

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, January 12, 2010—6:00pm**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, January 12, 2010, 6:00 pm in Sanborn Hall, located at Town Hall, 882 Persimmon Road, Calabash, NC.

MEMBERS PRESENT: Mayor Anthony Clemmons, Commissioner Forrest King, Commissioner Mary Louise Knight, Commissioner John Melahn, Commissioner William Dixon, and Commissioner Joseph Nance; all members were present.

STAFF PRESENT: Hiram J. Marziano, II, Town Administrator; Kelley Southward, Town Clerk; Mark Lewis, Town Attorney.

GUESTS PRESENT: There were approximately 20 guests in attendance.

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

APPROVAL/ADJUSTMENT OF AGENDA: Commissioner King requested to move the Closed Session “Legal Matters” to New Business and make it the first item of New Business and re-number accordingly; the item was to be titled “Discussion/Action of ABC Board Members”. To that end, Mayor Clemmons noted that New Business item #2(f) [formally 1(f)] should be removed from the agenda because the ordinance amendment is not ready to go to public hearing. *Commissioner Melahn motioned to approve the agenda, as amended, seconded by Commissioner Knight and unanimously carried.*

CONSENT AGENDA:

1. Approve minutes of November 10, 2009; Regular Meeting
2. Approve minutes of December 1, 2009; Agenda Workshop
3. Approve minutes of December 8, 2009; Regular Meeting

Commissioner King motioned to approve the Consent Agenda, seconded by Commissioner Nance and unanimously carried.

MAYOR’S COMMENTS: Mayor Clemmons welcomed everyone to the first Commissioners Meeting of 2010 and wished everyone a great year.

PUBLIC COMMENTS:

1. Mr. Mack Sanders of 1126 River Drive in Calabash Acres asked about the status of sewer grant applications. Mayor Clemmons relayed that the Town has not heard from any of the agencies that grant applications have been filed with; there is a Sewer Progress

Committee Meeting on Thursday, January 14th and the Town will discuss application status with the County during that meeting. Mr. Sanders also asked when the Town started levying a tax for registered motor vehicles and what the money was used for; it was relayed that the Town has always levied taxes for vehicles and that Brunswick County has always collected said tax for the Town—the money goes into the general fund just as all other monies received by the Town.

TOWN ADMINISTRATOR'S REPORT: (written report attached hereto and made part of these minutes) Mr. Marziano noted that he had one update to his report; since composing the written report, he has met with Shallotte Partners regarding the updates they have been asked to make to their Master Site Plan (MSP). The updates to the MSP show everything that the Board of Commissioners requested of Shallotte Partners on November 17, 2009. However, they still lack some of their permits from other agencies. The project engineer is working on obtaining proof of all necessary permits as well as a complete updated MSP (all pages). Mr. Marziano noted that the minutes of November 17th contingently approve the MSP, provided all requests are met, and require Shallotte Partners to come back before the Board; a transcribed copy of the necessary portion of the November 17th minutes were provided for the Board. Commissioner Dixon asked how long Shallotte Partners would have to wait; Mr. Marziano said so long as they get everything necessary back to staff by the first week in February, the matter would be included on the February Board Agenda. Commissioner Nance asked if the changes were “cut and dry” to the degree that staff could approve the changes. Mr. Marziano said he has no problem approving the requested changes and proof of permits. Commissioner Nance felt the Board could authorize staff to approve the necessary amendments requested on November 17th. Commissioner King agreed, he felt it was not necessary to hold Shallotte Partners up another month when staff could insure the Board's requests have been satisfied; he didn't feel there was anything to approve—the MSP was already approved on November 17th so long as certain conditions are met, there is no reason why staff cannot verify that the conditions have been met. Mayor Clemmons agreed that it must be verified that the conditions have been met. Mayor Clemmons referenced lot dimension changes of the Highway Commercial lots 1 & 21 and asked if a zoning change was necessary. Staff reminded him that it was one of the conditions set on November 17th that those lots (and subsequently the road) are put back to the original configuration. Staff further relayed that Shallotte Partners have met this condition—they have presented a revised subdivision map; a rezoning is not necessary. Commissioner Knight asked if Shallotte Partners was directed to have some sort of land agreement with a neighboring property; Mr. Marziano relayed that there was no condition to that effect. Commissioner Nance asked if this is an item on the agenda—it is not. He then asked if a motion could be made to expedite this matter. Commissioner King said he does not believe a motion is necessary; a vote was taken in November with stipulations and if staff can verify that the stipulations have been met then he does not feel it needs to come back to the Board. Mr. Lewis was asked to give a legal opinion. Mr. Lewis said so long as the conditions made in the motion are met, there is no need for the Board to approve the MSP again. Mayor Clemmons said he sees no problem so long as the Town Administrator certifies to the Board that the conditions have been met. Mr. Marziano said once he verifies that all conditions of approval have been met, he will make a report to the Board. It was the consensus of the Board that Mr. Marziano reviews all materials, once submitted, to verify that all conditions have (or have not) been met and report back to the Board.

