



TOWN OF PAWLEYS ISLAND TOWN COUNCIL REGULAR MEETING MINUTES

Town Hall – Conference Room | 323 Myrtle Ave | Pawleys Island SC 29585
7-10-2023 – 5:00 pm

PRESENT: Mayor Brian Henry, Guerry Green, Ashley Carter, Sarah Zimmerman (Zoom)

ABSENT: Rocky Holliday

STAFF PRESENT: Daniel Newquist (Town Administrator), Mike Fanning (Chief of Police), Daniel O'Hara (Town Clerk)

ADDITIONAL PRESENT: Ross Durant (Town Attorney)

1. CALL TO ORDER

Mayor Henry called the meeting to order at 5:00 PM. Sarah Zimmerman gave verbal confirmation of attendance.

2. PUBLIC COMMENTS

A. Barry Stanton

- i. Daniel Newquist read aloud an email from Mr. Stanton for 3 minutes. Mr. Stanton's full submission is attached below. **See below.**

B. Michael Grant

- i. Mr. Grant shared that he was a resident in the area. He noted that he currently works at Waccamaw Elementary and owns an ice cream truck. Mr. Grant explained that when he heard that he was not able to sell his ice cream on Pawleys Island he was disheartened. He continued to explain that it brings him joy to provide happiness to the youth in the area, emphasizing that no child walks away empty-handed from his truck. Mr. Grant requested that the Town Council review and rethink the current ordinance prohibiting vending on the Island.

3. APPROVAL OF MINUTES

A. 05-02-2023 Regular Meeting

- i. **Mayor Henry asked for a motion to approve or amend the 6-10-2023 Town Council minutes. Guerry Green motioned to approve the minutes. Ashley Carter seconded the motion. No further discussion. All voted in favor.**

4. REPORTS AND UPDATES

A. Police Report

- i. Chief Fanning shared that it had been a busy month with 78 calls for service. Chief noted that there had been a drowning on the Island near Shell Road. He offered his condolences to the family and thanked Midway Fire Department for their quick response time. Chief Fanning also praised

the bystanders that attempted to save the man's life. He noted aside from that there was nothing of concern, sharing that recently there has been a growing number of 9-11 hang-ups on the beach. Chief Fanning mentioned that it keeps occurring with iPhones if they have been damaged or dropped into the water. Guerry Green expressed some concerns about golf carts on the Island. Chief Fanning noted that the department checks them regularly and also, they placed a boot on an unregistered golf cart just recently. Chief Fanning reviewed the three-year comparisons of crime across the Island after the loss of a police officer and the change of the schedule. It was shared that calls of serious nature have slowly been decreasing over the past three years. Sarah Zimmerman asked about the increase in total calls this past June. Chief Fanning noted that they were up over the past couple of years, but there was nothing of major concern.

B. Building Report

- i. Daniel Newquist stated that it has been a slow month with only five permits issued, one of which was for a large remodel project. Mr. Newquist shared that there are ten active new residential construction projects across the Island. He added that he was aware of several more projects shortly.

C. Financial Report

- i. Daniel Newquist updated the Town Council that FEMA and SCEMD funds have started trickling in. Mr. Newquist shared that the audit is close to being finalized and a draft should be ready for review at next month's Town Council meeting. He added that Underground Wire invoicing should be going out to property owners soon. Daniel O'Hara reviewed the financial report noting variances from the current year's actual and previous year to date. Mayor Henry noted that the T-Shirt sales help fund the events across the Island emphasizing that sales brought in roughly \$33,000 in net sales. He added that there are more shirts for sale if anyone would like to purchase one. Sarah Zimmerman asked how far off is the Municipal Association year to date compared to last year. Daniel O'Hara added that it could be multiple factors that could influence the revenue program. He stated in conversations with the Municipal Association, they informed the Town that it can be hard to gauge what the expected revenues would be. Daniel O'Hara added that on the full financial statements year to date last year the actual was about \$285,000 while this year it was recorded to be about \$258,000. Sarah Zimmerman added that she has heard of individual premiums increasing and is unsure why it could fall short of the original budget. Mayor Henry emphasized that there are still eight payments left which will be something that should be monitored

month to month. He asked to keep it on the report to monitor in the future.

