there still needed to be room on the deck to allow for passage of a wheelchair.

DeGroote made a motion to approve Ord. No. (2022) 1839. The motion failed for lack of a second.

**CONTINUED PUBLIC HEARING TO CONSIDER A TEXT AMENDMENT TO SECTION 155.2 10(b) OPEN SPACE REQUIREMENTS BY ADDING A NEW SUBSECTION (14) ALLOWING FOR STANDARDS FOR RETAINING WALLS (ORDINANCE NO. (2022) 1840) (CONTINUED FROM MAY 12, 2022)**

Upon motion by Mills, seconded by Dull and carried unanimously, the public hearing was opened and continued until the 7/14/22 meeting of the Board.

**DISCUSSION AND DIRECTION ON EXTENDING THE PIER HEAD LINE FOR 920 WATER STREET RESOLUTION NO. (2022) 2270. (CONTINUED FROM MAY 12, 2022)**

Wilson stated that this was a request from Frazier Perry, 920 Water St., to extend the pier head line by approximately 40 feet. During consideration of this request at the 5/12/22 Board meeting, it was decided that the Board would consider the pier head line extension with the maximum length of the pier to be that which would allow for a depth of 4 feet at low tide. Wilson stated that he had sent that request to the surveyor but did not have that information yet.

Frazier Perry was present to make the request. There was discussion between the Board and Perry regarding possible extension lengths which would be able to accommodate a low tide depth in the range of 4-6 feet, with the general consensus being that an extension of 20 feet would suffice for that purpose. Upon motion by Dull, seconded by Mills and carried unanimously, the Board adopted Resolution No. (2022) 2270. Edes noted that the Resolution would need to be amended to reflect the agreed upon extension length in the form of an amended exhibit attached to the Resolution.

### **CONSIDER THE CREATION OF A DEPUTY FIRE CHIEF POSITION**

Owens explained that the FY2022-23 budget included the elimination of the Kelly Day in the Fire Department staffing schedule, thereby creating the opportunity for reclassifying a Fire Captain position to a Deputy Fire Chief position. The change would allow for: 1) creating redundancy and allowing for succession planning in the absence of the Fire Chief; 2) distributing the workload of the Fire Chief and removing some administrative duties from the captains; and 3) allowing for a division of labor between the Fire Chief and the Deputy Chief during large scale incidents that would have multiple 12-hours operational periods. In response to a question from Mills, Owens stated that the change would be able to be absorbed within the budget which was just approved. Upon further questioning, Owens stated that staff could provide information on the annualized cost of this change at the July meeting. It was the consensus of the Board that this item be considered at the July meeting when further information on the budget impact would be provided.

### **CONSIDER FY21-22 YEAR-END CLOSE-OUT BUDGET ADJUSTMENTS BY ADOPTING BUDGET ORDINANCE (2022) 570B**

Upon motion by Partin, seconded by DeGroot and carried unanimously, Budget Ordinance (2022) 570B was approved.

### **OTHER ITEMS AND REPORTS**

- A. **Mayor Mills:** Reported on the last meeting of the Ports, Waterway and Beach Commission with the main concern regarding the Town being beach nourishment.
- B. **Alderman DeGroot:** 1) Marketing Committee is still waiting on survey information; and 2) rode with Ocean Rescue over Memorial Day weekend and reported on difficulties in accessing the beach with emergency vehicles due to lack of sand.
- C. **Alderman Partin:** Nothing to report.
- D. **Alderman Dull:** TDA met and approved a budget of over \$13 million.
- E. **Mayor Pro Tem Miller:** 1) the MPO will hear a presentation in August from DOT on the Cape Fear River bridge crossing; and 2) the issue of encapsulation of Styrofoam piers came up at a previous Board meeting which led some citizens to believe that the Board would address the issue. After discussion and upon recommendation of the Town Attorney, it was the consensus of the Board that the staff review the Town's existing regulations and, if it would be appropriate to consider an ordinance regarding the issue, it should be referred to the Planning Board for consideration.
- F. **Town Attorney Edes:** On 6/7, the NC Court of Appeals issued a ruling (*Violette v. Town of Cornelius*) that tightened the standing criteria to attack a zoning ordinance and reversed at least 100 years of NC jurisprudence that a property owner could testify that an ordinance was causing a devaluation of his property without submitting expert testimony. Instead, the Court ruled that this would no longer be able to stand as evidence as to property value.
- G. **Town Manager Owens:** DOT will be closing the Causeway Drive Bridge beginning at 7:00pm on 7/13. The Town will be meeting with DOT to coordinate emergency response.

**CLOSED SESSION**

Miller made a motion at 7:10pm to go into closed session for the purpose of consulting with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body as provided under NCGS 143-318.11(a)(3). This motion was seconded by Dull and carried unanimously. Upon motion by Dull, seconded by Mills and carried unanimously, the Board returned to open session at 7:37pm.

There being no further business to come before the Board, the Mayor declared the meeting adjourned at 7:37pm.

Respectfully submitted,

Lance G. Heater, Town Clerk