BUILDING INSPECTOR'S REPORT: (attached hereto and made part of these minutes)
Mayor Clemmons noted that there is a Family Dollar store proposed on Beach Drive near Dominos.

COMMITTEE REPORTS:

1. Fire Department: (written report is attached hereto and made part of these minutes) Commissioner Nance highlighted his written report.
2. Planning & Zoning Board: (written report is attached hereto and made part of these minutes) Commissioner Knight gave the highlights of her written report.
3. Finance: Commissioner King reported that the tax collection rate is 95% and revenues currently exceed expenditures by \$91,000.
4. Water/Wastewater: The sewer project is moving forward, testing of low-pressure lines will begin in a few weeks. Driveway repairs on High Point Ave are scheduled to begin. Construction continues on the Wilson Ave and Beach Drive pump stations.
5. Merchant: Commissioner King had no report.
6. Stormwater: (written report is attached hereto and made part of these minutes)
7. Long Range Planning: the LRP committee will host a public informational meeting regarding the proposed Calabash Community Park on Thursday, January 21, 2010, 5:30 pm at Town Hall to relay park plans and obtain public input.
8. UDO Ad-Hoc: Commissioner Melahn explained that the committee is almost through with their review and noted that the committee's goal is simply to get a better understanding of the Ordinance Review Committee suggested certain changes. It is not the goal or duty of the Ad-Hoc to make any further changes; there are only three members and thus far there have been three meetings.

OLD BUSINESS:

1. Discussion/Action to consider estimates for the construction bays at the Town Maintenance Building. Two estimates had been received; Jessie Myers Construction Co \$13, 495 and Brunswick Trucking \$11,980. Commissioner Dixon said whomever the Town goes with, prior to commence of work he would like the contractor to meet with himself and certain staff members to communicate all expectations. *Commissioner Dixon motioned to award the job of construction the storage bays for raw materials to Brunswick Trucking Company at the estimated \$11,980, seconded by Commissioner Nance and unanimously carried.*
2. Discussion/Action related to Animal Control; consider adopting portions of County Ordinance in order to contract with Brunswick County for Animal Control or consider authorizing a Town Services employee to obtain necessary shots/training for back up when the current Animal Control Officer is unavailable. Mr. Marziano recommended that the Town keep this service in-house because the County cannot offer the Town what they need. The Board asked Mr. Marziano to contact the County and find out what they offer (as far as animal control) for unincorporated areas of the County. The Board agreed that the service should stay in-house and directed Mr. Marziano to allow the interested Town Services employee to get the necessary shots and training—no Board action was required. Mayor Clemmons asked that the appropriate job description be reviewed and updated if necessary to include animal control (or the employee re-classified and given the correct job description).

3. Discussion/Action regarding A-Frame signs; review of Board action taken in March 2009. The Board reviewed and discussed action taken in 2009, which was to place enforcement of temporary signs on hold while a new ordinance could be drafted. To date the Town has not worked on a new draft and temporary signs are beginning to get out of control; not so much A-frame signs but more so, double-sided stick in the ground signs. *Commissioner King motioned to direct the Planning & Zoning Board to draft an ordinance for A-frame signs that everyone (the Town and businesses) can live with, seconded by Commissioner Nance and carried by a unanimous vote.*

NEW BUSINESS:

1. Discussion/Action of ABC Board members: The Board reviewed two correspondences; one from Mr. Hank Rutter, ABC Board President, to the Town requesting that Mr. Jack Bowes be removed from the ABC Board (the third member of the Board is Mrs. Suzy King—she and Mr. Rutter were present at the meeting) the second correspondence was an email from Mr. Bowes to Mr. Rutter. Mr. Rutter addressed the Board stating that Mr. Bowes is difficult to work with and if something is not done he and Mrs. King may find it necessary to resign. Mayor Clemmons noted that Mr. Bowes was informed of and invited to this meeting so that he may have the opportunity to share his side; Mr. Bowes declined. Mrs. King said she agrees with Mr. Rutter—Mr. Bowes has become increasingly difficult to work with; she even pointed out that Mayor Clemmons spoke with Mr. Bowes in August or September and she feels his behavior has worsen since that time.

It was noted that Mr. Bowes has been on the ABC Board for six years, Mrs. King for 21 years, and Mr. Rutter for 15 years. Mrs. King and Mr. Rutter said the three had always worked fine together and that the problem with Mr. Bowes began last year when the State changed requirements to mandate that social security tax be withheld from Board fees. Since that time, Mr. Bowes has become argumentative and disruptive and just doesn't get along with people—according to Mr. Rutter. Commissioner Nance asked if Mr. Bowes had any problem with computers or access to computers at the ABC Store. Mr. Rutter said that Mr. Bowes has an accounting background and his sole interest in the ABC Board/Store is the finances.

Commissioner King asked if Mr. Bowes was abusive to the ABC Store staff. Mr. Rutter said not the staff but he is abusive to the [current] store manager and even more so the previous manager. It was clarified that Mr. Bowes does not treat the manager in an abusive fashion in front of customers. Commissioner Knight asked if perhaps he and Mrs. King just share a different mind-set from Mr. Bowes. Mr. Rutter said without a doubt there is a different mindset but that can be worked around—it's a completely different approach to Mr. Bowes interaction with people that has become a problem. Commissioner Knight asked if there were a problem with the minutes of ABC Board meetings. Mr. Rutter said he had taken the minutes for about twelve years; around May 2009, Mr. Bowes took over the preparation of the minutes because he did not like how Mr. Rutter was writing them. In September, Mr. Bowes had a problem with the recorder and contacted the other members for their input in order to assemble the minutes; in November Mr. Bowes had a similar problem so, Mr. Rutter suggested he look at his (Mr.

Bowes') notes to create the minutes. Apparently, Mr. Bowes hadn't taken any notes and showed up to the December Meeting with no minutes of the November meeting and said he was not going to do the minutes anymore.

Commissioner King asked Mr. Rutter to relay a recent incident where Mr. Bowes refused to assist the store manager when he asked for help. Mr. Rutter explained of a situation with a check that had been credited but the deposit time to bank was not going to agree with the time/date credit to the ABC system; this same scenario had been a problem in a previous audit and Mr. Bowes refused to help the manager—Mr. Rutter said it would have been a simple thing for Mr. Bowes to assist with.

Commissioner Knight asked if Mr. Bowes has done anything unethical; not to Mr. Rutter's knowledge. Has Mr. Bowes done anything wrong by law that would justify dismissal? Mr. Rutter replied that he was not aware of anything criminal. Commissioner Knight was concerned that legally, Mr. Bowes could not be let go. Commissioner Dixon said the Town would lose two-thirds of the appointed ABC Board members if they keep Mr. Bowes on the ABC Board. Mr. Lewis said disruptive behavior of an appointed board member to the point where the Board cannot get anything accomplished would be grounds for dismissal.

Mrs. King pointed out that the letter from Mr. Rutter to the Town that the Board reviewed this evening is in fact the second letter to the Town in less than six months regarding the same issue. She said that she and Mr. Rutter have tried to get along with Mr. Bowes but it is just not working.

Commissioner King motioned that the Board of Commissioners "thank" Mr. Jack Bowes for his service as a member of the ABC Board and that he be dismissed from the ABC Board, motion seconded by Commissioner Melahn and there was discussion. Commissioner King amended his motion to include that his dismissal is because of disruptive and rude behavior during ABC Board meetings, Commissioner Melahn seconded the amendment and further discussion ensued. Commissioner Nance felt the reason for dismissal was not necessary in the motion. Mr. Lewis disagreed and felt it was necessary to mention the reason for dismissal in the motion to show there is cause. Mayor Clemmons called for a roll call vote:

- *Commissioner Knight said she wished that Mr. Bowes were present so she could hear both sides of the story. She said that she did not feel comfortable voting and attempted to abstain from voting but was informed that the Board would have to vote to allow her to abstain and there were very specific criteria included in State Statutes to allow a member from abstaining; if she elects to say nothing she will be counted as a "yes" vote. To that end, Commissioner Knight voted "Yes" to the motion to remove Mr. Bowes from the ABC Board.*
- *Commissioner Melahn: "Yes"*
- *Commissioner King: "Yes"*
- *Commissioner Nance: "Yes"*
- *Commissioner Dixon: "Yes"*

The motion to remove Mr. Bowes from the ABC Board for disruptive behavior carried by a unanimous vote. Staff was directed to send a letter to Mr. Bowes thanking him for his service and informing him of this action.

2. Discussion/Action to schedule public hearing for February 9, 2010, 6:00 pm at Town Hall regarding:
 - a) A proposed ordinance amendment to §153.053, which would reduce the number of Planning & Zoning Board ETJ membership seats from 2 to 1.
 - b) A proposed ordinance amendment to §153.140 regarding Commercial Vending Units as a conditional use in the Central Business district.
 - c) A proposed ordinance amendment to §153.141 regarding Commercial Vending Units as a permitted use in the Highway Commercial district.
 - d) A proposed ordinance amendment to §155.03, Natural Resource Protection-Tree Protection.
 - e) A proposed ordinance amendment to §155.05, Natural Resource Protection-Definitions.

Commissioner Melahn motioned to schedule the five public hearings listed above for Tuesday, February 9, 2010, 6:00 pm at Town Hall, Commissioner King seconded the motion and the motion carried by a unanimous vote.

3. Discussion/Action to consider approving the Budget Calendar for preparation of the 2010-2011 Fiscal Year Budget. The Board was agreeable to all the dates on the proposed calendar but wanted to change the workshop times from 2pm to 4pm. (the approved budget calendar is attached hereto and made a part of these minutes). *Commissioner King motioned to approve the Budget Calendar, as amended, Commissioner Nance seconded the motion, which carried by a unanimous vote.*
4. Discussion/Action regarding fuel purchasing for the Town. As the Board had been made aware several weeks ago, Mr. Marziano relayed for everyone present that the federal government was no longer going to allow municipalities to purchase fuel from county facilities; in an effort to better track fuel tax exemptions. Mr. Marziano met with a representative of GoGas, who can provide gas credit cards for the Town (the cards can be used at any major gas station including all stations in town) as well as detailed reports. A card will be assigned to each Town vehicle and there will be one card for equipment (lawnmowers, weed eaters, etc). Each authorized users will have a 4-digit pin number that will work on any vehicle they are authorized to use. The Town will receive tax-exempt reimbursements on a quarterly basis from GoGas. Most importantly, there are no fees associated with the service provided by GoGas; Mr. Marziano recommended the Board approve the agreement with GoGas. *Commissioner Nance motioned to approve the agreement with GoGas for fuel cards for purchasing fuel for Town vehicles and equipment, Commissioner Melahn seconded the motion, which carried unanimously.*
5. Discussion/Action to consider approving DOT Certification of Municipal Declarations; to change the speed limit along Beach Drive/HWY 179 to 45 mph from Landing II Subdivision to the intersection at Beach Drive and Clariday Road.

- a) Certification of Municipal Declaration To Enact Speed Limits and Request for Concurrence; Concurring State Ordinance Number 1060695—enact 45 mph. (Town of Calabash Ordinance #2010-01.04)
- b) Certification of Municipal Declaration To Enact Speed Limits and Request for Concurrence; Concurring State Ordinance Number 1060745—enact 45 mph. (Town of Calabash Ordinance #2010-01.05)

The Town Clerk explained that DOT conducted a study and has recommended that the municipal speed limit on HWY 179/Beach Drive from the traffic light at the intersection of Clariday Road southward to Landing Drive (the entrance for Landing II subdivision) be 45 mph instead of the default Calabash municipal speed limit of 35 mph. She also relayed that DOT has recommended (to other appropriate entities) that the speed limit from Landing Drive southward to Ocean Harbor Drive be 45 mph as well. Thus making the entire stretch of HWY 179 from the Calabash NAPA to the big 90-degree curve at Oyster Bay 45 mph. She further pointed out that the recommendation has been made through 2 declarations therefore, the Town could only adopt one if they so choose. Some Commissioners felt that the section from Clariday Road to the bridge at the Calabash River should remain 35 mph because there are a mix of businesses and residences along this stretch, which means there are a lot of turns off and on to HWY 179; this was discussed thoroughly for approximately five minutes. *Ultimately, Commissioner Nance motioned to accept DOT's recommendation that HWY 179 from Clariday Road southward to Landing Drive by 45 mph/approve Certification of Municipal Declarations to Enact Speed Limits and Request for Concurrence; Concurring State Ordinance Numbers 1060695 & 1060745 (Town of Calabash Ordinance #s 2010-01.04 & 2010-01.05). Commissioner Knight seconded the motion and the motion carried by a vote of four (4) to one (1) with Commissioner Melahn voting in opposition.*

6. Discussion/Action of Town Employees departing Town Hall after the close of business. Commissioner King read a statement requesting that the Board establish a policy that staff should lock up and depart Town Hall within 15 minutes of adjournment of an after-hours meeting. Commissioner Melahn felt the matter would fall under the Town Administrator's duties; Commissioner King felt a policy was necessary. Commissioner King felt that if staff had to stay late for a meeting they should not be kept even later by citizens with business that should be/could be addressed during regular business hours. He noted that there might be times when staff has to stay for official [urgent] business directed by the Board of Town Administrator that can't wait but for the most part, issues should be addressed at Town Hall during regular hours. *Commissioner King motioned to establish a policy that staff leave within 15-minutes of the close of after hour meetings; the Policy and Procedures Commissioner and Personnel Commissioner should get together to draft said policy. The motion was seconded by Commissioner Melahn and carried unanimously.* Mr. Lewis was asked if a written policy was necessary. Mr. Lewis felt a written policy was a good idea but by voting as to draft the policy this evening he saw no reason why the policy could not become practice immediately.

CLOSED SESSION:

1. Pursuant to G.S 143-318.11 (a)(6)—Personnel Matters; performance evaluations

Commissioner King motioned to enter Closed Session pursuant to G.S 143-318.11 (a)(6)-personnel matters, Commissioner Nance seconded the motion and the motion unanimously carried; the Board retired to the Town Administrator's office for Closed Session.

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

Mayor Clemmons said that there would be no action taken at this time as a result of the Closed Session.

PUBLIC COMMENTS:

1. Ceil Herman relayed that in August or September she approached Scott Garner, Fire Marshal about re-drawing the fire district lines to give Devaun Park back to the Calabash Fire District since a portion of the subdivision is now in the municipal limits of Calabash. She asked if the Town had heard anything related to this matter; the Town has not—Mr. Marziano was directed to contact Mr. Garner.

BOARD COMMENTS: none forthcoming.

ADJOURN: *At 8:25 pm Commissioner Melahn motioned to adjourn, seconded by Commissioner King and unanimously carried.*

(SEAL)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk