



**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, January 10, 2012—6:00 pm**

AGENDA

CALL TO ORDER: Mayor Knight

PLEDGE TO FLAG:

ROLL CALL:

APPROVAL/ADJUSTMENT OF AGENDA:

PUBLIC HEARINGS:

1. Ordinance Text Amendment--§16-4 of the UDO regarding Tree Protection
2. Ordinance Text Amendment--§24-16(B)(1)(a) (Improvement Guarantees/Cash or Equivalent Security) of the UDO; replace the word "subdivider" with "Town's engineer"

CONSENT AGENDA:

1. Minutes of December 13, 2011 Regular Meeting—Open Session
2. Minutes of December 13, 2011 Closed Session
3. Minutes of December 22, 2011 Special Meeting (Bid Opening re: Riverview Drive Drainage)
4. Minutes of December 29, 2011 Special Meeting—park playground equipment
5. Minutes of January 5, 2012 Special Meeting—workshop

MINUTES: (to discuss a set of minutes move here from Consent Agenda during Approve/Adjust Agenda)

MAYOR'S COMMENTS: Presentation of award.

COMMITTEE & LIAISON APPOINTMENTS:

1. Town & Merchant Liaison
2. Personnel Committee
3. Intergovernmental Relations Liaison
4. Emergency Management Committee (appoint new member to be Liaison between Town and Fire Dept)

PUBLIC COMMENTS #1: (General Public Comments—2 minutes per speaker)

CORRESPONDENCE:

1. from Mr. Don Hege regarding Carter Drive

TOWN ADMINISTRATOR’S REPORT:

BUILDING INSPECTOR’S REPORT:

COMMITTEE/LIAISON REPORTS:

1. Planning & Zoning—Commissioner DiStasio
2. Finance—Commissioner DiStasio
3. Town & Merchant—Commissioner Nance
4. Calabash Community Services—Commissioner Buccilli
5. Stormwater—Commissioner Walton
6. Safety—Commissioner Walton
7. Personnel—Commissioner Melahn
8. Long Range Planning—Town Administrator Nance

PUBLIC COMMENTS #2: (Public Comments regarding Old Business—2 minutes per speaker)

OLD BUSINESS:

1. **Discussion/Action** to consider approving the proposed UDO text amendment to §16-4 regarding Tree Protection.
2. **Discussion/Action** to consider approving the proposed UDO text amendment to §24-16(B)(1)(a) regarding improvement guarantees (change “subdivider” to “Town’s engineer”)
3. **Discussion/Action** regarding the bids received for construction of Riverview Drive drainage improvements:
 - a) Determine if the project should be awarded to include only the base bid or to include the base bid with the alternate bid; and
 - b) Award bid to the lowest, responsive, responsible bidder.

PUBLIC COMMENTS #3: (Public Comments regarding New Business—2 minutes per speaker)

NEW BUSINESS:

1. **Discussion/Action** to consider approving the Budget Calendar for Workshops to be held for preparation of the 2012-2013 Fiscal Year Budget.
2. **Discussion/Action** to consider approving a service agreement for upkeep/maintenance of the generator at Town Hall.
3. **Discussion/Action** to appoint a member of the Board as the Town’s Cape Fear Council of Governments Liaison.

4. **Discussion/Action** to consider approving the Resolution from the North Carolina Division of Emergency Management designating Jim McCartney and Chuck Nance as the Town's agents in applying for emergency reimbursement/assistance.
5. **Discussion/Action** regarding the Calabash Fire Department's request to fill the Calabash Commissioner seat of the Calabash Fire Department's Board of Directors.
6. **Discussion/Action** to consider obtaining and/or approving mutual aid agreements with neighboring towns for building inspections.

CLOSED SESSION:

1. Pursuant to G.S 143-318.11 (a)(3) Legal Matters—to consult with the Town Attorney.
2. Pursuant to G.S 143-318.11 (a)(6) Personnel Matters

ACTION AS A RESULT OF CLOSED SESSION:

PUBLIC COMMENTS #4: (limited to a maximum of 2 minutes per speaker)

BOARD COMMENTS:

ADJOURN:

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, January 10, 2012-6:00 p.m.**

MINUTES

The Town of Calabash Board of Commissioners held their Regular Monthly Meeting on Tuesday, January 10, 2012 at 6:00 p.m. in Sanborn Hall, located at Town Hall, 882 Persimmon Road, Calabash.

