



**TOWN OF CALABASH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
Tuesday, March 9, 2010-6:00 pm**

**AGENDA**

**CALL TO ORDER:** Mayor Clemmons

**PLEDGE TO FLAG:** Mayor Clemmons

**ROLL CALL:**

**APPROVAL/ADJUSTMENT OF AGENDA:**

**CONSENT AGENDA:**

1. October 1, 2009; Special Meeting
2. October 6, 2009; Agenda Workshop
3. November 4, 2009; Agenda Workshop
4. February 9, 2010; Regular Meeting
5. February 10, 2010; Special Meeting/UDO Workshop
6. February 18, 2010; Special Meeting

**MINUTES:** (If any Board member would like to discuss a set of minutes included on the Consent Agenda, they should be moved to this location during Adjustment of the Agenda)

**MAYOR'S COMMENTS:**

**PUBLIC COMMENTS:**

**CORRESPONDENCE:**

**TOWN ADMINISTRATOR'S REPORT:** Attached

**BUILDING INSPECTOR'S REPORT:** Attached

**COMMITTEE REPORTS:**

1. Fire Department—Commissioner Nance
2. Planning & Zoning—Commissioner Knight

3. Finance—H. Marziano
4. Water/Wastewater—Mayor Clemmons
5. Stormwater—written report attached
6. Long Range Planning—H. Marziano

**OLD BUSINESS:**

1. **Discussion/Action** of the proposed amendment to §155.05-Natural Resource Protection, Definitions (O.A #2010-01.03)
2. **Discussion/Action** of the proposed amendment to §155.03-Natural Resource Protection, Tree Protection-change circumference to diameter and clarify ordinance intention (O.A #2010-01.02)
3. **Discussion/Action** to schedule a public hearing for Tuesday, April 13, 2010, 6:00 pm at Town Hall regarding a proposed ordinance amendment to §153.241 Signs (L) Temporary Signs—include a provision for A-frame signs under certain conditions.

**NEW BUSINESS:**

1. **Discussion/Action** to consider a Proclamation declaring May as Beautification Month in Calabash.
2. **Discussion/Action** to consider appointments to the Board of Adjustment—one 3-year Regular In-Town Member and two 2-year In-Town Alternate Members.
3. **Discussion/Action** to consider a parking agreement between the Town of Calabash and the Calabash Fire Department.
4. **Discussion/Action** to consider an appointment to the Calabash ABC Board.
5. **Discussion/Action** to consider the proposed recodification of Title V, Chapter 51-Wastewater of the Calabash Code of Ordinances.

**CLOSED SESSION:**

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

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

**PUBLIC COMMENTS:**

**BOARD COMMENTS:**

**ADJOURN:**

**TOWN OF CALABASH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
Tuesday, March 9, 2010  
6:00 pm Sanborn Hall**

**MINUTES**

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, March 9, 2010, 6pm at Town Hall, 882 Persimmon Road, Calabash, NC.

**MEMBERS PRESENT:** Mayor Anthony Clemmons, Commissioner Mary Louise Knight, Commissioner John Melahn, Commissioner Jody Nance, and Commissioner Bill Dixon.

**MEMBERS ABSENT:** Commissioner Forrest King.

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

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

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

**APPROVAL/ADJUSTMENT OF AGENDA:** Commissioner Nance motioned to remove Closed Session pursuant to G.S 143-318.11(a)(6) Personnel Evaluation from the agenda and to hold the scheduled evaluation during Closed Session of April's Regular Meeting so that a full Board could be present for the evaluation; if the employee should be eligible for any pay increase based upon the evaluation then it will be made retroactive back to March. Commissioner Dixon seconded the motion and the motion unanimously carried. Commissioner Melahn requested to add #6 to New Business: Direct the Town Administrator to study the ditches in Pine Bur Acres to see if some ditches could be filled in and replaced with swales; the Board agreed to add this as New Business #6. *Commissioner Melahn motioned to approve the agenda, as amended, seconded by Commissioner Knight and carried by a unanimous vote.*

**CONSENT AGENDA:**

1. October 1, 2009, Special Meeting Minutes
2. October 6, 2009, Agenda Workshop Minutes
3. November 4, 2009, Agenda Workshop Minutes
4. February 9, 2010, Regular Meeting Minutes
5. February 10, 2010, Special Meeting/UDO Workshop Minutes
6. February 18, 2010, Special Meeting Minutes

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

**MAYOR'S COMMENTS:** Mayor Clemmons spoke about the importance of completing and returning the 2010 Census. Commissioner Knight read some information regarding the benefits of the Census. Mayor Clemmons recognized town hall staff member, Barbra Hagan, who has been working on the Census preparation information for the Town since 2008.

**PUBLIC COMMENTS:**

1. Cecelia Herman of Saltaire Village addressed the Board regarding the three items slated for Old Business. She was concerned that the two proposed ordinance amendments regarding Natural Resource Protection were making the process of determining the size of a tree to be removed more difficult for citizens. The current ordinance references circumference, which is easy for citizens to figure out on their own whereas the proposed ordinance references diameter, which is obtained from taking the circumference and applying a geometric equation that most people probably don't know off the top of their head. Mrs. Herman also spoke to the third amendment to be considered under Old Business, which pertains to A-Frame signs. She felt that signs of this nature should require a permit and that the language in the ordinance is confusing.

**TOWN ADMINISTRATOR'S REPORT:** Mr. Marziano relayed that he and Town Services Staff will be in the field examining Town Streets trying to determine what repairs Town Services can do and what repairs need to be contracted out. Mr. Marziano's written report is attached hereto and made part of these minutes.

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

**COMMITTEE REPORTS:**

1. Fire Department: Commissioner Nance noted that he had received a copy of the proposed re-write of the fire department's Constitution and By-Laws, which he forwarded to his fellow Commissioners. He asked if anyone had questions, comments, or concerns regarding the documents so that he may pass them along at the Fire Department Board of Directors Meeting; there was nothing forthcoming from the Board. Commissioner Nance gave his monthly report highlighting the calls for the month; written report attached hereto and made part of these minutes.
2. Planning & Zoning: Commissioner Knight reported that the Planning & Zoning Board did not meet in March, as there were no agenda items for them to consider. However, she reported that the Board of Adjustment convened on March 8, 2010 to consider a conditional use permit application for an ice sales vending unit to be moved from Old Georgetown Road (next to NAPA) to 10101 Beach Drive (at Derbster's Restaurant). The Board of Adjustment approved the conditional use permit with the following conditions: 1) the ice sales signage shall not exceed twenty-four square feet per side, 2) a vehicle protection plan must be implemented, and 3) the mechanicals on the top of the unit must be screened with lattice.
3. Finance: Mr. Marziano reported that the current budget is in good shape and Mrs. Silvers has does an outstanding job of collecting taxes; currently 99% of the budgeted amount of 2009 taxes has been collected.

4. Stormwater: written report attached hereto and made part of these minutes.
5. Long Range Planning: Mr. Marziano reiterated that the LRP committee is focusing on devising a detailed plan to repair and up-keep town streets. LRP will meet on March 18<sup>th</sup> at 4pm.
6. Water/Wastewater: Mayor Clemmons gave a detailed update on the progress of construction of the Brunswick County Sewer Project. He also shared the steps that those connecting to the low-pressure system will have to go through once they are able to connect; written report attached hereto and made a part of these minutes.

#### **OLD BUSINESS:**

1. Discussion/Action of the proposed amendment to §155.05-Natural Resource Protection, Definitions (Ordinance Amendment #2010-01.03). *Commissioner Melahn motioned that Old Business #1, amendment to §155.05 Natural Resource Protection definitions be approved on the condition that the wording and under #2, [replace with] be revised to read: "DBH diameter at breast height the tree trunk diameter measured in inches using a diameter tape measure at height of 4.5 feet above ground level or by using a standard tape measure at 4.5 feet above ground level with the results divided by 3.14."* Commissioner Melahn said the way it is currently written, the average person would just use a standard tape measure and may not know to divide by 3.14; he said that there are diameter tape measures available. *Commissioner Dixon seconded the motion and there was discussion.* Commissioner Knight said she felt circumference, which is how the ordinance currently reads, is easier for people to understand and that it is more accurate because you cannot get the diameter of a tree until the tree is cut. Mr. Marziano said the instrument, a caliper, which Town Staff uses to measure, does give diameter. Commissioner Knight said she understands diameter but feels circumference is the simplest way to go. She felt if the Town wants to increase the size then that is okay, but keep circumference as the measurement standard. Mayor Clemmons said the average citizen does not have a caliper. If someone wants to know if they can cut a tree are they going to have to wait on town staff to come out and measure with a caliper before they know if they can cut a tree or not? Is this the direction the Town wants to move? Commissioner Melahn said that DBH is the forestry standard.

Mayor Clemmons noted that several people in the audience had their hands up and he called on people to speak. Mr. Mack Sanders of Calabash Acres pointed out that trees have different textures and thicknesses to their bark; does the bark have to be skinned off before the measurement is taken? The Board felt it was unnecessary to remove bark before taking measurements; Commissioner Dixon felt people should have the right to remove any pine trees on their property. Mr. Anthony Feilback was recognized. Mr. Feilback suggested that the ordinance include both circumference and diameter (equivalent sizes for each). Mayor Clemmons asked the Board their opinion on including both standards. *Commissioner Dixon withdrew his second to Commissioner Melahn's motion.* Commissioner Knight felt that it would be a great idea to include both standards; Commissioner Nance agreed. *Commissioner Melahn withdrew his original motion.* Mr. Vincent Knight was recognized by the Mayor to give comment. Mr. Knight felt that Mr. Feilback had a good suggestion. He further commented (regarding the amendment for Old Business #2 §155.03) that the Board was increasing the size of trees that could be cut

without obtaining a permit by 1-7/16ths inches. Basically, Mr. Knight pointed out that the Board is changing two things (with the two ordinance amendments): 1) the way a tree is measured (circumference or diameter) and 2) the size of trees that can be cut. The Board agreed that they are considering two changes with the two ordinance amendments. *Commissioner Knight motioned to include both standards of measurements in the definitions for Natural Resource Protection (§155.05), seconded by Commissioner Nance and there was discussion.* Commissioner Melahn asked for clarification. It was clarified that the motion would cause the amendment to include diameter and circumference as measurement standards for trees. Mr. Lewis said he felt that circumference is the easiest most straight forward method but felt it was acceptable to include both standards. *Mayor Clemmons called for a vote and the motion carried by a unanimous vote.* Mrs. Herman was recognized; she asked about definition #3 as it relates to size. Mr. Marziano pointed out that the DBH is 4 inches for Live Oaks and 13.5 inches for other trees; the equivalent circumference numbers would be included when the amendment is updated to reflect the action that the Board just took.

2. Discussion/Action of the proposed amendment to §155.03-Natural Resource Protection, Tree Protection-change circumference to diameter and clarify ordinance intention (Ordinance Amendment #2010-01.02). Mr. Marziano pointed out that in this ordinance the equivalent sizes for both circumference and diameter would be included in this amendment. *Commissioner Nance motioned that action/discussion of the previous (Old Business #1) be adopted into Ordinance Amendment #2010-01.02 to reflect circumference and diameter and instruct the Town Administrator to make the necessary updates to the amendment and approve as such, seconded by Commissioner Knight and carried by way of a unanimous vote.*
3. Discussion/Action to schedule a public hearing for Tuesday, April 13, 2010, 6:00 pm at Town Hall regarding a proposed ordinance amendment to §153.241 Signs (L) Temporary Signs—include a provision for A-frame signs under certain conditions. *Commissioner Nance moved to schedule a public hearing for the proposed amendment to §153.241 (L), as it pertains to A-frame signs, for Tuesday, April 13, 2010, 6:00 pm at Town Hall, seconded by Commissioner Melahn and carried by a unanimous vote.*

#### **NEW BUSINESS:**

1. Discussion/Action to consider a Proclamation declaring May as Beautification Month in Calabash. The Proclamation was read allowed. *Commissioner Melahn motioned to approve the Proclamation, seconded by Commissioner Knight and unanimously carried.* Mayor Clemmons noted that this year he would like to see the “Most Beautiful Yard” contest expanded; to have one for residential and one for commercial.
2. Discussion/Action to consider appointments to the Board of Adjustment—on 3-year Regular In-Town Member and two 2-year, In-Town Alternate Members. *Commissioner Nance motioned to reappoint Sonia Climer for a 3-year, Regular In-Town Member of the Board of Adjustment (term ending April 9, 2013); reappoint Patricia Lewellyn for a 2-year, In-Town Alternate Member of the Board of Adjustment (term ending April 9, 2012); and reappoint Charles Daniels for a 2-year, In-Town Alternate Member of the Board of*

*Adjustment (term ending April 9, 2012). Commissioner Melahn seconded the motion, which carried by way of a unanimous vote of the Board.*

3. Discussion/Action to consider a parking agreement between the Town of Calabash and the Calabash Fire Department. *Commissioner Nance motioned to approve the Overflow Parking Agreement to be made by and between the Town and the Calabash Fire Department, seconded by Commissioner Knight and there was discussion.* Commissioner Nance said the agreement looks good and asked if the Town Attorney had any comment. Mr. Lewis was fine with the agreement. *Mayor Clemmons called for a vote, and the motion to approve the agreement carried unanimously.* Fire Chief Randy Bork was recognized; he informed everyone that the Calabash Fire Department has received a \$130,000 grant from FEMA. This grant will allow the CFD to purchase some equipment it would otherwise not be able to buy.
4. Discussion/Action to consider an appointment to the Calabash ABC Board. Mayor Clemmons noted that this appointment would be to fill a vacant seat; the term ends June 30, 2010. Mayor Clemmons opened the floor for nominations. Commissioner Nance nominated Mr. Charles Schreiber; there were no other nominations forthcoming and Mayor Clemmons closed the floor for nominations. *Commissioner Nance motioned to appoint Mr. Charles Schreiber to the Calabash ABC Board for the term ending June 30, 2010, seconded by Commissioner Dixon and unanimously carried.*
5. Discussion/Action to consider the proposed recodification of Title V, Chapter 51-Wastewater of the Calabash Code of Ordinances. Commissioner Melahn said he has done a total re-write of what is currently titled "Sewer" and renamed it "Wastewater" because the section addresses both on-site septic systems as well as sewer. Commissioner Melahn highlighted some of the major changes/additions. One important change is that a \$500 penalty has been included in the section rather than referring to §10.99 of the Code as most penalties do. Commissioner Dixon asked what the penalty is for. Commissioner Melahn said it is for noncompliance or modification of septic systems without proper permitting. Commissioner Dixon opposed §51.04, which mandates that abandoned septic tanks be pumped, crushed, and filled; he said it is enough to simply have a concrete cover on the tank. Commissioner Nance was also opposed to some of the requirements of §51.04 at this time and felt it should be examined further and perhaps rewritten. *Commissioner Nance motioned to table the recodification of Title V, Chapter 51-Wastewater, seconded by Commissioner Dixon and there was discussion.* Commissioner Melahn said that currently, the Town does not have anything pertaining to sewer conditions, the fact that it is not mandatory to hook up to the County sewer system, septic tank decommissioning, exception within sound limits, or public notice. Commissioner Melahn felt it was important to get something in place as soon as possible because property owners may be able to begin tapping on to the new sewer extension within the next few weeks. Commissioner Nance agreed that it was important to get regulations in place given the sewer extension but that it does not need to be a rushed decision; he felt the matter should be researched further and the Board given time to think about what is being considered. Mr. Lewis has reviewed the ordinance. He said that legally, according to the Sewer Service Agreement made by and between the Town

and County, the Town is legally bound to adopting an ordinance requiring mandatory hook-up. However, Mr. Lewis said no timetable as to when such ordinance has to be adopted by the Town is included in the Agreement and he felt if the Board would like to tweak the ordinance before adopting it then they should table the matter tonight. *Commissioner Nance called the question; Mayor Clemmons asked if any other Board members wished to comment before the vote. Commissioner Knight referenced the requirements of §51.04 as well and noted that she has a concern that things are done correctly and no rash decisions are made; she felt tabling the matter was best at this time. Mayor Clemmons called for a vote and the motion to table carried by a three (3) to one (1) vote with Commissioner Melahn voting in opposition.*

6. Direct the Town Administrator to examine the ditches in Pine Bur Acres to see if any ditches could be filled in and swales installed as stormwater control methods. Commissioner Melahn said some of the largest pollutants of the Calabash River stem from stormwater runoff. One of the ways to reduce the amount of stormwater going into the river is by swale absorption. Furthermore, Commissioner Melahn said that swales are much easier to maintain than ditches. He said that there are certain ditches in Pine Bur Acres that seem to serve no purpose. Now would be a good time to fill any unnecessary ditches because sewer construction is bringing an abundance of dirt to the area that could be used to fill the ditches in. The rest of the Board was agreeable to Commissioner Melahn's request. *Commissioner Melahn moved that the Town Administrator be directed to determine, if and how many of the Pine Bur Acre ditches could be replaced by swales and proceed to correct the problem where possible, seconded by Commissioner Nance and unanimously carried.*

#### **PUBLIC COMMENTS:**

1. Mrs. Herman said that two months ago she asked the Board to contact the Fire Marshal, Scott Garner, to have the fire districts lines re-drawn so that Devaun Park is in the Calabash fire district since a portion of the subdivision was annexed into Calabash in 2008. Mr. Marziano said he has been in contact with Mr. Garner, who is looking into the matter; Mr. Garner has not yet gotten back with Mr. Marziano with any findings. Once Mr. Garner updates the Town, it will be relayed to the citizens.
2. Mr. Mack Sanders, in reference to the proposed ordinance regulating abandoned septic tanks, stated that he remembers a meeting where Mr. Jerry Pierce, Director of Brunswick County Public Utilities, was present and asked about what property owners who hook up to the sewer system were going to be required to do with their septic tanks. Mr. Sanders said that Mr. Pierce told everyone that property owners are not required to do anything with abandoned septic tanks. Secondly, Mr. Sanders asked for an update on the grants related to the sewer project. Staff relayed that there is nothing to report; no action has been taken regarding the grant applications.
3. Bill Seip asked what the parking agreement between the Town and the Fire Department is about. The Board relayed it is a 1-year agreement for the Town to use Fire Department parking places when necessary; for instance, during meetings such as this evening.

4. Vincent Knight commented on the ordinances regarding Natural Resource Protection; he felt that the Board did not set a size or a final method of measurement. It was clarified for Mr. Knight that the ordinances will reference both diameter and circumference; the size for diameter is already included in the ordinance and the Town Administrator has been directed to include the equivalent size for circumference. Mr. Knight asked if the diameter was 4-inches; Mr. Marziano said that was correct.

**BOARD COMMENTS:**

1. Commissioner Nance stated that he appreciates the Board working together.
2. Commissioner Melahn asked if anyone had objections to him placing the Town Administrator's Weekly Report on the website. Not only were there no objections to this but everyone seemed to feel it was a good idea.

**ADJOURN:** *Commissioner Nance motioned to adjourn at 7:30 pm, seconded by Commissioner Knight and unanimously carried.*

(SEAL)

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Anthony Clemmons, Mayor

Attest:

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Kelley Southward, Town Clerk