

**CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
SPECIAL CALLED CITY COUNCIL MEETING
Wednesday, June 29, 2022, 1:00 PM**

Minutes

1. ROLL CALL:

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

Marilyn Hatley
JO Baldwin
Bubba Collins
Fred Coyne
Nicole Fontana
Trey Skidmore
Hank Thomas

A quorum was established.

2. BUSINESS:

A. **ORDINANCE/SECOND READING:** Amendment to Chapter 5, Beaches and Waterways, of the Code of Ordinances of North Myrtle Beach, South Carolina revising Section 5-24, *Placing Obstructions on the Beach*. Mayor Hatley read the ordinance by title. Mayor Hatley stated she wanted to clarify a few things because a lot of misinformation had been circulated and what they were actually doing to change the ordinance. The beach ordinance had been on the books for years. It was to cover lifeguards. Years ago it was franchised out to one or two companies. They provided the lifeguards, chairs, and umbrellas. They paid a percentage to the city for doing the business. Under state law, Code Section 5-7-30, the city is allowed to grant franchises. Only the franchises were allowed to conduct business on the beach. The city eventually took over the franchises because they wanted higher quality, professional lifeguards. Mayor Hatley discussed the costs associated with the beach, not including the yearly costs. The yearly cost were approximately \$5 million dollars. The income from chairs and umbrellas were approximately \$3-3.1 million, which helped with the yearly costs. If the city did not rent them and take in those funds, the city would have to raise taxes to help pay for everything that was done for the beach. In 2007, the ordinance was changed to say beach wares could not be left on the beach. The reason for this change was because tents and sofas would be left out overnight making it very difficult to clean the beach. In addition, the turtles and other sea life were being affected. Mayor Hatley clarified anyone could take their chairs and enjoy the beach as long as they would like but must not leave their umbrellas and chairs on the beach overnight. No one was stopping anyone from using the beach but keep it clean and safe for everyone to enjoy.

Mayor Hatley called for a motion. The motion to approve was made by Councilwoman Fontana and seconded by Mayor Pro Tempore Baldwin. Chris Noury, City Attorney, stated the primary change was “regardless of the hours set forth herein and except for municipal beach service equipment or equipment authorized by franchise agreement, no person or company who for a fee or service as part of, or incidental to, its business operations for the sale, rental, use or delivery of Beach Wares shall deliver to, place upon, set upon, or leave upon the public beach any Beach Wares.” Mayor Hatley stated it was to clarify what the city had been doing for years. The beach had been under the jurisdiction of the city, which was the same as other major beach towns.

Mayor Hatley opened the floor for public comment.

Derek Calhoun, 1700 26th Avenue North, North Myrtle Beach, read his statement. Thomas Jefferson wrote, “The purpose of the government is to enable the people to live in safety and happiness. Government exists for the interest of the governed, not the governors.” I am an active-duty soldier in the US Army, serving as a military recruiter in this community and set to retire in the fall of this year. I’m a husband, a father to 4 children. I am the owner of Cherry Grove Beach gear established in 2020. I love this city and its people. I love the beach and my golf cart and an ideal means of transportation. As an entrepreneur, my wife and I saw the need for 3 things. First, a way for a visiting family with young children to truly enjoy their vacation. We filled that need by providing a hassle-free way to have all the beach necessities beyond chairs and umbrellas such as ice in a cooler, beach cup holders, boogie boards, beach toys and more. We saw a need for communication and exceptional customer service usually only reserved for people visiting exclusive resorts on high class beaches. Finally, we saw a need for a season pass option for our locals when the city decided to make such a drastic price increase. I have invested into this business and created it as my retirement plan. I wrote the business plan as part of my capstone for my MBA. I even consulted an attorney to ensure we have not violated current city ordinances. I created a plan to fill a need and have become successful. Now the city wants to take that away. As a business owner, the only logical conclusion I can come up with is you want my idea. Instead, support me and enjoy the tax revenues. It’s not a city’s job to generate income. It it’s not a city’s job to quell a small business through bullying, threats, and underhandness because they are seen as a threat to the cities a revenue base. It is your job to maintain the welfare of your citizens in that of public safety and encouraging economic growth. The purposed revision to the beach ordinance section 5-24 is in direct conflict with what your job is supposed to be. I have sought and have been refused a franchise agreement with the city. My equipment has been destroyed by the city employees. I have been harassed by city law enforcement under the direction of City Attorney. After 20 years of service to my community, I just want to continue living and serving by being a business owner in this community and creating and enjoyable experience for its visitors. Please vote to not approve this new language in the ordinance. Lift up and help a small business to thrive. Finally, encourage competition, as it will only make us better. Thank You.

Mayor Hatley stated the public could continue to rent umbrellas and chairs. Companies have been doing it for a long time and it wasn’t new. She stated Mr. Calhoun was welcome to rent umbrellas and chairs, take them to the beach, homes, and condos. He could meet them at a street end to give them their umbrellas and chairs. As far as a cooler with drinks, Mr. Calhoun was welcome to rent those. People have been selling and renting items for years. No one was keeping him from doing business. He could not go out and put them up on the beach. She asked how it would look if they opened up the beach and said anyone and everyone who wanted to do business could go out on the beach and do business. They had that one time, years ago, when timeshares came along. People would go up to those in a beach chair trying to sell them a timeshare. That could not be allowed. She assured Mr. Calhoun that the city did not take any of his ideas but had been doing this for many years. He was welcome to continue to do business. There was someone who put up, she didn’t know if it was him or not, but recently someone put up chairs and umbrellas before the beach sweepers could clean the beach. That section didn’t get clean. There had to be rules and regulations on a public beach.

Mr. Calhoun stated his employees were directed not to start after 8:00 AM. He stated bringing the things to the beach was the core of the business. What good was it to the family if they didn’t have the extra piece of someone else bringing the stuff to the beach. It created convenience for the family. It was what he was selling. They do not ever or have ever done same day rentals. If someone contacted them, they direct them to the city for same day rentals. He stated they do not approach anyone on the beach or solicit anyone. Everything was prearranged on the website or through the phone. They know exactly what they are getting into and when they are setting up and

picking up. They do not set up chairs on the beach to be rented. That was what the city did. They were catering to individual families.

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

- B. **ORDINANCE/FIRST READING:** Amendment to Chapter 12, Health and Sanitation, of the Code of Ordinances of North Myrtle Beach, South Carolina revising Article 8, Sale, Use or Distribution of Single-Use Carryout Plastic Bags by Retail Establishments within the City. 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 Thomas. Manager Mahaney explained the changes in the ordinance and some of the supply chain and cost prohibitive issues businesses were having with getting paper bags. Staff had conducted research and found that bags over 2.25 mils wildlife would not eat and didn't recognize it as food. Manager Mahaney displayed a sample bag from the Hilton Head Walmart, which was 2.25 mils, washable, and reusable up to 125 times. There was a 3 1/2 times more cost associated with these bags than the single-use bags. He met with the head of the Turtle Patrol to give her the research he had. He stated if it was good enough for Hilton Head, California, and other countries, he recommended to make the changes they had before them to allow film of 2.25 mil or 58 microns, which was over what a sea turtle would eat. Councilman Collins stated there was a lot of information and making a decision was pretty tough. Citizens could bring their own bags, which he would like for them to do. He was not comfortable with this. Manager Mahaney stated there were 20 million visitors to the Grand Strand. To get the word out to tourists would be very challenging. Mayor Hatley stated her concern with the single-use bag was the environment and wildlife. She also didn't want to put a huge burden on small businesses. Mayor Pro Tempore Baldwin stated they had been looking at this for 2 years and he understood the difficulties the supply chain issues were making for businesses. If the new bag helped with the sea life, he didn't have a problem with it, if it didn't, they would be back to ban it. Councilman Thomas asked the Council to consider having the 2.25 mil bags, but the ordinance was effective in a few days. He inquired if they would they consider putting the effective date off until January 1.

