

Town of North Topsail Beach

Daniel Tuman, Mayor
Michael Yawn, Mayor Pro Tem
Aldermen:
Richard Farley
Deborah Lanci
Richard Macartney
Robert Swantek



Steven H. Foster
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Minutes Thursday, August 5, 2010 7:00 P.M.

PRESENT: Mayor Daniel Tuman, Mayor Pro Tem Michael Yawn, Aldermen Richard Farley, Robert Swantek, Dick Macartney, Deborah Lanci, Justin Humphries for Town Attorney Brian Edes, Town Manager Steve Foster and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Tuman called the meeting to order at 7:00 p.m.
- II. **PLEDGE OF ALLEGIANCE:** Mayor Tuman led those present in the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:**
 - Alderman Lanci made a motion to approve the agenda as presented. Mayor Pro Tem Yawn seconded the motion.
 - The motion passed unanimously.
- IV. **PUBLIC HEARINGS & PRESENTATIONS:**
 - A. **Presentation of 20 Year Service Plaque to Thomas Best:**
 - Mayor Tuman presented Mr. Thomas Best, Jr. with a plaque in appreciation of his 20 years of service to the Town.
 - B. **Public Hearing- Rezoning Case #R-10-03:**
 - Ms. Hill (Planning Director) read the Staff report.
 - No one from the public came forward to speak during the hearing.
 - Mayor Pro Tem Yawn made a motion to close the public hearing. Alderman Lanci seconded the motion. The motion passed unanimously.
 - Alderman Macartney read the motion as written in the Staff report. He moved to rezone Dolphin Shores, including Tax Parcel Id 778D-112 (L44 DOLPHIN SHORES) owned by Donald & Helen Quenzer, from CUR-10 to R-10 district with allowed uses pursuant to NTB Town Code Chapter 7. Tax Parcel 778D-111 designated as Conservation District (Con-D) to remain as Con-D.
 - Alderman Lanci seconded the motion.

- There was discussion on the history of the zoning and why this change is being made. Ms. Hill indicated that all property owners were notified.
- The motion passed 4 to 1 with Aldermen Farley voting against.

ORDINANCE R-10-03

AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF NORTH TOPSAIL BEACH TO REZONE DOLPHIN SHORES SUBDIVISION TO INCLUDE THE FOLLOWING TAX PARCELS:

778D-68, 778D-69, 778D-70, 778D-71, 778D-72, 778D-73, 778D-74, 778D-75, 778D-76, 778D-77, 778D-78, 778D-79, 778D-80, 778D-81, 778D-83, 778D-84, 778D-85, 778D-86, 778D-87, 778D-88, 778D-89, 778D-90, 778D-91, 778D-92, 778D-93, 778D-94, 778D-95, 778D-96, 778D-97, 778D-98, 778D-99, 778D-100, 778D-101, 778D-102, 778D-103, 778D-104, 778D-105, 778D-106, 778D-107, 778D-108, 778D-109, 778D-110 AND 778D-112 (L44 DOLPHIN SHORES) OWNED BY DONALD & HELEN QUENZER, FROM CU-R10 TO R-10 DISTRICT, NORTH TOPSAIL BEACH, STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NC

WHEREAS, the Board of Aldermen of the Town of North Topsail Beach has considered the recommendation of the Planning Board to *approve* the Zoning Map amendment to rezone property described above from Conditional Use R-10 (CU-R10) to R-10 (Residential District) and finds that:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.
- D. There is convincing demonstration that the character of the neighborhood would not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with any land use plan and sound planning principles.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of North Topsail Beach that the Board *approves* the rezoning of Dolphin Shores Subdivision including Tax Parcel Id 778D-112 (L44 DOLPHIN SHORES) owned by Donald & Helen Quenzer, from CU-R10 to R-10 District, North Topsail Beach, Stump Sound Township, Onslow County, NC and Tax Parcel 778D-111 designated as Conservation District (Con-D) to remain as Con-D.

This the 5^h day of August, 2010.

C. Public Hearing- Rezoning Case #R-10-04:

- Ms. Hill read the Staff report. She provided the Board with comments that were provided by Mr. Haines who wanted his comments to be included in the record.
- Ms. Hill said that she explained to Mr. Haines that this rezoning is a correction. She said that most of his concern is that he had made requests to prior staff and did not receive the information that he requested.
- No one from the public came forward to speak during the hearing.

