



AGENDA

Tuesday, August 22, 2023: 3:00 PM

Town Council Work Session

**C. Michael Haney Community Room: Southern Pines Police Department
450 W. Pennsylvania Ave**

1. CALL TO ORDER

2. TOWN MANAGER'S COMMENTS

3. UPDATES AND DISCUSSION

a. TeamWorkz - Cliff Brown

Cliff Brown is the founder and director of [Team Workz](#), located at 152 S. Stephens St. Team Workz provides resources to serve local homeless people. Mr. Brown will provide a brief overview of his organization's work and share some facts related to Southern Pines.

b. Resolutions Updating the Town of Southern Pines Public Forum Policies

Staff has updated the Southern Pines Public Forum Policy and the Southern Pines Library Use Policy in regards to 1st Amendment issues.

c. MPO Memorandum of Understanding (MOU) and Meeting Update

Update regarding the MPO meeting that took place on 08/17/2023.

4. ACTION ITEMS

a. Ordinance #3001 - Amending the FY 2023/2024 Budget to purchase 60 ft Lift for Buildings and Grounds

Ordinance #3001 - Amending the FY 2023/2024 Budget to purchase 60 ft Lift for Buildings and Grounds.

5. COUNCIL ROUNDTABLE DISCUSSION

6. ADJOURNMENT

1st Amendment Issues in Town Buildings

Memo

To: Mayor & Town Council

From: Mac McCarley, Town Attorney

cc: Reagan Parsons, Town Manager

Date: August 14, 2023

Re: 1st Amendment Issues in Town Buildings

First Amendment audits are a social movement that usually involves photographing or filming from a public place or in a public building. It is often characterized by its practitioners, known as “1st Amendment auditors”, as citizen journalism or citizens exercising their constitutional rights and testing the openness of their government. They will assert their right to be in a public place and to photograph or film the people present and the activities that are taking place. In most cases, these rights are protected by the 1st Amendment to the US Constitution and the self-appointed auditors have a right to be where they are and to film the people present and the activities occurring there. The auditors believe that their activities promote accountability by public officials and employees and encourage open and transparent government. A cursory search for internet videos will illustrate that public employees who react poorly and inappropriately draw lots of views.

These activities are relatively common across the country and North Carolina and there are 1st Amendment auditors active in the Fayetteville area. We have had dealings with a 1st Amendment auditor in Southern Pines over the last several months and expect that to continue. The Town Manager and I have already started working with staff to alert them to these issues, offer guidance and training, and will be posting signs if Council adopts the policies we are proposing. The purpose of this memo is to outline a few of the legal issues involved and describe how we can best prepare for this in Town facilities.

The Basics

- It is legal to film people and activities in public places and this includes photographing public employees in the course of their duties. What is a "public place" is sometimes hard to determine. Sidewalks and the lobby of a Town building open to the public will clearly qualify, but private offices in a government building will not.
- In the police context it is clear that citizens have a right to record law enforcement activity, including activity that involves the person recording. Bystanders also have a right to record police activity as long as they don't interfere with law enforcement officers carrying out their duties (e.g., the George Floyd videos).
- Under a recent federal case in our Circuit, there is a right to livestream law enforcement encounters, unless doing so creates a threat to officer safety. Since the 4th Circuit has determined there is a right to livestream law enforcement encounters there is most certainly a right to livestream the activities of other Town employees.

What is a "Public Place"?

The most obvious answers are streets, sidewalks and public parks which are generally referred to as "traditional public forums" and enjoy the greatest freedom for First Amendment expression and conduct. Many government buildings open to the public, like a library or a museum, are in a lesser, but still very open, category for public forum analysis by the courts. These areas are generally referred to in 1st Amendment cases as a "limited public forum". However, even in a library or a museum, the offices, storerooms, staff restrooms and lounges would not be public places; therefore, a "non-public forum".

Areas that are not public spaces can be shown to a member of the public with the permission of an appropriate official. And individuals with an appointment to see someone in the non-public areas of a public building are welcome to enter that area under whatever rules the government has established.

Proposed Action by the Town Council

The attached Resolutions are intended to designate the various areas of Town-owned buildings for First Amendment purposes. This will give clear guidance to staff, establish our policies for controlling public spaces, and give the public clear guidance on where they are allowed and what activities are allowed in our facilities. The Resolution concerning the Library is more specific and also includes the adoption by the Council of a revised Library Use Policy.



**RESOLUTION #1070
TO ADOPT A REVISED LIBRARY USE POLICY FOR
THE SOUTHERN PINES LIBRARY**

WHEREAS, the Town of Southern Pines wishes to promote a safe and welcoming environment for all patrons of the Southern Pines Library, and prevent behavior in the Library that goes outside of standard societal norms for library usage; and

WHEREAS, the Town Council believes that the Southern Pines Library is a limited public forum as that term is defined by the federal courts of the United States, and that therefore the Town is obligated only to permit the public to exercise rights that are consistent with the nature of the Library and consistent with the council's intent in designating the Library as a limited public forum;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina:

Section 1. The public areas of the Library are hereby designated as a limited public forum for First Amendment purposes and the storage areas, staff offices, work spaces, staff restrooms and break room, loading dock, building mechanical room areas, and areas behind service desks and counters in the open public areas of the library are hereby designated as non-public forum areas for First Amendment purposes.

Section 2. The attached "Southern Pines Public Library, Library Use Policy" is hereby adopted.

Section 3. The Town Manager and the Director of the Library are authorized and directed to post appropriate signs in and around the Library specifying the non-public areas of the facility that are restricted to entrance by and use of Town employees only.

Section 4. This Resolution and the actions authorized under it are effective upon adoption.

Adopted this 12th day of September, 2023.

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of September 12, 2023, as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

SOUTHERN PINES PUBLIC LIBRARY

LIBRARY USE POLICY

The Library is a place for everyone, shared by the community, and used by many different people for different reasons. The goal of the Library's Use Policy is to maintain the Library as a welcoming and safe environment for all staff and members of the community and to provide a space for reading, writing, studying, research and quiet contemplation. The Library acknowledges that some Library sponsored programs may involve additional noise for the duration of the program (e.g., children's story programs) and this is allowed. The atmosphere of the library should be one of mutual respect for the rights of others. Therefore, the Library will only permit the public to exercise rights that are consistent with the nature of the Library and the Town's intent in designating the Library as a Limited Public Forum. These guidelines ensure that all may have productive and pleasant visits to the Library. We require users to respect the comfort and safety of fellow library users and library staff. If a patron's behavior is making others feel unsafe or violates any of these Policies, library staff will ask them to stop.

Violations of the rules and policies below may result in removal from the facility and/or temporary or permanent revocation of library privileges. This policy covers disturbances both inside the library and on the library grounds. All members of the library staff have the authority to take necessary steps when policy is violated, and the police may be called at any time to assist. Users are expected to comply with requests from library staff and staff reserve the right to suspend privileges or access if requests are not followed. These rules will be applied in a neutral and nondiscriminatory manner, to protect property, users, and staff and to effectuate the purposes for which the Library is provided to the community. Patron/user conduct is unacceptable if it:

- Blocks entrances or exits and impedes others from entering or exiting the building.
- Excludes others from using the library for its intended purpose.
- Results in or threatens injury to oneself or others.
- Interferes with others' use or enjoyment of the library facilities.
- Results, or may result in, damage to library materials, facilities, or equipment.
- Is illegal under the laws of the United States, the State of North Carolina, or ordinances of the Town of Southern Pines.

Policy Violation may include but are not limited to:

- Illegal activities
- For the protection of Children, profane or obscene language or gestures
- Inappropriate use of furniture
- Littering and leaving trash anywhere except in trash receptacles
- Careless or disruptive eating of snacks or drinking of beverages (both of which are otherwise allowed)
- Loud or disruptive conversation or noise (including loud cell phone use)
- Inappropriate displays of affection
- Sleeping
- Bringing in animals other than service animals as defined by the Americans with Disabilities Act
- Taking photographs or videos of library users without their permission, or the permission of a parent or guardian in the case of a minor

- Entering or attempting to enter non-public or staff-only area of the Library
- Engage in any activity prohibited by the Library's computer and internet use policy
- Selling or soliciting of any kind without permission from Library staff
- Unauthorized distribution of printed materials or posting of notices
- Possessing, consuming, or being under the influence of alcohol or illegal drugs
- Use of tobacco or vaping products
- Not wearing shoes or shirt, or inappropriately removing clothing
- Leaving children or vulnerable adults unattended- see Safe Child Policy
- Bringing weapons of any kind into the Library
- Blocking or interference with entry or exits
- Leaving belongings unattended while using the library
- Removing Library materials from the building without checking them out
- Not respecting the privacy, solitude, or personal space of other patrons

If a patron feels that something or someone is making their experience in the library unsafe or that a provision of the Library Use Policy is being violated, they should inform a staff member

Adopted 2/88

Revised 2/00

Revised 3/04

Revised 11/21

Revised 9/2023



RESOLUTION #1071
TO DESIGNATE PUBLIC FORUM AREAS, LIMITED PUBLIC FORUM AREAS, AND
NON-PUBLIC FORUM AREAS IN TOWN OF SOUTHERN PINES FACILITIES

WHEREAS, the Town of Southern Pines intends to fully comply with the rights of all citizens regarding their access to and use of Town owned buildings while at the same time securing non-public areas and areas of safety concern for the protection of employees and the public alike; and

WHEREAS, the Town Council, with advice from and on recommendations from the Town Attorney, Town Manager, and Department Directors has considered the time, place and manner of safe, appropriate and lawful use of Town-owned buildings and forum designations that balance the interests of citizens, the community, employees, and the dictates of the law; and

WHEREAS, the nomenclature in this Resolution for designating spaces in Town-owned facilities is drawn from case law precedent interpreting the First Amendment to the US Constitution and is intended to be in compliance with that precedent;

NOW, THEREFORE BE IT RESOLVED by the Town Council of the Town of Southern Pines, North Carolina:

Section 1. The following forum designations are hereby adopted for the uses, times of usage, and manner of usage for Town owned buildings:

Police Department, 450 W. Pennsylvania Avenue: The lobby, first floor hallway, second floor lobby, and the Haney Community Room are designated as limited public forums. They are open for citizen access to transact business with the Southern Pines Police Department, and the Haney Community Room is open for public participation in open meetings of the Town Council and other events with limitations or restriction as are appropriate for the Time, even of use of the Room. The rest of the building and the rear parking lot are designated as non-public forum.

The “Old Library/Finance Building”, 180 S.E. Broad Street: The front lobby of the building (that area inside the front wall of the buildings and the front of the service counter for accepting payments owed to the Town) is designated as a limited public forum, for the intended use of transacting business with the Town or viewing exhibits in the lobby area. The Boyd room is a limited public forum for meetings and exhibits unless at the time it is being use by the staff of the Town for a meeting of and for Town staff. The rest of the building is a non-public forum.

Community Development Building and Public Works Compound, 801 S.E. Service Road: The entry lobby and adjoining conference room are designated as limited public forums open for the transaction of business with the Town, except that the conference room is a non-public forum at times when it is in use for meetings of and for Town staff. The rest of the building, and specifically, for safety purposes, any area where equipment, vehicles, materials, tools or chemicals are stored, and anywhere inside the fenced in area is a non-public forum.

Administration Building, 125 S.E. Broad Street: The entry lobby (front room) of the building is designated as a limited public forum open for the transaction of business with the Town. The rest of the building is a non-public forum.

GIS/Information Technology Building, 140 Memorial Park Court: For security reasons this entire building is designated as a non-public forum.

The Campbell House, 482 E. Connecticut Ave: The first floor, except for staff and private offices, is a limited public forum for the purpose of transacting business with the Arts Council or viewing exhibits under the rules and policies established by the Arts Council for the use and enjoyment of it's exhibit space. The open area on the second floor at the top of the stairs is a limited public forum for the purpose of doing business with the Parks and Recreation Department. The remaining work areas and staff offices on the second floor are a non-public forum.

The Train House, 482 E Connecticut Avenue: During the time that the facility is being used for Parks & Recreation programming the facility is a limited public forum open for the purposes of

the programming taking place, and under the rules and regulations of the Parks and Recreation Department applicable to such programming. When the facility has been rented for a private function the facility is a non-public forum.

Recreation Center, 160 Memorial Park Court: During the time that the facility is being used for Parks & Recreation programming the facility is a limited public forum open for the purposes of the programming taking place, and under the rules and regulations of the Parks and Recreation Department applicable to such programming. When the facility has been rented for a private function the facility is a non-public forum.

Whitehall at Reservoir Park: During the time that any building is being used for Parks & Recreation programming the facility is a limited public forum open for the purposes of the programming taking place, and under the rules and regulations of the Parks and Recreation Department applicable to such programming. When the facility has been rented for a private function the facility is a non-public forum.

Fire Stations: The lobbies of the Southern Pines Fire Stations are a limited public forum for the purpose of doing business with the Fire Department. The rest of the buildings including the truck bays, sleeping quarters, kitchens, storage rooms, offices and conference rooms are non-public forums.

The Train Station, 235 N.W. Broad Street: For safety reasons the train platform is a non-public forum at any time that a train is approaching the station, in the station, or pulling out of the station. At other times, the Welcome Center area is a limited public forum for the purpose of transacting business with the Welcome Center staff or viewing the exhibits in the facility. The meeting room (1) during the time that the facility is being used for Parks & Recreation programming the facility is a limited public forum open for the purposes of the programming taking place, and under the rules and regulations of the Parks and Recreation Department applicable to such programming, (2) a limited public forum when it is in use for an open public meeting, but (3) is a non-public forum when it has been rented for a private function or is in use for a meeting of the staff of the Town. The ticketing area of the building is under lease to Amtrak and is not a Town controlled public facility subject to public forum analysis.

E.S. Douglas Community Center, 1185 W. Pennsylvania Avenue.: During the time that the facility is being used for Parks & Recreation programming the facility is a limited public forum open for the purposes of the programming taking place, and under the rules and regulations of the Parks and Recreation Department applicable to such programming. When the facility has been rented for a private function the facility is a non-public forum. The Auditorium is open for public participation in open meetings of the Town Council, the Planning Board and other governmental bodies and other events with limitations or restrictions as are appropriate for the time, event or use of the Room.

Occasional Use Space: Any additional Town owned or controlled space where a formally Noticed meeting of a public body (to encompass Planning Board, Board of Zoning Adjustment, Historic District Commission, etc.) is to be held shall convert that space into a Limited Public Forum for the conduct of the business of the public body until such time that the Noticed meeting is adjourned.

For All Buildings: Staff break rooms, areas containing the mechanical, network and audio equipment for the building, and staff restroom facilities are non-public forums.

Section 2. The Town Manager is authorized and directed to post appropriate signs in and around Town owned Buildings specifying the non-public areas of the facility that are restricted to entrance by and use of Town employees only.

Section 3. This Resolution and the actions authorized under it are effective upon adoption.

Adopted this 12th day of September, 2023.

I certify that this resolution was adopted by the Town Council of the Town of Southern Pines at its meeting of September 12, 2023, as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk

From: [Cory Albers](#)
To: [Tess Brubaker-Speis](#)
Subject: PW Lift
Date: Wednesday, August 9, 2023 1:38:39 PM
Attachments: [CMC 60F.pdf](#)
[60F.pdf](#)

Tess,

Per our phone conversation earlier today.

The new lift that we have found is available and ready to ship from Massachusetts now, and could be here in two weeks. The original machine that we budgeted for going on three years ago now was a 45ft unit. The new machine is a bigger machine at 60ft. We have (Streets/B&G) spent \$14,438.75 in rentals and have had to contract out 4 projects to a vendor (Additional \$2,025) due to the rental unit (which also is a 45ft machine) was not tall enough to reach the work, and the 60ft unit would have done the job. The \$65,000 originally budgeted was for the 45ft machine three years ago. Three years later and a bigger machine that will do all that we need it to do is now \$77,895. I have confirmed with Wendell that if we cancel our current order with Richmond Rentals, that the Town will not be obligated for that machine that we have not yet received. These machines are in high demand right now and if we don't secure it soon we miss the opportunity for this machine.

Please let me know if you need anything else.

Thanks

Cory Albers
Assistant Public Works Director – Operations
801 SE Service RD
Southern Pines, NC 28387
(910)-692-1983
Calbers@southernpines.net





**ORDINANCE #3001
AMENDING THE 2023/2024 FISCAL YEAR BUDGET
60 FT LIFT**

BE IT ORDAINED AND ESTABLISHED by the Town Council of the Town of Southern Pines in regular session assembled this 22nd day of August, 2023 that the Operating Budget for the Fiscal Year 2023/2024 be and hereby is amended as follows:

<u>DEPARTMENT</u>	<u>LINE ITEM</u>	<u>CODE</u>	<u>INCREASE</u>	<u>DECREASE</u>
Buildings & Grounds	Capital – Other Equipment	10-640-7403	\$77,895.00	
General Fund	Fund Balance Appropriations	10-397-1000	\$77,895.00	

I certify that this ordinance was adopted by the Town Council of the Town of Southern Pines at its meeting of August 22, 2023 as shown in the minutes of the Town Council for that date.

Elizabeth Robertson, Town Clerk