



# CAROLINA BEACH

## TOWN COUNCIL MEETING

MINUTES • APRIL 11, 2017

Council Chambers

Regular Meeting

6:30 PM

1121 N. LAKE PARK BLVD.  
CAROLINA BEACH, NC 28428

### 1. CALL MEETING TO ORDER WITH INVOCATION AND PLEDGE OF ALLEGIANCE

| Attendee Name      | Title                  | Status  | Arrived |
|--------------------|------------------------|---------|---------|
| Dan Wilcox         | Mayor                  | Present |         |
| LeAnn Pierce       | Mayor Pro Tem          | Present |         |
| Steve Shuttleworth | Council Member         | Present |         |
| Tom Bridges        | Council Member         | Present |         |
| Gary Doetsch       | Council Member         | Present |         |
| Michael Cramer     | Town Manager           | Present |         |
| Ed Parvin          | Assistant Town Manager | Present |         |
| Debbie Hall        | Finance Director       | Present |         |
| Kim Ward           | Town Clerk             | Present |         |
| Noel Fox           | Attorney               | Present |         |

### 2. ADOPT THE AGENDA

**Mayor Wilcox made a motion to adopt the agenda. Motion carried unanimously.**

### 3. SPECIAL PRESENTATIONS

- a. Discussion of H.B. 271 by Ethan Crouch -

*(Requested by Tom Bridges, Town Council)*

Ethan Crouch with Surfriders Foundation presented their opposition of H.B. 271 - An Act to Repeal the Ban on Plastic Bags in Certain Coastal Areas. He asked that the Carolina Beach Town Council join their neighbors in passing a resolution in opposition of House Bill 271 and Senate Bill 539.

Mayor Wilcox said that he typically does not like to pass resolutions that affect other jurisdictions but he feels that each municipality should have the ability to do these things within their power. His first inclination would be to pass a resolution to support their ability to have that legislation.

MPT Pierce said she agreed with the Mayor.

Council Member Shuttleworth felt it should be a local municipal decision and that is the message we would like to send to Raleigh.

Attorney Fox clarified that the General Assembly adopted special legislation that gave the Outer Banks the right to ban plastic bags and they are now proposing to take it away.

Council Member Doetsch asked if this gets repealed, what are the chances of any other legislation like that enacted from other municipalities.

Ms. Fox said that would be special legislation and that she could not speak for the General Assembly.

Council Member Doetsch recommended that council send a resolution of support for the Outer Banks that are trying to keep this in place.

Council Member Bridges agreed with that request.

Mr. Crouch said that the environmental committee is meeting on the 20th of April for their first vote. One other thing to consider is that there is a Senate Bill that has also added an amendment to appeal this as well. Dare County has a resolution that includes SB 539.

**Council Member Shuttleworth made a motion to ask the Manager to come up with a resolution stating that Carolina Beach does not support HB 271 and Senate Bill 539. Motion carried unanimously.**

b. Freeman Park Committee Presentation by Steve Casey -

*(Requested by Michael Cramer, Town Manager's Office)*

Steve Casey, Chairman of the Freeman Park Committee presented some recommendations to council.

Items they are requesting include:

- Installing a park attendant booth at the entrance to Freeman Park. Council asked the committee to get more details and bring this back to them.
- Modifying the signage at the entrance. There are redundant signs and some signs are too small to read.
- Restricting All Wheel Drive vehicles from Freeman Park. The majority of vehicles getting stuck are AWD.

Mayor Wilcox suggested not using an aluminum attendant booth. It would not last long in the salt environment.

Mr. Casey mentioned that the committee wanted to present the ideas to Council and Council could charge the committee with doing more research.

MPT Pierce expressed concerns about the wind rating of the booth.

Mr. Cramer said this style booth could be removed.

Council Member Shuttleworth said he likes the idea of having a booth at the entrance of Freeman Park. He would like for staff or the committee to bring back some proposals.

c. Brief Special Events April & May -

*(Requested by Brenda Butler, Planning & Development)*

Brenda Butler presented the events scheduled for April and May.

d. 2017-2022 Parks, Recreation and Open Space Master Plan -

*(Requested by Eric Jelinski, Parks & Recreation)*

Dr. Herstine, UNCW Professor and Contractor, presented an overview of the 2017-2022 Parks, Recreation and Open Space Master Plan. Adoption of the plan is only for future guidance and no funds are being requested. The adoption of the plan will help with scoring of future grant applications.