Frank Boulineau, 212 Sea Mountain Highway, North Myrtle Beach, stated as far as the supply chain went, he was unable to get paper bags. Four months ago, he ordered 1/2 million bags from three different suppliers and have not received them yet. This week, 2 of the suppliers informed him he would not get them because the bags were made from sugar cane and sugar cane was unavailable. He has three companies giving him a quote on the 2.25 mil bags. Some restaurants in town were calling him to buy bags from him. Smaller businesses were having bigger problems. The 2.25 mil Walmart bag was allowed in 3/4 of the cities in South Carolina that had bag ordinances. He stated a compromise would be to go to this type of bag. It would cost about \$250,000 to go to paper bags and \$100,000 to the other bag. Mr. Boulineau held up a cloth bag which they gave away over \$100,000 worth this year. He stated of those bags, less than 1% were brought back to the store. They had signs up and people did not bring them back. The problem was how to educate the tourist. He asked them to change the ordinance to the 2.25 mil bag and give them a few months to transition to them.

Cheryl Kilday, Destination North Myrtle Beach, stated they have been trying to buy 10,000 paper bags for several months, but kept getting stopped by \$8,000 shipping costs. Small businesses would see the same quantity issues. It was hard to find a vendor to do this. The committee they appointed were making the effort to educate for reusables, but it took time. The bag issue was not better, but worse. It was a real issue. They were trying to get a grocery type bag and were not able to get it. Mayor Hatley stated the city gave money to the Chamber to take the lead on it. Ms. Kilday stated they thought about having a keychain with a bag on it to promote reusables. She stated they

would continue the campaign to use reusables. Councilman Thomas stated he supported the change and wanted to consider a delay of implementation to October 1 or January 1.

Mayor Hatley opened the floor for public comment.

Scott Brisson, Walmart Store Manager, North Myrtle Beach, stated the thicker bag was new to him and was appreciative to Manager Mahaney for the research he had done. The store was 80% recyclability, which was good for their industry. The bag was made from recyclable plastics. It was a lot cheaper than paper bags and readily accessible. He placed an initial order, which was \$22,000 for the first round which was about 12 pallets. He wanted to do what was right for the environment and abide by the ordinance. They were prepared to move forward with the new bag and wanted to do what was good for the community.

Debby LaPierre, 1414 Hillside Drive, North Myrtle Beach, stated this bag may not be eaten by wildlife, but they needed to consider the entanglement of wildlife, birds, seals, dolphins, fish, etc. When they think about plastic, but they needed to think about the lives they lose from entanglement. She stated the cloth bag Mr. Boulineau had she had been using that type of bag for 6 years and she was going to get more than 125 uses out of it. If they went to a woven bag, they could promote North Myrtle Beach and the different businesses. Business owners could take what they would spend on a plastic bag and reduce the cost of the woven bag. She would gladly pay 79-99 cents for a bag she could use 500 times and machine wash.

John Griffiths, 612 20th Avenue North, North Myrtle Beach, asked if it was possible to accept a grocery store using plastic bags as opposed to going into a boutique, buying 2 things. Have those businesses use a tote bag or carry the items out by hand. Could some businesses be exempt rather than make it all encompassing. Mayor Hatley stated it would have to be researched by attorneys. She didn't believe a single business could be singled out. Mr. Noury stated he could look into it, but equal protection issues may apply in this situation.

