

**CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
CITY COUNCIL MEETING
Monday, May 3, 2021, 5:45 PM**

Minutes

1A. ROLL CALL:

Mayor Hatley called the meeting to order and asked the Clerk to call the roll.

Marilyn Hatley

JO Baldwin

Fred Coyne

Nicole Fontana

Trey Skidmore, Absent for roll call only

Hank Thomas

Terry White

A quorum was established.

1B. EXECUTIVE SESSION:

The Mayor called for a motion to go into Executive Session for a legal briefing regarding the Code of Laws of SC Section 31-3-10 et seq. also known as the “Housing Authorities Law”, a legal briefing regarding Ronald Lee Huffman and Betty Ross Stahler vs. City of North Myrtle Beach, Amanda Claire Rafool et al Case #: 2021-CP-26-02401, a legal briefing regarding the proposed development agreement between Crossroads Village Ventures, LLC, Horry County and the City of North Myrtle Beach, and a discussion regarding an appointment to the Planning Commission. The motion was made by Councilman White and seconded by Councilwoman Fontana. The motion passed 6-0. The Council returned to Chambers at 6:58 PM. The Mayor announced that no votes were taken at the session.

1C. CONTINUATION OF CALL TO ORDER:

Mayor Hatley asked Father Wilmot Merchant to deliver the invocation.

The Mayor led the Pledge of Allegiance.

2. MINUTES:

The motion to approve the minutes for the City Council Meeting of Monday, April 19, 2021, as presented, was made by Councilman Thomas and seconded by Councilman Baldwin. The motion to approve passed 7-0.

3. COMMUNICATIONS:

Mayor Hatley presented Rev. Jim Mezick with a Proclamation honoring him for his many years of dedication and service to the City of North Myrtle Beach. Senator Greg Hembree and Representative William Bailey also presented Rev. Mezick with a Resolution from the South Carolina Senate and House for his decades of service to North Myrtle Beach and South Carolina.

Mayor Hatley stated that the Departmental Monthly Reports for March 2021 were available online.

4. ANNOUNCEMENTS BY MAYOR AND CITY COUNCIL:

Mayor Hatley thanked Tom Keegan, a representative from Tom Rice’s office, for being at the meeting.

5. **CONSENT AGENDA:**

- A. RESOLUTION: Adoption of the City of North Myrtle Beach Hazard Mitigation Plan
- B. MOTION TO APPOINT: Appointment of Mendel Bell to fill one vacant seat on the Board of Zoning Appeals
- C. ORDINANCE/SECOND READING: Amendments to Chapter 23, Zoning, of the Code of Ordinances of North Myrtle Beach, South Carolina
- D. ORDINANCE/SECOND READING: An amendment to Chapter 16, Section 16-49 of the Code of Ordinances of North Myrtle Beach, South Carolina

Mayor Hatley asked if the Council would consider taking all the agenda items together. The Council was in agreement. Mayor Hatley read Items A, B, C, and D by title and called for a motion. Councilman Coyne motioned to approve and was seconded by Councilwoman Fontana.

Having no comments from the Council or the public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

6. **UNFINISHED BUSINESS:** None

7. **NEW BUSINESS:**

- A. ORDINANCE/FIRST READING: Transient parking in residential neighborhoods. Mayor Hatley called for a motion. Councilman White motioned to approve and was seconded by Councilman Baldwin. Councilman Thomas led the discussion and asked for more time to look at the ordinance because he had some concerns and would like to have a workshop. He did not see the ordinance done before the season started. Mayor Hatley stated the ordinance needed to be on the books for the summer. Councilman Skidmore stated he would like to have more time and believed the public needed more time to disseminate the information. Mike Mahaney, City Manager, displayed a picture which represented a typical parking complaint the City received from short-term residential locations. Manager Mahaney suggested a workshop on May 12, 2021 at 1:30 pm. He welcomed any proposed changes to the ordinance to be emailed to him to be considered. Chris Noury, City Attorney, stated if there were substantive changes made after the first reading, another first reading would have to take place. Councilman Baldwin stated his only concern was the off-site parking, but the ordinance was mostly common sense. Manager Mahaney stated there were over 100 short-term rental firms registered in the city with over 4,000 rental units. The City was trying to have a phone number for each of the owners in order to call in emergencies. Mayor Hatley stated the City had addressed trash and noise issues. It was time to address the parking problems. The rental companies have done a great job in taking care of the issues and working with the City. She asked the rental companies to be a part of the solution. Mayor Hatley had a suggestion to drop off the dimension of 9x19 off the stacked parking section, but asked the rental companies to identify exactly how many cars could be parked at the properties and advertise it as such. Councilman Coyne stated a house could only hold so much and the host house should have some responsibility and this ordinance would give departments the tools they needed to work with. Councilwoman Fontana stated she wanted to start with this ordinance. Mayor Hatley stated they were not going to do anything to hurt the City's main industry, but people would need to be held accountable for how they parked. Councilman Thomas stated he wanted to add that short-term rental locations needed to have a local representative available to handle issues. Manager Mahaney stated the City did have contact information for VRBO, but it was too soon to tell if that would work.

Mayor Hatley opened the floor for public comment.

John Scott, 59th Avenue North, North Myrtle Beach, stated he represented Rick Elliott and was also a long-time property owner in Cherry Grove. He asked the Council not to pass the ordinance on first reading, because it singled out a particular industry and raised issues of equal protection. This could be done if there was a compelling governmental interest. The compelling governmental interest would apply because the short-term industry had been singled out. The ordinance would

need to be narrowly tailored to make sure it dealt with the compelling governmental interest. Mr. Scott stated in his opinion, the first reading should not be passed until a workshop was conducted. He stated in Section 21-46, parking standards, the vast majority are not just short-term rental issues, but would apply to anyone parking on the street. There were sections of the ordinance that were broadly liberal than would just apply to the short-term rental industry. He asked the short-term rental leaders be allowed to help and get it right the first time. There was a legitimate need that needed to be addressed and allow the process of feedback. Manager Mahaney stated this was not just an ordinance on short-term rentals. He read the definition of transient parking. Mayor Hatley stated the ordinance did not claim to be a short-term rental ordinance, it related to transient parking in residential neighborhoods. Manager Mahaney stated he received an email on September 9, 2020 from Mr. Scott regarding these issues. He stated the City was not springing any of this on them. Mr. Scott stated he was simply saying that due to the importance of the issue time needed to be taken, and he did not suggest it was being sprung on them. Sarah Clayton, Risk and Revenue Manager, stated when the City was first proposing the short-term rental ordinance, parking was linked to the number of bedrooms. Many other cities have stricter ordinances and this was generous in letting them figure it out.

Rick Elliott, 3739 Golf Avenue, Little River, stated he was speaking on behalf of vacation rental groups and his company Elliott Realty. He stated he appreciated everyone's comments and this industry was trying to be extremely professional. He stated everyone recognizes that everyone shows up with extra cars and causes problems. The concern for everyone was the process. He asked for time to participate in the discussion before an ordinance was put out. He stated he had a paper that was dated for April 22 and came by the City on April 27 and was told the ordinance had not been drafted. The paper indicated April 22, however, there was no opportunity to see what was coming. He had legitimate concerns from the business community. The recommended action was to approve the ordinance on first reading. He asked if it was true. He stated the staff put it together and thought it would work, but there were some issues with it. He stated, "Any attempt to regulate parking under the opuses of safety should apply across the board regardless whether the property is engaged with short-term rentals." He pointed out Section 21-46, Items A, B, C, F, G, and H, did not exist in the current City ordinances, which by definition would only apply to short-term rentals. This indicated separate treatment. He requested to table the ordinance, in order to have a chance to review it. He saw the ordinance for the first time on Friday and he hated to bother several of the Council members over the weekend, but the process was flawed and that needed to be addressed. He stated there were some constitutional issues with it as well. Mayor Hatley stated an ordinance needed to be passed before the summer and the season started. The needs of the residents had to be addressed.

Edward Thomas, 1500 Hwy 17 South, North Myrtle Beach, inquired if the picture being shown on the screen was a rental home. Mayor Hatley stated she believed it was. He stated why wasn't the car that was in violation towed or ticketed. Manager Mahaney stated there were 36,000 calls into dispatch. It was a matter of what they could get to. Mayor Hatley stated it wasn't brought to the attention of Public Safety, but a resident made the City aware of it. Mr. Thomas asked if a police officer saw this, would it be ticketed. Mayor Hatley affirmed it would be. Mr. Thomas asked for Council to address the VRBO and the Airbnb. He would like to have the homeowner be responsible and have someone in town to take care of some of these issues within an hour or 45 minutes.

George Gregory, 3996 Golf Avenue, Little River, stated he was legal counsel for the Elliott related companies. He stated the fact that there was a discrepancy on what was being voted on and what was distributed to the public at-large was clearly a short-term rental ordinance. He stated he agreed with most of what the Council had said. The three issues of parking, noise, and trash apply to all residents in the entire city. Every house in the city had the right to be rented. He stated the way the ordinance was written, it was opened to a constitutional challenge. It was written under the guise of a public safety issue, but the same person parking next to a street in front of a residential home

created the same liability as someone parking in front of a rental property. It was a safety issue for all. The way the ordinance was drafted opened the door to a constitutional challenge, which could be drug out for years in the court system. He stated he wanted to help the Council and get an ordinance quickly. When it comes to a constitutional challenge, there was not a governmental immunity for the city. It must apply across the board to everyone. Mr. Noury stated there could be a constitutional challenge, most likely within the form of an equal protection claim. The court would not look at whether there was compelling governmental interest in this matter, but would look at what the Council was trying to do. With an ordinance like this, the court would look to see if there was a rational basis related to a legitimate governmental interest. In this case it would be preserving the peace and tranquility of the neighborhoods. Mr. Noury stated there was a legitimate governmental interest in regulating this activity. Mr. Gregory gave an example from the City of Austin that had a constitutional challenge to their ordinance. It was a due process issue, not an equal protection issue. He stated Mr. Dowling issued a statement in an article in the North Myrtle Beach Times earlier in the year. It stated City residents were afforded rights to certain privileges. One being a reasonable expectation for a peaceful quality of life. Any infringement the rental companies have on that quality of life needed to be remedy. Short-term rentals when not managed, especially in residential neighborhoods, do intrude on the quality of life all homeowners seek to enjoy. The court system in Austin disagreed. The Texas court noted the police were governmental powers may be exerted, but the privileges to rent could not be destroyed under the guidance of police control, which were guaranteed by the Bill of Rights. Mayor Hatley stated they were not trying to destroy a business. Mr. Gregory asked for this not to be about short-term rentals, but apply it to everyone. Mayor Hatley stated if a resident had a garden club at a house, the people do not stay or park there for a long period of time. Mr. Gregory asked if that was less of a threat than those parked at a rental. He stated he wanted to have a law, but it needed to be right. The worst thing to have happen would the ordinance be stuck in a constitutional challenge. He asked to have a workshop and get it right.

Councilman Thomas requested any business owner or resident submit suggestions to staff before the workshop on May 12, 2021. Mayor Hatley stated she agreed. Mr. Gregory stated the timing went both ways and he wanted to work with them.

Cary McLeod, 130 Edwards, Longs, reiterated to have a workshop to go through the ordinance line-by-line.

Mayor Hatley stated there was a motion on the table and asked if it wanted to be amended.

Paul Bedder, 2557 Pete Dye Drive, North Myrtle Beach, asked if it would be possible to have a public service announcement to residents that asks them to think about transient parking. If someone of authority calls on them, more people would think about it and it would lessen the problems. They would take ownership of the problem. Rental companies could have a video that renters would have to watch before renting.

Mayor Hatley stated they were not going to be the type of government to make a law that would put a burden on the citizens. Mayor Hatley stated she would have extra workshops or special called meetings in order to have the ordinance by the summer. The Council and staff discussed different dates for workshops and special called meetings.

Councilman White amended his motion to postpone the first reading until Friday, May 14, 2021 and was seconded by Councilman Baldwin. The motion to postpone passed 7-0. The workshop would be Wednesday, May 12, 2021, a special called meeting on Friday, May 14, 2021, and a proposed special called meeting on Friday, May 21, 2021, for the second reading. Mayor Hatley thanked the rental companies for their input.

- B. ORDINANCE/FIRST READING: An amendment to Section 21-40 (a) (1) – Annual parking fee exception. Mayor Hatley called for a motion. The motion to approve was made by Councilman Baldwin and seconded by Councilman White. Manager Mahaney read the ordinance by title.

Having no comment from the Council or public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

- C. ORDINANCE/FIRST READING: Petition for annexation and zoning designation for 10.0 acres on Water Tower Road. Mayor Hatley read the ordinance by title and called for a motion. The motion to approve was made by Councilman Coyne and seconded by Councilwoman Fontana.

Having no comment from the Council or public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

- D. ORDINANCE/FIRST READING: An amendment to the Barefoot Resort PDD and Barefoot Resort Villas Townhomes section of the Dye Estates. Mayor Hatley read the ordinance by title and called for a motion. The motion to approve was made by Councilman Thomas and seconded by Councilwoman Fontana.

Paul Bedder, 2557 Pete Dye Drive, North Myrtle Beach, stated he had met with Sean Hoelscher, Project Landscape Architect, for the development and had several concerns. The first was the minimal responsiveness of the HOA and there was never enough money to fix anything. His other concern was the cost and size of the new proposed units and how it would affect their units. The street signage was a problem, too.

Mayor Hatley stated she did not think the size of the unit could change in a PDD once it was approved. Mr. Noury stated that was correct unless there was a change to the site plan without Council voting on it. Director Wood stated the amendment was new elevation and the architectural standards would remain the same. Mr. Hoelscher addressed the Council representing both the original and current developer, Ryan Homes. He stated the price point had not been determined and was still establishing the elevations. The size was a floor shorter and would be cohesive with the rest of the neighborhood. He met with the neighbors and will be continuing to work through the HOA issues. He stated he would be working with Dawn Snider on the addressing issues. They would be doing a market study to determine the price point. Councilman Baldwin inquired about the size and asked if it was a major amendment. Mr. Hoelscher stated it was a major amendment with the revised elevations and was not aware of a minimum square footage requirement. The Council and Mr. Hoelscher continued to discuss the materials, sizes, and elevations. Mayor Hatley stated what she was provided was slack and wanted to have more information. She did not have a problem passing on first reading, but required more information at the next meeting.

Having no further comment from the Council or public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

- E. ORDINANCE/FIRST READING: Amendments to Chapter 23, Zoning, of the Code of Ordinances of North Myrtle Beach, South Carolina regarding small cell facilities. Mayor Hatley read the ordinance by title and called for a motion. The motion to approve was made by Councilman Thomas and seconded by Councilman Coyne.

Having no comment from the Council or public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

- F. ORDINANCE/FIRST READING: Amendments to Chapter 23, Zoning, of the Code of Ordinances of North Myrtle Beach, South Carolina regarding lot widths in R-1 and R-1A.

Mayor Hatley read the ordinance by title and called for a motion. The motion to approve was made by Councilwoman Fontana and seconded by Councilman Baldwin. Director Wood stated there had always been a lot width standard. However, four years ago an ordinance was drafted that inadvertently deleted this standard through a clerical error. This was cleaning up the ordinance to put the width standards back in the ordinance.

Having no comment from the Council or public, Mayor Hatley called for a vote. The motion to approve passed 7-0.

8. PUBLIC COMMENT:

9. ADJOURNMENT:

Mayor Hatley adjourned the meeting at 9:00 PM.

Respectfully submitted,

Allison K. Galbreath, Clerk to Council

MARILYN HATLEY, MAYOR

Minutes approved and adopted this 17th day of May 2021.