Mayor Wilcox said that he has not had time to read the 250 page document. He asked if there was an executive summary.

Dr. Herstine said that there is an executive summary in the first chapter.

Mr. Cramer reminded Council that they are being asked to vote on adopting the plan. This is just a planning document that reports what the community has asked for. Council is not voting on particular items that are listed in the plan, it is a plan for moving forward and how we need to implement it.

MPT Pierce said that she did not realize that Council was voting on it because she has not seen the plan.

Mr. Cramer said the plan is on the website and it is not necessary to vote on it tonight.

e. Town Manager Update -

*(Requested by Michael Cramer, Town Manager's Office)*

Michael Cramer gave the following updates:

**Dogs on the beach** - The police have been out enforcing dogs on the beach. At least four citations were issued over the weekend. Several have been appealed to the Police Chief. The signs have been replaced from Sail Fish Lane south. The rest should be up by tomorrow.

**Marina**- We ran into quite a few challenges with the soils. This area was a bog type marsh at one point and it had fill covering it. We have stopped excavation and secured everything so we don't have any problems with the soil running off into the marina. We found water lines running through the marina that no one knew about. We also found concrete walls that were from previous buildings that were left there. We hope to have cost estimates soon. There is a potential to recoup some of the cost from FEMA because of Hurricane Matthew. The projected completion date is 45 to 60 days.

**Public Resource Ranger**- We had 25 applications and hope to have a candidate picked by the first part of next week. There is an item on the consent agenda to fund \$30,000 for the beach ranger position and a part time (20 hours) ranger for the remainder of this budget year. Chief Spivey has developed a field training manual that will cover the areas they will enforce.

Mayor Wilcox asked to have a copy of the field training manual.

**Phase B**- We were slightly behind about 4 or 5 days in getting the east side of Lake Park Boulevard paved. It is completed now. They have moved most of their crews to the west side of Lake Park Boulevard. They should have the first section covered with asphalt in 30 to 45 days. The streets will be clear for Easter weekend.

**Lake Dredge**- We did soil samples and found a lot of organic materials in the mat before you get down to the good sand. That is making us rethink how we are going to get the barge into the water and whether or not we need to excavate some things first or use another containment system to dry out the silt. They started moving dirt today and doing some test digs on the west side. We are approximately 30 days behind.

#### 4. OLD BUSINESS

No old business was presented.

## 5. PUBLIC DISCUSSION

Patrick Boykin, 712 Glenn Avenue mentioned that the Solid Waste Center was not put on the March 28th workshop agenda as Mayor Wilcox asked. He discussed the negative results the Solid Waste Center has had on his property value.

Mr. Cramer advised we would put this on the April 25th workshop.

Rick Both, 206 Peninsula Drive thanked council for not voting on the Parks Master Plan without reviewing it. He is concerned that the Ryder Lewis Park is not included.

Mr. Cramer responded that the Ryder Lewis Park will be discussed at the April workshop.

Elaine Terrell, 502 Fern Creek Lane thanked council for having the public restrooms open all year. Also, the new signs for the dogs are small. There were 15 dogs on the beach today between Hamlet and the North Pier.

## 6. PUBLIC HEARINGS

- a. Conditional Use Permit Modification: Harris Teeter Grocery Shopping Center/Big Box Store that will be located at 1000 & 1010 N Lake Park Blvd. Applicant: BBM Associates Inc. – Alan Maness -

*(Requested by Jeremy Hardison, Planning and Zoning)*

The following persons were sworn in by the Town Clerk to speak or give testimony:

Ed Parvin

Jeremy Hardison

John Lennon

Michael Lee

Jonathan Guy

Steve Coggins

Alan Maness

Jeremy Hardison presented the plans for the Harris Teeter Project at 1010 North Lake Park Boulevard.

The stoplight will remain in its current location at the Federal Point Shopping Center. It will be a right in/right out entrance/exit. The entrance and the fuel pumps have swapped so the fuel pumps are closer to the Wings store. As a result, there is a landscaping buffer yard reduction of the required 10 feet. There is now a four foot stretch of grass until you get to the edge of the pavement. We are also providing a northbound deceleration right turning lane to enter the site and re-establishing the five foot sidewalks and landscape buffer on the street yard. They will be moving the entrance 100' to the south. DOT recognizes there will be increases in delay for the stoplight. Their analysis called for a southbound turn lane into the site but they realize this is the third time Harris Teeter has been before you and the difficulty they have had trying to acquire right of way in that area. There is a resolution that would allow the project to move forward without the DOT recommended turn lane into the Federal Point Shopping Center. DOT would issue the permit for the development site if Council approves the resolution.

There are seven specific standards and general conditions.

The condition of approval includes: Provide drainage easement in order to accommodate an underground stormwater best management practice.

Planning and Zoning approved the plan 7-0.

Mayor Wilcox opened the public hearing.

Attorney Michael Lee with Lee Law Firm representing the applicant spoke on the four general conditions that include:

It will not materially endanger the public health or safety.

It was determined at initial approval to not materially endanger public health/safety.

Meets all required conditions and specifications.

As evidenced in the original staff report, current staff report and TRC review, the project meets the various requirements of the code with a landscaping variance noted.

It will not substantially injure value of adjoining or abutting property.

The property is vacant with one structure. The development of the proposed project will improve the current location and the value of surrounding properties.

The location and character of use are in harmony with the area.

CAMA Land Use Plan/Commercial 1 and the current zoning is HB. CU continues commercial nature of site and transportation improvements resulting from the project will enhance the character and use of area

Jonathan Guy, traffic engineer stated that the Harris Teeter will generate fewer trips than it did in the past when the Federal Point Shopping Center was active.

Attorney Steve Coggins representing Wings said that Wings regrets not being in better communication and participation for the past two years. They are supportive of the project and look forward to working closely with Harris Teeter. They also do not see a need for the vegetative buffer that is between the south side of the Wings store and the proposed development. It would enhance the interconnectivity between the two parking lots.

Mayor Wilcox said the timing is unfortunate. It sounds like Wings wants to integrate now and take advantage of some of the traffic. We were disappointed that they were unwilling to have discussions and cooperate to help us get the best project for the community.

Mayor Wilcox asked about the vegetative buffer.

Mr. Lee responded that if Council does not want to require the vegetative buffer, the applicant would not object to that. Whether there is interconnectivity or not, the parties will have to discuss after tonight.

Mayor Wilcox closed the public hearing.

**Council Member Doetsch made a motion to approve the conditional use permit 7 specific conditions and four general conditions, landscaping per the site plan and the property owner to work with our town engineer to expand the existing drainage easement to accommodate the Best Management Plan in accordance to the grant rule.**

Attorney Fox asked Council if they wanted to exclude the buffer that Mr. Coggins

spoke about as a condition.

Mayor Wilcox said that he thinks they could give them the option and then it is up to them whether they want to exclude it or not.

Council Member Shuttleworth said that he supports the motion and wants to leave it up to the applicant on how they want to handle the buffer. The Federal Point Shopping Center has mentioned that they are planning to redevelop that space. We are going to drastically impact traffic not only on North Lake Park Boulevard but St. Joseph Street as well. We are going to have to come back and look at the triangle at the end of St. Joseph.

Mayor Wilcox stated that he has to go with what the traffic engineer has come up with for a conditional use permit but he understands.

MPT Pierce agreed with Council Member Shuttleworth saying we are going to have traffic issues.

Council Member Bridges is concerned because DOT has required the town to sign a resolution stating that we are aware of the traffic hazards and we are ok with moving forward. This island is not the same as it was in 1984 when Federal Point Shopping Center was constructed. We have a lot more traffic.

**Motion carried unanimously.**

- b. Text Amendment to Chapter 28 Sec 28-62 beach services to amend the maximum of number of non-motorized permits from two to three on the municipal beach strand. Applicant: Tony Silvagni -

*(Requested by Jeremy Hardison, Planning and Zoning)*

Jeremy Hardison presented the request to add a third beach services permit.

Mayor Wilcox opened the public hearing.

Nan Toppin, 104 South 6th Street quoted Sean Cook regarding the gentleman's agreement between Duke Hagestrom and himself. She has educated herself on the Sherman Anti-trust Act and this is in violation of this Act. This gentleman's agreement does not benefit the Town or the citizens.

Wes Bell, 405 Greenville Avenue asked council to level the playing field.

Missed his name - business is increasing on the island. He would rather have a professional putting out the umbrellas so no one gets hurt. Give competition a chance.

Melanie Boswell, 107 Island Palms Drive is in favor of the town issuing three permits. Issue a lottery for the permits if you are going to only allow two.

Duke Hagestrom, 920 Riptide Lane spoke in favor of allowing storage beginning April 1 and three storage locations. He spoke against allowing three beach services permits. He is concerned with market saturation.

Suzzana Cromby, 407 Hamlett Avenue feels that there is enough business for a third permit holder. She has witnessed umbrellas flying through the air and hitting people. It is important to have experienced employees installing these

Applicant, Tony Silvagni, 101G Cape Fear Boulevard says there is enough demand for three beach service permits. He has been working with Jeremy Hardison to come up with pros and cons. He is suggesting that he could limit the hours that the Gator is on the beach. He is asking to be treated fairly with a level playing field.

Susan Hill from The Cape is an attorney by trade and feels the demand is there. Carolina Beach is growing. It is not Council's job to get involved in the personal relationships of businesses of the beach. Instead of limiting the permits, limit the amount of equipment that is on the beach.

Doug Rutlinger, 225 Colquitt Drive feels that Tony has met and exceeded everything that has been asked of him and would be an asset to the growth of Carolina Beach.

Jason Stanley, 506 Surf Drive in Kure Beach feels that if the Town issued Tony a permit it would even the playing field.

Anthony Niveleo feels it is time to bring a third party into the mix based on the increased population.

Hearing no further discussion, Mayor Wilcox closed the public hearing.

Mayor Wilcox asked Attorney Fox if we are in violation of the law.

Ms. Fox responded that this has nothing to do with the Sherman law.

MPT Pierce reminded everyone that it wouldn't necessarily be Tony's permit as everyone is speaking of. It would be a third permit whoever gets it.

MPT Pierce is concerned on how much equipment is being stored on beach.

Council Member Bridges asked if the permit could be revoked if the holder violates the rules.

Mr. Cramer said yes.

Mayor Wilcox reminded everyone that this is not personal. He likes all three parties involved. He feels that customers are not going without service and feels that two beach services is servicing the needs. Tony is currently renting chairs and umbrellas as an itinerant merchant.

Council Member Doetsch feels that limiting the ATV's might not be a bad idea. He supports the third vendor and competition is good for everybody.

Council Member Bridges is concerned about the storage of the chairs. The storage of chairs could interfere with turtle nesting.

MPT Pierce said she is not much of a fence sitter but she is sitting on the fence.

Council Member Shuttleworth is not opposed to getting rid of the ATV's all together. MPT Pierce agreed.

**Council Member Shuttleworth made a motion to approve Ordinance 17-1051.**

Mayor Wilcox said if you approve it and you come back in a year after someone makes a major investment, that's not good.

Council Member Bridges said that you can always revisit the ordinance.

**Motion carried unanimously.**

- c. Consider amending Chapter 40 Sec. 40-72. to allow for Animal Care Facilities In the Highway Business (HB) zoning district by Conditional Use Permit. Applicant: Susan Bondy -

*(Requested by Jeremy Hardison, Planning and Zoning)*

Jeremy Hardison presented the request for an allowance for an Animal Care Facility with an outdoor area in the Highway Business Zoning District.

Staff is requesting that it be a Conditional Use Permit if it has an outdoor area or run in the HB Zoning District.

Animal Care Facilities with outdoor areas shall meet the following standards:

- Shall maintain compliance with all federal, state, and local regulations.
- Must be located 200 feet from a residential use in a residential district.
- Shall not be located in the front yard and must meet a minimum setback of 5' from the side and rear property lines.
- Shall provide a minimum 6' barrier that 80 percent opacity. Barriers higher than 6' in height may be approved as a condition of the CUP.

Planning & Zoning recommends approval for the allowance in HB with animal care facilities with outdoor areas. This use is not directly addressed in the 2007 CAMA Land Use Plan. The proposed amendment is generally consistent with the 2007 CAMA Land Use Plan with policies encouraging and promoting local businesses geared toward providing services to the community.

Mayor Wilcox opened the public hearing.

George Pace from Wilmington spoke in favor of the animal care facility.

Paul Leitzke, 440 Hidden Valley Road spoke in favor of the animal care facility.

Elizabeth Leitzke, 440 Hidden Valley Road said that Sue is the only boarder that will take animals that have not been neutered.

Mayor Wilcox closed the public hearing.

**Mayor Wilcox made a motion to approve 17-1044. Motion carried unanimously.**

- d. Conditional Use Permit: For an animal care facility with outdoor area located 1140 N. Lake Park Blvd unit C, D and E. Applicant: Susan Bondy -

*(Requested by Jeremy Hardison, Planning and Zoning)*

The following were sworn in by the Town Clerk:

Sue Bondy, Applicant  
Jeremy Hardison, Senior Town Planner  
Ed Parvin, Assistant Town Manager



Jeremy Hardison presented the request for the condition use permit for the proposed animal care facility.

The following are the seven specific standards that the applicant must make provisions for:

**Ingress and egress to property (automotive and pedestrian)**

No proposed additional driveway cuts  
Traffic pattern will remain the same  
Proposing to close the drive thru

**Parking**

Will remain the same within the shopping center - 77 spaces

**Refuse**

Roll outs will continue to service the properties.

**Utilities, with reference to locations, availability, and compatibility;**

No upgrades are planned to the Water and Sewer services. No impervious areas will be added. Existing Fire in front of the property

**Screening and buffering with reference to type, dimensions, and character;**

Providing 5 ft.' buffer around the outside area

**Signs**

A signage plan will be approved by staff that meets the sign regulations.

**Required yards and other open space**

No structures are proposed

Each dog shall be provided a minimum square footage of floor space equal to the mathematical square of the sum of the length of the dog in inches, as measured from the tip of its nose to the base of its tail, plus six inches, then divide the product by 144. The calculation is: (length of dog in inches + 6) x (length of dog in inches + 6) = required floor space in square inches. Required floor space in square inches ÷ 144 = required floor space in square feet.

Planning and Zoning recommended approval 7-0

Mayor Wilcox opened the public hearing.

MPT Pierce said that she was concerned about this being so close to the day care.

The applicant, Susan Bondy said that there is a demand in Carolina Beach. She will be laying artificial turf over concrete slab so the dogs cannot dig out of the fence.

Mayor Wilcox closed the public hearing.

**Mayor Wilcox made a motion to approve the Conditional Use Permit to Susan Bondy for the animal care facility. She meets the seven specific standards, four general condition, and four additional conditions. Motion carried unanimously.**

**7. CONSENT AGENDA**

**Mayor Wilcox made a motion to approve the consent agenda. Motion carried**

**unanimously.**

The following items were approved under the consent agenda:

Set public hearing for May 9, 2017 to consider amending Chapter 28 Sec. 28-60 to allow surfers within 500' of the Town's fishing pier during special events.

Resolution 17-2156 supporting dedicated state revenue source for beach nourishment.

Resolution 17-2157 supporting a permit for the Harris Teeter development without a southbound left turn lane.

Budget amendments and transfers as presented by the finance director.

Minutes from March 14, 2017

Minutes from March 28, 2017

**8. NEW BUSINESS**

- a. Consider Adoption of a Resolution 17-2155 in Support of a Grant Application to the NC Division of Water Infrastructure for a Drinking Water Project -

*(Requested by Jerry Haire, Grant Administration)*

Jerry Haire presented Resolution 17-2155 in support of applying for a grant from the NC Division of Water Infrastructure - State Reserve Project Program - Drinking Water System.

The proposed drinking water project is part of the scheduled Phase C Infrastructure Project for replacement of approximately 5,220 linear feet of water lines and associated infrastructure along Harper, Wilson, Lumberton, and Florence Avenues from Lake Park Boulevard to 4<sup>th</sup> Street, and 3rd Street from Harper Avenue to Goldsboro Avenue.

The Town was approved in February for a low interest loan through this program for \$1,273,216 with an interest rate not to exceed 1.53%. The proposed project budget would utilize the remaining allowable balance of the \$3 million maximum.

The water system serving the project area is approximately 50 years old and has degraded over time due to material deterioration as well as localized or point damage from activities such as construction, installation of underground utilities, and storm damage. Tuberculation, corrosion, and buildup of water impurities have created water quality issues and contribute to water pressure and flow issues that exist within the system.

The total engineer's cost estimate and proposed grant request is \$1,726,000. Any approved funding would offset the need to utilize recently approved municipal bond monies for the project. The submittal deadline is April 28, 2017.

**Council Member Bridges made a motion to approve Resolution 17-2155. Motion carried unanimously.**

- b. Consider Adoption of Resolution 17-2154 in Support of a Grant Application to the NC Division of Water Infrastructure for a Wastewater Project -

*(Requested by Jerry Haire, Grant Administration)*

Jerry Haire presented Resolution 17-2154 in support of applying for a grant from the NC Division of Water Infrastructure - State Reserve Project Program - Wastewater System.

The proposed wastewater system project is for part of the scheduled Phase C Infrastructure Project for replacement of approximately 2,278 linear feet of gravity sanitary sewer and associated infrastructure along Goldsboro, Wilson, Lumberton,

and Florence Avenues from Lake Park Boulevard to 3<sup>rd</sup> Street and 3<sup>rd</sup> Street from Harper Avenue to Goldsboro Avenue.

The system is approximately 50 years old and in a state of deterioration and failure due to component degradation from age and damage occurring as a result of use in a coastal environment.

The condition has created significant I&I issues leading to sink holes exposing gravity sewer lines, undermining roadway surfaces and creating conditions where sanitary sewer spills or sanitary sewer overflow can occur.

The total engineer's cost estimate and proposed grant request is \$1,342,000. Any approved funding would offset the need to utilize recently approved municipal bond monies for the project. The submittal deadline is April 28, 2017.

**MPT Pierce made a motion to approve Resolution 17-2154 in support of applying for the grant. Motion carried unanimously.**

- c. Clarify when noise violations exist and processes for enforcement -

*(Requested by Ed Parvin, Planning & Development)*

Ed Parvin reviewed the recommended changes to the noise ordinance.

The following updates were made to the noise ordinance:

- Describes excessive noise
- Added definition of noise disturbance
- Clarifies that 75 decibels applies to all commercial areas.
- Describes method for determining unreasonable noise without decibels.
- Struck redundant sections.
- Explains when an absentee owner is responsible for a violation.
- Added the appeals process which gives 14 days for an appeal. The appeal will go to the chief of police.
- Updated the rates and fees schedule which includes the levels of violations.

Mayor Wilcox said he thought what was coming back to Council was a residential on residential noise ordinance.

Ms. Fox said it is but they had to strike some things to make that provision fit the existing ordinance.

Mayor Wilcox stated that he has a problem with having "nuisance noise" and decibel levels.

**Council Member Bridges made a motion to adopt 17-1052 to amend the noise ordinance and 17-1053 to amend the rates and fees as it pertains to noise ordinance violations. Motion passes 4 to 1 with Mayor Wilcox voting no.**

## 9. NON-AGENDA ITEMS

Council Member Bridges was asked by a citizen to mention purchasing the land that the carnival leases. Council was not interested.

Mayor Wilcox said there are noise violations with businesses at the boardwalk. People are also leaving the boardwalk a mess by leaving food and trash in the outdoor seating area. We need to send a letter to the business owners because we don't want to punish the ones that are in compliance.

Mr. Parvin said that we have discussed the noise on the boardwalk. The Town could try to control that.

Mayor Wilcox would like to see the Town invest in a sound system that covers the boardwalk.

Council Member Shuttleworth asked about forming a business improvement district.

Mayor Wilcox said that is not a bad idea but we need to address the businesses in violation before the season.

Council Member Shuttleworth asked the manager to handle it.

Council Member Doetsch asked why the light poles on the east side are still up.

Mr. Cramer mentioned that AT&T is requesting a separate easement to put their utilities underground.

**10. CLOSED SESSION TO DISCUSS AN ATTORNEY/CLIENT MATTER**

**Mayor Wilcox made a motion to go into closed session to discuss an attorney/client matter in accordance to N.C.G.S 143.318.11(a)(3). Motion carried unanimously.**

Mayor Wilcox called the meeting back to order at 11:00 p.m. and reported that no action was taken in closed session.

**11. ADJOURNMENT**

There being no further business, Mayor Wilcox adjourned the meeting at 11:00 p.m.

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Kimberlee Ward, Town Clerk

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Date Approved