5. BUSINESS

A. Legal Fee Payment

- i. Daniel Newquist shared that the court ordered the payment of legal fees to plaintiffs in the Condemnation lawsuit. He noted that the original request for fees was \$53,694. He added that the court awarded payment of legal fees for \$12,945. Mr. Newquist added that with interest the total now owed is \$13,194.06. **Guerry Green motioned to approve the legal fee payment as ordered by the court. Ashley Carter seconded the motion. No further discussion. All voted in favor.**

B. Tyson House Update

- i. Mayor Henry stated that the Town has been patient thus far, but he reached out today for an update from the Tysons and received no response. He added that he has also been in touch with the Town's current legal counsel to begin consulting with experts on condemnation. Mayor Henry added that it is time to resolve this and asked the Town Council to consider moving forward with legal action that the ordinances will allow. He asked Ross Durant to provide input on the Town's options. Ross Durant added background on the Town's course of action leading up to the current status. He stated that there are some alternative options to seeking condemnation. Mr. Durant continued to explain that amending the current ordinances to improve the Town's ability to handle nuisance properties across the Island. Mayor Henry noted the current ordinances allow the Town to require them to bring the home to code. But the amendment would strengthen the ordinance. Ross Durant provided the current ordinances are extremely broad and an amendment would make the ordinance more specific to various issues. Daniel Newquist also provided that an amendment would also be aligned with the State statute. Mayor Henry asked the Town Council to provide their comments. Ashley Carter added that it could have serious implications on the property values of the surrounding homes. Sarah Zimmerman asked if there was any progress on identifying the executor of the estate. Ross Durant noted that he would follow up with David Durant on the status of the family estate. This led to a discussion on locating the executor, Ross Durant responded to concerns that there could be a lien placed on the property to get their attention. Mayor Henry stated that the Town Council has never agreed to take legal action yet and asked what the Town Council wants to do. Guerry Green noted that he would be open to reviewing a draft nuisance ordinance amendment. He added that several properties at one point were in a similar condition. He continued to mention that if they know the Town is

undergoing the revisions, they might do something about the property. Mayor Henry offered for the lawyers to review the possibilities and to create an amendment to the current ordinance relating to the nuisance properties and condemnation. Guerry Green emphasized that he does not think pursuing condemnation is the right procedure.

C. Special Event/Non-profit Vending Discussion

- i. Mayor Henry mentioned that he was hoping to start with a simple ordinance to potentially allow food trucks at Town events, the sale of t-shirts, and the sale of artwork. He continued to express concern with enforcement. Guerry Green noted it has to be limited somehow but pointed out several industries that are currently active on the Island, mentioning delivery drivers, and beach equipment rentals where cash is exchanged on the Island. He continued to note that it does not mean that there should be five ice cream trucks up and down the Island but one periodically seems acceptable. Daniel Newquist stated that if the Town wants to address activities that the Town currently endorses (i.e. T-shirts and Art Show) it may be worth exploring a redesignation of the Town Hall Park and Old Town Hall properties as an institutional zoning district. These properties are designated as R-1 districts and clearly have different inherent uses than any other properties on the island. Exact uses can be spelled out including Conditional uses such as Food Truck vending. Mayor Henry concluded that he saw a lemonade stand on the Island and bought a cup. He shared that limited vending is what makes Pawleys unique, but some people are participating in other activities across the Island. Mayor Henry asked if the staff should look into options for creating an ordinance. He added that it does not explain what is or is not allowable on the Island. Daniel Newquist noted that commerce has significantly evolved since the vending policy was originally enacted. Guerry Green added that services are being provided where the money is being exchanged. Mayor Henry noted that the contract for the use of the nature park does not exclude having food trucks on the property. He emphasized that this was what originally sparked the conversation for opening up limited vending on the Island.

D. North Jetty Study – CSE Proposal

- i. Daniel Newquist shared that following the previous Town Council meeting it was requested that Town Staff get a revised proposal from CSE for the North Jetty. Daniel Newquist reviewed the proposal. He noted that the cost was the same as it was originally proposed in 2021. The proposal would assess the existing conditions of the jetty, determine repair options, and give guidance on permitting. Town Council agreed that the added

assistance from CSE on reviewing the North Jetty would be important to help restore and protect property owners on the north end. It was noted that repairing the Jetty is important to help mitigate erosion on the north end of the Island. **Mayor Henry asked for a motion, and Ashley Carter motioned to approve the expense of \$13,600.00 for a study of the north-end jetty. Guerry Green seconded the motion.** No further discussion. **All voted in favor.**

E. OCRM Update

- i. Daniel Newquist updated the Town Council sharing that he had been in contact with the OCRM about getting the remainder of the debris removed from the creek. He noted that it would be the owner of the dock/debris' responsibility to have it removed from the creek. Mr. Newquist continued to mention that the OCRM regional office is approximately 70% complete with its investigation of post-hurricane Ian debris hazards. He added that the Town will be conducting a drone flight of the creek later this month to get a complete survey of the remaining debris prior to peak hurricane season in August/September. OCRM indicated that this would be helpful in their enforcement efforts.