- Mayor Pro Tem Yawn moved to rezone Tax Parcels 813-7.11, 813-7.12, 813-7.13 and 813-7.14 from CUR-10 to R-10.
- Alderman Lanci seconded the motion.
- There was discussion about the procedures of previous Town staff and lot conformity.
- The motion passed unanimously.

ORDINANCE R-10-04

AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF NORTH TOPSAIL BEACH TO REZONE NORTH TOPSAIL PARTNERS SUBDIVISION (3721 ISLAND DRIVE, 3723 ISLAND DRIVE, 3125 ISLAND DRIVE, 3127 ISLAND DRIVE, NORTH TOPSAIL BEACH, STUMP SOUND TOWNSHIP, ONSLOW COUNTY, N.C. IDENTIFIED AS TAX PARCEL 813-7.11, 813-7.12, 813-7.13 AND 813-7.14) FROM CU-R10 TO R-10 DISTRICT, NORTH TOPSAIL BEACH, STUMP SOUND TOWNSHIP, ONSLOW COUNTY, NC.

WHEREAS, the Board of Aldermen of the Town of North Topsail Beach has considered the recommendation of the Planning Board to *approve* the Zoning Map amendment to rezone property described above from Conditional Use R-10 (CU-R10) to R-10 (Residential District) and finds that:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.
- D. There is convincing demonstration that the character of the neighborhood would not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with any land use plan and sound planning principles.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of North Topsail Beach that the Board *approves* the rezoning of North Topsail Partners Subdivision from CU-R10 to R-10 District, North Topsail Beach, Stump Sound Township, Onslow County, NC.

This the 5^h day of August, 2010.

D. Public Hearing- Rezoning Case #R-10-05:

- Ms. Hill read the Staff report.
- No one from the public came forward to speak during the hearing.
- Mayor Tuman closed the public hearing.
- Alderman Swantek made a motion to rezone the Stacy Grant Heirs Subdivision (2068 New River Inlet Road, 2070 New River Inlet Road, and 2072 New River Inlet Road North Topsail Beach, Stump Sound Township, Onslow County, N.C. Identified as Tax Parcel 778-4.4, 778-4.5, 778-4.6, 778-4.7 and 778-4.11, 778-4.10) from R-20 to R-10.
- Mayor Pro Tem Yawn seconded the motion.

- The motion passed 3 to 2 with Aldermen Farley and Swantek voting against.

ORDINANCE R-10-05

AN ORDINANCE AMENDING THE ZONING MAP OF THE TOWN OF NORTH TOPSAIL BEACH TO REZONE FROM R-20 TO R-10 DISTRICT OF STACY GRANT HEIRS SUBDIVISION 2068 NEW RIVER INLET ROAD, 2070 NEW RIVER INLET ROAD, AND 2072 NEW RIVER INLET ROAD NORTH TOPSAIL BEACH, STUMP SOUND TOWNSHIP, ONSLOW COUNTY, N.C. IDENTIFIED AS TAX PARCEL 778-4.4, 778-4.5, 778-4.6, 778-4.7 AND 778-4.11, 778-4.10

WHEREAS, the Board of Aldermen of the Town of North Topsail Beach has considered the recommendation of the Planning Board to *approve* the Zoning Map amendment to rezone property described above from Conditional Use R-20 to R-10 (Residential District) and finds that:

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.
- D. There is convincing demonstration that the character of the neighborhood would not be materially and adversely affected by any use permitted in the proposed change.
- E. The proposed change is in accord with any land use plan and sound planning principles.

NOW, THEREFORE, BE IT ORDAINED by the Board of Aldermen of the Town of North Topsail Beach that the Board *approves* the rezoning of Stacy Grant Heirs Subdivision from CU-R10 to R-10 District, North Topsail Beach, Stump Sound Township, Onslow County, NC.

This the 5^h day of August, 2010.