MEMBERS PRESENT: Mayor Mary Louise Knight, Commissioner Sandy Melahn, Commissioner Emily DiStasio, Commissioner Charles Walton, Commissioner Daria Buccilli and Commissioner Joseph Nance.

STAFF PRESENT: Charles Nance, Town Administrator; Kelley Southward, Town Clerk; and Mark Lewis, Town Attorney.

GUESTS PRESENT: The audience consisted of approximately fifteen individuals.

CALL TO ORDER/PLEDGE/ROLL CALL: Mayor Knight called the meeting to order at 6:00 p.m. and the Pledge of Allegiance to the Flag was recited. Roll call was taken with attendance reflected above.

APPROVAL/ADJUSTMENT TO THE AGENDA: Mayor Knight noted that she would entertain a motion to move all Consent Agenda items to the Minutes portion of the agenda. *Commissioner Walton*

motioned to move the Consent Agenda items to the Minutes section of the agenda; seconded by Commissioner Buccilli and unanimously carried.

Before moving on to Public Hearings, Ms. Southward noted that there was an item that needed to be added to the agenda and then the agenda needed to be approved as a whole. Commissioner DiStasio then stated that a Certificate of Deposit (CD) would be maturing on January 24th and the rate of interest would not be known until January 25th. She noted that a Special Meeting could be scheduled for either Tuesday, January 24 at 2:00 p.m. or Wednesday, January 25 at 11:00 a.m. to discuss the new interest rate. Ms. Southward asked if this would be item #7 under New Business to discuss the interest rate and to schedule a Special Meeting and Commissioner DiStasio said adding this as New Business #7 would be appropriate. Commissioner Nance noted that in the past such issues were handled by the Finance Officer without having to hold a Special Meeting. Mayor Knight stated that such action was taken at a time when only one bank was involved and that at this point other options might need to be considered.

Commissioner DiStasio motioned to amend the agenda to include New Business Item #7-to schedule a Special Board of Commissioners' Meeting for the purpose of discussing and acting on interest rates associated with the maturing CD; seconded by Commissioner Nance and unanimously carried.

PUBLIC HEARINGS:

Commissioner Nance motioned to enter into consecutive Public Hearings for an Ordinance Text Amendment to §16-4 of the UDO regarding Tree Protection and an Ordinance Text Amendment to §24-16(B)(1)(a) of the UDO (Improvement Guarantees/Cash or Equivalent Security) and replace the word "subdivider" with "Town's Engineer"; seconded by Commissioner DiStasio and unanimously carried.

1. Ordinance Text Amendment-§16-4 of the UDO regarding Tree Protection

As no one from the audience signed up to speak on the topic, Mr. Lewis asked a question about Section 16-4; specifically the words "increasing dust infiltration". He noted that the paragraph should read either "increasing dust filtration" or "decreasing dust infiltration." At that point *Commissioner Nance motioned to close the Public Hearing regarding the Tree Protection text amendment; seconded by Commissioner Melahn and unanimously carried.* Discussion continued. Mr. Lewis suggested that Section 16-10(F)(1) and (2), following the reference to oak, that the words "at ground level" be added for consistency.

2. Ordinance Text Amendment - §24-16(B)(1)(a) (Improvements Guarantees/Cash Equivalent Security) of the UDO; replace the word "subdivider" with "Town's Engineer."

As there were no public comments, *Commissioner DiStasio motioned to close the Public Hearing; seconded by Commissioner Nance and unanimously carried.*

Commissioner DiStasio motioned to return to Regular Session; seconded by Commissioner Nance and unanimously carried.

MINUTES:

1. December 13, 2011 –Regular Session

As she was not in attendance and cannot attest to their accuracy, Commissioner DiStasio stated that she would vote no. *Commissioner Buccilli motioned to approve the December 13, 2011 minutes as presented; seconded by Commissioner Nance and carried by a vote of 4 to 1 with Commissioner DiStasio voting in the opposition.*

2. **December 13, 2011** – Closed Session

Commissioner Buccilli motioned to approve the Closed Session minutes from December 13, 2011; seconded by Commissioner Melahn and carried by a vote of 4 to 1 with Commissioner DiStasio voting in the opposition.

3. **December 22, 2011** – Special Meeting (Bid Opening-Riverview Drive Drainage).

Commissioner Walton motioned to approve the minutes from December 22, 2011 as presented; seconded by Commissioner Buccilli and carried by a vote of 4 to 1 with Commissioner DiStasio voting in the opposition.

4. **December 29, 2011** – Special Meeting (Park playground equipment)

Commissioner Walton noted that there was improper wording regarding rubber mulch. Ms. Southward noted that the minutes would be amended in the appropriate paragraph to read as follows: “Commissioner Walton had learned that rubber mulch had a twenty to thirty year life span. Wood mulch had to be maintained and replenished every two to three years.” *Commissioner Walton motioned to approve the December 29, 2011 minutes as amended; seconded by Commissioner Nance and unanimously carried.*

5. **January 5, 2012** – Special Meeting

Commissioner Melahn motioned to approve the minutes as presented; seconded by Commissioner Buccilli and unanimously carried.

MAYOR’S COMMENTS: Mayor Knight thanked everyone for their hard work and dedication in attending meetings. She noted that the New Year’s Eve bonfire was very successful and she thanked all those involved in facilitating and organizing the event. She made a presentation to Mr. James McCartney to honor him for his efforts with the bonfire.

COMMITTEE AND LIAISON APPOINTMENTS:

1. Town and Merchant Liaison: Commissioner Buccilli has stepped aside and Mayor Knight offered the liaison position to Commissioner Nance. He accepted liaison duties.
2. Personnel Committee: In addition to Commissioner Melahn being the Personnel Liaison she and Commissioner DiStasio along with Town Administrator Nance will comprise the Personnel Committee.
3. Intergovernmental Relations Liaison: Commissioners Melahn and DiStasio will act as liaisons.
4. Emergency Management Committee (new liaison between the Town and the Calabash Fire Department). At the recommendation of the fire department, Mr. James Bruno was appointed.
5. Long Range Planning: Commissioner Buccilli was appointed to the committee.

PUBLIC COMMENTS:

Mayor Knight read the rules for Public Comments. Such comments will be at the beginning of each meeting and prior to Old Business, New Business and at the end of the meeting. At the beginning of the meeting, comments will be at five minute intervals per person. The comment section before Old and New Business will be two minutes and the comment section at the end of the meeting will be at three minute intervals. Mayor Knight stated that these rules are in the Town’s Ordinance, Chapter 30, §30.18, Public Address to the Board of Commissioners.

Ms. Alinda Meares, River Drive, stated that several people had called her about the Town’s discretionary funds. She noted that people do not understand discretionary funds and as the Board was new she thought that if the Board started out explaining the funds, it would be a great way to start the new year. People were asking about the scope of the discretionary funds, how much was in the fund, where the funds came

from and what the fund's 2012 balance was. She also noted that the bonfire was a very nice event; it was new and favorable. Mayor Knight suggested that Ms. Meares call and make an appointment to come to Town Hall to meet with the Tax Collector, Town Administrator or Commissioner DiStasio to get answers to her questions. The Mayor stated that this was a great time for people to attend Board of Commissioners Budget Workshops.

Ms. Carolyn Silvers, Charlotte Avenue, stated that the bonfire was a great event. Mayor Knight thanked her for helping to serve food at the event.

CORRESPONDENCE:

Mayor Knight referred to a letter written by Mr. Don Hege regarding the condition of Carter Drive (a copy is hereto attached to these minutes). Mayor Knight stated that she would be happy to sit down with him to address his concerns. Mayor Knight read an email from residents who thanked the Town for the bonfire. She thanked Representative Frank Iler for attending the bonfire.

TOWN ADMINISTRATOR'S REPORT: A copy is hereto attached to these minutes.

BUILDING INSPECTOR'S REPORT: A copy is hereto attached to these minutes.

