



# TOWN COUNCIL MINUTES

**REGULAR MEETING**

**Monday, March 18, 2024 @ 6:00 p.m.**

The Kure Beach Town Council held its regular meeting on Monday, March 18, 2024 at 6:00 p.m. The Town Attorney was present and there was a quorum of Council members present.

**COUNCIL MEMBERS PRESENT**

Mayor Allen Oliver  
MPT David Heglar  
Commissioner John Ellen  
Commissioner Dennis Panicali  
Commissioner Connie Mearkle

**COUNCIL MEMBERS ABSENT**

**STAFF PRESENT**

Fire Chief – Ed Kennedy  
Director of Recreation & Events – Nikki Keely  
Director of Administration – Mandy Sanders  
Public Works Director – Jimmy Mesimer  
Finance Officer – Arlen Copenhaver

Mayor Oliver called the meeting to order at 6:00 p.m. and Commissioner Ellen gave the invocation and Pledge of Allegiance.

**APPROVAL OF CONSENT AGENDA ITEMS**

1. Approve NCBIWA Sponsorship in the amount of \$1,200 for Mayor Oliver, Commissioner Panicali and Commissioner Mearkle to attend the conference in Emerald Island
2. Waive Paid Parking Enforcement for the Cape Fear Disabled Sportsman's Fishing Tournament on Friday, May 10th between the hours of 7:00 AM and 2:00 PM
3. Approve the FY 2023-2024 Contract and Engagement Letter with the auditing firm of Bernard Robinson & Company, L.L.P. not to exceed the amount of \$29,000
4. Minutes:
  - February 19, 2024 Regular

**MOTION-** MPT Heglar made a motion to approve the consent agenda as presented

**SECOND-** Commissioner Ellen

**VOTE-** Unanimous



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ADOPTION OF THE AGENDA

MOTION- Commissioner Heglar made a motion to add to the agenda a presentation by the Chamber of Commerce

SECOND- Commissioner Ellen

VOTE- Unanimous

PUBLIC COMMENTS

None.

PRESENTATIONS

Pleasure Island Chamber of Commerce's Executive Director, Jim DeGilio, and Chair, LeeAnn Tluchowski gave a presentation hereby incorporated into the minutes.

PUBLIC HEARING

Mayor Oliver stated the purpose of this hearing is to receive comments on proposed text application for Sombra Properties, LLC (Aaron and Kelligh Orlando) at 125 South 3rd Avenue.

Notice of this hearing was posted on the Town Website on February 22, 2024 and published in the Newspaper on February 29, 2024 and March 7, 2024. The Sunshine list was notified on February 23, 2024.

Mayor Oliver opened the Hearing.

Public Comment Period. No comments were heard.

Mayor Oliver closed the Hearing.

Mayor Oliver stated the purpose of the hearing is to receive comments on the System Development Fees.

Notice of this hearing was posted on the Town Website on February 2, 2024 for Public Comment meeting the 45 day requirement and published in the Newspaper March 7, 2024. The Sunshine list was notified March 1, 2024.

Mayor Oliver opened the Hearing.



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Public Comment Period. No comments heard.

Mayor Oliver closed the Hearing.

## DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

### 1. Bike/Ped Committee

Bike/Ped Chairperson Linquist stated the Committee has been setting out goals for this year and the 3 focuses are education, communication, and infrastructure. Regarding education last year held a traffic garden that was awesome but did not feel like they got enough children. The Committee has spoken with Carolina Beach Elementary who recommended doing it during school hours for the PE class. The date has not yet been set but will have it by next month's meeting. Adults also need to be educated so the Committee has two focuses for this year. The first is "be seen" and "be safe" and the other focus is "heads up, phones down". As far as communication goes the Committee has page on the Town website that is updated every month. Another goal is infrastructure, and there will be a public input session this Wednesday for the Island Greenway Feasibility Study, also been working on crosswalks and bike racks throughout Town.

### 2. Marketing Committee

- Presentation from Chairman Dirks

Marketing Chairman Dirks gave an updated for the Committee that is hereby incorporated into the minutes.

### 3. Shoreline Access and Beach Protection

- Presentation from Chairman Jackson

SLABP Chairman Jackson gave a presentation on "Do not Feed the Birds" that is hereby incorporated into the minutes.

MPT Heglar asked Chair Jackson have you spoken with the Police Department regarding the issue?

Director of Administration commented she spoke with the Police Department, and they currently have no stand on the issue.

Attorney Eldridge stated the code has a public nuisance section that has various activities. It could be addressed if needed.



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Mayor Oliver commented need to look at other areas of the County to see what ordinances they have. He will do the research and speak with Lieutenant Bailey.

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Administration

- Discussion of Memorial Fish Plaques

Director of Administration Sanders stated the Town is getting close to the end of the fish plaques. The last few retirees when they retired from the Town would have received a fish. She is requesting to add fish for past retirees from the Town that have passed away or had retired with the Town.

Recreation Director Keely commented this will probably be only able to be completed for the next two years as the space is limited.

CONSENSUS- Town Council agreed for the Director of Administration to give fish plaques to retired employees who have passed or those who retire with the Town.

- Discussion of GPI Contract

Director of Administration Sanders stated she needs authority from Town Council to move forward to work on the GPI contract and legal documents, as the Towns rep Jonathan Hinkle has moved to another company. He is very familiar with the Town projects and stormwater studies. The Town Attorney will work on the legal documents.

Attorney Eldridge commented the Town needs to be cautious in the beginning but since there is no termination provision he does think the contract can be terminated.

Mayor Oliver stated it would be to the Towns best benefit to stay with Jonathan Hinkle so when the documents are complete bring it back to Town Council.

### 2. Finance Department

Finance Officer Copenhaver stated the Town has been awarded the CAMA grant for Beach Access #140 and the next step is to develop a capital project ordinance that includes the match of the grant in the amount of 25%. The two options are to use the beach protection fund or the general fund and he is recommending the beach protection fund. He is requesting Town Council consensus on this item.



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CONSENSUS- Town Council agreed to use the Beach Protection Fund to match the 25% for the CAMA grant for Beach Access #140

### 3. Public Works Department

Public Works Director Mesimer stated he is trying to complete stormwater maintenance on the Sandman Lot and he can't find any property markers on it so he is requesting approval to hire a surveyor to survey the property.

Attorney Eldridge stated surveyors are subject to the mini-brooks act so will need proposals to exempt them at the next month's meeting.

MPT Heglar commented he apologizes for not getting the proposal to the attorney before the meeting but the department already has the proposal. He is requesting Town Council's consensus to inform the local property owners that the Town will be having it surveyed.

MOTION- MPT Heglar made a motion to exempt the surveying of the Sandman Lots from the Mini Brooks Act for Stormwater Support issues for the Public Works Department in the amount of \$1,700

SECOND- Commissioner Panicali

VOTE- Unanimous

CONSENSUS- Town Council agreed for the Public Works Department to work with the Administration Department to inform property owners the Sandman Lot would be surveyed for stormwater maintenance

### 4. Recreation Department

Film Permit Application - Mervinator Production, INC

Recreation Director Keely stated tonight she is presenting a Film Permit for initial review with a memorandum included in the agenda packet. Since the request is still a month out the exact details of the request are not finalized as the technical team will be doing a technical scout the week of April 8<sup>th</sup> for the final review that she will send to Town Council. She has received communication from the downtown businesses with their concerns regarding their impacts and that should be taken into consideration as you review the request. Still receiving guidance from Department heads so tonight is not about approving the film permit application but providing guidance to the film production team. The ADA parking updates have been completed by the Public Works Department.

MPT Heglar stated it is important that every business impacted work out their concerns with the film production team as these businesses are important to the community. It is his understanding



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that the has film company has not reached agreement with the businesses yet but it needs to happen before final approval is received from Town Council.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Approve the System Development Fees

Finance Officer Copenhaver stated this was discussed at the Town Council retreat and was posted on the Town website for the 45-day comment period. He received two comments by residents on the first day that did not understand what the fees were. This is just a reevaluation of an existing fee that must be reevaluated every 5 years.

MOTION- MPT Heglar made a motion to approve the updated FY 23/24 Fee Schedule

SECOND- Commissioner Panicali

VOTE- Unanimous

### 2. Continued Discussion of Social Media Policy regarding Facebook Pages for Committees

Director of Administration Sanders stated the Town currently has a policy that if Staff has COVID it was paid time off not using sick time. Since then, the CDC has made changes, and COVID should be treated the same as the flu so thinks the Town needs to stop using paid time off and have staff using sick time.

CONSENSUS- Town Council agreed to revert back to the old Town policy regarding sick time and treat COVID as the same as the flu regarding sick time off

Director of Administration Sanders commented she did research on the social media policy for the Town. She would feel comfortable if the Town has a Facebook page and there was no commenting allowed. Lieutenant Bailey and herself did a training on social media and was informed that it was legal to turn off comments but it is strongly recommended against doing that as social media isn't meant to be one way. If Town Council wants to move forward with it, she strongly suggests not allowing public commenting but use it as an information highway.

Commissioner Panicali commented if Town Council wants to move in this direction need to have guidance on what is being posted.

MPT Heglar stated he hates Facebook and thinks it causes a lot of problems and is not appropriate for Kure Beach. The Town already provides information through the website. He has no interest in changing the current policy.





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Commissioner Ellen commented he thinks residents can join the Town website notifications as the information is already being shared. It is not hard to be engaged with Kure Beach Council or Committees.

Commissioner Mearkle stated she likes the idea but likes the idea of control. Any information used to educate the Community is a great thing. How do you control who posts?

Director of Administration Sanders stated she would be the administrator.

Bike/Ped Chair Linquist stated the Committee is just trying to find ways for education.

MPT Heglar stated the information could be posted on the Recreation Facebook page and then no polices would need to be changed. The Bike/Ped Committee should work with the Recreation Department.

Mayor Oliver stated he does not like the comments and nothing good comes from them. He just wants to find another way to communicate.

Recreation Director Keely commented the department does share some of their events now and will continue to do so. Also, could put out a newsletter from the Committee on the Town website for educational or upcoming events.

Mayor Oliver stated if the Bike/Ped Committee will work with the Recreation Department and work on creating a newsletter.

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Proposed Text Application for Sombra Properties, LLC (Aaron and Kelligh Orlando) at 125 South 3rd Avenue

Attorney Steve Coggins commented he is representing Sombra Properties, LLC. He purchased a property that he planned to renovate it and due to a combination of difficult circumstances he was unable to renovate it at that time and the one year permit expired. This amendment will allow them to build but they will have to go through the Historic Preservation Commission and meet the standards of the B1 District.

MOTION- MPT Heglar made a motion to approve the proposed text application for Sombra Properties, LLC (Aaron and Kelligh Orlando) at 125 South 3<sup>rd</sup> Avenue

SECOND- Commissioner Panicali

VOTE- Unanimous



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MOTION- MPT Heglar made a motion to approve the Consistency statement as presented  
SECOND- Commissioner Ellen  
VOTE- Unanimous

### 2. 812 Settlers - Request for Easement Encroachment

Property Owner Peter Safran commented he purchased the property two years ago and will be moving full time in the next few months. The house is currently under renovation and he is requesting to build a deck that can be moved if needed in the easement.

Code Enforcement Officer White commented Town Council has approved similar requests in the easement before.

MPT Heglar stated Public Works Director and himself have reviewed the easement request and there are no issues as it is a stormwater easement.

MOTION- MPT Heglar made a motion to approve 812 Settlers request for Easement Encroachment  
SECOND- Commissioner Panicali  
VOTE- Unanimous

### 3. Consideration of and Action on Proposed SW Pipe Rehabilitation Agreement with Civil Solutions

Attorney Eldridge stated the Town requested additional requirements to the agreement and Civil Solutions agreed so the Town is ready to approve this agreement.

MOTION- MPT Heglar made a motion to approve the Proposed SW Pipe Rehabilitation Agreement with Civil Solutions  
SECOND- Commissioner Panicali  
VOTE- Unanimous

### 1. Carolina Beach/Kure Beach Sewer Authority update and adoption of rates for fiscal year 2025 (Mayor Pro Tem Heglar)

MPT Heglar stated Commissioner Mearkle and himself attended the sewer Authority meeting that is held annually where you review the audit spending related to the sewer and adjust the rates. The Town owes Carolina Beach \$28,83626.





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MOTION- MPT Heglar made a motion to approve the Carolina Beach/Kure Beach Sewer Authority update and adoption of rates for fiscal year 2025

SECOND- Commissioner Panicali

VOTE- Unanimous

## 2. Donation to Seabreeze Celebration

Mayor Oliver commented he received this information from Carolina Beach and they're asking for a donation in the amount of \$500 to the Federal Point History Center.

MOTION- Commissioner Panicali made a motion to donate \$500 to the Seabreeze Celebration

SECOND- MPT Heglar

VOTE- Unanimous

## 3. Consideration and Action on a Proposed Agreement with Andrew Consulting Engineers, PC for Forensic Engineering Services and approval of Resolution R24-04 exempting an agreement with Andrew Consulting Engineers, PC from the mini-brooks act

Attorney Eldridge commented Town Council needs to approve the Resolution to exempt it from the Mini-brooks act.

MPT Heglar commented he would like permission from Town Council to work with Director of Administration Sanders to inform Atlantic Avenue residents of the work.

Mayor Oliver stated Director of Administration Sanders please work with the Director of Public Works Mesimer to get the message out to residents.

MOTION- MPT Heglar made a motion to approve Resolution R24-04 exempting an agreement with Andrew Consulting Engineers, PC from the mini-brooks act

SECOND- Commissioner Ellen

VOTE- Unanimous

**MAYOR UPDATES**

**COMMISSIONER ITEMS**

**CLOSED SESSION**



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ADJOURNMENT

MOTION- Commissioner Ellen made a motion to adjourn the meeting at 8:07 p.m.