Sandy Porter, 607 Rosemary Lane, North Myrtle Beach, stated she could say she knew some people that were active in this. The bags she held up were thick plastic ones that she stated she could buy tons from TJ Maxx or Tuesday Morning. They were pretty. They stayed in the car. When she forgot them in a store, she would walk 500 feet back to her car to get them. Her concern was they had done a pretty bad job in speaking to the local people. When she walked in the Walmart, she only would see one person with reusable bags. The reusable bags were nice and pretty. She expressed she was irritated. She didn't see any big sign saying, "Thank you for helping the environment. Bring your own bags." Mayor Hatley stated they have been advertising through the Chamber of Commerce and an appointed committee to advertise to bring reusables and let the public know. Ms. Porter stated she would volunteer to set up a table in front of Walmart or Kroger to begin educating people. She stated the slip that was in the water bill, she didn't see because her bills were paid online. She was trying to understand. When they say they advertise, from someone who was watching for it, the local people and tourists coming in, were not being told. Councilman Collins stated as locals, they needed to be leading by example. Councilwoman Fontana stated she had seen advertisements from outside of the city.

Barb MacKinnon, 323 59th Avenue North, North Myrtle Beach, read her statement. When I first saw this proposed change, I didn't know whether it was a good idea or not, so I reached out to a couple of my friends who have been looking at plastic for longer than I have and did a little research of my own, not a lot of time. Between their feedback and my research my conclusion is we're missing the point. I don't want to talk about the thickness of the bag, the size of the bag, the number of times it can be reused, the message on the bag about its reusability, or its washability. I want to go back to the Resolution City Council passed February 2019. Most of you were on Council then. The issue is biodegradability. What happens at the end of the life of the bag? The

resolution that was passed was to do away with non-biodegradable products. Using thicker bags exacerbate the problem. More plastic is used in the manufacture. More plastic takes longer to degrade. Degradation leaves even more toxic metals, such as lead and cadmium leaching into the soil and ground water. There is no guarantee these thicker bags will be used more times. They are likely to be discarded just as quickly as the thin-film bags. Even if they are used more times. The real question is the end of their life and the toxicity at the end of life. They break down into micro plastics, then nano plastics, and then plastic dust. The particles are in the air, in the soil, in our water and recently they have been discovered in human blood. The message should be 'Bring Your Own Bag'. For merchants who feel they have to provide bags, these bags should be biodegradable. There are plastic bags that meet ASTM standards to biodegrade in 202 days, not break down into smaller and smaller pieces over 30 years like the standard bags. To merchants concerned with the cost, I would say, roll the cost of the bag into the cost of your merchandise and offer a discount to those who bring their own bags. Incentivize the behavior we want. It will cost you less than you're currently spending on the thin film bags. One more thought, I, for one, am not looking for immediate enforcement. I understand the challenge of the upcoming week and tourist season generally. But I do not think we should take a step backward. We need to increase the education of both customers and merchants as we move towards 'Bring Your Own Bag' and move away from non-biodegradables.

Grant MacKinnon, 323 59th Avenue North, North Myrtle Beach, stated he doubted the research on the bags not being edible. Who tested the bags in the water with the animals? Who saw them reject eating them? That was what needed to be looked at with these bags.

Sherry Kelly, 708 Creekfront Road, North Myrtle Beach, stated this amendment deviated from the main goal of the ordinance to have people bring their own recycled bags back to the store. She puts hers in the car and has had them there for two years. It gives people self-responsibility and control, and the business saves money. It would take a strong campaign by the city to change the attitudes reversing to bring a reusable bag. It would be worth it to get the plastic bags out of the environment. That was the whole point. She hated to see us promoting one that looks just like the plastic bag we want to get rid of. She had been using them for two years since the ordinance started getting serious. If they present it right, local people will be willing to do it. She had confidence in the city to get the word out.

Rod Zamrik, 1435 Belvoir Court, North Myrtle Beach, stated he agreed with Councilman Thomas to have a delay. He had a restaurant in town. They have had distribution and supply chain problems the whole time. Even today, he couldn't get some food or paper products. Their costs were way high. They haven't increased prices. He and his wife didn't believe in jacking prices up anything beyond food costs. He talked to his supplier, and they couldn't find bags, paper or plastic, other than what they have. Guests were not forgiving. He asked for a delay until better supply chain. There needed to be a delay and more research and communication with all small businesses. It was tough for them to be consistent with a product.

