

**TOWN OF CALABASH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
Tuesday, August 11, 2009—6:00 pm**

**MINUTES**

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, August 11, 2009, 6:00 pm at Town Hall 882 Persimmon Road, Calabash, NC.

**MEMBERS PRESENT:** Mayor Anthony Clemmons, Commissioner Emily DiStasio, Commissioner Cecelia Herman, Commissioner William Dixon, Commissioner Forrest King, and Commissioner John Melahn; all members were present.

**STAFF PRESENT:** Kelley Southward, Town Clerk

**GUESTS PRESENT:** There were approximately 15 guests in attendance.

**CALL TO ORDER/PLEDGE/ROLL CALL:** Mayor Clemmons called the Meeting to order at 6:00 pm and led the Pledge of Allegiance to the Flag. Roll call was taken for the record; attendance is reflected above.

**APPROVAL/ADJUSTMENT OF AGENDA:** Mayor Clemmons said he would like to add “Award Presentation” following Approval/Adjustment of Agenda. Commissioner Melahn said he would like to add Old Business #1 Amendments to §32.03 & §32.06—in addition to the amendments to §32.13 already on the Agenda for Old Business #1. Commissioner Melahn also requested to add to existing New Business #3 amendments to §30.05 and 30.06 in addition to 30.04. Commissioner King requested to add a third item under Closed Session regarding possible property acquisition, pursuant to G.S 143-318.11 (a)(5). Commissioner Herman said she would like to add to Closed Session personnel matters regarding evaluations/job descriptions pursuant to G.S 143-318.11 (a)(6). *Commissioner Melahn motioned to approve the agenda, as amended, seconded by Commissioner Herman and unanimously carried.*

**AWARD PRESENTATION:** Mayor presents certificate of appreciation to Bill Seip for his attendance at meetings.

**MAYOR’S COMMENTS:** thanked everyone for their attendance and support.

**PUBLIC COMMENTS:** Mr. Anthony Feilback addressed the Board regarding multiple letters that the Thistle has sent to the Town regarding Shallotte Partners’ multifamily project without any response received.

**CONSENT AGENDA:**

1. Approve minutes of April 14, 2009; Closed Session (#1)
2. Approve minutes of April 14, 2009; Closed Session (#2)
3. Approve minutes of May 12, 2009; Regular Meeting

4. Approve minutes of July 6, 2009; Special Meeting-Sewer
5. Approve minutes of July 14, 2009; Regular Meeting

Board members began to note issues they had with the minutes of May 12<sup>th</sup> and July 6<sup>th</sup>; Mayor Clemmons noted that these minutes should be removed from the Consent Agenda if the Board would like to discuss them. *Commissioner King motioned to hold agenda procedure rules in abeyance and move Consent Agenda item #s 3 and 4 to Old Business 4 & 5; seconded by Commissioner DiStasio and unanimously carried. Commissioner King motioned to approve the Consent Agenda, as amended, seconded by Commissioner Herman and unanimously carried; the minutes of April 14, 2009, Closed Session #1; April 14, 2009, Closed Session #2; and July 14, 2009 Regular Meeting were approved.*

**CORRESPONDENCE:** The Board noted that there is going to be a Swine Flu Conference in Washington, DC at the end of the month. The League of Municipalities is recommending that municipalities reduce their beer/wine revenue budgets by 15% due to some recently adopted legislation. Also referenced was a letter from the Army Corp of Engineers regarding the wetlands delineation of the Town's ten-acre property on Persimmon Road; wetlands were confirmed at the rear of the property, if the Town wishes to appeal this decision the appeal must be filed within 60 days.

**TOWN CLERK'S REPORT:** attached hereto and made part of these minutes.

**BUILDING INSPECTOR'S REPORT:** attached hereto and made part of these minutes.

**COMMITTEE REPORTS:**

1. Fire Department-Commissioner Herman's written report is attached hereto and made part of these minutes.
2. Planning & Zoning-written report attached hereto and made part of these minutes.
3. Finance-the beer and wine reduction in revenues mentioned during correspondence will amount to approximately \$4000 in loss; the Town needs to tighten the purse strings as this may not be the only hit the budget takes this year.
4. Water/Wastewater-the Progress Committee is looking into setting up a program to assist low-income families to hook-up to the sewer.
5. Town & Merchant-the Merchant's Association is selling raffle tickets for a brand new golf cart; the prize will be awarded at the 2009 Christmas Tree Lighting in December.
6. Stormwater-written report attached.
7. Long Range Planning-there will be a Meeting of the LRP on Thursday; see New Business.
8. Ordinance Review-the ORC has completed their review of the UDO and the Planning and Zoning Board is looking over the proposed changes.
9. Emergency Management-the EOC is holding meetings and training exercises becoming more organized in case of an event. Brunswick County has approved the Town's request to install an antenna on top of the water tower.

**OLD BUSINESS:**

1. Discussion/Action consider amendments to Chapter 32—Town Policies

- a. §32.03-Public Comments at Meetings. Commissioner Melahn recommends deleting this section as it is written exactly the same in §30.18.
- b. §32.06-Unseal Closed Session Minutes. Commissioner Melahn has drafted a clarification. It has been rewritten so it is clear that the Clerk and Attorney reviews closed session minutes and make a recommendation to the Board of Commissioners on what should be unsealed.
- c. §32.13-Charitable Donations. This is a new policy, attached hereto and made part of these minutes. The Board discussed the policy and felt that B-4 may tie their hand in the future should they wish to give more than \$100 at sometime. The Board reworded the provision to read: “Donation amounts to each applicant shall be decided by the Board of Commissioners but will normally be \$100 (one hundred dollars.” Commissioner Melahn noted that if the Board does approve the recommendation to remove §32.03 (“a” above) then all other Sections would be renumbered accordingly.

*Commissioner Melahn moved that Title III, Chapter 32, Town Policies, Sections 32.03-Public Comments, 32.06-Unseal Closed Session Minutes, and 32.13-Charitable Donations (#4 amended to read as written above in #c) be approved; seconded by Commissioner King and carried by way of a unanimous vote.*

2. Discussion/Action to designate donation amounts to organizations-tabled item. The Board discussed the fact that they have had three requests this year from the following organizations: Community in Schools, Ingram Planetarium, and Brunswick Literacy Council. Based on the Section 32.13 adopted above, the Board felt the applicants must fill out an application to be reviewed. No action was taken.
3. Discussion/Action to vote on the revised Title III Administration—Chapter 31-Town Officials. Commissioner Melahn gave an overview of the changes he has made to Chapter 31. Commissioner DiStasio felt that the change to “Purchasing Officer” should be changed back to “Finance Officer”; Commissioner King agreed. Also, the Board felt that §31.20 (B) should be removed. *Commissioner Melahn motioned to approve Chapter 31-Town Officials with the amendment that “Purchasing Officer” be changed to “Finance Officer” and that 31.20 (B) be removed; seconded by Commissioner Herman and carried unanimously.*
4. Minutes of July 6, 2009, Special Meeting: Commissioner DiStasio noted that in the last paragraph the results of the motion are not revealed; the Clerk was directed to make the correction.
5. Minutes of May 12, 2009, Regular Meeting: Commissioner King felt that there had been action taken after the Board returned from Closed Session on that night. The Clerk noted that she had gone home sick that night when the Board retired to Closed Session and there was no audio when the Board returned to Open Session; she had contacted Board members to see if they recalled if there had been action after Closed Session. Commissioner King noted that the Clerk had in fact asked him if action had been taken and at that time he could not recall but as he thought more about it, he felt that action had

been taken to remove letters/memos from three employees' personnel files that had been placed in the files by Commissioner DiStasio. Commissioner King felt it was a vote by majority; either four to one or three to two. The Board agreed that the matter had been discussed in Closed Session that night and it was intended that the Personnel Officer was to remove the documents from the file. The Board determined that the Town Clerk should be directed to remove the documents from the personnel files if it had not already been done. Furthermore, they agreed to amend the minutes of May 12, 2009 Regular Meeting to include that Action as a Result of Closed Session had a motion made by Commissioner King and seconded by Commissioner Dixon to direct the Personnel Officer to remove memos from three personnel files placed in the files by one Commissioner who was not directed by the Board to put the memos in the files.

*Commissioner King motioned to approve the minutes of July 6, 2009, Special Meeting and May 12, 2009, Regular Meeting, as amended, seconded by Commissioner Dixon and carried unanimously.*

Mayor Clemmons called for a brief, 5-minute recess at 7:25 pm; the Meeting was called back to order at 7:35 pm.

#### **NEW BUSINESS:**

1. Discussion/Action in consideration of Task Order #4 from WK Dickson; an agreement for a park and surface parking lot—preliminary layout and construction budget development. The Board discussed Task Order #4 and the feeling was that the Town should have already received a layout drawing from the Preliminary Master Plan that WK Dickson completed for the Town in June. Furthermore, the Board noted that no money was included for a park in this year's budget. In addition, the Town might be swapping some land with the Calabash Fire Department if they secure a grant; the Town should wait on land planning until we know exactly what land is going to be ours. The Board directed the matter to the Long Range Planning Committee. *Commissioner King motioned to table item one until LRP reviews Task Order #4 and makes a recommendation to the Board; seconded by Commissioner Herman and carried unanimously.*
2. Discussion/Action to consider voting to release certain Closed Session minutes for public inspection March 10, 2009 and April 14, 2009. Mayor Clemmons felt the minutes should be discussed in Closed Session. *Commissioner Herman motioned to move New Business #2 to Action as a Result of Closed Session so that the Board could discuss in Closed Session; the motion died due to lack of a second.* Commissioner King felt that parts of the Closed Session minutes could be removed—personnel matters cannot be released. Commissioners Herman and DiStasio felt it was not appropriate to extract portions of the minutes to be released. Commissioner Herman felt that April 14<sup>th</sup> dealt only with personnel matters. Although Mr. Lewis was not present, he had rendered an opinion that discussion of releasing Closed Session Minutes was not a topic that could be discussed in Closed Session; it should be discussed in Open Session but the Board should be careful as not to disclose anything that would be inappropriate. *Commissioner Melahn motioned*

*to have the Town Clerk and the Town Attorney review the Closed Session minutes of March 10, 2009 and April 14, 2009, and make a recommendation to the Board of Commissioners as to whether or not the minutes should be unsealed. The motion was seconded by Commissioner Herman and carried by a vote of 4 to 1, with Commissioner King voting in opposition.*

3. Amendments to Chapter 30-Town Government

- a. Section 30.04-Mayor Pro Tem. Commissioner Melahn, at the request of the Board had revised subsection (A), which deals with selection of a Mayor Pro Tem. The Board discussed the revision and amended the first sentence read: “At the first meeting after the municipal election, the Board shall select one of their number to act as Mayor Pro Tem.” The remainder of the paragraph did not change from the revisions made by Commissioner Melahn. Commissioner Melahn motioned to approve §30.04, as amended seconded by Commissioner King and unanimously carried.
- b. Section 30.05-Powers over Employees—Commissioner Melahn went over the changes he made to §30.05 (he simply moved §31.21 to §30.05 as it makes more sense in this Section; §31.21 was removed in an earlier action of the Board); the Board had no objections to his suggestions (attached hereto and made part of these minutes). Commissioner Melahn motioned to approve, seconded by Commissioner King and unanimously carried.

4. Discussion/Action to consider approving a project to construct bays to contain raw materials at the Town Maintenance Yard. The Town has received one bid on this project. The Board said a scope of work should be drafted and more bids needed to be obtained. Commissioner Dixon motioned to table the matter, seconded by Commissioner Herman and unanimously carried.

5. Discussion/Action to consider revisions to Devaun Park Maps:

- a. Phase 5-Tara Park preliminary density relocation plan
- b. Phase 6B-Meeting Park preliminary density relocation plan.

Mr. Scott Stewart addressed the Board regarding the two density relocation plans; a transfer of units among the two Phases. Mr. Stewart was requested to provide a detailed Master Map (including density of each Phase) to the Town; Mr. Stewart agreed to accommodate this request. Commissioner Herman motioned to approve the Density Relocation Plans for Phase 5 and Phase 6B of Devaun Park, seconded by Commissioner DiStasio and carried unanimously.

6. Discussion/Action to schedule a public hearing for Tuesday, September 8, 2009, 6:00 pm at Town Hall to officially zone properties in the newly annexed area that was previously zoned by Sunset Beach. Commissioner Herman motioned to schedule the public hearing for the above stated purpose on the above stated date/time, seconded by Commissioner Melahn and carried unanimously.

7. Discussion/Action to consider which publications to place an ad for the Town Administrator's position. The Board reviewed the estimates from various publications. *Commissioner Herman motioned to place a one-time ad in the Charlotte Observer for the Town Administrator position, seconded by Commissioner King and unanimously carried.*
8. Discussion/Action regarding amendments to the Personnel Policy—changes to the definitions of “full-time” and “work schedule” and consider forms associated with the Personnel Policy. *Upon reviewing the documents, Commissioner Herman motioned to approve the revised definitions of “full-time” and “work schedule” and proposed forms associated with hiring, seconded by Commissioner King and carried unanimously.*
9. Discussion/Action to schedule a Long Range Planning Committee Meeting. *Commissioner King motioned to schedule a Long Range Planning Committee Meeting for August 20, 2009, 3pm at Town Hall, seconded by Commissioner Dixon and unanimously carried.*

**CLOSED SESSION:**

*Commissioner Herman motioned to enter Closed Session pursuant to G.S 143-318.11(a)(5) Land Acquisition, (6) Personnel Matters, & (7) hear reports from Attorney regarding investigations of alleged criminal misconduct; seconded by Commissioner DiStasio and unanimously carried.*

*Upon returning to Sanborn Hall, Commissioner Herman motioned to enter Regular Session, seconded by Commissioner Dixon and unanimously carried.*

**ACTION AS A RESULT OF CLOSED SESSION:**

1. *Commissioner DiStasio motioned to give Carolyn Silvers a 2.5% pay increase effective August 14, 2009 and direct the Town Clerk to go over the Board's annual performance evaluation with Ms. Silvers. Commissioner Melahn seconded the motion and the motion carried unanimously.*
2. *Commissioner King motioned to appoint Kelley Southward to Interim Town Administrator, effective immediately and to increase her current hourly wage by \$5.50 per hour for the duration of the interim appointment. Commissioner Melahn seconded the motion and the motion carried unanimously.*
3. *The Board announced that there was no action to be taken regarding property acquisition.*
4. *The Board reported that legal reports from the Attorney was not discussed in Closed Session as there was not sufficient information to discuss—Mr. Lewis was absent and no written report had been forwarded to the Board.*
5. *Commissioner DiStasio motioned to create a new job description entitled “General Maintenance” to be a class 4 position. Commissioner Herman seconded the motion, which carried unanimously.*

**PUBLIC COMMENTS:**

1. Mr. Jennings Edge stated the environmental assessment of the Town's 10-acre property confirms that the property is good to be developed for a new fire station.

**BOARD COMMENTS:**

Commissioner King stated that he feels it is a mistake to not release Closed Session minutes to the public. Mayor Clemmons felt that the Board's action on the matter reflects the policy that was adopted tonight. Additionally, the Mayor thanked the Board for their conduct during the meeting and stated that the Interim Town Administrator needs the Board's support and if the Board members are at odds with one another she will not get the support needed to fill the Clerk and Interim Town Administrator duties.

**ADJOURN:** *Commissioner DiStasio motioned to adjourn the meeting at 9:43pm, seconded by Commissioner King and unanimously carried.*

(SEAL)

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Anthony Clemmons, Mayor

Attest:

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Kelley Southward, Town Clerk