

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, April 14, 2009-6:00 pm**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, April 14, 2009, 6:00 pm at Town Hall, 882 Persimmon Road, Calabash, NC.

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

STAFF PRESENT: Kelley Southward, Town Clerk and Mark Lewis, Town Attorney.

GUESTS PRESENT: There were approximately 65 guests in the audience.

CALL TO ORDER/PLEDGE TO FLAG/ROLL CALL: Mayor Clemmons called the Meeting to order at 6:00 pm and led everyone in the Pledge of Allegiance to the Flag. Board members took roll call; their attendance is reflected above.

APPROVAL/ADJUSTMENT OF AGENDA:

- ? Commissioner Melahn moved to remove Old Business #4-Discussion/Action related to the UDO-from the agenda and replace it with "Schedule a Special Meeting for discussion/action related to the UDO (4a,b,c,d on current agenda) for Tuesday, April 28, 2009 at 6:00 pm at Town Hall". There was about fifteen minutes of discussion. Mayor Clemmons supported the matter as a stand-alone meeting. Commissioner Dixon wanted to know why Commissioner Melahn wanted to put off such a controversial matter; the majority of guests came out tonight because of this issue and its not fair to make them come again. Commissioner King asked if those in attendance tonight would come back on the 28th, the majority said they would attend on the 28th and would also bring a friend. Mr. Spatholt said he would not be able to be present on the 28th and noted that he would like to be present for the vote of the UDO. Discussion focused moved to the Ordinance Review Committee (ORC); Commissioner Herman said she would like the minutes of the ORC meetings. Commissioner King pointed out that the Clerk has been wearing two hats (Clerk and Administrator) and is understandably back-logged on minutes of all boards and committees. As discussion continued in reference to the ORC Commissioners Herman, DiStasio and Dixon assured everyone that they have no intension of disbanding the ORC; whether the vote of UDO passes or fails they want the ORC to continue its plight. After approximately 15 minutes of discussion, Commissioner Melahn rescinded his recommendation to remove/replace Old Business #4.

- ? Mayor Clemmons requested that the "Presentation regarding Ingram Planetarium" be moved up on the Agenda ahead of "Public Comments"; there were no objections to this request.

Commissioner Melahn motioned to approve the Agenda, as amended, seconded by Commissioner King and carried by way of a unanimous vote.

PRESENTATION: Digital Projection Installation at Ingram Planetarium. Mr. Scott Kucera, representative for Ingram Planetarium in Sunset Beach spoke to the Board about the installation of this new digital projection system. The high-tech system is one of three in the nation. Donation information had previously been provided to the Board. Mr. Kucera noted that May 23rd is the Grand Opening for the new system and thanked the Board for their time and consideration.

PUBLIC COMMENTS:

1. Mr. Anthony Feilback from the Thistle felt the UDO has its issues and whether it is adopted tonight or after the ORC finishes their review it needs to be adopted because the current code is too out-of-date. The UDO will always be a living document that has to be amended. If the Board does choose to adopt the UDO tonight, he requests that they hold monthly public hearings to incorporate the recommendations and changes needed. Mr. Feilback also felt the Town needs to consider adding a historic zoning district.
2. Sherry Bayer representative of Landing II subdivision, which was recently annexed, was under the impression that becoming incorporated by the Town would not add a lot of stringent rules. However, from what she understands, the UDO, as written, will apply a lot of rules and regulations. She informed the Board that the Landing II POA voted to dissolve once the annexation is effective. She believes the UDO only benefits the personnel needed to enforce the document. She also wanted to know, under the UDO, if someone were to volunteer for the Board of Adjustment how much time would they have to devote to serving?
3. Don Hege, Ash resident, Calabash property owner, felt the Agenda was too extensive. Mr. Hege cited §32.11(a) of the Calabash Code of Ordinances and felt that Commissioners Herman and DiStasio were in violation of this ordinance; he said they both want to vote the UDO in tonight. He felt Commissioners Herman and DiStasio have their own personal agendas and demanded they remove themselves from the vote on the UDO; if they vote it would be disrespectful to the rest of the Board and the public. Mr. Hege stated that he believes Commissioner Melahn controls the vote on the UDO and he urged Commissioner Melahn to think of the people and what they want.
4. Dean Spatholt, representative of Callahan's and The Boundary House, said that because he does not live in city limits he couldn't vote in Calabash even though his residence has a Calabash address and his business is in Calabash. Mr. Spatholt felt Article 8 of the UDO, Nonconforming Uses/Situations, needs careful review and consideration because most properties in Town will be nonconforming upon adoption of the UDO. He also feels Articles 1-7 are conflicting, which should be resolved before the document is adopted. He took issue with a portion of Article 3-1 (A) and stated that most problems begin in Article 1, which sets the stage for the entire UDO. Mr. Spatholt said that recently the matter of the UDO has been portrayed as businesses against the Town and then cited an excerpt from Art. 1-14 that use or sale of land except in conformance with the UDO. He said that this is a prime example of how the UDO would effect everyone—businesses and residential. He feels many of the definitions try to regulate rather than

define. Finally, he felt the sign section of the UDO is just crazy and wrong. Mr. Spatholt urged the Board to carefully go through the UDO before adopting it.