V. MANAGER'S REPORT:

- A. Report on Topsail Island Hurricane Coordination Meeting:** Mr. Foster reported that the Topsail Island towns are currently in the process of holding a series of hurricane coordination meetings that include town staff such as police chiefs, fire chiefs, emergency medical staff, and town managers. The purpose of which is to discuss evacuation coordination, re-entry coordination, and communication coordination. The first meeting was very successful.
- B. Report on Debris Monitoring:** Mr. Foster reported that the Town has not acted on this yet because shortly after the Town submitted requests for proposal on this contract the County had selected a company to do this work. NTB and the other municipalities in Onslow County are working on coordinating with the County and using Beck Debris Removal. He reported that Beck had made a very good presentation to the group of County and municipal officials and that it looks like

the company can get the towns and County reimbursed by FEMA rather quickly. Mr. Foster also reported that there has been discussion on having a meeting for elected officials on their role in emergency preparedness.

- C. **Report on Onslow County Hazard Mitigation Plan:** Mr. Foster reported that the County's Hazard Mitigation Plan has been approved by FEMA thanks to the efforts of County and NTB Staff. This will ensure that the County and municipalities are eligible for FEMA funds. It needs to be updated every five years.
- D. **Update on Bike Path:** Mr. Foster reported that a major CAMA permit was necessary before work began on the bike path. The agency review for the CAMA permit should be completed by the end of August. Barring any other delays, the bike path project should begin in September. This would extend the current bike path south to the Town to the Surf City line.
- E. **Update on Condemned Structures Ordinance:** Mr. Foster reported that the building inspector has started working with the Town Attorney on a new condemned structures ordinance. He said that they should have something ready for the Board to look at in the next 60 days. This should provide a step by step approach in conjunction with existing statutes.
- F. **Report on National Flood Insurance Program's Community Rating System:** Mr. Foster referred to a letter from FEMA congratulating the Town on maintaining its Class 7 rating. The best rating is a Class 5. This will benefit property owners by giving them a discount on their flood insurance.

VI. **OPEN FORUM:**

Mary Kathryn White of 110 Sandlin Lane – Ms. White spoke about the area at the end of Reeves Street. She was concerned about public access of that area and requested that the Town makes sure that public access signs are posted. She also had concerns about parking in the area.

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said that he is concerned about the safety hazard that occurs when people parallel park on New River Inlet Road. He said visitors park cars very close to the roadway and that someone is going to get hurt getting out of their car if they do not look. He said that Town needs to look into it.

Mr. Foster indicated that the Town is currently speaking with a parking company and that they will be providing the Town with a complete parking plan. Mayor Tuman said that the police have been taking action when people are parking in no parking areas.

VII. **CONSENT AGENDA:**

- A. Approval of Budget Amendment #1: Reimbursement for Firefighting Material
- B. Approval of Proclamation 2010-1 – A Proclamation in Support of Lyme Disease Awareness
- ~~C. Approval of Memorandum of Agreement Between NTB and NCDOT for the Emergency Removal of Debris~~
- D. Approval of NC Statewide Emergency Management Mutual Aid and Assistance Agreement
- ~~E. Approval of Recycling Services Agreement~~
- F. Approval of Minutes: July 1, 2010, July 13, 2010, July 20, 2010
- G. Department Head Reports: Finance, Fire, Inspections, Planning, Police Department
- H. Committee Reports: Planning Board, Board of Adjustment, TISPC, ONWASA, Beautification and Recreation Committee, Government Advocacy Committee

- Mayor Pro Tem Yawn made a motion to pull items C and E from the Consent Agenda and to approve the Consent Agenda as amended. Alderman Macartney seconded the motion.
- The motion passed unanimously.

VIII. **OLD BUSINESS:**

A. Request to Approve Town of North Topsail Beach Personnel Policy:

- Mayor Pro Tem Yawn made a motion to approve the policy with the Town Attorney's changes and the additional email retention guidelines as a supplemental document.
- Alderman Lanci seconded the motion.
- The motion passed unanimously.

B. Proposal to Transfer Property/Walkway to the Town:

- Mr. Humphries stated that his firm researched and found that there were not any liens on this property, all liens were extinguished. He said that there is currently an easement in favor of Calinda Cay subdivision over this property and that this easement is not restricted. He said it can be used as a public walkway so long as the Town does not obstruct the Calinda Cay property owners' access to the beach through that easement.
- There was discussion about upkeep of the walkway and who is responsible.
- The owner of the property explained that it was her intention to have kept this walkway accessible to the public and that she does not want it to become a private walkway, and that is why she approached the Town.
- Alderman Swantek made a motion to decline the transfer of the property to the Town. Mayor Pro Tem Yawn seconded the motion.
- The motion passed unanimously.