Luke Sharp, Cherry Grove, stated there was a channel behind his house. About three times a week, he would get into the channel with his paddleboard and collect all the plastic bags. He would go for a bike ride and do the same. On average, he collected 10 bags a day. He kept a spreadsheet on where they came from. This was in Cherry Grove, so 40% of the bags came from Boulineau's, 29% from Walmart, and the rest from a collection of places. He was really proud of the Council when they passed the bag ban. They showed they cared about our oceans and the community. It's an inconvenience to change this, but it would make a huge impact to the community. Driving down Sea Mountain Highway, you can always see plastic bags in the marsh. He wanted them to consider not making exceptions and do something nice for our beaches and community. He could share his spreadsheet with them as well as pictures. These plastic bags were a nuisance to the ocean, beach, and marshes. That's what the tourists come to see.

Caleb Reed, 3306 Duffy Street, North Myrtle Beach, emailed his comment for the written record. I am beyond frustrated about the proposed changes to the city's plastic bag ban. The measure has been approved for 3 years, and businesses have had ample time to figure out how to deal with it. If they have not been able to prepare in this time, the penalty should be theirs. Waiting until the last minute to sneak through a change that completely takes the meaning of the original initiative is deceptive and unacceptable. It has been said that the proposed change (to allow plastic bags of a certain thickness) does not pose the same environmental threat because animals are less likely to identify them as food. Any thinking person can see that this misses the point. The problem is not only that some animals eat the bags, choke, and die. The problem is also that animals get caught in them; that bags get strewn across the beach, the ocean, the streets; that we continue to needlessly use a tool for which there are plenty of good other options. Please do not strip the original initiative of its meaning by approving this change. Vote no.

Councilman Coyne stated they were not in the most ideal situation. He wanted to propose making a change to the ordinance for the heavier bags for a time period of 12 or 24 months and enforce at the first of the year. This would give some transition time and phase out the heavier bags in 24 months. Mayor Pro Tempore Baldwin stated he was going to recommend postponing, because they cannot enforce somebody to get something they can't get. He inquired if the heavier bag would cause more problems in the landfill. Manager Mahaney stated it would take longer to deteriorate in the landfill. Mayor Pro Tempore Baldwin stated he liked the idea of the new bag but could see potential issues with it. He liked the idea of allowing an exception for a certain time or postpone until they could get the paper bags. Councilman Collins stated he didn't believe the delay was good and both bags were still plastic. Mayor Hatley stated they were trying to make a compromise. She suggested to make a motion to accept the heavier plastic bag for 24 months to evaluate the supply and reevaluate it then. They would continue to educate on using reusables.

Councilwoman Fontana stated she would hate for them to try to do this and in two days it didn't seem fair to have a law on the books that they couldn't enforce, but they could add the extra time. It was out of their control with the supply and demand, and they were trying to compromise. They were trying to help the environment, work with the businesses, and educate the public. They have been working on this for 5 years. This has not been an overnight decision and was a slow process. There had been research put into it. She stated they needed to compromise and pass the 2.25 mil bag, add the 24 months, and within 24 months revisit the process and the ordinance again. Then see where they would be with the supply and demand. They did not know what would happen within 24 months. Councilwoman Fontana amended the motion and seconded by Councilman Thomas. Mayor Hatley called for a vote. The motion passed 6-1, with Councilman Collins voting nay.

Mayor Hatley thanked everyone for coming to the meeting and their comments. She adjourned the meeting at 2:40 PM.

Respectfully submitted,

Allison K. Galbreath, City Clerk

MARILYN HATLEY, MAYOR

Minutes approved and adopted this 18th day of July 2022