

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
June 9, 2009-6:00 p.m**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, June 9, 2009, 6pm at Town Hall, 882 Persimmon Road, Calabash, NC.

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

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

GUESTS PRESENT: approximately 20 guests were in attendance.

CALL TO ORDER/PLEDGE TO FLAG: Mayor Clemmons called the Meeting to order at 6pm and Commissioner DiStasio led everyone in the Pledge of Allegiance.

ROLL CALL: attendance is reflected above.

APPROVAL/ADJUSTMENT OF AGENDA:

1. Mayor Clemmons asked that there be a report for the Emergency Management Committee added to Committee Reports; Mr. Cribb should give the report.
2. Commissioner King asked that items 12 & 13 be added to New Business: #12-Schedule a Public Hearing for a text amendment to Section 153.054 of the Calabash Code of Ordinances for July 14, 2009, 6pm at Town Hall and #13-Discussion/Action to consider voting on Bonaparte's Retreat request to convey their streets to the Town of Calabash.
3. Commissioner Melahn requested that item #7 of Old Business be moved to item #4 and renumber accordingly.

Commissioner Melahn motioned to approve the agenda as amended, seconded by Commissioner Dixon and carried unanimously.

PUBLIC HEARING:

1. 2009-2010 Fiscal Year proposed Budget Ordinance: Commissioner Herman motioned to open the public hearing, seconded by Commissioner King and carried unanimously. Mayor Clemmons asked if there were any speakers; there were no comments forthcoming. Commissioner Melahn motioned to close the public hearing, seconded by Commissioner Dixon and carried unanimously.

PRESENTATION: Awards for the First Annual "Most Beautiful Yard" Contest. Mayor Clemmons presented awards to the four participants and certificates of appreciation to the three judges that donated their time.

MAYOR'S COMMENTS: Mayor Clemmons commented that Mr. Cribb is doing an excellent job as the new Town Administrator. However, Mayor Clemmons is concerned that Mr. Cribb may be working too much; he regularly puts in 12-14 hour days. He cautioned Board members to not take up too much of Mr. Cribb's time. Rather the Board should trust Mr. Cribb's capabilities.

PUBLIC COMMENTS: none forthcoming.

CONSENT AGENDA:

1. Minutes of April 21, 2009 Special Meeting
2. Minutes of April 28, 2009 Special Meeting/Budget Workshop
3. Minutes of June 4, 2009 Special Meeting/Public Hearing

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

TOWN ADMINISTRATOR'S REPORT: Written report attached hereto and made a part of these minutes. In addition to his written report, Mr. Cribb informed everyone that the Town and the Merchant's Association will be sponsoring the first ever 4th of July festival on July 3rd, 2009.

BUILDING INSPECTOR'S REPORT: Written report is attached hereto and made a part of these minutes.

COMMITTEE REPORTS:

1. Fire Department: Minutes of the CFD May 2009 Meeting are attached hereto and made a part of these minutes.
2. Planning & Zoning: Written report attached hereto and made a part of these minutes.
3. Finance: Currently the tax collection rate is at 103% of what was budgeted for the 2008-2009 fiscal year.
4. Water Wastewater: Mayor Clemmons commented on the Town's application to the Clean Water Management Trust Fund for the proposed sewer project; the Town has applied for a \$3 million grant.
5. Town & Merchant: Commissioner King noted that the Merchant Association is having a membership drive; there may be a raffle for a golf cart to spark interest.
6. Stormwater: No report.
7. Long Range Planning: Commissioner King noted that projects from WK Dickson are back; Master Planning of Town Properties and Road Condition Survey and the LRP Committee needs to have a meeting; a meeting was scheduled for Tuesday, June 16, 2009 at 3pm at Town Hall.
8. Ordinance Review Committee: ORC Vice Chairman, Michael Abushakra, reported that the ORC is up to Article 16 and is attempting to meet the Board of Commissioners 90-day extension deadline, which comes due in mid July; at that point they will have to submit their recommendations to the Planning & Zoning Board. He urged the public to review the document on the Town's website and forward concerns to the Town Clerk.
9. Emergency Management Committee: Mr. Cribb reported that the EMC held its first meeting of hurricane season yesterday at Town Hall. The committee identified areas of weakness and will be taking steps to strengthen several areas. He urged for citizens with

special needs to inform Town Hall so that the Town may lend assistance in the event of an emergency.

