

Town of North Topsail Beach

Joann M. McDermon, Mayor
Mike Benson, Mayor Pro Tem

Aldermen:
Richard Grant
Tom Leonard
Susan Meyer



Chief Younginer
Interim Town Manager

Sherrie L. Hancock
Town Clerk

Nature's Tranquil Beauty

Board of Aldermen
Regular Meeting Minutes
Thursday, June 3, 2021
North End Fire Station, 2049 New River Inlet Road

Present: Mayor McDermon; Mayor Pro Tem Benson; Aldermen Grant, Leonard and Meyer; Interim Town Manager Younginer; Planning Director Hill; Town Clerk Hancock; Town Attorney Edes

- I. Mayor McDermon called the Meeting to order at 6:30 P.M.
- II. Mayor Pro Tem Benson led attendees in a moment of silence.
- III. Mayor McDermon led attendees in the Pledge of Allegiance
- IV. Approval of Agenda

The Board discussed the following changes to the Agenda ahead of its approval:

- Relocate "Alderman Selection" until after the Town Manager's report
- Switch the capital improvement and budget discussions

Alderman Meyer made a motion to approve the Agenda as amended. Alderman Leonard seconded. The Motion passed, 4-0.

- V. Manager's Report
Revetment- Project Engineer Forman, Interim Town Manager Younginer, Alderman Leonard, Mayor Pro Tem Benson and Deb Hill recently walked the project area with property owners to discuss project requirements, available options and the timeline. Town Hall- On May 20th, the Engineer held a status meeting with Town Staff and the Builder. The roof material has been approved and is still on order. Windows have arrived; other than missing six windows, the work continues with installation. Insulation has been

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

installed on the interior walls and the ceiling areas. All materials have been slow to arrive due to shortages. Sheetrock is being installed now.

Covid 19-

Town hall is now open to the public with precautions taken. The bathrooms at Town Park are also open. The Public Works crew are keeping them in great shape; they are even working on weekends throughout the summer.

Paid Parking-

Paid Parking for North Topsail Beach continues to move forward. Complaints have been rapidly responded to by the parking company. Fewer complaints are being fielded at Town Hall and with PLICE. Appropriate signage has been placed on side streets and in designated parking areas. Usage of the lots and the north end have increased. Memorial Day Weekend was cold, and this may have slowed things down, but overall, it was a very successful weekend.

Budget-

Mr. Gilbride and Ms. Elliott have done a great job finishing up any changes made to the budget, and it is almost finished. The Board needs to set a public hearing.

Town Manager- Staff posted the position with the League. The Board will soon discuss the requirements needed for an interim.

Town Employee Cookout- An appreciation cookout was held at the South End Fire Station on 5-27-21 at noon in appreciation for all the hard work that the staff has been providing and in preparation for the summer season kickoff. Most of the Board was able to filter through at different times. Mr. Gilbride and his wife attended.

Sprigs- Sprigs are in the nursery and growing well. They should be ready for planting the last week in July or the first week in August.

VI. Open Forum- No one signed up.

VII. Presentations and Public Hearings:

A. Coastal Engineer Update

Mr. Fran Way presented.

- The dune truck haul began in February and extended into May. There are approximately 1.8 miles remaining, and this project will resume on November 16th.
- The Hurricane Florence and Dorian Category G permit application is under development. There are new state rules regarding upland borrow areas that must be addressed.
- Mr. Way recommended incorporating Hurricane Dorian losses into the Hurricane Florence project this upcoming winter.
- The New River Inlet Management EIS: “Terminal Groin” scoping matrix and draft chapters have been completed in preparation for submission to the Army Corps of Engineers.
- Mr. Way reported CAMA/DCM updates to sediment criteria related to shells and rocks. He also reported that the Town received a grant.

B. Public Hearing SUP 21-02

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

Mayor McDermon opened the public hearing. Town Attorney Edes provided instruction to the Board to assist with their decision-making process. This is a quasi-judicial hearing. The applicant is entitled to an impartial, open-minded Board. All witnesses will be sworn-in and subject to cross-examination. The hearing will loosely follow North Carolina Rules of Evidence. The order of presentation, if it pleases the Mayor, will be staff, applicant and then those with standing.