F. Hurricane Ian Update

- i. Daniel Newquist shared that the contractor will be incorporating the PVC paneling in the repairs to the entryway at Town Hall. He explained repairs would begin next week and staff have developed plans to redirect the public through the balcony entrance. Mr. Newquist added that the OCRM permits were approved for the dune planting and sand fencing. He shared that the work would begin next week. Mr. Newquist mentioned that the only other project he is waiting for is the signage replacement of the keep of the dune signs. He noted that it was in a sixty-day public notice period and hopes to have it completed in early August. He also updated that the Mobi-mat was still under review by the OCRM. Mr. Newquist stated that the public comment period closes August 10th sharing that the permit should be issued soon afterwards.

G. 2-Year ARB Review

- i. Mayor Henry shared that at the next Town Council meeting in August, the ARB would be providing a two-year summary to Town Council.

6. COMMENTS BY COUNCIL MEMBERS

- A. Ashley Carter thanked Chief Fanning for helping direct the parade to the North End of the Island. He continued to share that there was a lot of concern about the parade stopping short at Third Street. Chief Fanning added that Ashley was not the only person that was concerned. Mayor Henry shared interaction with parade onlookers angry with the parade route being changed. Chief Fanning provided some history sharing that a few years ago there was an officer that was stationed

to direct large floats to turn at third street but some of the small floats turned as well. Daniel O'Hara noted that he posted the only parade route on file on social media that cuts the map short of north of Third Street. He added that it may be a good idea to create a new map.

- B. Mayor Henry added that a recent request for funding to aid in the Town's drainage improvement efforts was approved for \$250,000.00 in the state budget. He added that Lee Hewitt and Daniel Newquist worked hard to secure the funding and should be receiving it soon.

7. ADJOURNMENT

Mayor Henry asked for a motion to adjourn the meeting. Ashley Carter motioned to adjourn. Guerry Green seconded the motion. All approved.

APPROVED

DATE

ATTEST

DATE

Barry Stanton's comments to Town of Pawleys Island Town Council July 10, 2023

To Ms. Zimmerman and Mssrs. Carter, Holliday, Green and Henry, the five present members of the Pawleys Island Town Council: You are at a crossroads. As you know, it has been discovered that the former town administrator secretly signed an invalid document on 1-16-20, with no trace of an authorizing council resolution or any public disclosure before or since then.

Since it was not authorized by council resolution and was kept secret before and after, the initial assumption is that council did not read it.

Yet, you should realize that it is more than fishy that the U.S. Army Corps of Engineers would then spend over three-quarters of a million dollars based on a putative contract which the Corps would have known was classically unauthorized, and then obtain from Congress, \$14 million more. There are likely to be serious repercussions.

As you know, under the most charitable view, the town's "inability" to read and understand paperwork drafted by the U.S. Army Corps of Engineers has previously gotten the town into trouble. The need to read remains.

Because the town still has no valid, council-authorized "PPA" contract with the Corps for the south end, you should carefully review and reject such a contract if you consider actually signing one in the future. Even then, your attempting to commit future councils beyond your own 2-year terms of office would be invalid. The following history and legal points should help you with that very serious review, which does not appear to have ever been done.

The Corps offers a "Project Partnership Agreement" to "nonfederal sponsors." A PPA would involve 50 years of abdication of local decision making on the south end, millions in uncontrollable town expense, forfeiture of other sources of assistance for the south end, and other liabilities.

A partially drafted, unnegotiated PPA with blanks in it was inadequately considered in January 2019 under a different council. Months afterwards, participants, finances, project scope, pricing, and other things radically changed. The Corps was dropped from the project as unreliable, requests for easements were discontinued, the town financed, managed and completed the entire project, and the volume of sand and the price were increased.

A PPA was never signed at that time. The town's rejection of the Corps was informed by already having waited years with no Corps funding, but was especially motivated by the Corps stopping with no notice at a critical time to do yet another cost-benefit study on which no input was allowed, for which the methodology was undisclosed, and the timetable for which was unknown.

Council then changed. An election was held in November 2019. A successful candidate stated he ran because he "felt like the island was too important to risk the possibility of fundamental

changes.” He stated we do not need “divisions or factions of north, middle and south” portions of the island.

That winter, the evolved project for all of Pawleys, middle and south, was then completed, without the Corps. Unknown at the time was that the unauthorized, invalid putative PPA was secretly signed by the former administrator alone while this work was being completed.

Before the present council makes any decision of whether to sign a PPA, you should publicly consider the actual economics, the legal implications, and the reality.

For example, under a PPA, the Corps, not the council, would be the decider of what to do or not do on the south end, when to do it, how to do it, and how much of the town’s citizens’ money to spend.

The Corps also claims to be able to do future work without a permit. The absence of state permitting would remove the last vestige of safeguard or control. Neither town council, nor anyone in Prince George, Pawleys or Litchfield, would be able to object to the timing, scope, design, or manner of execution of potentially massively disruptive or destructive work. Bear in mind that the indifferent Corps refuses to meet with property owners, it was rejected by the town in the summer of 2019 as unreliable and untrustworthy, and its personnel at multiple levels have continued to change.

Under a PPA, the town would be required to indemnify the Corps for what happens to the Corps. This is a serious multimillion-dollar liability for council to shoulder.

The Corps does not have a house on Pawleys or any interest in its people. The Corps’s interest is perpetuating and locking down growth in its budget as an agency by coming up with projects and spending as much federal money as it can get appropriated, which the town would then have to match. Money spent, who spends it, and who is liable for what share depend on tricky characterizations of whether the spend is periodic, interim, or emergency.

The amount of money the Corps “periodically” decided to spend under a PPA would be beyond any town control. The Corps could spend \$40,000,000, do the work in the middle of the summer, install new hard structures, pump rocks and mud onto the beach, and send the town a bill for \$20,000,000.

Abandoning local autonomy and committing decision making authority to the Corps would save no money; it would be the end of Pawleys. Already overtaxed and overrun town constituents paying half of 5 to 10 times the independently obtainable cost is not a savings. To be clear, half of ten times too much is still five times too much.

The false savings is even less so for something the town finds unnecessary, would rather defer, or would rather do another way. For example, the town might prefer mining sand from the south spit and trucking it north up the beach instead of pumping mud from three miles offshore. The town might even choose to do this at a subtly convenient site for there to be a later natural washover instead of setting up a \$100 million perpetual inlet maintenance project to further ruin things for our downbeach neighbors and spawn more federal work for the Corps.

Town financing would be available on demand for the Corps federal government employees, who all live elsewhere. Examples of Corps overspend are \$764,000 in March 2022 for \$80,000 in sea oats, and the proposed “emergency” expenditure of \$14,000,000 of “free” money sometime in or after 2024. The “emergency” occurred in September 2022. The \$14M is for 200,000 cubic yards of unneeded sand, in comparison to the 1.1 million cubic yards the town obtained for \$14.8M in 2020.

Of whatever the Corps decided to “periodically” spend, the Corps would bill the town for half. If the Corps terminates the PPA because of town breach, the town would still owe the money.

Between “periodic” Corps expenditures, a PPA mandates that for 50 years, the Town pay 100% of maintaining and “rehabilitating.” According to the regs, rehabilitation includes interim renourishing. It is tricky.

In addition to committing the town for 47-50 years to pay 100% of the cost of maintaining and “rehabilitating,” a PPA would bind the town to strictly comply with the terms of the contract. This includes enforcing things the council and the town’s former administrator liberally promised owners in 2019 that “this council” (the former council) would “never” enforce.

A PPA would require the town to enforce and never relinquish easements obtained from 110 south end oceanfront landowners for public access to the oceanfront portion of their private property, and comply with all evolving federal laws including disability laws, other discrimination laws, and contracting requirements. If you do not think the Uber share vans, golf carts, motorized fat tire bikes, vendors and flapping Shibumis are on the way, look around.

A PPA would also forfeit other sources of funds and physical assistance for the south end, such as potential state money and FEMA reimbursements for money which could be spent at the town’s direction, which would be available only for other factions or divisions of the island. It is likely that a PPA would either practically or per se disqualify the south end from the PRT permanent nourishment fund which was the subject of a recent bill in the State House.

Meanwhile, the town may be practically prohibited from providing any post-storm emergency assistance on the south end, even at its own expense.

A PPA essentially acknowledges that Corps assistance, if any, would be too late for an emergency on the south end. The actual responses of the Corps bear this out. The Corps is constrained by the timing of congressional funding and by the amount of such funding, if any. Federal regulations also require the Corps to perform time-consuming cost-benefit studies before taking action, if any action at all is then allowed as a result of the study.

Hurricanes – often more than one – generally occur in August to October, whereas the federal budget does not get proposed until the following February, after the Atlantic hurricane season. Budgets generally do not get approved until June, October or later.

Don't feed the end. Not only is federalizing the beach a demoralizing, alienating and dangerous general proposition, it is a betrayal of your south end neighbors and is actually not cost-effective. All property owners and their representatives should avoid it and attend to the south end the same way the town plans to attend to the middle of the island – independently and locally.