OLD BUSINESS:

1. **Discussion/Action regarding a proposed amendment to Title XI-Business Regulations of the Calabash Code of Ordinances; add Chapter 116-Peddlers, Hawkers, Drummers, Roadside Vendors, Solicitors, Salespersons, Canvassers, and Demonstrators.**
 - A) **Review and discuss the proposed amendment; make changes if necessary.**
 - B) **Schedule a Public Hearing for July 14, 2009, 6pm at Town Hall.**

Commissioner Melahn noted that he had several suggestions for change to the proposed ordinance; starting with the title, which he felt is too long. Commissioner King said he feels the Board needs to move more quickly with this matter. Holding a public hearing in July means that half the summer season is already gone, which will not do anything to help the issues the Board wants this ordinance to address. It was also discussed that because this ordinance would be included in Title XI (hence it is not in the Land Use Section) of the Ordinance, a public hearing is not required; although the Planning & Zoning Board (PZB) recommended it go to a public hearing. The Board felt a Special Meeting/Workshop would be the best solution. In discussing a Workshop all Board members also agreed that Item 2 of Old Business (revisions to Title III, Chapter 31-Town Officials) would need a Workshop to discuss the revisions in detail. The Board decided that a Special Meeting should be scheduled to (1) hold a workshop to discuss the proposed amendment to Title XI, add Chapter 116, (2) receive public comments on the proposed amendment to Title XI, (3) take action on the proposed amendment to Title XI, and (4) hold a workshop to discuss the revisions to Chapter 31-Town Officials. *Commissioner DiStasio motioned to hold a Special Meeting on Monday, June 15, 2009, 1:00 pm at Town Hall for the following purposes: to (1) hold a workshop to discuss the proposed amendment to Title XI, add Chapter 116, (2) receive public comments on the proposed amendment to Title XI, (3) take action on the proposed amendment to Title XI, and (4) hold a workshop to discuss the revisions to Chapter 31-Town Officials. Commissioner King seconded the motion and the motion carried by way of a unanimous vote.*

2. **Discussion/Action related to the revisions of Title III-Administration, Chapter 31-Town Officials.** See the discussion and motion in Old Business, item 1 above.
3. **Discussion/Action to take a vote on the 2009-2010 Fiscal Year Budget Ordinance and set the tax rate.** Commissioner King gave a synopsis of the proposed budget, which is attached hereto and made a part of these minutes. He noted that the Town has cut back due to the current economy. Commissioner King thanked the Board and staff for all the hard work everyone contributed in preparing the 2009-2010 Budget. *Commissioner King motioned to approve the 2009-2010 Fiscal Year Budget Ordinance and set the tax rate at seven (7) cents per one hundred dollars (\$100) of valuation; seconded by Commissioner King and there was a brief discussion. Commissioner DiStasio said she feels it is a good budget and she plans to vote "yes" but she wanted to go on record as stating that more*

money should have been included in the Inspections department. Commissioner Herman said everyone worked hard on the budget, it is a good budget and everyone should be proud of it. Mayor Clemmons said he is proud of the Commissioners and staff for all the hard work in the preparation of the budget; he called for a vote. *The motion to approve the 2009-2010 Fiscal Year Budget Ordinance and to set the tax rate at 7cents per \$100 valuation carried by way of a unanimous vote.*

4. **Discussion/Action to vote on Ordinance Amendment # 2009-0501; an amendment to §153.219 of the Calabash Code of Ordinances regarding conditional uses for sweepstake businesses.** The Town Clerk explained the purpose of this ordinance amendment. Commissioner DiStasio felt these types of businesses should not be permitted in business/shopping centers; they should only be allowed in stand-alone buildings because it is too difficult to enforce parking and they take up a lot of parking. Town Attorney, Mark Lewis, said the ordinance looks good, he would not recommend any changes. The Board noted that any businesses of this nature that are already established in town or in the process of opening (have applied for and or paid for business licenses or building permits) would be grandfathered and not subject to going through the conditional use process. *Commissioner Melahn motioned to approve Ordinance Amendment # 2009-0501, which establishes the conditions for sweepstake businesses and should be included in §153.219 of the Calabash Code of Ordinances. The motion was seconded by Commissioner King and Mayor Clemmons called for a roll-call vote: Commissioner DiStasio “no”; Commissioner Melahn “yes”; Commissioner King “yes”, Commissioner Herman “yes”, and Commissioner Dixon “yes”: the motion to approve carried by a vote of four (4) to one (1).*

5. **Discussion/Action to vote on Ordinance Amendment #2009-0401; an amendment increasing height from a maximum of thirty-five feet (35’) to forty-five feet (45’). The amendment would affect the following thirteen (13) Sections of the Ordinance:** R-15-§153.135(C)(6); R-8-§153.136(C)(6); R-6-§153.137(C)(6); MFH-I-§153.138(C)(6); CB-§153.140(C)(6); HC§153.141(C)(6); AD-§153.142(A); ID-153.143(B)(5); MFH-II-§153.144(C)(6); MFH-IIP-§153.145(B)(5)(h)3; CD§153.146(C)(3); R-8 Conditional Use-§153.219(G)(8); and R-6 Conditional Use- §153.219(G)(17). The Board of Commissioners explained this ordinance amendment for the audience. *Commissioner Melahn motioned to approve Ordinance Amendment #2009-0401, which amends height to include that a structure may be allowed thirty-five feet (35’) to the soffit and an additional ten feet (10’) to the peak of the roof, for roofing for a maximum height of forty-five feet (45’) however the space above thirty-five feet (35’) is to be non-habitable space for the thirteen (13) sections of the ordinance included on the Agenda (listed above). Commissioner King seconded the motion and the motion carried by a unanimous vote.*

6. **Discussion/Action to vote on Ordinance Amendment #2009-0402.01; an amendment to §153.147(D)(1)(b) of the Calabash Code of Ordinances regarding an increase to setbacks along perimeter property lines for Planned Unit Developments.** [see #7 below for discussion and action]

7. **Discussion/Action to vote on Ordinance Amendment #2009-0402.02; an amendment to §151.43(B)(1) of the Calabash Code of Ordinances regarding an increase to**

setbacks along perimeter property lines for [new major] subdivisions. The Board discussed the amendments to setbacks contained in items 6 & 7 at length. Even though the Board held a workshop on this matter back in April, they felt the amendments were not ready for approval. Some comments included that the language in the ordinance is too confusing-it could be simplified; a variable setback based on the height of proposed structures is a confusing concept; what if a small portion of a building that is no where near a perimeter property line exceeds a height of thirty five feet-will the setback have to be increased for the whole property; “call a spade, a spade-this is for multifamily”. After the in-depth discussion, the Board felt it was best for the PZB to revise the proposed amendment. *Commissioner King motioned to send items 6 & 7 of old business (proposed ordinance amendments #2009-0402.01 and 2009-0402.02-setback increase) back to the Planning & Zoning Board and to instruct the Town Administrator to relay the Board of Commissioners recommendations to them. The motion was seconded by Commissioner DiStasio and carried by way of a unanimous vote. Mayor Clemmons called for a brief recess; after ten minutes the Board reconvened when the Mayor called the meeting [back] to order.*