To ensure an impartial body, Mr. Edes asked the Board, including the Mayor, to consider and answer the following questions:

1. Does anyone have a financial interest in the subject matter of the application?
2. Has anyone visited this site for the purpose of assessing the application?
3. Has anyone had ex-parte communication, meaning discussions outside this hearing, with staff members about the subject matter of this application?
4. Has anyone had any discussion with the applicant concerning the subject matter of the application?
5. Has anyone had discussion with a third party about the subject matter of application?
6. Is anyone close to or have a familiar relationship with the applicant?
7. Can anyone think of a reason why he or she cannot be open-minded and base the decision and vote solely on the competent evidence received in this hearing?

For each question, Mr. Edes paused and waited for the Board's response. At no point did a board member stop Mr. Edes and indicate an issue. Hearing no concerns, Mr. Edes called on Planning Director Hill.

Ms. Hill asked for a point of order clarification. Will comments be limited to three minutes?

Mr. Edes replied that he typically does not limit comments in a hearing. However, if it becomes repetitive, he may ask the chair to set limits. He also noted that the applicant has the burden of proof. The criteria are listed in the Agenda packet as well as the Town's UDO. Although the information was provided in the Board's packet and on the application itself, he read the criteria aloud for the public's benefit.

Mr. Edes announced that anyone who will be providing testimony must be sworn in. Town Clerk Hancock administered the oath.

Planning Director Hill presented Special Use Permit 21-02 to the Board. She noted the applicant is Kevin Padgett as the owner of Topsail Beach LLC. She read general information from the application, such as the tax parcel identification number and its zoning information. The Planning Board reviewed the application

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

and recommended to the Board of Aldermen approval with conditions. Those conditions are included in the packet, but generally speaking, they are specific gravel that can accommodate emergency vehicles, no recreational vehicles, installation of a buffer and must have Fire Chief Soward's approval for emergency vehicle access. To that end, Ms. Hill identified an email that she sent to Chief Soward on May 24, 2021 at 1:06 PM.

Planning Director Hill asked the Mayor to accept the following items into evidence as exhibits:

- Staff Report as Exhibit 1
- Public Notice as Exhibit 2
- Response to Standards as Exhibit 3
- Application as Exhibit 4
- Parking Site Plan as Exhibit 5
- Previously Referenced Email to Chief Soward as Exhibit 6
- Background Supplement- Board of Aldermen Minutes from October 30, 1995 through December 1, 2016 as Exhibit 7
- Photograph of SUP 1901, 1902, 1903 and 1904 as Exhibit 8; the photo was taken today, June 3, 2021 at 4:27 PM
- Photograph of Property Owned by Topsail Beach, LLC as Exhibit 9; the photo was taken June 3, 2021 at 4:29 PM

Mr. Edes asked the applicant, Mr. Padgett, if he objected to the Board receiving any of these items into evidence. Mr. Padgett responded in the negative.

Mr. Edes then asked if anyone who was sworn in had any objections to the evidence. Hearing no objections, Mr. Edes recommend that the exhibits, identified by Ms. Hill, be entered into evidence without objection.

Mayor McDermon approved the request.

Ms. Hill continued her presentation with a summary of the application before the Board for consideration. She noted that the hearing was properly noticed on the property, town hall, the website and to adjacent property owners.

Referring to the Response to Standards document that the Mayor accepted into evidence, Planning Director Hill explained the conditions necessary in order to approve a special use permit.

As Exhibit 10, Ms. Hill asked that the Mayor accept into evidence the permit for the fence application.

Planning Director Hill acknowledged some of the ongoing issues in the Rogers Bay community. These issues did not evolve overnight. Relying on Board of Aldermen minutes, Ms. Hill touched on prior hearings from the late 90s to explain

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

how these issues have grown with time. In January of 1999, a plat with 251 sites was signed. Since then, ownership has changed, and the last deed shows approximately 440 camp sites.

From staff's perspective, the biggest challenge is code enforcement. She is not aware of any other neighborhoods in Town that have approximately 500 units. It is a challenge to address non-conforming issues. She displayed the photo that was entered into evidence as Exhibit 8. She expressed a concern that if the Special Use Permit is permitted that the lot will become an extension of the non-conforming issues in Rogers Bay.

Planning Director Hill then displayed Exhibit 9, which is photo of the subject matter property. The perspective of the photo is across Island Drive, looking at the property.

Mr. Edes asked the applicant, Mr. Padgett, if he had any questions for Ms. Hill. Mr. Padgett deferred his time to Mr. Rochelle, as his representative.

Mr. Rochelle identified himself and thanked the Board for the opportunity to address the matter. His interest in the matter is that he is Mr. Padgett's "helper." Mr. Rochelle asked Ms. Hill if she remembered a requirement that she imposed two years ago on a similar property, owned by Mr. Bradshaw, that prohibited RVs.

Ms. Hill clarified that she, acting in her official capacity as code enforcement, could not allow the activity to continue until an applicant received permission through a special use permit.

Mr. Rochelle stated his concern for a photograph displayed by Ms. Hill; the photo showed RVs parked on the property. Mr. Rochelle maintains that those images were taken prior to the stipulations in the subsequent permitting. Now, only cars, tucks and boats are allowed. Those rules are still in effect and are followed.

Planning Director Hill offered a point of clarification. It is not that she, in her personal capacity, makes these decisions. Her job is to enforce what is allowable within a special use permit or ordinance.

Mr. Brian Kauffman asked to cross-examine Planning Director Hill. Mr. Kauffman identified himself as the Vice President of Roger's Bay Board of Directors, which is a neighboring property. If Mr. Padgett agrees to a restriction that no RVs will be parked in the lot, would that appease the Board and achieve

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

approval? The intent is vehicle and boat overflow; RVs are not meant to be included.

Planning Director Hill responded that it was the Planning Board that recommended no RVs to the Board of Aldermen. She, as a staff member, had an overall concern for code enforcement.

Mr. Kauffman emphasized that the commercial lots in discussion are separate from Rogers Bay. There may seem like overlap, but the entities are distinct. He does not understand why the enforcement issues of the approximately 500 units in Rogers Bay has bearing on the matter before the Board.

Ms. Hill clarified that the Special Use Permit approved last June 2020 had a premise that the request would alleviate congestion. If the Town cannot enforce one year later, she has a concern that issues in this area will increase.

Mr. Kauffman believes that Rogers Bay, in terms of this matter, is not any different than the HOA across the street, St. Moritz. If there is a code enforcement problem within Rogers Bay, he welcomes open discussion and communication about how to address compliance.

Ms. Jill Schiefelbein, a resident of St. Moritz, then cross examined. She understands that the applicant is separate from Rogers Bay. She asked if the lot is a separate business from Rogers Bay.

Director Hill responded that it is her understanding that it is a separate entity. She suggested that the applicant or his agent could offer more clarity when addressing the Board.

Another speaker approached to cross-examine the Planning Director. The Meeting's audio did not pick-up her name, but it may have been Ms. Darlene Maillet. She understands code enforcement is an issue. However, she believes she has seen other enforcement issues, such as RVs in paid parking overnight and has concerns that Rogers Bay is being treated differently. In her opinion, Rogers Bay has a strong board, who will be the "eyes and ears" of enforcement. She does not believe RVs should be a concern for the Town, because the neighborhood will actively enforce the terms of the special use permit.

Mr. Mo Afify of 4125 Island Drive identified himself as an adjacent property owner. He asked if the Planning Director had reviewed the lease agreement from the property owner that consented to this use on the lot. The Planning Director answered that she had not.

Mr. Afify's reply was not audible.

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

Mr. Edes responded to Mr. Afify by stating that if a condition of a special use permit is not honored, the Town can revoke the permit.

Mr. Frank Brown of Roger's Bay affirmed that he was sworn in. His understanding was that Mr. Padgett and Mr. Rochelle are in charge of the parking lot. As is true with any business, if there is a violation, call the people in charge and demand they address the issue. Why is this a code enforcement issue?

Mr. Padgett added that Ms. Hill has his lease agreement, liability insurance and other "supposed to have" documents. He specifically asked if she had a copy of the lease.

Planning Director Hill responded that if she saw the lease, she does not recall.

Town Attorney Edes then asked some questions. He first asked if the three criteria found in §2.06.04 was considered by the Planning Board in their recommendation. Ms. Hill answered in the affirmative.