C. Discussion on Joint Meeting with County Commissioners:

- Mr. Foster explained that the Town is going to be having a Joint Meeting with the Onslow County Commissioners on August 18th to explore the potential of the County participating in beach nourishment and preservation activities. He said he has prepared a draft agenda for this meeting.
- Mr. Foster went over the agenda.
- There was discussion about having Spencer Rogers present at this meeting and who should present. Alderman Swantek spoke against having Rogers present because he does not want to overburden the Commissioners and aggravate them.
- Mr. Foster said that he will share the PowerPoint presentation with the Board beforehand. He said that the County Manager has allowed the Town to run this meeting any way we wish.

D. Status of the Presentation for Civil Works Review Board:

- Mr. Foster explained that there is going to be a joint presentation with the Town of Surf City. He said that the presentation will take place on August 26th in D.C.
- He said that there will be several meetings prior to the 26th meeting to go over the content of the presentation.
- There was discussion on which Board members will be able to attend the meetings and the final presentation.
- The Board made a few suggestions on the draft presentation that Mr. Foster provided. Mr. Foster said that he will make the changes and will send the final document on Monday. Mayor Tuman suggested that Board members send any further suggestions to Mr. Foster by the end of the day Friday.

E. RFP for Beach Nourishment Survey:

- Mr. Foster explained that his recommendation is that the Town pursues getting someone from the outside to help with the survey on beach nourishment. This would be an impartial fair broker, someone who can come up with pertinent questions that are worded correctly.
- There was discussion on how long this would take, who the requests for proposal/qualifications would go out to and that the Town may want to hold a workshop and bring in the agencies or firms.
- Mayor Pro Tem Yawn made a motion directing the Town Manager to present the current information the Board has compiled for the survey which is in the Board Packet to several places such as the School of Government, Eastern Carolina Council and Holland and Associates, and have them submit a proposal to the Town.
- Alderman Lanci seconded the motion.
- The motion passed 3 to 2 with Aldermen Farley and Swantek voting against.

F. Decision on Phase One Map

- Mayor Pro Tem Yawn explained that he would like to clear up some inconsistencies with the map that the Town has been using to designate oceanfront and non-oceanfront properties.
- Mayor Pro Tem Yawn made the following motion:
“That properties 778C-10, 10.1, 12, 12.1, 14, 14.1, 16, 16.1, 18, 18.1, 20, 20.1, 22.1, 24, 24.1, 26, 26.1, 28, 28.1, 30, 30.1, 32, and 32.1 be changed from non-oceanfront to oceanfront. Note 778C-22 should remain non-oceanfront; it is the landward half of a front/back duplex. Changing these lots makes our designation of oceanfront more consistent within Phase 1.”
- Alderman Lanci seconded the motion.
- There was discussion about the definition of oceanfront and the status of lots changing with a beach nourishment project and what the Town could do to rectify it. The Town Attorney mentioned that there could be a rebate system in place.
- The motion passed 4 to 1 with Alderman Farley voting against.
- Mayor Pro Tem Yawn made the following motion:
“That properties 778-11, 12, 13, 15, and 18 be changed from undesignated (white) to non-oceanfront. These have values ranging from \$310 to \$1,380. Designating these 5 lots as non-oceanfront is consistent with adjacent and nearby lots with similar values.”
- Alderman Macartney seconded the motion.
- The motion passed unanimously.

IX. NEW BUSINESS**A. CAMA Permit for the Propose Shoreline Protection Project:**

- Mayor Pro Tem Yawn said that he was delighted that the Town received its CAMA permit for the beach nourishment project. He explained that there are many restrictions on it and that if the Town has to get a modification every four years that it would add to the costs of the project.
- He explained that there are many things to weigh in as the project proceeds, such as terminal groins and CBRA designation.
- Mayor Pro Tem Yawn made a motion to request that the Town Manager avoid pursuing any modifications to the CAMA permit at this time and that he contact CP&E and request that they also avoid pursuing any modifications to the CAMA permit at this time.
- Alderman Macartney seconded the motion.
- The motion passed unanimously.

B. Approval of Memorandum of Agreement Between NTB and NCDOT for the Emergency Removal of Debris:

- Mayor Pro Tem Yawn explained that the Town Attorney had suggested some changes to this contract and he said he would like to make those changes clear before the Board approves the contracts.
- Mayor Pro Tem Yawn made a motion to approve the Memorandum of Agreement between NTB and NCDOT for the Emergency Removal of Debris with the Town Attorney's changes.
- The motion passed unanimously.

C. Approval of Recycling Services Agreement:

- Mayor Pro Tem Yawn made a motion to approve the Recycling Services Agreement with the Town Attorney's suggested change to add "reasonable attorney's fees" on paragraph 16 on page 4.
- Alderman Lanci seconded the motion.
- The motion passed 4 to 1 with Alderman Farley voting against.

X. OPEN FORUM:

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said that he attended the last beach nourishment informational meeting in July and that he felt that it was well attended and that there was some good discussion afterward. He said he left with the understanding that property owners would be surveyed by phase. He recommended that the Town needs to decide what it constitutes as a win or lose/pass or fail for this survey before it goes out.

Gene Graziosi of 2392 New River Inlet Road – Mr. Graziosi said that he owns a few properties like Alderman Farley's and that the Town needs to be consistent and to think creatively on how to treat properties that may end up benefitting from the nourishment program.

Bob Fox of 4710 23rd Avenue – Mr. Fox said that if the Town is going to be serious about beach nourishment that it needs to put a moratorium on building. He thought that the survey would be going out immediately following the three informational meetings. He is concerned that Phase Five property owners will be voting against Phase One property owners. He wished the Town good luck on the survey.

XI. ATTORNEY'S REPORT: Mr. Humphries said that he had three items to report on. He said that there were a few legislative changes from the State that the Town may be concerned with. He said that the Permit Extension Act has been extended for another year but that it is optional. He said that that Town needs to decide if it wants to opt in and if it does, it needs to have an implementation plan.

Mr. Humphries reported that the sweepstakes software is to be shut down effective December 31st. He said there is still some discussion about it.

Mr. Humphries said that he has some more to report on pending litigation and that he would like to discuss that in Closed Session.

XII. **MAYOR'S REPORT:** No report.

XIII. **ALDERMEN'S REPORT:**

Alderman Farley: Mr. Farley said that he agrees with Mr. Fox and that he has been complaining about people building in harm's way for years. He reported that he has followed up on Mayor Pro Tem Yawn's request to have ONWASA investigate the water pressure issues in the South end of town. He said that he met with ONWASA director Jeff Pearson and that ONWASA will be doing some testing on various parts of the island during peak season. He said that Mr. Pearson would like to know the names of those who are having issues.

Alderman Swantek: Mr. Swantek said that the plans for the Mayor's Cup Golf Tournament are moving ahead. He said that the committee has found several sponsors and golfers to participate in the event, that he already has 5 or 6 teams and 9 to 10 sponsors signed up. He announced that Pluris has offered to sponsor the tournament and has said they will help purchase the palm trees.

Mayor Pro Tem Yawn: Mr. Yawn announced that the First Annual Jazz Festival for Ocean City will be taking place the first weekend in September. He thanked everyone for coming.

Alderman Macartney: Mr. Macartney did not have anything to report. He thanked everyone for coming.

Alderman Lanci: Ms. Lanci did not have anything to report. She thanked everyone for coming.

XIV. **CLOSED SESSION** - Per N.C.G.S. 143-318.11 Section (5): To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease **AND** Section (3). 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, which privilege is hereby acknowledged.

- Mayor Pro Tem Yawn made a motion to go into Closed Session.
- Alderman Macartney seconded the motion.
- The motion passed unanimously.

XV. OPEN SESSION:

- Alderman Swantek made a motion to come out of Closed Session. Alderman Macartney seconded the motion.
- The motion passed unanimously.
- Alderman Macartney made a motion to authorize the Town Manager to expend up to \$4,000 in order to contract with an auditor to audit Tetterton Enterprises in an effort to recover occupancy taxes. Mayor Pro Tem Yawn seconded the motion.
- The motion passed unanimously.
- Mayor Pro Tem Yawn made a motion for the Town Attorney to investigate the ownership of the beach access located at Myrtle Avenue. Alderman Swantek seconded the motion.
- The motion passed unanimously.

XVI. ADJOURNMENT: Alderman Macartney made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 10:52 p.m.

APPROVED:

Daniel Tuman, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 9/2/2010