8. **Discussion/Action to vote on Ordinance Amendment #2009-0403.01; an amendment to §153.147 of the Calabash Code of Ordinances regarding an increase to required buffers for Planned Unit Developments.** Commissioner King asked what the PZB’s recommendation was on this amendment; the Clerk relayed that the PZB recommended that this amendment not be approved. *Commissioner King stated that he would like to follow the recommendation of the Planning & Zoning Board and motioned to not approve ordinance amendment #2009-0403.01, seconded by Commissioner Melahn and carried by a vote of four to one, with Commissioner Herman voting in opposition of the motion to not approve.*
9. **Discussion/Action to vote on Ordinance Amendment #2009-0403.02; an amendment to §151.46 of the Calabash Code of Ordinances regarding an increase to required buffers for subdivisions.** Again it was relayed that the PZB recommended that the Board of Commissioners should not approve this amendment. *Commissioner King motioned to not approve ordinance amendment #20090403.02, seconded by Commissioner Melahn and there was discussion. Commissioner Herman was curious as to how wide a buffer strip was required to be; currently fifteen feet (15’). It was also pointed out that the current ordinance requires that a buffer is in addition to the setback; at the property line you have fifteen feet of buffer and then you start your setback. Hence is the setback is twenty-five feet then technically no construction takes place within forty-feet of the property line. Mayor Clemmons called for a vote and the motion on the floor, to not approve the amendment, carried by a vote of four to one, with Commissioner Herman voting in opposition of the motion to not approve.*
10. **Discussion/Action update on action proposed to repair the Saltaire Village ponds.** Town Administrator Cribb and Commissioner Dixon informed the Board that work on the ponds should begin in late June. Basically a company will be filling the area that is washing away with rock. The water level of the ponds will have to be reduced so that the rock can settle the necessary area correctly. Commissioner DiStasio requested that Commissioner Dixon or the Town Administrator contact Mr. John Raleigh;

Commissioner Dixon said he would like to meet with Mr. Raleigh to discuss the proposed work. No action was necessary for this item.

NEW BUSINESS:

1. **Discussion/Action to re-appoint Carolyn Silvers as Tax Collector for a term of two years/swear-in Tax Collector; term to begin July 1, 2009 and end June 30, 2011.** *Commissioner Herman motioned to re- appoint Carolyn Silvers as the Tax Collector for a two-year term ending June 30, 2011; seconded by Commissioner DiStasio and carried by a unanimous vote.* The Town Clerk administered the oath of office to Ms. Silvers.
2. **Discussion/Action to re-appoint Hank Rutter to the Calabash ABC Board for a three-year term ending June 30, 2012.** *Commissioner Dixon motioned to re-appoint Hank Rutter to the ABC Board for a three-year term, seconded by Commissioner King and carried unanimously.*
3. **Discussion/Action to appoint/swear-in Town Administrator, Jeremy Cribb, as the Zoning Administrator, Budget Officer, and Personnel Office.** *Commissioner Melahn motioned to appoint Mr. Cribb as Zoning Administrator, Budget Officer, and Personnel Officer; seconded by Commissioner King and carried by a unanimous vote.* Mayor Clemmons asked that in the interest of time, the Clerk wait and administer Mr. Cribb's oaths of office until tomorrow.
4. **Discussion/Action to vote on amendments to the Personnel Policy as recommended by the Personnel Committee.** *Commissioner DiStasio relayed that at a recent meeting of the Personnel Committee the amendments/revisions included in the Board's packets were recommended (attached hereto and made a part of these minutes). Commissioner DiStasio motioned to approve the amendments to the Personnel Policy, as recommended by the Personnel Committee; seconded by Commissioner Melahn and carried by a unanimous vote.*
5. **Discussion/Action to vote in consideration of Debris Management Contract with Brunswick Trucking Company for debris pick-up after disasters.** *Staff informed the Board that there were little changes from the last contract; this contract is for one year instead of two years and only five pieces of equipment went up in price and the price changes range from \$5 to \$20. Mr. Lewis had not been provided the contract prior to the meeting and he suggested that if the Board is happy with the contract, as written, then they should approve it contingent upon his review and recommendation. Commissioner DiStasio motioned to approve the Debris Management contract from Brunswick Trucking contingent upon review and approval from the Town Attorney.*
6. **Discussion/Action to vote on the 2009-2010 Holiday/Meeting Schedule** (attached hereto and made a part of these minutes). *Commissioner Herman motioned to approve the 2009-2010 Holiday/Meeting Schedule, seconded by Commissioner Melahn and carried by a unanimous vote.*