Mr. Edes then asked if Planning Director Hill, in her official capacity, reviewed the criteria as well. Ms. Hill affirmed.

Mr. Edes asked Ms. Hill if she had enforcement concerns. Ms. Hill affirmed.

Mr. Edes stated if the Board of Aldermen approves the permit with conditions, such as no RVs, and that condition is violated, the permit is revoked. That would address violation concerns in the parking lot, would it not? Ms. Hill affirmed.

Mr. Edes asked if the Board had questions.

Alderman Leonard asked that Exhibit 8 be displayed. He asked if the photograph depicted the same parking lot that the Board of Aldermen issued a special use permit for one year ago. Ms. Hill affirmed.

Alderman Leonard asked if the Special Use Permit was granted to the same applicant. Ms. Hill answered in the negative.

Alderman Leonard asked who the applicant was in the prior permit. Ms. Hill responded that it was four separate lots and four owners.

Alderman Leonard asked if parking RVs and/or utility trailers was considered in the prior special use permit. Director Hill stated that she would have to review the

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

minutes to be sure. She remembers that buffers were a part of the discussion, and the buffers were never installed.

Mr. Edes restated that if conditions on the permit are not being met, the Town can revoke the permit.

Planning Director Hill reminded the Board that after it makes a decision, it must reduce it to writing. The applicant must receive a copy of the decision with all conditions stated. This helps keep everyone stay on the same page.

Mr. Edes explained that it is the Town Manger who has the authority to revoke permits that are incompliant. He then asked if the applicant or designated agent had anything to present.

Mr. Rochelle approached the Board and began with a background. He was operating what is essentially a commercial lot without a special use permit until Planning Director Hill informed him of the violation. He could not operate for the following 9-12 months until the permit was approved. Mr. Rochelle is no longer directly involved with that parking lot, but to his knowledge, the permit is not being violated. He further explained that the driving force of this request is not an opportunity to make money. He was looking for a solution to the community's parking issue. Mr. Padgett called Mr. Jefferys, who agreed to a nominal fee to use his land. The spaces are not available to people outside of Rogers Bay. Fencing and other buffers are being prepared.

Mr. Rochelle continued to say that he does not believe all of the requested 80 lots will all be utilized. This is an overestimate to prevent future returns to the Board with requests to make adjustments. In reality, he believes it will be around 40-50 lots.

Mr. Rochelle believes the proposal will relieve congestion. If a fire truck is trying to maneuver through the neighborhood, parked cars are in the way. Hopefully, this will alleviate those issues. He ended by saying he is happy to address any concerns. Staff did not have any questions.

Mr. Edes asked Mr. Padgett to confirm for the record that Mr. Rochelle has his authority to speak on behalf of this application. Mr. Padgett affirmed.

Mr. Edes asked Mr. Rochelle on behalf of the applicant if there is any intent to allow RVs. Mr. Rochelle confirmed that there is no intent to allow RVs. Mr. Edes further asked if the applicant would have any objection to a condition prohibiting RVs. Mr. Rochelle responded that there would not be an objection.

Mr. Edes also asked Mr. Rochelle if he is familiar with the email to Fire Chief Soward that was referenced earlier. Mr. Rochelle answered in the affirmative. Mr. Edes asked if he also heard Planning Director Hill talk about the Planning Board's

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

recommendation and conditions, for example the grade of gravel to allow for emergency vehicles. He asked if the Applicant had any issues with that.

Mr. Rochelle did express a concern. The recommended gravel must be able to withstand 75,000 pounds. For a point of reference, he stated that a loaded tractor and trailer is around 80,000 pounds. He believes this requirement is meant to accommodate the Town's ladder truck in the event a vehicle is on fire. In his opinion, the path and scenario being considered is unlikely.

Mr. Edes responded that it is within the Board's authority to impose restrictions to promote the health and safety of the public.

Mr. Rochelle suggested that the fire truck could stop short of entering the lot and run a hose to the fire. Mr. Edes suggested that those questions go to the Fire Chief when he comes forward to address the Board regarding his concerns.

Mr. Edes asked Fire Chief Chad Soward if he had an opportunity to review the plans. Chief affirmed that he had. Mr. Edes asked if he had any recommendations to the Board. Chief agreed with Mr. Rochelle's opinion that it is difficult to maneuver emergency equipment in Rogers Bay. The condition that gravel be placed that can withstand 75,000 pounds of weight was not his recommendation. It is in the State Fire Code, Appendix D, and it is mandatory. Mr. Edes asked the Fire Chief to confirm that his recommended condition is to apply Appendix D to any conditional use. Chief confirmed.

Mr. Rochelle asked the Fire Chief how much hose he has on his trucks. Chief provided corresponding lengths for various types of hose. Mr. Rochelle asked if that would be enough length to reach areas of the lot. Chief responded that it is not necessarily enough length. Citing concerns for how cars are parked and the location of the fire, Chief stated that going around obstacles decreases the length of ground he can cover.

Mr. Bryan Kauffman, Vice President of Rogers Bay HOA, then asked if the requirement in Appendix D is variable or the minimum requirement. Chief Soward responded that the gravel is not variable, but the width is variable. He offered to work with the applicant on that condition to find middle ground. He could go as low as 12 feet in width, but the diagram he received did not indicate any dimensions for the accesses. Mr. Padgett explained that the site plan actually does provide those figures. He believes the plan that the Chief received had some information inadvertently cut-off in a scan.

Mr. Edes responded that as he looks at the site plan, it seems like 12 feet is already considered in the road's width.

Ms. Jill Schiefelbein came forward to ask the Chief questions. She asked about audits or other gathered data that speaks to the frequency of emergency vehicle

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

traffic in Rogers Bay and the current level of compliance. Furthermore, would 81 spaces be enough to remediate current issues?

Fire Chief Soward used the last emergency call to Rogers Bay as a reference point. He reported that it took longer to reach the camper than it took to drive from the fire station to the entrance of Rogers Bay. The roads in Rogers Bay are a concern.

Mr. Kauffman stated that firemen were on the property about a month ago measuring the roads. He asked if the Chief was aware of that.

Chief responded that he was aware. Some of the firemen just received their certification as drivers. They were walking the road to learn more about their ingress and egress options.

Another speaker, whose name was not audible, identified himself as a resident of Island Drive. He asked what type of gravel can withstand the discussed weight requirements. Chief believes mesh is placed that helps distribute weight. Then, the gravel is placed. He cannot speak to the specifics of the gravel. The speaker asked if this was NCDOT standards. The Chief reiterated that it is State Fire Code. The Speaker suggested that the parking lot managers could create an alternative emergency route off HWY 210. Chief believes that would be NCDOT's jurisdiction, and he believes the weight restrictions would still be applicable. Planning Director Hill added that she and Fire Chief Soward do not have ways to certify gravel. If an engineer puts his or her seal on the final documents, she accepts it as true. Mr. Rochelle offered an alternative; the managers could place the gravel to a certain point but not the entire road. Mr. Edes suggested that the Board continue hearing evidence and encourage Mr. Rochelle and the Fire Chief step aside to discuss possible compromises.

Mr. Kauffman, as a private citizen and not as a HOA representative, read a letter that he prepared. The community is growing, and the HOA cannot always provide the needed resources. Mr. Padgett came up with a solution for an ongoing issue. Mr. Kauffman believes the solution is good for Rogers Bay and North Topsail Beach. The solution limits congestion, which makes the area safer. Less owners will utilize their free parking ability, and thereby, keep more paid parking spaces opened to the public. Additionally, the parking plan helps the HOA offer more ADA accessible options for residents. The remainder of Mr. Kauffman's letter was inaudible.

Mr. Kauffman then addressed concerns he has heard from surrounding neighbors. First, St. Moritz's view is not impacted in his opinion. Not a single vehicle in the parking area will be taller than the bottom of the first floor of St. Moritz. Behind the parking lot are trees that are taller than the vehicles. He does not believe the neighbors' views are blocked by the parking lot. Second, regarding sea turtles, they are sensitive to slope. There are already sufficient protections in place to

protect them. This point is also moot in Mr. Kauffman's opinion. Third, this area is separate from Rogers Bay. If the HOA was expanding its footprint, he would understand the need for extensive review. Also, an increase of the existing HOA could trigger issues for their grandfathered status, so the HOA wants to be clear that is not their intent. Fourth, from an enforcement standpoint, a towing company has been contacted. Signage will be displayed. Fifth, Mr. Kauffman understands the Fire Chief's concerns, which he shares. The HOA now has a compliance committee and is reviewing additional ways compliance can be met. On the parking lot side, he believes Mr. Padgett will also take measures to enforce.

Mr. Edes asked if there were any questions for Mr. Kauffman. No one came forward.

Alderman Grant asked a question, but the audio went out for the first part. For the part that was audible, he believes people are conflating issues and the discussion is going in circles. The application before the Board does not relate to issues in Rogers Bay.

Ms. Jill Schiefelbein presented her opinions as a resident of St. Moritz. When she saw the site plan, it did not provide explicit details as to what would define a car, truck or boat. Are there length or height restrictions? For example, is a truck with a camper attached a RV? She would like those concerns addressed. As for monitoring, she requests a strict line of enforcement on the permit, not just the discretion of a towing company. She believes a specifically-named responsible person is needed.

Ms. Schiefelbein also asked about the lease agreements on the parking spots. How long are vehicles allowed to sit without being moved. Will there be a tag protocol? What about a plan for evacuation in the event of a hurricane? The packet of distributed material stated that the proposal is compliant with CAMA regulations. However, this specific information was not provided to recipients, so it is difficult for her to do any additional research to understand.

Regarding sea turtles, slope is one concern, but another concern is lighting. She requests low-density lighting in the parking lot as a condition of the permit. Also, she suggests the Board discuss the specific types of trees or shrubs that must be placed to provide protection during storms.

Lastly, considering the plan incorporates gravel and grass, this solution will not be ADA compliant. In her opinion, Mr. Kauffman's opinion as to the ADA compliance factor is moot.

Another speaker presented his concerns. His name was inaudible, but later, Mr. Edes referred to the speaker as Mr. Afify. The speaker wants to build on a lot he owns near the proposed parking site. He purchased this specific lot believing he would be next door to a residential lot, creating a buffer between his property and

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

Rogers Bay. He is now worried about additional traffic. He is not against the proposal; he is worried that there are not enough controls in place, such as lighting requirements.

Another speaker came forward to question Mr. Afify. Her name was inaudible, but Mr. Edes later referred to her as Ms. Simpson. The speaker asked Mr. Afify why he assumed there would be a traffic increase. Mr. Afify responded that he was addressing a concern about the lighting that will be installed in the parking lot for safety and security concerns and not lighting issues created by a higher volume of vehicles.

Ms. Holly Lorenzo presented her concerns. Mr. Edes asked for her to affirm that she has been sworn-in, which she did. She stated that while Rogers Bay is concerned with its internal issues, she hopes the Board will consider the effects of this decision on those who are external to Rogers Bay. She is alarmed that rules are already not being followed. She asked what other approaches Rogers Bay has explored to ameliorate the effects of their overpopulation. For example, has the HOA limited the number of vehicles each owner can have?

Second, Ms. Lorenzo is alarmed to hear that there may be an access added to HWY 210; this would create a lot of traffic issues for residents of St. Moritz. Third, if the Board allows this, will an expansion of the lots be needed in the future to accommodate the community's continued growth? She also expressed concerns that cars will deteriorate if not required to move; to that point, will auto repair be allowed? She would have liked the notice to be issued sooner so that more property owners could be present to voice concerns.

Also, Ms. Lorenzo noted the high pedestrian traffic, and asked the Board to consider adding a pedestrian crosswalk. The buffer zone is important; proper shrubs are needed to cut down on noise and lighting pollution. She would have liked to have seen a more finished product before the hearing so that she could better understand the specifics of the plan and speak to those.

Another speaker came forward to cross examine Ms. Lorenzo. Her name was inaudible, but Mr. Edes later confirmed that she was Ms. Darlene Maillet. She respects that some surrounding property owners had expectations about the lot, however, when someone purchases property, there is an understanding that unforeseen changes come about. The parking lot will alleviate a lot of problems, and she believes it is good for the community.

Mr. Frank Brown of Atlantic Street addressed the Board with his concerns. Rogers Bay has a safety issue. Rogers Bay is trying to find solutions to achieve more compliance and thereby be a safer community. He hopes that the concerns mentioned can be addressed, but he hopes that the safety concern is given a lot of weight. He also noted that if the residents are not using the Town's paid parking

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

spaces as overflow, there is more opportunity for the Town to increase paid parking revenue.

Mr. Edes asked if there were any additional speakers. No one came forward. He then asked Planning Director Hill if lighting issues are addressed in the application or the UDO. Ms. Hill confirmed that the issue is not addressed in the application itself, but it is addressed in the ordinance. Mr. Edes asked about the buffers. Planning Director Hill reiterated that the Planning Board recommended a buffer, but it did not elaborate on the specifics. Staff recommends that the buffers must meet the minimum requirements in the UDO.

Mr. Edes then asked the Fire Chief if he and Mr. Rochelle were able to reach any mutual understandings.

Fire Chief Soward reported their resolution. Coming off of Atlantic, the lot managers will ensure gravel will be placed that can withstand 75,000 pounds of weight. This gravel will run up to the center of the parking lot. From there, the Chief can branch off and manage running hose. The applicant's engineer will come up with the specifics.

Mr. Edes asked the Fire Chief if in his official capacity, he is satisfied that the resolution meets safety and access concerns. The Fire Chief affirmed.

Mayor Pro Tem Benson addressed Mr. Rochelle and asked if overflow parking is essentially paid parking. Mr. Rochelle affirmed that it is paid overflow; he reiterated that it is only open to Rogers Bay residents. Mayor Pro Tem asked for clarifying information as to the structure of the parking space lease agreements. Mr. Rochelle explained that residents can apply for an annual tag at the rate of \$250 to \$300 per year. When asked, Mr. Rochelle confirmed that the special use permit application requests permission to park boats as well as cars and trucks.

Mayor Pro Tem Benson then asked how the lot's managers will collect due taxes. Mr. Edes assured Mayor Pro Tem Benson that this business will be treated as any other business in Town. However, he reminded the Board that the Town no longer institutes a privilege tax.

Mayor Pro Tem Benson asked about the surface of the parking spaces themselves. Mr. Rochelle reported that Fire Chief Soward agreed to material that is similar to asphalt and that the actual spots will be grass. Mayor Pro Tem noted that overtime, grass lots might be a problem as vehicles create wear and tear on the ground; he noted there is sand under the surface that may cause issues.

Alderman Leonard asked Mr. Rochelle if auto repair will be allowed. Mr. Rochelle assured the Board that it will not be allowed. Alderman Leonard asked if

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

there will be access points to the lot from HWY 210. Mr. Rochelle confirmed there will not be any such accesses. It is not a feasible option for Mr. Padgett.

Mr. Edes noted that all interested parties had an opportunity to address the Board and cross-examine any witness. He recommended to the Mayor that the evidentiary portion of the hearing be closed, and the Board move to deliberation.

Alderman Leonard made a motion to close the evidentiary portion of the hearing. Alderman Meyer seconded. The vote passed, 4-0.

Mr. Edes noted that the Planning Board recommended the application with conditions. It seems those conditions are acceptable to the applicant, except the weight-bearing gravel which has been resolved. Mr. Edes did not hear evidence that controverted the three criteria, other than health and safety concerns. These objections can be addressed through added conditions.

Alderman Grant stated that he wanted pick-up trucks with campers attached to be addressed in the conditions. Alderman Leonard stated the buffer must be installed before the lot can open.

Town Attorney Edes stated that it is his opinion that the applicant presented cogent, competent evidence that shows the criteria was met, with the exception of the safety concerns; he believes conditions can be placed that will adequately address those concerns.

Mr. Edes read aloud the following conditions that he gathered during the evidentiary hearing that could be considered by the Board:

- No RV's (for purposes of this permit, a vehicle attached to a camper will be defined as a RV)
- No commercial vehicles; staff will research the different DMV classifications
- Lighting must comply with the UDO
- The buffer must be installed prior to parking
- Parking spots must be maintained so that vehicles can easily access and exit
- No auto repairs in the parking lot
- The only vehicles allowed are cars, pickup trucks, boats and utility trailers (for boats and golf carts)

Mayor McDermon asked about the timing. Mr. Edes believes the order can be ready next month. As soon as he drafts, he will distribute to the Board. Each official will have the opportunity to individually reply to Mr. Edes with any

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

suggestions. He will send the final draft of the order to the Zoning Administrator, who by ordinance, must sign.

Alderman Grant made a motion to approve the application based on the conditions described. Alderman Meyer seconded.

For discussion, Mayor Pro Tem Benson addressed the public. As a board member, he represents all of the citizens of North Topsail Beach. The area addressed in the special use permit application is a small corner on a five-acre lot, which is zoned residential. The Town is losing a tax opportunity on the housing that could be built in the parking lot's place. He expressed his appreciation for the Jefferys family, and their continued support of the Town. However, he is concerned about a commercial parking lot residing in a residential area.

The Mayor asked the Clerk to call the roll:

- Alderman Grant voted yes
- Alderman Meyer voted yes
- Alderman Leonard voted yes
- Mayor Pro Tem Benson voted no

The Motion passed, 3-1.

- C. Selection of New Alderman- Town Attorney Edes led the Board by explaining the voting process as Town Clerk Hancock passed out paper ballots. After each Alderman voted, the votes were collected by Town Clerk Hancock and read aloud by Town Attorney Edes. The Board voted three times with each round ending in a tie; thus, no decision was made. The Board decided to revisit the item at a later time.
- D. Federal Project Update-
Mr. Carter summarized three points: affordability, time and unknown future cost to the Town. This is a \$32 million project with no additional funding. North

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

Topsail Beach is responsible for 60% of the cost. Mr. Carter is asking for the State's help with funding.

There were no questions from the Board for Mr. Carter.

VIII. Consent Agenda-

Alderman Leonard made a motion to approve the consent agenda as presented. Mayor Pro Tem seconded. The Motion passed, 4-0.

IX. Old Business-

A. Municipal Service District- The Board decided to meet on June 25, 2021 at 1:00 PM and June 28, 2021 at 10:00 AM to discuss.

B. Offer to Purchase –

Timothy Eastman offered to purchase L3 S2 B7 OLD SETTLERS BEACH for \$10,000. The offer was approved and met the 10-day requirement in the newspaper with no upset bids or feedback. This item meets all requirements and is ready to move forward. Alderman Leonard made a motion to approve the sale. Mayor Pro Tem Benson seconded. The Motion passed.

Craig Greif offered to purchase L2&L2A SEA RANCHES for \$10,000. The offer was approved and met the 10-day requirement in the newspaper with no upset bids or feedback. This item meets all requirements and is ready to move forward.

Alderman Leonard made a motion to approve the sale. Mayor Pro Tem Benson seconded. The Motion passed, 3-0.

C. Safety Repair/ Capital Improvement-
The Board will review bids.

D. Town Budget- Staff requested a meeting with the Board; after discussion, meetings were set for June 14, 2021 at 1:00 PM and June 22, 2021 at 10:00 AM. Both meetings will be at the North End Fire Dept.

X. Onslow Co. BA4 Dune Repair-

Mayor McDermon stated that the Town needs to do this Project to protect the Town Park. The Board asked staff to schedule a meeting with the Onslow County Board, ideally for July 13, 2021 at 10:00 AM.

XI. Mayor Report- Mayor McDermon stated that the Board has been quite busy lately and thanked everyone for their hard work. She reminded the Board of all the upcoming meetings and thanked Town staff for all their hard work.

XII. Attorney Report- Town Attorney had nothing else to report.

Board of Aldermen Minutes
Regular Meeting- June 3, 2021

XIII. Alderman's Reports-

Alderman Meyer wanted to remind everyone about the events in the Town Park. She spoke about the Town's recent equipment purchase. She said she was looking forward to movies and events in the park. Alderman Meyer also spoke about the Jazz Fest.

Alderman Leonard thanked the Board and Staff for their hard work.

Mayor Pro Tem Benson expressed his desire to return to the town hall building. The alternative meeting sites are not optimal; for example, a heavy down pour of rain at tonight's meeting made it difficult to hear some points. Mayor Pro Tem Benson also thanked Town Attorney Edes for doing a great job managing the meeting's public hearing.

Alderman Leonard made a motion to adjourn. Alderman Meyer seconded. The Motion passed, 3-0.

The Meeting ended at 11:06 PM