SECOND- MPT Heglar

VOTE- Unanimous

Beth Chase

ATTEST: Beth Chase, Town Clerk

Allen Oliver

Allen Oliver, Mayor

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>agendas&minutes

## Notes for KB MAC Update at 18Mar2024 Town Council Meeting

- **Mar 26 (Next Week):** Status Meeting with the CVB/Agencies
  - Room Occupancy Tax Collection Update – Sneak Peak – running about 5% ahead of last year
  - Highlights for Jul-Dec 2023
  - Review Recommendations for FY24-25 Marketing (Paid Media, Social & PR)
- **Letter Requesting Review of Regulations – Surplus Funds**
  - Copy of the letter for you to review and provide next steps, if any.
- **Recap From CVB Presentation** we had recently
  - FY 24-25
    - Travel Trends
      - Travel & Tourism continues to be a priority despite rising costs
      - Road trips and day trips will be popular as gas prices are predicted to fall some in 2024
      - Travelers are embracing the benefits of being flexible with trip timing & destination
    - Continuing shift away from TV/print to digital.
    - 30% of travelers cited traveling to destinations that were movie/TV filming locations
    - Baby boomers (21% of population) are retiring and accelerating travel plans
    - Sustainability is growing in value when considering travel (environmental concerns, sustainability, responsible tourism).
  - Current Strategies (23-24)
    - Educate out-of-state Travelers (with Wilmington & Beaches area).
    - Extend Seasonality: A year-round marketing approach will take advantage of longer-lead trip planning, enable increased visibility through peak travel times and help overcome early June / late Aug school challenge.
    - Higher Income Targeting
    - In-State: Western Focus for longer stays. NC markets with potential for more overnight visits and longer stays.
    - Hybrid Plan (unified campaign vs dedicated beach plan) to highlight the differing personalities of each beach and unique attractions.
  - Research behind strategy: A variety of technologies are being used (Destination Brand Study, Arrivalist Data (travelers, stay length, origin, etc), Adara Data (spend \$), media metrics performance).
    - Takeaway #1: Lack of familiarity of our area. 61% via survey... don't know enough about area.
    - Takeaway #2: What comes to mind ("Wilmington and beaches") Beaches(20%), peacefulness (9%), battleship (5%)
    - Takeaway #3: Great chart of Importance vs Rating of various travel factors. Esp beach areas.
    - Takeaway #4: Those that are aware of our area identify way more strengths. So once we get visitors, they tend to return.
    - Takeaway #5: Increasing appeal of the area points to higher likelihood to visit in next 3 years.
    - Takeaway #7: 64.4% said that seeing the new ads make them more likely to visit.
    - Takeaway #9: We are honing in high-conversion markets (Triad, CLT, Roanoke, DC, ATL – last 2 lack familiarity with area). Identified markets to deprioritize (Cinn, Columbus, Cleveland). FY24-25 will address this and continue to refine.
- **What does all of this mean?**
  - As I've mentioned in previous presentations:
    - ROT collections have gone from 350K to close to 2.5M over the last 20 years.
    - Not only is full-time residency growing, but as you heard, "seasonality is being extended" – which will steadily bring more significant impact to the Town of KB and its residents – more traffic, more demand on town staff (police, fire dept, beaches, businesses, etc.).
    - KB can only affect "WHAT" we are marketing in terms of assets and products; the CVB, decides the "HOW", that is how the marketing budget is spent to drive tourism. Don't get me wrong, they listen to our input... but they have marketing monies to spend as dictated through legislation.
    - KB Tourism is a double-edged sword because our economy depends on it.
    - For the most part, residents want the same thing that tourists seek – a family-oriented, quiet, small town feel that is also uniquely and centrally located to many different things to do and see.

- What is the KB MAC doing and how can you help?
  - Last year, we were trying to do too much. So we decided to simplify things a little this year. Each member of our committee has a passion about a specific category of what we believe are marketing assets – History, Arts, Food/Lodging, Environment, Exercise/Outdoors, and Events. We agreed to identify a few things in each of these categories that we could improve, or create or drive. And each of us is overseeing their area. We call this our Objectives & Plan for 2024-25. We believe these areas contain the fabric of our brand, but we need concurrence and/or guidance.
  - However, we as the KB MAC can't make these decisions unilaterally. Now that the elections are over...
    - How can we get more direction/ guidance from the Town Council?
    - Ms Merkle has succeeded Mr Ellen as the KB MAC liaison, but I believe it would be good to engage more of the Town Council.
  - For Kure Beach, we believe it is incredibly important that we take a more direct approach to marketing going forward, and it boils down to 3 major things:
    - Actively Create & Protect the KB Brand via 3-5 Year Marketing Strategy. It's not all about growth. We need to do this before it's too far out of our control.
    - Manage growth by measuring progress against that 3-5 year marketing strategy.
    - Communicate and Adhere to a plan that governs marketing over the next 3-5.

TO: Allen Oliver, Mayor  
David Heglar, Mayor Pro Tem  
Connie Merkle, Commissioner  
Dennis Panicali, Commissioner  
John Ellen, Commissioner

From: Mark Dirks, Chair of Kure Beach Marketing Advisory Committee

RE: A review of regulations regarding funding

DATE: March 18, 2023

Dear Town Leaders,

On behalf of the Kure Beach Marketing Advisory Committee (KB MAC), I am writing to request a comprehensive review of the existing regulations governing the allocation and expenditure of surplus funds under the control of the New Hanover County Tourism Development Authority (Doing Business as Wilmington and Beaches Convention & Visitors Bureau, CVB).

As a vital component of our community's economic development and promotion efforts, the Convention and Visitors Bureau plays a pivotal role in attracting visitors, boosting local businesses, and enhancing the overall appeal of our town. The KB MAC has worked with the CVB and desires a clear understanding as to what extent the KB MAC can direct the portion of Room Occupancy Tax revenue dedicated to the CVB. Additionally, over the past year, we have become aware of a substantial surplus in funds managed by the CVB, over and above the approved budget.

There are specific rules and regulations that govern how those funds can be spent, and we recognize the importance of responsible financial stewardship. However, the KB MAC believes that thoroughly examining the current regulations governing surplus funds is essential. These funds are collected from local businesses, and we believe that with proper consideration, they could be used to have a significant impact on the future of the town.

We propose this review with the following objectives in mind:

1. **Optimized Utilization**: Assess the existing guidelines to ensure that surplus funds are allocated to maximize their impact on promoting tourism and fostering economic growth within the town.
2. **Community Engagement**: Evaluate how the current regulations facilitate community involvement and collaboration in decision-making processes regarding surplus fund utilization.
3. **Strategic Planning**: Explore opportunities for aligning surplus fund expenditures with the town's long-term tourism and economic development goals, ensuring a strategic and sustainable approach.
4. **Transparency and Accountability**: Review and enhance mechanisms for transparency and accountability in the allocation and expenditure of surplus funds, reinforcing public trust in the Convention and Tourism Bureau's activities.

To facilitate this review, we propose that the Town of Kure Beach direct its legal advisor to research and report to the Town Council accordingly. We are confident that a thorough review of the regulations will not only enhance the efficiency of surplus fund utilization but also contribute to the overall prosperity of our town. Your support in this matter is crucial, and we look forward to the possibility of working together to strengthen our community's economic vitality.

Mark Dirks  
Chair, Kure Beach Marketing Advisory Committee (KB MAC)

# Is it time for an ordinance?

The Shoreline Access and Beach Protection Committee is recommending to the Town of Kure Beach Council that they consider making the feeding of birds on our beach illegal and subject to civil fines.

# Feeding Birds on the beach

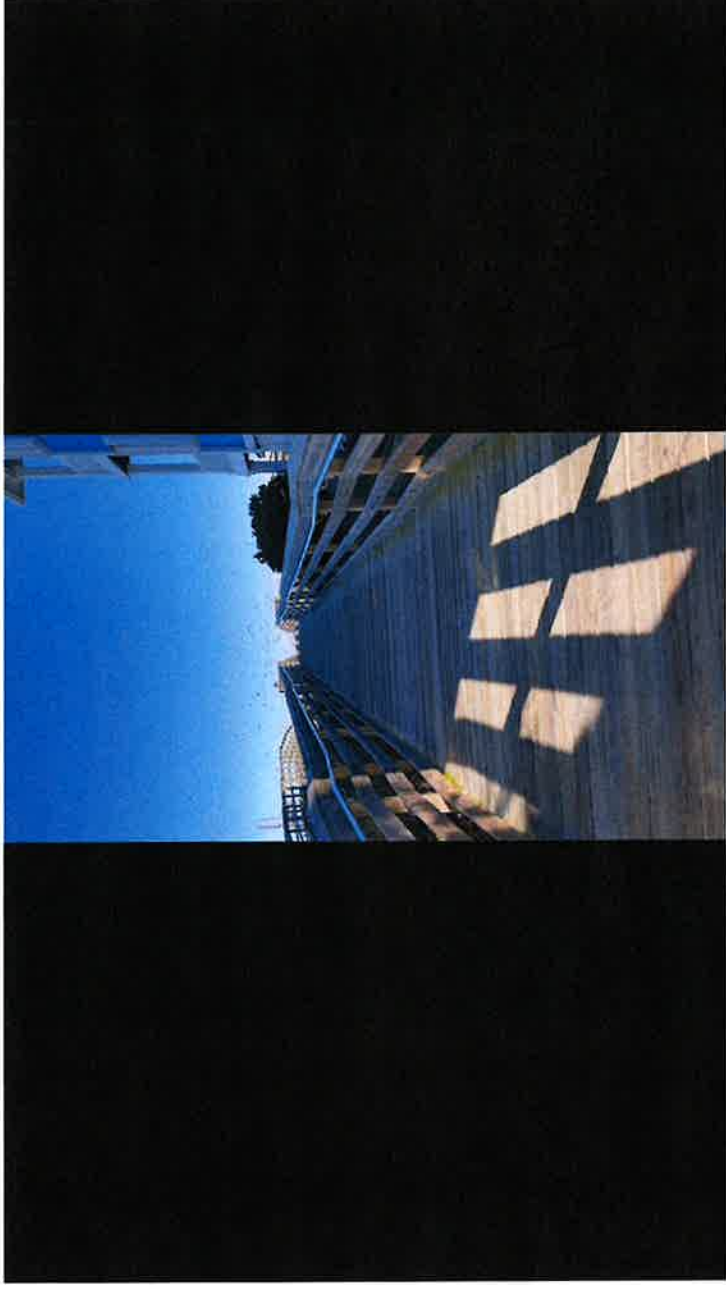
Is it time for an ordinance?



At our beach, most days, 1004.5 Fort Fisher



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# Why

- “it’s not good for the birds or the humans.” Dare County
- “The birds may enjoy the little pieces of bread or chips feeling full, but as a result, the birds may skip foraging for their natural foods. Also, by feeding the birds on the beach, humans are actually teaching them to associate food with humans.” Coastal Breeze News
- “a diet of fries and chips isn’t so healthy for the gulls, which subsist on fish and insects” Port City Daily

## Why?

- “In reality, feeding birds on the beach is doing them more harm than good. The bread products we are feeding them are low in protein and other essential nutrients and minerals—such as calcium and phosphorous” Coastal Breeze News
- “Feeding birds can lead to an unnaturally higher number of gulls or crows, which are species that prey on other birds’ young and eggs, including Piping Plovers, Black Skimmers, and terns.” National Audubon Society

# Precedents

- Many counties and at least one state have ordinances prohibiting feeding birds on the beach
  - No, it is illegal to feed wildlife, including gulls, on the beaches in the Outer Banks, including Kill Devil Hills. Feeding gulls can attract them to nesting areas, where they prey on the eggs and chicks of beach-nesting birds. Google AI
- 4VAC15-40-286. Unauthorized feeding of wildlife. Virginia
  - It shall be unlawful for any person as defined in § [1-230](#) of the Code of Virginia to place, distribute, or allow the placement of food, minerals, carrion, trash, or similar substances when it attracts any species of wildlife in such numbers or circumstances to cause property damage, endanger any person or wildlife, or create a public health concern.

# Precedents

- Yes, it is illegal to feed wildlife in Myrtle Beach, South Carolina, including birds. In 2011, the Myrtle Beach City Council approved a first reading that outlawed feeding animals, including birds. The South Carolina Department of Natural Resources also prohibits public feeding of geese. Google AI

## Penalties

- **§ 90.99 PENALTY. (Pompano, FL)**

- (A) Any person cited for an infraction under this chapter shall pay a civil penalty in the amount as follows unless the penalty is specified as otherwise in the applicable section.
  - (1) \$50.00 first offense.
  - (2) \$100.00 second offense.
  - (3) \$250.00 third offense.
  - (4) \$500.00 fourth offense and any other additional offenses.



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