7. **Discussion/Action to vote on the Tax Collector/Accounting Rep's request to destroy certain records dating from 1997-2003 in accordance with state requirements** (a copy of the type of documents requested to be destroyed and state requirements for such documents are attached hereto and part of these minutes). *Commissioner Melahn motioned to approve the request to destroy certain records in accordance with state requirements, seconded by Commissioner DiStasio and carried by a unanimous vote.* The Town Administrator noted that there is an abundance of paper and asked how the Board would like the records to be destroyed; fire or shredding. The Board asked that the records be shredded and suggested that staff contract with an outside company to do the shredding.
8. **Discussion/Action to vote on expenditures for new sound system and recording software; maximum \$10,000.** *Commissioner DiStasio motioned to approve the expenditure for the new sound system and recording software, not to exceed \$10,000; seconded by Commissioner King and carried, unanimously.*
9. **Discussion/Action to contact the County to find out what it would entail to extend water to residences on Carter Drive and Madison Street.** Commissioner King noted that there are only a few residences on each of these streets and they are backwards when it comes to utilities in the fact that they have sewer service available but not water; the well water is not suitable for drinking. Mayor Clemmons said some time ago this matter was discussed with County who said the next time they had a project in the area it would be cheaper to piggy back this project at that time. The Board directed Mr. Cribb to contact the County on this matter and report his findings back to the Board.
10. **Discussion/Action regarding ETJ membership of the Planning & Zoning Board and Board of Adjustment.** Since the annexation becomes effective July 1st the two ETJ members will now be Town members. Mr. Lewis said these members should be removed from the Board but they would have to be removed by the County as they are County members of the Town's PZB. *Commissioner Herman motioned to direct the Town Administrator to contact the County about the ETJ members and to contact the ETJ members and inform them of this situation, seconded by Commissioner King and carried unanimously.*
11. **Discussion/Action to authorize the Mayor, Commissioner Herman, and the Town Administrator to proceed in exploring options regarding the Calabash Fire Department (CFD).** Mayor Clemmons noted that more than a year ago, the CFD had sent a letter to various entities, including the Town of Calabash, requesting assistance for future operations. The letter included six options, which in part included becoming a municipal fire department (either for Carolina Shores, Calabash, or jointly of the two towns) or a county fire department. While the Town has been assisting the CFD in exploring different options over the past year, it is important to identify what Town representatives have authority to conduct meetings/conversations as things move forward. *Commissioner King motioned to authorize Mayor Clemmons, Commissioner Herman, and Town Administrator Cribb to proceed in exploring options regarding the Calabash Fire Department.*

12. **Schedule a Public Hearing for text amendment to §153.054 of the Calabash Code of Ordinances.** *Commissioner DiStasio motioned to schedule a public hearing for Tuesday, July, 14, 2009, 6:00 pm at Town Hall for the text amendment to §153.054 of the Calabash Code of Ordinances, seconded by Commissioner King and carried by a unanimous vote.*
13. **Discussion/Action to consider voting on Bonaparte's Retreat request to convey their streets to the Town of Calabash.** Late this afternoon the Bonaparte Retreat POA had delivered a letter to Town Hall informing the Board of Commissioners that their POA board had voted to turn their streets over to the Town of Calabash once the annexation becomes effective. Attorney Lewis pointed out that this matter should be researched, as it may be possible that the POA does not have the authority to dedicate the streets because the streets may not have ever been dedicated to the POA. *Commissioner Melahn motioned to table the matter, seconded by Commissioner King and carried by way of a unanimous vote.*

CLOSED SESSION: *Commissioner King motioned for the Board to enter closed session pursuant to G.S 143-318.11 (a)(6)-personnel matters and G.S 143-318.11-legal matters, Commissioner DiStasio seconded the motion and the motion carried unanimously.*

Upon returning from closed session, Commissioner Melahn motioned for the Board to enter regular session, seconded by Commissioner DiStasio and carried unanimously.

ACTION AS A RESULT OF CLOSED SESSION: *Commissioner DiStasio motioned to award Mr. William Sidney Silvers of the Town Services Department a 2.5% salary increase, retro active back two pay periods, seconded by Commissioner Melahn and carried unanimously. No action was taken regarding any legal matters.*

PUBLIC COMMENTS/BOARD COMMENTS: none

ADJOURN: *Motion to adjourn by Commissioner Herman, seconded by Commissioner King and carried unanimously.*

(seal)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk