

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 Special Meeting Monday, June 14, 2010 1:00 P.M.

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

NOT PRESENT: Town Attorney Brian Edes

- I. **CALL TO ORDER:** Mayor Tuman called the meeting to order at 1:00 p.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:**
 - Mayor Pro Tem Yawn made a motion to move items five and six in front of number three. Alderman Lanci seconded the motion.
 - The amended agenda was approved unanimously.
- III. **ADJUSTMENT TO ORIGINAL AMENDMENT TO PAY OFF FIRE TRUCK DUE TO BANK ERROR & PER DIEM INTEREST:**
 - Mr. Foster reported that this is a result of the Board action to pay off the fire truck. Mr. Foster reported that before the Board action, Mr. Smith was told that the payoff would be approximately \$234,000. After the Board action Mr. Smith spoke with BB&T and found out the pay off amount was higher than estimated (\$238,982.44).
 - Mr. Foster asked the Board to amend the original motion to include the figure of \$238,982.44 plus whatever interest per day that would be when this is paid off at \$25.67 per day through June 15th.
 - Mayor Pro Tem Yawn made a motion modifying the previous motion to update the figures. Alderman Swantek seconded the motion.
 - There was discussion about the capital reserve fund.
 - The motion passed 4 to 1 with Alderman Macartney voting against.

IV. BUDGET AMENDMENTS:

- Mr. Smith explained each of the amendments which he provided to the Board in memo form. Budget Amendments 9 and 10 were to use the appropriated fund balance to pay off the fire truck and pay for the police radios. Budget Amendment number 11 is to take the \$477,157.03 from Contingency to the Appropriated Fund Balance.
- Mayor Pro Tem Yawn made a motion to approve Budget Amendments 9, 10, and 11. Alderman Swantek seconded the motion.
- The motion passed unanimously.

V. PUBLIC HEARING – Rezoning Case #R-10-02 – Request to Rezone Property Located at 1156 New River Inlet Road from R-20 to R-10:

- There was discussion about not having an attorney present.
- Mayor Tuman announced that the attorney will not be joining the meeting. He asked what the Board would like to do.
- Mayor Pro Tem Yawn suggested having the attorney on the phone on standby if needed. Mr. Foster left to contact the attorney to verify.
- Mayor Tuman opened the public hearing.
- Ms. Hill (Planning Director) read the Staff report.
- There was discussion about whether this rezoning is in the general public interest.
- Mr. Foster reported that the Town Attorney is not available.
- There was further discussion on the surrounding properties and the impact on the environment.
- Mayor Tuman said that the Board will now open the public hearing for comments from the citizens. He asked the Town Clerk if anyone had signed in to speak at the hearing. The clerk indicated that no one had signed up to speak. Mayor Tuman asked if anyone in the audience would like to address the Board on this request for rezoning. No one came forward.
- Mayor Pro Tem Yawn made a motion to close the public hearing. Alderman Macartney seconded the motion.
- Alderman Swantek made a motion to table this item to the July meeting. Alderman Macartney seconded the motion.
- The motion passed unanimously.

VI. PUBLIC HEARING – Conditional Use Permit #CU-10-01 – Request for Conditional Use Permit to Operate a Convenience Store and to Extend Operations to Include Beach Equipment Rentals at 2181 New River Inlet Road:

- Ms. Hill read the Staff Report.
- The Town Clerk swore in Deborah Hill, Planning Director, Mr. Sean Cook, and Mr. James Campbell.
- Ms. Hill continued reading the Staff Report.

- Mayor Tuman asked that since this is a quasi-judicial hearing if it will take a super-majority to approve it. Ms. Hill indicated that yes it would. Mayor Tuman asked why this request requires a conditional use permit because this is not a different business.
- Ms. Hill explained that because this is not the same owner and the new owner will be expanding operations that requires a conditional use permit. She said this also gives the Town the opportunity to bring it into conformity and to meet the conditions of the current zoning ordinance. She explained that two issues required the conditional use permit, beach rentals and the sale of alcohol.
- There was discussion about the allowed uses at this location.
- Alderman Macartney made a motion to open the public hearing. Mayor Pro Tem Yawn seconded the motion. The motion passed unanimously.

James Campbell of 2181 New River Inlet Road – Mr. Campbell is the current owner of the property. He spoke in favor of the expanded operations. He said he thinks that it would be great to add rentals. He said that a beer garden has been at this location since 2005. There have been no ALE complaints and only two general complaints since it has been open. He thanked everyone for their emails in support of issuing the permit.

Sean Cook – (Mr. Cook is the person who will be expanding the business) Mr. Cook said that the expansion has been a long time in the making. He thanked Ms. Hill for going by the book. He discussed some of the other allowed businesses on the property. He accepted questions from the Board. Mayor Tuman asked Mr. Cook how he would handle nuisances. He indicated that he has built rapport with the Town Police and that they patrol the area frequently. He said that he and another male will be present. He described what he would be doing with the building. He said he would like to make it a local favorite. Alderman Swantek asked about the hours of the beer garden and Mr. Cook said that he will be closing at 2:00. He said that he will comply with the Town's ordinances. He indicated that there will not be liquor. There was discussion about what on premises and off premises license means. Mr. Cook described what he needs to do in order to open as soon as possible.

Tom Leonard of 218 Coastal Drive – Mr. Leonard expressed his support for the beer garden and rental operation. He asked the Board to approve the conditional use permit without delay.

- Alderman Swantek made a motion to close the public hearing. Mayor Pro Tem Yawn seconded the motion. The motion passed unanimously.
- Mayor Pro Tem Yawn read the suggested motion: "That after consideration of each of the policy guidelines outlined in Section 7-163, the Board of Aldermen approves the conditional use application by Sean Cook to operate a convenience store ("Palm Tree Market"), located at 2181 New River Inlet Road (Tax ID #778C-169 and 779C-169.24) to include an outside bar and beach equipment rentals."
- Alderman Lanci seconded the motion.

- Alderman Farley expressed his concerns about whether the neighbors were notified about the public hearing. He said he would like to have heard from other neighbors surrounding the market. He said he was concerned about having portable toilets there, proper lighting, and noise.
- Ms. Hill indicated that proper notification was given, there was a sign on the property and it was advertised. Adjacent property owners (within 100 feet) were notified even though this was not a requirement. She said there were several comments emailed to the Town.
- Mayor Pro Tem Yawn said that he was going to vote in favor of the permit but wanted to express that the Town needs to ensure that the Town ordinances and General Statutes are being adhered to.
- The motion passed 4 to 1 with Alderman Farley voting against.

VII. ADJOURNMENT:

- Mayor Pro Tem Yawn made a motion to adjourn the meeting. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 2:21 p.m.

APPROVED:

Daniel Tuman, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 7/1/2010