COMMITTEE REPORTS:

1. **Planning and Zoning:** Ms. DiStasio noted that as the Planning and Zoning Board is not a committee but an advisory board, she opined that in lieu of having a commissioner as liaison, that future Board of Commissioner meeting packets would include a copy of draft PZB minutes and a report signed by the chairperson detailing any decisions made during the course of their meeting.
2. **Finance:** Commissioner DiStasio noted that the balances in the funds and she stated that 100% of the budgeted amounts for 2010 and 2011 taxes had been collected.
3. **Town and Merchants:** Mayor Knight asked Commissioner Buccilli to report first. Commissioner Buccilli stated that she had met with the chairperson of the Merchants Association to gauge their interest in participating in the bonfire event. The Association elected not to participate. Commissioner Nance reported that members had a gala at the Grapevine and that almost all Town businesses had become members of the association. He also stated that on February 7th at Turtle Crossing Cupcakes, would be their next meeting at 7:00 p.m. Mayor Knight noted that she would like to attend if the members would like her to. Commissioner Nance stated that he would pass that information along to the chairperson.
4. **Stormwater:** Commissioner Walton reported that the Riverview Drive project was progressing. He noted that there are two parts of the project and that it was his recommendation not to wait but to complete both parts simultaneously. He stated that there is a situation at Marsh Harbour that DOT is looking into and that Mr. Nance would be informed as to what was happening.
5. **Safety:** Commissioner Walton stated that the new Safety Committee held their first meeting on January 6, 2012 and the focus was to look at the services presently provided, issues of concern to residents, and to see where improvements could be made. Topics included speeding, community watch, animal related issues, traffic control, street lights and communications. The next meeting will be in early February prior to the Board meeting. He noted that they are planning on having a representative from the Sheriff's Department attend the next meeting to provide advice on speed traps/radar for problems with speeding on Charlotte Avenue.
6. **Personnel:** Commissioner Melahn noted that she was focusing on Town Services. She stated that Mr. Corky Marshall had been rehired part-time. She noted that in her opinion Town Services was understaffed and advertising for two positions (Tech I) had been undertaken. She stated that Mr. Sid

Silvers was working on the second floor remodeling and doing a very professional job and saving the town tax dollars. She also noted that employees were working on completing a self job description.

7. **Community Service:** Mr. Nance thanked everyone for their assistance during the bonfire event. Commissioner Buccilli thanked the fire department, Hurricane Fleet, Capt. John's, Mr. James McCartney, Ms. Carolyn Silvers, residents, many others and the 50/50 winner, who stated that he had such a good time, he was donating his winnings to the Town to be used for next years event.

8. **Long Range Planning:** Mr. Nance stated that the park picnic shelter should be arriving soon. A decision had been made regarding the playground equipment and the equipment had been ordered. Dead branches would be cut. Renovations to Town Hall, as recommended by LRPC have begun. Soon an office on the second floor will be completed; this office will be for the Building Inspectors and Code Enforcement Officer.

Mayor Knight stated that she has a temporary office in Sanborn Hall while renovations (including her office) are underway. She noted that she will meet with anyone Tuesdays and Fridays from 1:00 to 4:30 or by appointment.

PUBLIC COMMENTS #2:

Mr. McCartney thanked the Calabash Fire Department for their participation in the bonfire event and stated it was a pleasure working with everyone.

Mr. Mack Sanders expressed his appreciation for the opportunity to speak multiple times during the course of the meeting.

OLD BUSINESS:

1. **Discussion/Action** to consider approving the proposed UDO text amendment to §16-4 regarding Tree Protection.

Commissioner DiStasio motioned to approve a UDO text amendment to §16-4, Tree Protection, recommended by the Planning and Zoning Board and the language changes suggested by Mr. Lewis; specifically change the language in the first paragraph of the section to “ decreasing dust infiltration”; seconded by Commissioner Walton and unanimously carried.

2. **Discussion/Action** to consider approving the proposed UDO text amendment to §24-16(B)(1)(a).

Commissioner DiStasio motioned to approve a UDO text amendment to §26-16(B)(1)(a), improvement guarantees; specifically change the word “subdivider” to “Town’s engineer;” seconded by Commissioner Walton and unanimously carried.

3. **Discussion/Action** regarding the bids received for construction of Riverview Drive drainage improvements:
 - (a) Determine if the project should be awarded to include only the base bid or to include the base bid with the alternate bid and;
 - (b) Award bid to the lowest, responsive, responsible bidder.

Commissioner Walton stated that he had spoken with Mr. Norris, project engineer, on several occasions regarding things that he was uncertain about. Mr. Norris told Commissioner Walton that he felt the plans, including all pipe sizes, were adequate.

As a result of speaking with Mr. Norris, Commissioner Walton stated that he now agreed with Mr. Norris.

He asked Mr. Norris about the base bid project at a cost of \$70,150 and having the alternate bid cost of \$24, 457.85 added to it. The total contract cost would then be \$94,607.85. Mr. Norris recommended that it would be best to do both simultaneously, which is what Commissioner Walton thought should occur. The problems he foresaw was that as time goes by fuel costs would increase and there was the issue at the bottom of the hill where the catch basin was with pipes of varying size. He noted that the contractor had dirt that was close by which represented another savings for the Town. He stated that for the above reasons he was in favor of having the work done simultaneously. Commissioners Melahn, DiStasio, Nance and Buccilli agreed with Commissioner Walton's recommendation.

Following the discussion, Commissioner DiStasio motioned to approve the base bid and include the alternate bid and to award the bid to the lowest responsive, responsible bidder; seconded by Commissioner Buccilli and unanimously carried.

Discussion continued with a question posed by Commissioner DiStasio regarding whether a decision had to be that evening on the use Fund 71 to pay for the project. Ms. Southward stated that direction from the Board was needed. She stated that \$65,000 had been set aside in Fund 71 for the current budget. The total amount in Fund 71 is \$116,144. Staff's recommendation would be a budget amendment to appropriate the additional money from the Fund 71 reserve needed rather than pull the money from the Powell Bill or the General Fund. Ms. Southward stated that the Board could approve the preparation by staff of a budget amendment, which would then come before the Board next month for final approval.

Commissioner DiStasio motioned to direct staff to prepare a budget amendment to Fund 71; seconded by Commissioner Buccilli and unanimously carried.

Discussion continued. Commissioner DiStasio motioned to award the bid to L.M. McLamb Construction Company, the lowest responsive/responsible bidder, in the amount of \$94, 607.85; seconded by Commissioner Buccilli and unanimously carried.

PUBLIC COMMENTS #3: None were forthcoming.

NEW BUSINESS:

1. **Discussion/Action** to consider approving the Budget Calendar for Workshops to be held for preparation of the 2012-2013 Fiscal Year Budget.

Commissioner DiStasio motioned to approve the Budget Calendar for Workshops for the preparation of the 2012-2013 Fiscal Year Budget as written; seconded by Commissioner Buccilli and discussion ensued.

Mayor Knight noted that there many of the meeting times were at 5:00 p.m. She asked if anyone had a problem with that time. Commissioner Nance stated that as his business closed at 5:00 p.m., he would arrive a few minutes after the meeting had commenced. Commissioner Buccilli suggested that the meetings start earlier, at 3:00 p.m. Mayor Knight suggested the meeting time could be after dinner, at 7:00 p.m. Commissioner Nance suggested 6:00 p.m. as that was the accustomed time established for their regular monthly meeting.

Commissioner DiStasio moved to amend her original motion to include a change of the meeting start times from 5:00 p.m. to 6:00 p.m.; seconded by Commissioner Buccilli and unanimously carried.

2. **Discussion/Action** to consider approving a service agreement for upkeep/maintenance of the Town Hall generator.

Mayor Knight noted that the maintenance service agreement would cost \$250 annually. The company is Atlantic Coast Electrical. Commissioner Nance noted that if the filters do not need to be changed, that the company leave filters so that the Town benefits from the service agreement. *Commissioner DiStasio motioned to approve a service agreement with Atlantic Coast Electrical to maintain the Town Hall generator; seconded by Commissioner Melahn and unanimously carried.*

3. **Discussion/Action** to appoint a member of the Board as the Town's Cape Fear Council of Government's Liaison.

Mayor Knight asked Commissioner Nance if he wanted to be appointed. He noted that he certainly could be designated and asked if the Board wanted to be represented by the Mayor. Ms. Southward noted that Board members would receive invitations to Council functions but that only the appointed liaison is able to vote. Mayor Knight opined that she hoped Board members would attend COG activities. Following the discussion, *Commissioner Nance motioned to appoint Mayor Mary Louise Knight as a voting liaison member to the Cape Fear Council of Governments; seconded by Commissioner DiStasio and unanimously carried.*

4. **Discussion/Action** to consider approving the Resolution for the NC Division of Emergency Management designating Mr. James McCartney and Mr. Chuck Nance and the Town's agents in applying for emergency reimbursement/assistance.

Commissioner Nance motioned to approve the Resolution for the NC Division of Emergency Management designating Mr. McCartney and Mr. Nance as the Town's agents in applying for emergency reimbursement/assistance; seconded by Commissioner DiStasio and unanimously carried.

5. **Discussion/Action** regarding the Calabash Fire Department's request to fill the Calabash Commissioner seat on the Calabash Fire Department's Board of Directors.

Mayor Knight stated that the term of service on the fire department Board was from January 2012 to January 2013. *Commissioner Melahn motioned to nominate Commissioner Walton as he is a retired fireman. The motion was seconded by Commissioner DiStasio and all commissioners voted in favor of the motion except Commissioner Nance.* Commissioner Nance stated that he was voting against the position and not the person nominated.

6. **Discussion/Action** to consider obtaining and/or approving mutual aid agreements with neighboring towns for building inspections.

Mayor Knight noted that the agreement was with Sunset Beach and was a collaborative agreement in the event that inspection help is needed/requested. Mr. Nance stated that an emergency was not the only instance. As Mr. Stanley Dills is the Town's only electrical inspector, if he is away on vacation, the agreement would permit a Sunset Beach electrical inspector to inspect work in Calabash without charge. Mr. Nance noted that Carolina Shores had indicated that they might be interested in a similar agreement. Upon a question raised by Commissioner Nance, Ms. Southward stated that if the county was asked to do inspections, they have to be paid. He asked if there was wording in the agreement that protected the Town from being sued. Ms. Southward stated that the Town covered its inspectors if they were

performing work in another town. *Commissioner Nance motioned to approve the contract/mutual aid agreement as written; seconded by Commissioner Melahn and unanimously carried.*

7. **Discussion/Action** to schedule a Special Meeting to review Certificate of Deposit interest rates.

Commissioner DiStasio opined that the holding a Special Meeting would be the opportunity for the entire Board to be informed and to determine how best to proceed. She noted that the meeting could be Tuesday, January 24 at 5:00 p.m. or Wednesday, January 25 at the same time. She noted that she had nine days to get back to the bank after the CD matured. There followed discussion as to which day better suited the Board members. *Commissioner DiStasio motioned to hold a Special Meeting on January 24 at 5:00 p.m. to discuss the interest rate as the CD matures on January 24; seconded by Commissioner Buccilli and unanimously carried.*

CLOSED SESSION: *Commissioner Nance motioned to enter Closed Session pursuant to G.S. 143-318.11(a)(3), legal matters to consult with the Town attorney and G.S. 143-318.11(a)(6), personnel matters; seconded by Commissioner DiStasio and unanimously carried.*

Ms. Southward noted that there was additional, clarifying information to be added to the motion. *Commissioner Nance amended the motion to enter Closed Session pursuant to G.S. 143-318.11(a)(3), legal matters to consult with the Town attorney regarding possible litigation involving the Town and Stanaland-Stewart Company LLC and G.S. 143-318.11(a)(6), personnel matters; seconded by Commissioner DiStasio and unanimously carried.*

ACTION AS A RESULT OF CLOSED SESSION:

Upon returning to Sanborn Hall, *Commissioner Walton moved that the Board re-enter Regular Session; seconded by Commissioner Buccilli and unanimously carried.*

Commissioner Nance motioned that they direct the Town attorney to start litigation and action as he deems necessary against Stanaland-Stewart Company LLC, also individuals Mr. Vaughn Stanaland and Mr. Scott Stewart; seconded by Commissioner Melahn and unanimously carried.

Commissioner Nance motioned to place Mr. William Danford on paid administrative leave; seconded by Commissioner Melahn and unanimously carried. Commissioner Nance stated that Mr. Danford had been contacted during the Closed Session and was therefore already aware of the decision.

PUBLIC COMMENTS #4: None were forthcoming.

ADJOURNMENT: *Commissioner DiStasio motioned to adjourn; seconded by Commissioner Melahn and unanimously carried at 8:25 p.m.*

(SEAL)

Mary Louise Knight, Mayor

Attest:

Kelley Southward, Town Clerk