5. Fletcher Frink, owner of Calabash NAPA, took a tea-bag vote prior to the start of the meeting; the vote showed that those present are not in favor of adopting the UDO. He asked that the Board cast their “tea-bag” vote in front of everyone; three Commissioners cast a “to approve” vote while two members cast a “not approve” vote. Mr. Fink felt it is unfair that business owners, unless they live in the Town, do not get to vote for elected officials; he felt that business owners should have equal rights.
6. Gregg Hansen, owner of the Calabash Creamery, read a letter of complaint (attached hereto and made part of these minutes), which basically stated his position of opposition to the UDO.
7. Jody Nance, Calabash resident and business owner, said that when Calabash and Carolina Shores split approximately 11 years ago, just before the split occurred the “old-timers” of Calabash held a meeting. In part, this meeting was to discuss if Saltaire Village should be accepted into Calabash, as requested by Saltaire, or should Calabash reject the subdivision. At that time, Calabash helped Saltaire by accepting them as part of the Town and he asked for Saltaire (meaning the Commissioners who reside there) to help Calabash now; do not vote on the UDO tonight.
8. Michael Abushakra, Calabash business owner, pointed out that in a recent Letter to the Editor included in the Brunswick Beacon, Commissioner Herman had stated that the Calabash businesses contribute a mere 1/3 of total property taxes to the Town of Calabash; Mr. Abushakra felt 1/3 is a lot of money and Calabash business owners work hard to make their money and shell it out to the Town. He went onto say that Commissioner Herman was asked to join the Ordinance Review Committee and she declined; so far, not one Commissioner who voted “yes” in the tea-bag vote has attended an ORC meeting—the Mayor and other two Commissioners have attended nearly every ORC meeting. He pointed out that three whom do not attend ORC meetings participated in drafting the UDO when it was with the Planning & Zoning Board (PZB). Mr. Abushakra said it would be insightful to the ORC if they could participate now and relay some of the reasons the PZB had for included some of the things that are in the UDO. Mr. Abushakra pleaded for participation from all Commissioners and stated the ORC is not trying to hinder or undermine any of the work done by the Planning & Zoning Board or Board of Commissioners. There are just inconsistencies and restrictions in the UDO that just will not work for anyone.

At this time, Mayor Clemmons requested comments from those who support the UDO, as it is currently written. Dean Spatholt said he supports a new UDO but he believes some changes need to be made to the current draft before it is adopted. Chuck Lydon said the ORC has been diligent in their review of the UDO; they move forward with a cooperative effort. Joe Lassiter suggested the vote included on the agenda should be tabled and the ORC should be able to finish their review; the Board should not ramrod the UDO down people’s throats.

MAYOR’S COMMENTS: Mayor Clemmons called upon the citizens to take a step forward. He is concerned that the clock has been turned back 12-years in time when Calabash and Carolina Shores split; the Town has become polarized. Citizens are tired of elected officials

being at odds with one another; there is disrespect and arrogance—transparency is just a smoke screen for people working their own agendas. He urged citizens and officials alike to work together and move forward.

CLOSED SESSION: *Commissioner Melahn motioned for the Board to enter closed session pursuant to G.S 143-318.11(a)(6)-personnel matters; seconded by Commissioner King and carried unanimously. The Board retired to closed session for nearly one hour.*

Upon returning to Sanborn Hall, Commissioner King motioned for the Board to enter regular session, seconded by Commissioner DiStasio and carried unanimously.

ACTION AS A RESULT OF CLOSED SESSION:

1. *Commissioner DiStasio motioned to approve a 2.5% salary increase for Mr. James McCartney (Town Services/Code Enforcement) effective as of the next pay period; seconded by Commissioner Melahn and carried by a unanimous vote.*
2. *Commissioner Herman motioned to relieve Ms. Kelley Southward of the position of Interim Town Administrator and to hire Jeremy Cribb as the Town Administrator, effective immediately, with contract details to be worked out. Commissioner King seconded the motion and being that there was no discussion forthcoming, Mayor Clemmons called for a vote and the motion carried by way of a unanimous vote. Mr. Cribb accepted the appointment of Town Administrator—Mayor Clemmons asked that in an effort to move along that Mr. Cribb be sworn in at the end of the Meeting; all agreed.*

APPROVAL OF MINUTES:

1. December 2, 2008-Special Meeting
2. December 9, 2008-Regular Meeting
3. December 18, 2008-Special Meeting
4. February 3, 2009-Agenda Workshop
5. March 3, 2009-Agenda Workshop
6. March 10, 2009-Regular Meeting

Mayor Clemmons asked if there were any changes to the minutes listed above; a typo was noted in the minutes of February 3rd -“a” should be “at”, also a typo was noted on page 13 of the minutes of March 10th “nearly” should be “near by”, and on page 19 of the March 10th minutes the words “subject to attorney’s review” should be added under the vote for Task Order #3. *Commissioner Melahn motioned to approve the six sets of minutes included on the agenda, as amended; seconded by Commissioner DiStasio and carried unanimously.*

CORRESPONDENCE: Mayor Clemmons noted that the Town has received a “thank you” letter from Hurricane Fleet as well as a letter from DOT stating that the Town could place speed limit traffic control devices on state road right-of-ways.

INTERIM TOWN ADMINISTRATOR’S REPORT: written report attached and made part of these minutes.

BUILDING INSPECTOR'S REPORT: written report attached and made part of the minutes.

COMMITTEE REPORTS:

1. Fire Department: Commissioner Herman reported that the CFD Board has been discussing the possibility of the Town of Calabash and the Town of Carolina Shores jointly taking over the CFD, which would create a joint-district municipal fire department. On April 23rd at 3pm there will be a meeting held jointly between the two town's Boards of Commissioners to learn more about a joint municipal fire department from special guest Attorney Barrett Graham.
2. Planning & Zoning: written report attached.
3. Finance: The Board has held two budget workshops to date and at least one more will be necessary. The Board knows finances are tight the Board is cutting back as is the State.
4. Water/Wastewater: Mayor Clemmons said he had nothing but good news. He has met with Congressman McIntyre and his staff who have given Calabash their full support on finding sources of income for the sewer project. Currently the Town has applied for over \$7 million in grants and stimulus money. Mayor Clemmons said we would know the price of the construction bids tomorrow. He expects the bids to come in at about \$6.2 million; down from an excess of \$8 million. The Town is working very hard to lower the assessment costs and make sewer available and affordable for all citizens of Calabash. We are up to a ten-year payback, which was originally three-years. The Town has yet to know the method of assessment.
5. Town & Merchant: The Merchant Association organized its Board at the last meeting: Michael Abushakra - Chairman, Rector Sisk -Co Chairman, Melissa Stevens Byrd – Treasurer, and Brenda Dixon – Secretary. The next meeting will be held the first Wednesday of the month at Sunrise Pancake House at 5:30 pm. Commissioner King welcomed merchants to join. Commissioner King read a letter from the Merchant's Association to the Board of Commissioners regarding placing the UDO on this agenda on a holiday weekend—"this was a devious act done by those that do not have the Town's best interest at heart."
6. Stormwater: no report.
7. Long Range Planning: the committee is waiting to receive reports on the preliminary master plan of Town properties and the road condition survey from WK Dickson before scheduling another meeting.
8. Ordinance Review: Committee Chairman Gary Cooper reported that the ORC has been meeting for nearly 2 months. The ORC has requested the BOC give them more time to complete their review of the UDO before the BOC votes on the document. Mr. Cooper said the ORC spent a lot of time on Article 2-Definitions. Currently, the ORC is reviewing Article 8-Nonconforming Uses/Situations. Mr. Cooper invited all the public to attend and stated that the members are working very diligently on their review.

CONSENT AGENDA:

1. Proclamation for "Youth Week"
2. Proclamation "Declaring May as Beautification Month in Calabash"
3. Proclamation in Support of the 2009 Spring Litter Sweep
4. Reappointments to the Board of Adjustment: Mr. Larry Steck for a 2-year term ending April 9, 2011 and Mr. J.W Brown for a 2-year term ending April 9, 2011.

Commissioner Herman motioned to approve the Consent Agenda, seconded by Commissioner Melahn and carried by a unanimous vote.

OLD BUSINESS:

1. Discussion/Action relating to the revisions/additions of Chapter 30-Town Government of the Code of Ordinances. *Commissioner Melahn motioned to approve the revisions of Chapter 30-Town Government of the Code of Ordinances, seconded by Commissioner DiStasio and there was a brief discussion.* Commissioner King asked if all the changes recommended during the workshop for Chapter 30 had been incorporated; Commissioner Melahn said all the changes have been incorporated except for any recommended changes that were not in line with State Statutes; he identified the changes. Commissioner King wanted to table until next month so that he could review the changes more carefully; Commissioner Dixon agreed. Commissioner Herman felt the document is ready to go; Commissioners Melahn and DiStasio agree. *Mayor Clemmons called for a roll call vote, which was as follows: Commissioners DiStasio, Herman, and Melahn voted in the affirmative; Commissioners Dixon and King voted in opposition—the motion carried by a majority of three (3) to two (2).*

2. Discussion/Action of moving forward in obtaining financing for the property acquisition of Tax ID# 241PA011:
 - a. Consider approving a Reimbursement Resolution/Declaration
 - b. Consider approving a Resolution Authorizing the Filing of an Application with the LGC.
 - c. Schedule a Public Hearing to inform the public and receive comments regarding the Town applying for financing to reimburse the property purchase of \$165,000.

Commissioner Herman said she did not understand why this matter is on the agenda. When the Board approved the purchase of the new property, it was with the stipulation that the Town seeks financing to reimburse the purchase. The Clerk said the resolutions had to be approved by a vote of the Board because the LGC requires such. *Commissioner Herman motioned to approve the Reimbursement Resolution/Declaration and the Resolution Authorizing the Filing of an Application with the LGC; seconded by Commissioner DiStasio and discussions ensued.*

Commissioner King referenced the minutes of December 18, 2008, which stated that financing for the purchased be explored. Commissioners Herman and DiStasio argued this and pointed out that it was the meeting of February 10, 2009, where the motion for the purchase of the property actually occurred, which was contingent upon financing the property; on December 18th it was just an approval of the earnest money.

Commissioner King explained that the Town recently purchased the approximate 1-acre vacant lot adjacent to Town Hall at the other corner of Persimmon Road and Traders Lane. The property was purchased with Town funds that were sitting in the Bank. Tonight's discussion is about taking out a loan to repay the Town's bank account for the purchase, which would incur interest charges of possibly 4%-5%.

Mayor Clemmons said that, as he understands it, the issue is that the Board gave direction to the former Town Administrator and the direction was not carried out; and Commissioners Herman and DiStasio want the Board direction to be carried out. Mayor Clemmons felt the Board was not prepared to move forward with this matter and there were too many items on the agenda to get stuck on this item; Commissioners Herman and DiStasio said they were prepared. The Town Clerk pointed out that to be eligible to apply for financing for the purchase it must be done within 60-days of the purchase, which is up at the end of this week; if the Board does not move forward now they lose the opportunity to be eligible for financing. Also, it has to be done now in order to get on the LGC June Agenda—we want this solidified by the end of the current fiscal year. In order to be eligible for the LGC June Agenda the application must be received by the LGC by the second Tuesday in May. There is a lot that the Town will have to accomplish in the next month to have a complete application; including a public hearing for the Town seeking financing. Technically, the Clerk pointed out, that this should have been done prior to the purchase of the property but the former Town Administrator had given the Board misinformation.

Mayor Clemmons suggested all information be provided to the Town Attorney, who should make a legal determination that if in fact the Board legally directed the [former] Town Administrator to procure a loan. If it is determined that this is not so, then the Town should not move forward with the financing. Mayor Clemmons asked the Board if it would be acceptable to have the Attorney certify their direction of the [former] Town Administrator. Commissioner King said even if it is determined that this was the direction of the Board, any action taken by the Board can receive action to be undone, especially if it is a bad deal for taxpayers.

Commissioner Herman said it goes beyond the Board's direction not being fulfilled. The Town has no credit rating because it has always paid cash for everything. We need to go through the process of financing so that when the day comes that the Town has to do it, we will be familiar with the process and procedures of the LGC.

The Clerk provided the Board with a copy of the February 10, 2009, minutes where the motion for the purchase of the property was made. Upon reading the motion contained in the February 10th minutes, Commissioner King said that in fact, the motion to approve the budget amendment for the purchase of the property was made with the stipulation that the Town Administrator pursues financing. However, Commissioner King reiterated that whatever the Board does it can undo and it's a bad deal so the Town should not do it. Commissioner Herman said what the Board did was a budget amendment and the money has been spent so Commissioner King needs to find the money to reimburse the account.

Mr. Lewis said that if the Town does not want to pursue financing, the Board could simply approve another Budget Amendment that stipulates that the money is not going to be reimbursed for the purchase of the property. *Commissioner Herman rescinded her original motion. Commissioner Herman made a motion to table item #2 (of Old Business), seconded by Commissioner King and carried by a vote of four (4) to one (1) with Commissioner DiStasio voting in opposition of tabling.*

3. Discussion/Action to consider scheduling another Budget Workshop for the 2009-2010 Fiscal Year Budget. The Board discussed it, and felt another Budget Workshop was necessary. *Commissioner King motioned to schedule a Budget Workshop for April 28, 2009, 4:00 pm at Town Hall, seconded by Commissioner King and carried by a unanimous vote.* At this time, Mayor Clemmons called a brief recess. The Board took a ten-minute break from 8:55 pm to 9:05 pm; Mayor Clemmons called the meeting back to order.

4. Discussion/Action related to the Unified Development Ordinance (UDO). Commissioner Melahn stated that based on the public comments heard this evening, he is not prepared to vote on the UDO at this time. *Commissioner Melahn motioned to table this item until such time as there is a report from the Ordinance Review Committee, seconded by Commissioner King and discussion ensued.* Commissioner Melahn said the Town desperately needs to get rid of the current ordinance. Commissioner Herman said the Planning & Zoning Board and the Board of Commissioners have spent three years trying to rectify the current ordinance book. She believes the majority of the UDO to be a cleaned up version of the current book and most of the UDO deals with future development. The Planning & Zoning Board felt the nonconforming section of the UDO would protect what is currently developed, according to Commissioner Herman. Commissioner Herman agrees that a fresh perspective is needed for the UDO and that the only purpose of the UDO was to help Calabash. Commissioner Herman believed that 90% of the complaints of the UDO referenced during public comments involve ordinances and language that is found exactly the same in the current Code. Commissioner King thanked Commissioner Melahn for his motion to table the matter and stated the ORC is not trying to stall the UDO they just want a chance to review the entire document and give their recommendations. Commissioner Dixon said the ORC should be given a chance to finish their review. Commissioner DiStasio if the UDO had gone to a vote in February, the ORC would have been established whether it had been adopted or not. Commissioner DiStasio felt the Board should keep the ORC but vote on the UDO now. She also stated that she has no motives of personal gain—something of which she has been accused of in a recent letter to the editor in the Brunswick Beacon. Commissioner DiStasio said if the Board wants to table the vote of the UDO she would like there to be a time limit placed on the ORC’s review. *Commissioner Melahn amended his original motion to table to include that the ORC’s review should not exceed 90-days, Commissioner Dixon seconded the amended motion and Mayor Clemmons called for a roll-call vote, which was as follows:*
 - Commissioner Dixon—“yes”*
 - Commissioner Herman—“yes”*
 - Commissioner King—“yes”*
 - Commissioner Melahn—“yes”*
 - Commissioner DiStasio—“yes”*

The motion to table the vote of the UDO until such time as the Ordinance Review Committee makes a report of their review, which is not to exceed 90-days carried by way of a unanimous vote of the Board.

At this time, Commissioner Melahn motioned to recess until 4:00 pm tomorrow (April 15, 2009) at Town Hall; there was no second so the motion died. It was noted that the Town Attorney

would not be able to attend tomorrow and his presence was necessary for Closed Session. The Board was not opposed to recessing until tomorrow for New Business but wanted hold the second Closed Session this evening. *Commissioner King motioned to adjust the agenda to move the second Closed Session on the agenda between Old Business and New Business; Commissioner Melahn seconded the motion and the motion carried unanimously.*

CLOSED SESSION: Pursuant to G.S 143-318.11(a)(3) &(6)—Legal Matters & Personnel. *Commissioner Melahn motioned to enter Closed Session pursuant to G.S 143-318.11(a)(3)-legal matters; Commissioner King seconded the motion and the motion carried unanimously.*

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

ACTION AS A RESULT OF CLOSED SESSION: Mayor Clemmons stated that three matters were discussed in Closed Session and no action would be necessary for one of the three items; he requested Mr. Lewis to make a recommendation regarding a legal matter.

Mr. Lewis recommend, in reference to a citizen complaint alleging that staff targeted certain political signs, that the Board send a memo to all involved parties stating that there has been a complaint filed with the Town and staff members are not to target any signs in a discriminatory way, all signs are to be treated equal. The memo should also state that a copy of the memo will be placed in each named employee's personnel file and if there are no further similar complaints lodged within six-months the memo will be removed from personnel files. *Commissioner Melahn motioned to approve the recommendation submitted by Mr. Lewis, Town Attorney; seconded by Commissioner King and carried unanimously.*

Commissioner Herman motioned to give Kelley Southward a \$500 bonus in recognition and appreciation of her work as Interim Town Administrator, seconded by Commissioner King, who pointed out that this is the second time Ms. Southward has performed these duties for the Town; the motion carried unanimously.

PUBLIC COMMENTS: none forthcoming.

MOTION TO RECESS: *Commissioner Melahn motioned to recess to tomorrow, April 15, 2009, 4:00 pm at Town Hall, seconded by Commissioner Herman and carried unanimously at 10:25 pm.*

(Seal)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
APRIL 15, 2009--RECESSED MEETING
Meeting Recessed from the April 14th Regular Monthly Meeting**

MINUTES

The Calabash Board of Commissioners reconvened their Regular Meeting of April 14, 2009, on Wednesday, April 15, 2009, at 4:00 pm, at Town Hall, 882 Persimmon Road, Calabash, NC.

MEMBERS PRESENT: Mayor Pro Tem Forrest King, Commissioner Emily DiStasio, Commissioner Cecelia Herman, Commissioner William Dixon, and Commissioner John Melahn.

MEMBERS ABSENT: Mayor Anthony Clemmons.

STAFF PRESENT: Jeremy Cribb, Town Administrator and Kelley Southward, Town Clerk

GUESTS PRESENT: approximately twelve (12) guests were in attendance.

WELCOME: Mayor Pro Tem King welcomed everyone and explained that the purpose of today's meeting was to continue the Board's Regular Monthly Meeting from yesterday; he relayed an apology from Mayor Clemmons, who could not be present today due to a prior agreement.

NEW BUSINESS:

1. Discussion/Action regarding the bids to remove stumps from the Town's 10-acre property at 619 Persimmon Road. Commissioner Dixon relayed that the Town had received three bids for this project and he recommended going with the low bidder, Chuck's Construction for \$13,800. The Board reviewed and discussed the bids. *Commissioner Dixon motioned to award the bid for the removal of stumps to Chuck's Construction, seconded by Commissioner Herman and carried by a unanimous vote.*
2. Discussion/Action to schedule public hearings for the following proposed ordinance amendments:
 - a. Amend "Maximum building height" in all zoning districts—§153.135 (C)(6); §153.136(C)(6); §153.137(C)(6); §153.138(C)(6); §153.140(C)(6); §153.141(C)(6); §153.142(A); 153.143(B)(5); §153.144(C)(6); §153.145(B)(5)(h)3; §153.146(C)(3); §153.219(G)(8); and §153.219(G)(17)—of the current Code of Ordinances; allow 35' to soffit with an additional 10' for roofing (uninhabitable space) for a maximum building height of 45'.
 - b. Amend setbacks along perimeter property lines in Planned Unit Developments [§153.147(D)(b)] and Subdivisions [§151.43(B)(1)] to be a minimum of 30' and a maximum of 45' (relative to building height) in the current Code of Ordinances.

- c. Amend all residential zoning districts and conditional uses [§153.135; §153.136; §153.137; §153.138; §153.142; §153.144; §153.145; and §153.219] to be subject to applying Net Buildable Area in the current Code of Ordinances.

The Board discussed the issue and were not opposed to holding a public hearing next month but felt a workshop to review the proposed ordinance amendments regarding height, setbacks, and net buildable area would be necessary before scheduling a public hearing. *Commissioner Dixon motioned to schedule a Special Meeting for the purpose of (1) holding a Workshop to review the proposed ordinance amendments regarding height, setbacks, and net buildable area and (2) taking action to schedule a public hearing for the same ordinance amendments. Commissioner Herman seconded the motion and the motion carried unanimously.*

3. Discussion/Action to consider revisions to Shallotte Partners' subdivision map; original subdivision approved by the Town on 2/14/2007 and recorded at the Brunswick County Register of Deeds in Map Book 36, Page 481. Mr. Myers of Shallotte Partners addressed the Board explaining that his purpose for revising the subdivision map is a result of a request made by DOT and the electric company (BEMC). The two ingress/egresses on Old Georgetown Road on the original subdivision map are in unacceptable locations for the two agencies. DOT has requested the ingress/egress closest the traffic light be moved one lot further from the light. BEMC has requested that the other ingress/egress (the one closet to the Church) be moved up one lot (toward the traffic light) because a major transformer is located where the current ingress/egress is proposed.

The Board noted some other differences in the original map and the proposed map. The road has changed at both ends; instead of dead ending to adjoining properties lots 1 and 21 have increased and the road now dead ends into these lots. The Board also noted that the overall size of the entire property has increased; Mr. Myers noted that two different surveyors prepared the two maps. Mr. Myers felt the new map is accurate because he has worked with this surveyor for many years.

The increase in overall size of the entire property concerned the Board because they felt this may affect Mr. Myers' state stormwater permit. Mr. Myers relayed that his engineer, Mr. Jody Bland, has handled everything associated with the stormwater permit. Mr. Bland was unable to attend the meeting but Mr. Myers said Mr. Bland had reassured him that this difference would have no affect on the stormwater permit because there would be no change in the impervious surface area.

Mr. Feilback, of the Thistle, felt there were more issues with the map than what the Board was identifying. He stated that he compared the two maps and every single lot has increased according to the proposed subdivision map; some include a very slight increase but nonetheless everything has increased. More importantly, he noted that the right of way included on the original map was noted as a public right of way and that is no longer the case according to the proposed revised map. Mr. Feilback felt that with the exception of the relocations of the ingresses/egresses on Old Georgetown Road, none of the changes are minor because they could have a great impact on the project itself as well as surrounding properties. Mr. Feilback argued that Shallotte Partners' Conditional Use

Permit should be void because the 50-foot right of way was originally approved (according to the recorded subdivision map) as a public right of way and all through the Conditional Use Permit process it was referred to as a private road.

Mr. Myers said he is not trying to sneak anything past the Board, and it is apparent that Mr. Feilback is opposed to having apartments next to his paradise reserved for the privileged few. Mr. Feilback resented that comment. Mayor Pro Tem King asked that everyone stick to the issue at hand. Town Administrator Cribb asked Mr. Myers about the increase in property to lots 1 & 2; Mr. Myers said that his engineer would have to answer that question. The Board noted that changes made to this project have been extensive over the years and trying to keep up is very confusing.

The Board confirmed, by checking the ordinance, that the right of way should be noted as a public right of way on the map; Mr. Myers would have to make this correction. Mr. Cribb asked if the road included curb and guttering; Mr. Myers was sure that there would be due to the stormwater catch basins. Mr. Cribb said according to the ordinance there must be curb and gutters for 50-foot right of ways for residential neighborhoods; it was noted that this project borders commercial and 50-foot might not be sufficient even with curb and gutters.

The Board discussed approving the map contingent upon the Town Administrator confirming that the changes requested by the Board have been made to the map versus having Mr. Myers come back before the Board after the changes have been made. The Board felt it was best to approve the revised subdivision map with contingencies so that Mr. Myers would not have to come back to the Board. Mr. Feilback asked if the Board was considering the changes to be minor rather than major. Commissioner Herman said the changes are major otherwise, the Planning & Zoning Board could have approved the changes and the map would have never come to the Board of Commissioners. Mr. Feilback said the Planning & Zoning Board forwarded it to the Board of Commissioners without a recommendation. Commissioner Herman said that they did not recommend approving or denying the map but by forwarding to the BOC they showed that they felt the changes to be major. Mayor Pro Tem King asked if a public hearing was necessary since the changes are major; Commissioner Herman relayed that a public hearing is not necessary because it is a subdivision not a PUD.

Commissioner Herman motioned give the Town Administrator the authority to approve the map presented today when all the necessary changes and additional information has been provided, the 50-foot right of way should be noted on the map as “public right of way” and that it is confirmed that the stormwater permit is valid even though the amount of property has increased, once the Town Administrator is satisfied with what is presented to him in accord with the Board’s wishes he may approve the revised subdivision map for recordation at the Register of Deeds. Commissioner DiStasio seconded the motion and the motion carried by way of a unanimous vote.

4. Discussion/Action of sweepstakes/business center establishments; Board of Commissioners to give staff directions. The Clerk explained that there is an injunction

in the State out of Gilford County declaring that businesses engaged in computer sweepstakes are not subject to the video gaming laws. Penny Tysinger, Planner, has reviewed our ordinances and does not see where any permitted use in the Central Business (CB) or Highway Commercial (HC) would permit a business primarily engaging in sweepstakes. Ms. Tysinger suggests that either the Town amend the ordinance to include these businesses as a permitted use or classify them under the established conditional use of “Cultural, Entertainment, and Recreational not elsewhere classified.(C/E/R NEC)” Ms. Tysinger believes the Board of Adjustment could place conditions similar to the conditions set forth on other businesses classified under C/E/R NEC that are established in the ordinance. The Board further discussed sweepstakes and the majority felt they should be a conditional use, which would requires a Board of Adjustment Hearing. *Commissioner Herman motioned to classify sweepstake businesses as a conditional use under “cultural, entertainment, and recreational not elsewhere classified.” Commissioner Melahn seconded the motion and the motion carried unanimously.*

5. Discussion/Action of the necessity for a public solicitation ordinance. Mayor Pro Tem King noted that it was Mayor Clemmons who requested this matter be placed on the agenda and he should be present before the matter is discussed or acted upon. To that end, Mayor Pro Tem King acknowledged that there were several members of the audience who may be interested in addressing the Board on this matter and he allowed those folks to address the Board; he requested that speakers be respectful.

Mr. Larry Horowitz of the Voyager Fishing Fleet addressed the Board first. Mr. Horowitz recognized that the other charter businesses have a problem with his business because he stops vehicular traffic. He claimed that the only reason his business stops traffic is to organize his parking; he said the Town has never received a complaint that his patrons are parking on someone else’s property. Mr. Horowitz said his business employs more people than other charter business and he brings a positive economic impact to Calabash.

Ms. Terry Speros of the Hurricane Fishing Fleet said that three years ago her business received a violation letter from the Town of Calabash stating that her A-frame sign violated an ordinance; she removed that sign because she wants to comply with the rules of Calabash. She claims that Voyager uses A-frame and other portable signs and continues to do so even after receiving violation notices. She said that Mayor Clemmons has told her that the Voyager has even stopped him while driving in attempt to solicit his business. She said that they do not direct people who have reservations with her or other charters to them, rather Voyager directs her patrons to their boats; they steal customers. Stealing customers and soliciting people in the manner in which Voyager does is a disgrace to Calabash in her opinion. The Town should have a rule against solicitation of this kind.

Mr. Bob Taylor of the Calabash Fishing Fleet said that other businesses bring people to Calabash too. He knows from experience that Voyager steals customers. He said that Calabash is going to become just like the Little River Waterfront 20-years ago with

feuding amongst the businesses that became very dangerous. He requested the Town to step in and lend some assistance to this situation.

Kathy Horowitz said she runs the Voyager office and if someone that has reservations on another boat gets on their vote she does not direct them to the business in which they have reservations; business is business and the other charters should make sure their patrons know how to get to their business.

Commissioner Herman motioned to table the matter of a solicitation ordinance until Mayor Clemmons is present to convey his ideas and opinions. Commissioner DiStasio seconded the motion and the motion carried by a unanimous vote.

6. Discussion/Action of correspondence from Saltaire Village POA regarding the retaining walls in the main entrance ponds. Mr. Bob Santoro of Saltaire Village addressed the Board and informed him of the erosion problem on the bank of the ponds. It was stated during discussions that the ponds were conveyed to the Town when Saltaire Village was annexed; Mayor Pro Tem King requested staff to locate this conveyance. *Commissioner Melahn motioned to direct Commissioner Dixon and the Town Administrator to investigate the ponds, proceed in finding a solution for repairing the problems and report back to the Board. Commissioner Dixon seconded the motion and the motion carried unanimously.*
7. Discussion ABC Boar Audit for the Six Months Ended December 31, 2008. The Board discussed the audit and everything seemed to be in order; there were no red flags. There was discussion of rumor of a house or senate bill that has been proposed to take ABC stores/boards away from municipalities and give them to counties as well as permit operation on Sunday. Mr. Cribb said he would look into this matter.
8. Discussion/Action to consider a Budget Ordinance Amendment to allocate funds to three line items relating to salaries in the Inspections Department. It was noted that the Budget Ordinance Amendment transfers \$21,000 from Drainage/Stormwater (10-585-44) and \$3,400 from Inspections Contracted Services (10-540-45) for a total of \$24,000 to Inspections Salaries (10-540-02), FICA/Medicare (10-540-05) and Retirement Expense (10-540-07). *Commissioner Herman motioned to approve the Budget Ordinance Amendment, seconded by Commissioner Melahn and carried unanimously.*

PUBLIC COMMENTS:

1. Mr. Richard Mansfield addressed the Board about his neighbors barking dogs. Mr. Mansfield noted that staff has spoken with his neighbors and sent letters about the matter but the dogs continue to bark constantly. The Board asked that Mr. Cribb look into the matter.
2. Mr. Anthony Feilback of the Thistle addressed the Board regarding the Conditional Use Permit issued to Shallotte Partners to allowing them to construct 216 multifamily units. Mr. Feilback took issue when many components of the project as well as action of the Town and Board. He feels the project and the CUP violates Town Ordinances.

BOARD COMMENTS: Mayor Pro Tem King solicited comments from the Board; there were none forthcoming.

ADJOURN: *Commissioner Melahn motioned to adjourn, seconded by Commissioner Dixon and carried unanimously. The meeting adjourned at approximately 6:25 pm.*

(seal)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk