



**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, June 8, 2010—6:00 pm**

AGENDA

CALL TO ORDER: Mayor Clemmons

PLEDGE TO FLAG:

ROLL CALL:

APPROVAL/ADJUSTMENT OF AGENDA:

PUBLIC HEARING: 2010-2011 Fiscal Year Budget Ordinance

PRESENTATION: Mayor Clemmons to present awards to the winners of the 2nd Annual Most Beautiful Yard Contest.

CONSENT AGENDA:

1. Approve minutes of October 8, 2009—UDO Workshop
2. Approve minutes of May 11, 2010—Regular Meeting
3. Approve minutes of May 24, 2010—Special Meeting/UDO Workshop
4. Accept resignation from Gary Cooper from the Planning & Zoning Board

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:

BUILDING INSPECTOR'S REPORT:

COMMITTEE REPORTS:

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

4. Water/Wastewater—Mayor Clemmons
5. Town & Merchant—Commissioner King
6. Stormwater—Mr. Marziano
7. Long Range Planning—Commissioner King

OLD BUSINESS:

1. **Discussion/Action** to consider approving the minutes of the April 13, 2010 Board of Commissioners Regular Meeting, as revised per direction of the Board on May 11, 2010.
2. **Discussion/Action** regarding the 2010-2011 Fiscal Year Budget Ordinance—based upon comments received during the public hearing the Board should take action to either approve/deny the Budget Ordinance or schedule a special meeting/workshop.
3. **Discussion/Action** to schedule a workshop for signs/animated signs (date to be determined by the Board of Commissioners).
4. **Discussion/Action** regarding privilege license fees for sweepstakes. Get update from the Town Attorney. Propose an amount to charge and schedule a public hearing for July 13, 2010-6pm at Town Hall.

NEW BUSINESS:

1. **Discussion/Action** to consider an amendment to Title I of the Calabash Code of Ordinances—add §10.30-§10.33 regarding public records.
2. **Discussion/Action** to consider renewing the Debris Management Contract with Brunswick Trucking Company.
3. **Discussion/Action** to determine Town of Calabash's contribution to the 4th of July Celebration.
4. **Discussion/Action** to appoint a member to the ABC Board for a three-year term ending June 30 2010.
5. **Discussion/Action** to make appointment(s) to the Planning & Zoning Board.
6. **Discussion/Action** to approve/deny the 2010-2011 Holiday Meeting Schedule.
7. **Discussion/Action** to approve/deny budget ordinance amendments—clean-up of the 2009-2010 Fiscal Year Budget.
8. **Discussion** regarding signs (Mayor Clemmons)
9. **Discussion/Action** regarding removing staff members from all committees (Com. Nance)
10. **Discussion** regarding Mayor/Board member communications (Com. Nance)

CLOSED SESSION:

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

ACTION AS A RESULT OF CLOSED SESSION:

PUBLIC COMMENTS:

BOARD COMMENTS:

ADJOURN:

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MONTHLY MEETING
Tuesday, June 8, 2010—6:00 pm**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, June 8, 2010, 6:00 pm at Town Hall, 882 Persimmon Road, Calabash, NC.

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

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

GUESTS PRESENT: There were approximately 20 guests in attendance.

CALL TO ORDER: Mayor Clemmons called the meeting to order 6pm. Mayor Clemmons informed everyone that Sergeant James Cooper has returned home to Calabash from service overseas. He noted that Sgt. Cooper could not be with us this evening as he had a prior engagement. His first stint overseas was in 1997; a peace keeping mission in Bosnia. In November 1999 he was deployed to Kosova where he served until July of 2000; his daughter was born during that deployment. In 2001, in response to 9-11 he was deployed to an undisclosed location. He served in Iraq from 2003-2004 and 2007-2008. He is presently medically retired and he and his family plans to settle in the Calabash area. Sergeant Cooper was thanked for his bravery and service to our town and county. Mayor Clemmons said we are proud to have Sgt Cooper and his family become a part of the Calabash community.

PLEDGE OF ALLEGIANCE: Mr. Jim Myers, who served as a Lieutenant Cornell in the United States Army led everyone in the Pledge of Allegiance to the Flag.

APPROVAL/ADJUSTMENT OF AGENDA: *Commissioner Melahn moved to remove New Business #9 (Discussion/Action regarding removing staff members from all committees) and #10 (Discussion regarding Mayor/Board member communications); he stated that he had reasoning for wanted to remove these items, Commissioner Knight seconded the motion to remove the items. Mayor Clemmons called for discussion. Commissioner Melahn said the Board could decide to*

consider each item independently (split the motion into parts a & b) if they so choose upon hearing his reasoning. He noted that Commissioner Nance requested both items 9 & 10.

Regarding New Business #9—Discussion/Action regarding removing staff members from all committees—Commissioner Melahn said that the agenda request form submitted by Commissioner Nance reads as though he wants to remove staff from having voting powers on boards and committees in the instance if the Board of Commissioners delegates decision-making to an appointed board or committee. He said it would be much less disruptive and accomplish the same thing if this matter was handled as a revision to Chapter 32, Town Policies. Commissioner Melahn noted that the use of the term “political” should not be used unless its in reference to all citizens and property owners in Calabash. Special benedict cannot be conveyed to any personal interest group; this would be a violation of State Statutes and the Town’s Code of Ethics Policy.

Regarding New Business #10—Discussion regarding Mayor/Board member communications—Commissioner Melahn felt this matter should be discussed directly with Mayor Clemmons. He said that the Mayor is the spokes person for the town and the Board is the governing body. Additional, as the Commissioner of Policies and Procedures, Commissioner Melahn is in the process of making extensive amendments to Chapter 32, Town Policies, under the Communications section.

Commissioner Melahn reiterated that the Board could consider removing items 9 & 10 as a whole or independently. Commissioner Dixon said he would like the matters explained a little better; he noted that he had difficulty hearing Commissioner Melahn. He asked what kind of committees are being discussed. Mayor Clemmons said the situation-driving item 9 came up at a prior Board of Commissioners meeting (April 13, 2010, to be specific). At that meeting, the Board of Commissioners voted to involve a committee in board business. As a result, the committee voted on behalf of the board. The situation was brought to the attention of the Long Range Planning Committee (LRPC) and the Mayor has addressed that item. As far as he is concerned it is a mute issue at this point but its up to the Board of Commissioners as to what they want to do with the agenda this evening.

Commissioner Melahn said he is not trying to make anything go away but if the Board elects to do something along this line, it should be done as a revision to town policies. Commissioner King said having some discussion of the matter at this meeting might result in a revision to town policies. He doesn’t believe it’s the intent to take any drastic action this evening but it needs to be brought out and discussed with the Board as a whole to determine if town policies should be amended.

Commissioner Nance said his reasoning for requesting New Business #9 be placed on tonight’s agenda is because of the Carlyle Street paving. He said he was not aware of that project until the day he received his agenda notebook (back in April). Therefore, he did not have the time to go look at the proposed project to form an opinion about the project. He said that he made the motion (at the April meeting) to give the Long Range Planning Committee the power to move forward with the project if they deemed the project necessary. He did not have a problem in delegating the power to move forward with the project to the committee. Rather, his problem is that he is of the opinion that it was pre-dawned by what was going to happen with that. He has a bad feeling with staff sitting on a committee that was appointed by the Mayor. He said that staff might feel obligated to vote in a

certain way to protect their tenure. Something of this nature has the potential of biting us in the future. He said it has nothing to do with the project itself.

Mayor Clemmons said that for over 20 years or more, there has never been a problem with staff on committees. Commissioner Knight said the Town Clerk is on the LRPC and her knowledge of the town was important and appreciated at the last LRPC meeting. Commissioner Nance said staff should only be used to gather information give objective opinions. If they're placed in a position where they need to cast a vote, it might come back to haunt them.

Mayor Clemmons said he, as the chairman of the Board exacerbated the root problem. Commissioner Nance asked what was the root problem. Mayor Clemmons asked not to be interrupted. Mayor Clemmons continued by stating that the Chair was in error by not calling the motion out of order at the meeting (April BOC meeting). The motion by this board to direct a committee to basically proxy vote of the Board of Commissioners was not in order. The Chair made an error by not calling the motion out of order, which would have prevented this situation from occurring. The problem lies not at the feet of the committee but at the feet of the Board of Commissioners and the error of the Chair, which created the situation. Mayor Clemmons said that he accepts full responsibility for the negligence of the Chair.

Mayor Clemmons asked if there was any discussion related to item #10 of New Business. Commissioner Nance said he agrees with Commissioner Melahn in that he feels the item could be removed from the agenda and taken up personally with the Mayor. Commissioner King pointed that there is a single motion on the table to remove items 9 & 10 of New Business. *Mayor Clemmons called for a roll-call vote to the motion and second to remove New Business 9 & 10 and the vote was as follows: Commissioner Knight-Yes, Commissioner Melahn-Yes, Commissioner King-No, Commissioner Nance-No, and Commissioner Dixon-No; the motion did not pass.*

Commissioner King moved to remove New Business #10 from the agenda, seconded by Commissioner Nance and Mayor Clemmons called for discussion. Mayor Clemmons said the Mayor doesn't vote but since the item was in reference to the Mayor and not only does staff has knowledge of that but the Board members do too, he was for leaving it on the agenda and his response would be that he has no public response to the item. To that end, Mayor Clemmons called for a roll-call vote to the motion and second to remove New Business #10 from the agenda and the vote was as follows: Commissioner Knight-Yes, Commissioner Melahn-Yes, Commissioner King-Yes, Commissioner Nance-Yes, and Commissioner Dixon-Yes; the motion carried by a unanimous vote. Mayor Clemmons requested that the Town Clerk clarify the status of New Business 9 & 10. The Clerk reported that New Business #9 remains on the agenda and New Business #10 has been removed.

Commissioner Knight requested to move Consent Agenda #3-Minutes of May 24, 2010 Special Meeting/UDO Workshop—to the Minutes section of the agenda. Mayor Clemmons requested that item #7 of New Business be moved to item #4 because it corresponds with item #3; renumber New Business accordingly (previous #4 would become #5 and so on and so forth). *Commissioner Melahn moved to approve the Consent Agenda, as amended, seconded by Commissioner Knight and unanimously carried. Commissioner Nance moved to approve the agenda, as amended, seconded by Commissioner Melahn and unanimously carried.*

PUBLIC HEARING: *Commissioner King moved to open the Public Hearing for the 2010-2011 Fiscal Year Budget Ordinance, seconded by Commissioner Nance and unanimously carried.*

1) Emily DiStasio of 495 Planters Place in Saltaire Village addressed the Board by reading the following statement: "I would like to address the fact that the budget before us has NO contribution to the Calabash Fire Department appropriated. Last year, after you convinced me that the 15% distribution to the Fire Department was actually Calabash's money and therefore this Town's contribution to the Fire Department, \$5000 was appropriated in the budget to cushion the monies flowing to the Fire Department and make up any difference between the ABC store distribution and the matching \$30,000 Carolina Shores donation.

The ABC store's distribution to the Fire Department has been completed for this fiscal year. A distribution totaling \$27,055.81 from the ABC store leaves the difference to be made from the Town budget of \$2944.19. To date that money has not gone to the Calabash Fire Department from the Town. At the budget workshop for 2010-2011, Commissioner King recommended that NO donation be included in the budget we are discussing here tonight.

Let's talk about ABC money. I believe the distribution of net profits from the ABC store are set by statute or Sessions Law. The 1973 Session Law permitting a referendum for the establishment of an ABC store in Calabash set the net profit distribution as 70% to Calabash General Fund, 5% to the Primary School, 5% to Middle School, 5% to the Secondary School servicing the Calabash area and 15% to the Fire Department servicing the Calabash area.

In 1983 a new Sessions Law was passed changing the distribution to 15% to the nearest Fire Department, 15% to the nearest rescue squad and 70% to the Calabash General Fund "of the town to be used for any lawful purpose including a yearly appropriation to the Brunswick County School System".

I do not see an appropriation for the Brunswick County School System in this budget, not until this week was I aware of this bill and also its requirement. I respectfully request that this Town follow the law and add such an appropriation. As to the mayor's claims that the ABC distribution is Calabash's contribution to the Fire Department, I believe that questionable as the law states Calabash is entitled to only 70% of the net profit distribution from which it must make some appropriation to the Brunswick School System leaving the amount up to them.

I believe this budget is faulty in many ways and should be reconsidered. Calabash should fulfill its commitments to the Fire Department and to the Brunswick County Schools."

2) Cecelia Herman of 403 Deer Path in Saltaire Village addressed the Board and read the following statement: "Tonight we are here to discuss the proposed budget for fiscal year 2010-2011. The budget posted on the website gives no information or explanation for the projected revenue or the proposed expenditures. How is any citizen, unless they attended the budget workshops, as I did, to understand WHY? Last years budget message and the prior years budget message appropriately contained those answers. Each message was 14 and 18 pages respectively. When I asked for this budget message I received a copy of the 2-page letter to the BOC explaining very little and even

this was not posted of the citizens review. Calabash's current ordinance, Title III Section 31.19 clearly gives the direction to the Budget Officer that the message contain a concise explanation of the governmental goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in program goals, programs and appropriation levels and should explain any major changes in fiscal policy.

It seems to be the position of this sitting Board to give out as little information as possible to the citizens and to completely ignore its own ordinances. After a great deal of research for the last five budget years 05/06 until now, the following becomes painfully clear and alarming in this current economy.

Expenditures in this Town have increased 81% since the 2005/2006 Budget. Under the direction of Finance Director/Officer Rosemary Raleigh 05—07 budgets, the Town banked an average surplus of approximately \$99,000 per year. Under the direction of the current Finance Director 08—10 budgets the Town will have averaged spending approximately \$189,464 above revenue drawing on the fund balance (savings account) to balance the budget.

This budget before us tonight reflects projected revenues to be \$852,125 adding \$232,808 or 21.4% or our spending from the fund balance (or savings account) to balance our expenditures for a budget of \$1,084,933.

Let us look at a portion of this budget:

Salaries and benefits:

Administration Department:	\$201,600 a 17% increase from 08/09
Town Services	\$152,650 a 48% increase from 08/09
Inspection Department	\$ 80,067 a 22% decrease from 08/09

Salaries and benefits have gone up over \$79,000 since the 08/09. Add to that the appropriation of expenses for just the administration department of \$144,150 and that comes to a total of \$578,467 and we are looking at 2/3rds of the projected revenue. That does not included expenses or supplies for Town Services or Inspection Department, or Board fees and expenses. Does not include \$56,000 for a park, or payment for street lighting! Is it any wonder we have to yearly take money from the general fund (savings account) to meet expenses? Some monies have been taken for special projects to benefit citizens, and that is an appropriate use but not all. General fund money is not to be used for recurring operating expenses. This budget does not reflect good stewardship of our dollars. Over the past five years each budget has increased spending including this years budget. In these economic times, most towns, cities and states are reducing expenditures, instituting spending and hiring freezes and watching every penny as most of us at home do. Good government would dictate this and I suggest you as a Board does the same.”

3) Alinda Meares of 1120 River Drive was next to address the Board. Mrs. Meares said she had not been able to attend any budget workshop but that she is in receipt of the Annexation Report for the Town of Calabash dated December 14, 2001 and it is very troubling to her. The Annexation Report pertains to Calabash Acres and Pine Bur Acres (and other areas). In the proposed budget, she feels

there is no money for sewer, no money for completion of the items in the Annexation Report. The report is a legal, binding, contractual agreement. The Board at that time included Curtis Keith Hardee, Mayor and Commissioners Anthony Clemmons, Jody Nance, Emily DiStasio, John Collins, and Rosemary Raleigh; John Sanborn was Town Administrator. She claimed that at a previous meeting, Mayor Clemmons called her a liar and that she and he have fought numerous times over street lights. She said the Town Clerk could make the Board a copy of the 2001 Annexation Report and asked that the Town Attorney have one as well.

Mrs. Meares read the following from page 9 of the report: “Street Lighting—based upon policy adopted by the Town of Calabash for placement of street lights, eighty street lights will be installed in the annexed area. The lights will be installed during a three-year program. The first year, thirty lights will be installed at \$11.13 per month at a cost of \$4006 the first year. Thirty additional lights will be installed the third year for a cost of \$2671. Total cost for the eighty lights will be \$10,683.” To date, Mrs. Meares said that they do not have their streetlights. She directed comment to Mayor Clemmons: “you blatantly, in a meeting stated that this had been lost and you had to draw up a new plan for streetlights and they would be staggered.”

Mrs. Meares then read from page 13 of the report: “Sewer Service—the South Brunswick Water and Sewer Authority (SBWSA) provide sewer collection and treatment for the Town of Calabash. The area proposed for annexation will also be served by SBWSA. Revenue Bonds are to be sold in 2002 to finance the construction of lines for the area. The area is scheduled for lines to be in place within five years after the sale of the bonds.” She stated that everyone knows that Brunswick County took over SBWSA and they assumed all assets and liabilities. Mrs. Meares asked the Board and Town Attorney where is the sale of the bonds. We would be completely through with water and sewer by max 2007 instead we are laying sewer lines now without one dollar in this proposed line item budget for sewer.

She said it is incumbent upon the town council to adhere to the adopted annexation agreement dated December 2001. The legend areas known as B-Calabash Acres and Pine Bur Acres (and other areas)-the contract annexation agreement provided for all services the town had to provide, if annexed. Annexation occurred in 2002. The Annexation Report is stamped received by the Town of Calabash on December 14, 2001. She claimed that she had the annexation report reviewed by an attorney and that Brunswick County is liable for all assets and liabilities incurred by SBWSA. “It is the opinion of a large group of us that there is corruption on this board. That is a strong statement to make but we continually get no help from this board. Notice is willing to be given this day, June 8th 2010, that you are in violation of the contractual duty of streetlights and sewer for this legend area.”

Mrs. Meares said in relation to the latest grant submitted to the Rural Center for assistance with the sewer, she talked to Senator R.C Soles, Billy Ray Hall-Director of the NC Rural Center, and Julie Cubeta-of Mr. Hall’s office, and David Redwine-running for Senator today. They have all stated that not only was the last grant sent in it stated that we did not have enough septic tanks not working for the grant to be recognized. Mayor Clemmons pointed out that we are in a Public Hearing for the budget; sewer related comments would be more appropriate during public comments. She said this is related to the budget as there is no money in the proposed budget for streetlights, that should already be installed, and there is no money included for sewer. She said the grant writer, Mr. Green

does not want to write another grant. “Why to the people that pay the bills for the Town of Calabash, the money has already been told to you where the money is going by Cecelia Herman; you are not delivering the services that you are contractually under the authority to do. And I would like the County (really Town) Attorney to respond to this because we are going to end up with a class-action lawsuit if it continues in this fashion. That’s all I have to say but the committee for the class-action lawsuit is growing by the day.”

Mayor Clemmons called the next speaker who had signed up to comment on the proposed 2010/2011 Fiscal Year Budget; Mr. Mitch Meares. Mr. Meares waived his opportunity to speak at this time. Mayor Clemmons asked if there were any other speakers for the budget; there were no other speakers forthcoming. *Commissioner Melahn moved to close the public hearing, seconded by Commissioner Knight and unanimously carried. Commissioner Melahn moved to re-enter regular session, seconded by Commissioner Dixon and unanimously carried.*

PRESENTATION: Mayor Clemmons presented certificates and awards to the first, second, and third place winners of the 2010 Most Beautiful Yard Contest. Ms. Terry Ikner took 3rd place, which included a \$15 gift certificate from Atlantic Elite Crete Landscaping. Mrs. Sonia Climer was awarded 2nd place, which included a \$20 gift certificate to Plantation Garden Center (Mrs. Climer was not present). Finally, Mrs. Kathleen Johnson was awarded 1st place, which included a \$30 gift certificate to Plantation Garden Center (Mrs. Johnson was not present). Mayor Clemmons thanked those who entered the contest and the businesses who donated gift certificate awards.

CONSENT AGENDA:

1. Minutes of October 8, 2009—UDO Workshop
2. Minutes of May 11, 2010—Regular Meeting
3. Accept resignation from Gary Cooper from the Planning & Zoning Board

Commissioner Melahn moved to approve the consent agenda, seconded by Commissioner King and unanimously carried.

MINUTES:

1. Minutes of May 24, 2010—Special Meeting/UDO Workshop. Commissioner Knight said she knows that information has been omitted from these minutes and she has not had time to review the audio and transcribe the deleted portions and she would appreciate it if they could be tabled this evening. *Commissioner Knight moved to table the minutes of May 24, 2010, seconded by Commissioner Melahn and unanimously carried.*

MAYOR’S COMMENTS: Mayor Clemmons reported that Brunswick County’s application to the Rural Center for a matching funds grant to assist with the sewer has, unfortunately been denied. He said this is very sad. Both the Town and County felt that this was our best chance at getting some assistance. Commissioner Knight and the previous Town Administrators had worked hard on the grant application. Despite our best efforts, we were not approved. Although we are very disappointed, we have determination and are going to move forward.

PUBLIC COMMENTS:

1. Scott Bluff, 1224 Riverview Drive addressed the Board regarding sweepstakes. He asked that the Board of Commissioners be reasonable when determining fees for sweepstake machines and/or businesses. He asked them to think about what they are doing and whom their decisions affect. He said his sweepstake business employs 15 people and he leases a building that was previously abandoned. At the end of June, his business will have been in Calabash for two years. He supports other businesses and contributes to the community.
2. Jim Myers of Shallotte Partners addressed the Board regarding the building permit fees for Calabash Town Center Apartments. Mr. Myers said he has been working with town staff for the past two days regarding the permit fees. To close with the bank, he must first secure the building permits for the project. His general contractor on the project, SametCorp out of Greensboro, submitted the building permit applications. Calabash does not have a set of fees for apartments. Mr. Myers said the original permit fee quoted to SametCorp by the Building Inspections Department was \$253,000. He said staff has been very helpful in working within the town's fee schedule and has reduced the cost to \$210,000. This is for 168 apartments (out of 216). He said that SametCorp builds more apartments in North Carolina than any other company and they were amazed at the cost of the permit fees. Mr. Myers said he asked them to provide permit fee information that SametCorp purchased for apartments within the last year. Mr. Myers said that the projects for which SametCorp provided fee costs were larger projects than Calabash Town Center: Burlington-\$71,268; Concord-\$61,012; Fayetteville-\$65,304. He said that \$253,000 is a budget buster. He must have the permit paid for by the middle of next week so he can go to closing with the bank. He intends to start taking down trees the following week. He said the average price SametCorp has paid for apartments in North Carolina is \$260 per unit. He asked the Board of Commissioners to give him some assistance on the building permits; whether it's tonight or at a special meeting in 2 or 3 days. He reiterated that there is no fixed amount in the Calabash Fee Schedule for determining how to charge for apartments. He said that staff has been very helpful in trying to assist him in this matter; they have examined the Brunswick County and Carolina Shores fee schedules and the numbers were not too different from Calabash but it was new ground for those entities as well. Mr. Myers said his closing is next Wednesday. In listening to the comments for the proposed budget this evening, Mr. Myers noted that the annual budget for the Building Inspections Department is \$80,000. This project is going to take about 14 months to complete and to be required to pay \$210,000 in permit fees is unfair and not right. Mr. Myers said he is willing to pay a fair price. Based on what SametCorp has paid in numerous other places in North Carolina, he expected the permit fees to be in the range of \$40,000 to \$50,000. He requested the price of \$210,000 be cut in half to \$105,000; which is still twice what he feels he should have to pay. He claimed that this matter didn't come up until yesterday. He complimented the staff that has been working with him over the past two days; they spent a lot of time with him explaining where the figures came from and trying to figure out how to reduce costs while staying within the fee schedule. He said that \$105,000 is 12% of the town's annual budget and the Building Inspections department budget for a year and a half. He asked that the Board of Commissioners either take action tonight to cut the permit fees in half from \$210,000 to \$105,00 or have a special meeting before noon next Tuesday. Commissioner Nance asked for some clarification; the Board has different numbers. Mr. Marziano said it is actually about \$209,000 and that includes approximately \$25,000 worth of site-work permits. The latest number for building permits without site permits is about \$183,000. Mr. Myers again

told the Board that they were just informed of these numbers yesterday; he said the representative from SametCorp came to Town Hall yesterday with a checkbook and were told the permits would cost \$253,000 (note: attached hereto and made part of these minutes is a series of email correspondences between the building inspections department and SametCorp from May 28, 2010 where the fees were relayed). He asked the Board to act on this matter as quickly as possible; if it could be done tonight that would be great but if not, Mr. Myers requested a special meeting be held Friday or Monday. Commissioner King asked if the figures from other towns included site work; Mr. Myers said site work was included in the figures. Mr. Myers said once the apartments are built, the taxes the town is going to receive for the property is ten times the amount they are currently receiving in taxes. He also said there would be a lot of jobs brought to the town once the commercial properties are developed. Mr. Myers asked if this matter could be acted on tonight. Mayor Clemmons said there is a legal concern of setting precedence and feels there should be a special meeting. Mayor Clemmons also said it was his understanding that Mr. Myers had been given a Fee Schedule a long time ago and he was surprised to hear that Mr. Myers was shocked by the fee totals. Mr. Myers said it was correct that he received a Fee Schedule a long time ago. Originally, he said the Building Inspector told him each unit in the project would receive a permit and then sometime later the Building Inspector said each building would receive a permit so Mr. Myers felt that was to mean that the fees would be less. Mayor Clemmons asked the Board to give a consensus about scheduling a special meeting. Commissioner Dixon said if the Board holds a special meeting, Mr. Lewis should be present; Commissioner Nance agreed. Commissioner Melahn said he would like to have additional information but if the Board decides to make concessions for Mr. Myers is the town going to reimburse him (Commissioner Melahn) for past building permits? Is Devaun Park going to get a discount when they move forward with their multifamily? The Town Clerk gave some possible dates for the Board to consider. Commissioner Melahn said he could see no reason for holding a special meeting. If what we are charging is consistent with what we've been charging everyone else then there is no reason to meet. Mayor Clemmons said there are other factors involved. Commissioner Melahn said if there is new or additional information then that's fine but if what we are charging Mr. Myers is what we have been charging everyone else there is no purpose for meeting. Commissioner King asked if information could be gathered from towns that have permitted apartments before. Mr. Marziano said that is what staff did by locating information from Brunswick County and Carolina Shores. Staff can gather more information from other towns but Mr. Marziano felt that we should get information from other coastal towns/counties rather than interior ones. Mr. Myers requested that the information come from places that have done apartment complexes. From the audience, Mrs. Emily DiStasio said the Board could not schedule a meeting during public comments; it's not on the agenda to set a meeting for this purpose. Mayor Clemmons informed her that he intends to call a special meeting at a later time/date; he is just trying to get a consensus from the Board at this time if all board members could attend a special meeting. Mr. Marziano felt he could gather pertinent information by Monday. Mayor Clemmons said he would call a special meeting tomorrow. Mr. Lewis said he would be available next week, Monday or Tuesday later in the afternoon; Commissioner Nance suggested 6pm. Mayor Clemmons said he would consider all suggestions.

CORRESPONDENCE: Mayor Clemmons noted that he received a letter from the Census Bureau thanking Mrs. Hagan, Office Assistant, for her help with the information provided to the Census for Calabash. Mayor Clemmons said this should be considered at Mrs. Hagan's annual review and a copy of the letter placed in her personnel file.

TOWN ADMINISTRATOR'S REPORT: Written report attached hereto and made a part of these minutes. Mr. Marziano highlighted some important dates; the UDO Public Hearing is June 22, 2010, 6pm at Town Hall; the July 4th Celebration will be held on July 4th at the waterfront; and Calabash Town Hall Day will be July 23rd. Commissioner Nance thanked Mr. Marziano for his weekly reports.

Mayor Clemmons called for a 10-minute recess.

Upon returning from the break Commissioner Nance motioned for the Board to return to regular Session, seconded by Commissioner Melahn and unanimously carried.

BUILDING INSPECTOR'S REPORT: There was no Building Inspector's report for the month of June.

Mayor Clemmons asked Mr. Marziano to share our thank you card from Jessie Mae Monroe Elementary School. Commissioner Nance asked Mr. Marziano to share information about an interactive map that a gentleman from Shallotte's son is working on for the town. Mr. Marziano explained that the map to which Commissioner Nance is referring is the zoning map associated with the UDO. The draft map has been prepared copies can be viewed and/or obtained from town hall and it is also posted on the town's website. The map would not be finalized until the Board adopts the UDO and the map sometime after the public hearing on June 22nd.

COMMITTEE REPORTS:

1. Calabash Fire Department: Commissioner Nance's written report is attached hereto and made a part of these minutes. He reported that the CFD is busy with calls. With the grant they recently received they were able to purchase some new equipment; including a new device similar to but more effective than the "Jaws of Life". Commissioner Nance said he has been visited by the President of the CFD Board of Directors, Jennings Edge, regarding the dispute over an alleged shortfall in donation funds to CFD from the town. Commissioner Nance relayed that he told Mr. Edge it is a matter that is being looked into by staff and the Board of Commissioners. Mayor Clemmons said he thought that amount had been decided upon and the matter resolved. Commissioner King said he is waiting to see anything from minutes regarding the amount the town decided to donate in the 2009-2010 budget. Mr. Marziano said the minutes of budget workshops from last year are still being reviewed to see exactly what the Board's wishes were. Mayor Clemmons asked if any legal weight could be held if by silent consent the Board of Commissioners had agreed to match what Carolina Shores gives. Commissioner King said unless it's found that \$30,000 to match Carolina Shores was approved in the budget (or minutes from budget workshops), he remembers it was \$27,000. Mayor Clemmons said he remembers the decided amount was \$27,000 as well but thought the prior board had agreed to match what Carolina Shores gives to the CFD. Mr. Lewis said in the budget the donation amount would have to be included.

If this board wishes to donate something in excess of what was budgeted to give, the Board would have to do and approve a budget amendment. Mayor Clemmons noted that \$5,000 had been budgeted for the donations to the CFD line item; why else would have that amount been budgeted? Commissioner King said the \$5,000 was budgeted incase the ABC money fell short of \$27,000. Mayor Clemmons said that was his recollection until he heard that Carolina Shores was giving \$30,000. Mr. Marziano reiterated that staff would check the minutes from last years' budget workshops.

2. Planning & Zoning: Commissioner Knight reported on the June 7th Planning & Zoning Board meeting. Mr. Kenneth Drennan has expressed an interest to serve on the PZB as the ETJ member; the PZB recommended Mr. Drennan for the vacancy. The Town Clerk pointed out that the next PZB meeting would be Tuesday, July 6, 2010 because Town Hall would be closed Monday, July 5th in recognition of Independence Day.
3. Finance: Commissioner King reported that there is \$1,182,942.98 in the General Fund. 107% of 2009 budgeted taxes have been collected; which is phenomenal—Mrs. Silvers, Tax Collector (present in the audience), was given a round of applause. Mayor Clemmons reported that for the past four years the tax collection average is 99.56%--Mrs. Silvers was recognized with another round of applause. Mayor Clemmons said that is outstanding and above the call of duty—he asked that a copy of the report he was reading be included in Mrs. Silvers personnel file.
4. Water/Wastewater: a written report is attached hereto and made a part of these minutes— Mayor Clemmons gave highlights of the report. The Board and staff complimented Mr. Cory Sumner, Engineer Inspector for Brunswick County for doing such a wonderful job in Calabash for the sewer extension project. Mr. Marziano relayed that Brunswick County had previously felt construction of the sewer project would be completed ahead of schedule. However, due to the number of low-pressure grinder pumps that are going to be installed, they are now estimating the original date of October 2010 for completion. Commissioner Melahn added that the date of the assessment might be delayed as well.
5. Town & Merchant: the Independence Day Celebration will be held July 4th at the waterfront. It has recently been discovered that Southport is not holding their annual event on the 4th this year so, crowds are expected to be huge. If anyone would like to volunteer, contact the merchants or the Town Administrator. Monetary donations are also welcomed and can be dropped off at Town Hall or to Melissa at BB&T.
6. Stormwater: Mr. Marziano reported that there are some issues on Riverview; a new cofferdam might be installed in the near future. This summer maintenance of ditches is being placed as a higher priority so that cleaning over the winter is not as strenuous. Dealing with a lot of our ditches in the summer is dangerous. The Pine Bur Acres ditch evaluation will begin once sewer construction has been completed in that neighborhood.
7. Long Range Planning: Mr. Marziano reported that since we have received the PARTF Grant that has moved out of the LRPC to staff and the Board of Commissioners. The Town is awaiting the contract from the PARTF who is in the process of redrawing district lines, which has been relayed as the delay for receiving the contract. The LRPC will begin looking into sidewalks along main thoroughfares.

OLD BUSINESS:

1. Discussion/Action to consider approving the minutes of the April 13, 2010 Board of Commissioners Regular Meeting, as revised per direction of the Board on May 11, 2010 (tabled item—Commissioner Knight). *Commissioner Knight said she was pleased with the way the minutes were presented and moved to approve the April 13, 2010 minutes, seconded by Commissioner Melahn and unanimously carried.*
2. Discussion/Action regarding the 2010-2011 Fiscal Year Budget Ordinance—based upon comments received during the public hearing the Board should take action to either approve/deny the Budget Ordinance or schedule a special meeting/workshop. Commissioner King said one item discussed at the public hearing was a concern that no money has been allocated to the Calabash Fire Department line item. He believes the ABC Board contributions counts towards the Towns contribution. Until such time that it's proven otherwise, he is of the opinion that not allocating anything in the Town's budget is okay. Mr. Lewis said that legally, the proposed 2010-2011 Fiscal Year Budget Ordinance is fine. Mayor Clemmons said that the state requires municipalities to maintain in their fund balance 8% of the annual budget. Calabash maintains a lot more than 8%. In fact, the Town maintains closer to 100% of the annual budget in the fund balance. The fund balance should not be used for reoccurring expenses each year. Rather, it should be used for capital projects and emergencies. It was also noted that the proposed budget includes a \$150,000 allocation to be paid to Brunswick County for the sewer extension project. This is the remainder of the \$500,000 that the Town promised to contribute to the project. It was further noted that the proposed budget includes \$55,000 to pay the utilities associated with streetlights and \$5,000 for new streetlights. Based upon what we recently paid for six new streetlights, \$5,000 would allow the Town to install approximately 15 new lights in the 2010-2011 Fiscal Year. Mr. McCartney does at least one night streetlight check a month throughout the Town to see if lights are working properly. Additionally, Mayor Clemmons pointed out that there is a streetlight map, which includes an organized plan for adding streetlights based on need. At one time, the streetlight map was lost but a new one has been created and it is accurate and organized. Mr. Sanders, from the audience, asked if the streetlights are numbered; Mr. Marziano said they are numbered if any citizen has a problem with a light, call town hall and we will retrieve the number and report the problem to Brunswick Electric. Commissioner Knight said her only concern with the proposed budget salaries. She did not feel that this was the year to include increases. She still has difficulty with that but the rest of the board feels the increases are necessary so, she will go along with it. The plan to consider further increasing certain salaries in January 2011 bothers her even more. She said that she respects and admires every employee that works for the town; she is impressed and feels they do a great job. It is absolutely nothing personal [against staff], there are just so many people in Calabash doing without this year and having to plan for the next few years with [sewer] assessment coming up. It is the one thing that truly bothers her with the proposed budget. Mayor Clemmons asked what her solution would be. Commissioner Knight said she had proposed a bonus program. In so doing, the town would not be responsible for increases to insurance, retirement, etc. It would be money that would go straight to the employee. Without having to pay the increases to insurance and retirement, the town would save considerable money. The price of workers compensation and everything else is going up and giving a bonus was one way to work around those costs while still satisfying Town Services. Commissioner Dixon said if we didn't have insurance, we would not have the employees that we have.

Commissioner Knight explained that the bonus program would not have changed insurance benefits in anyway. Commissioner Dixon held that employees have families to support and that cannot be done on \$9 per hour; he was proud to help get Town Services a raise. Mr. Marziano said insurance rates and state retirement contributions both increased considerably this year. To that end, we do have a very lean, tight budget for 2010-2011. However, the budget is manageable and we were able to include an increase to certain salaries, provide the matching funds for the park, and \$150,000 towards sewer without increasing taxes. Commissioner Nance said during the budget workshop where Commissioner Knight introduced the bonus program the idea was discussed. He felt that Commissioner Knight had some very good ideas but in the end, he felt it was best to compensate Town Services for their work through a salary increase. He said that the board agreed to look into Commissioner Knight's bonus program at a later date to see if it could be implemented. Mayor Clemmons asked if there were any further comments from the board or any other public comments that needed to be addressed. Commissioner Melahn stated that this budget does utilize some of the general fund to balance revenues with expenditures and reiterated that this is not a fat budget. Commissioner King added if it were not for the final \$150,000 contribution to the sewer and \$56,700 to the park very little fund balance would have been necessary to balance expenditures and revenues. Those two items are not reoccurring. Mayor Clemmons said the fund balance is still very stable. He added that Calabash never borrows money and it speaks well of our town that we manage from year to year without cutting down services and without getting in debt. Sooner or later the town will have to borrow money but up to now we have been fortunate not to do so. Mr. Marziano stated this is the best possible, lean budget that the town could have come up with. Commissioner Dixon said he is satisfied even though Town Services is not going to be able to get some helpful equipment this year. For instance, he would like to purchase some equipment to help sweep the sand off the roads but since its not feasible this year, Town Services will continue to do the work with a shovel. Commissioner Nance said sitting in all the budget workshops, he would agree with Mr. Marziano; it is a lean budget but workable and something the town can live with. Commissioner King feels it is a sound budget and the Town Administrator will watch the bottom line and insure that departments stay within their departmental budgets. Commissioner Melahn said he has already spoken. Commissioner Knight said that she too has spoken. Mayor Clemmons said he has worked on a number of budgets and over the past few years, the board has made the budgets. The budget is very frugal yet still addresses the town's needs. At one time, it wasn't like this. The budget was made by a couple of people and the rest of the board was kept in the dark. He is happy that over the past three or four years the board has made the budget. He complimented former Commissioners Cecelia Herman and Emily DiStasio for their efforts in helping us get to where we are today; each board member has openness and knowledge of the budget. He found the Town Administrator to be very knowledgeable in preparing the budget. He feels Mr. Marziano has tight purse strings and his oversight is appreciated. *Commissioner King moved that the Board approve, as written, the 2010-2011 Fiscal Year Budget Ordinance and set the tax rate at seven cents (7 cents) per one hundred dollars of assessed value, as assed by the Brunswick County Tax Department. Commissioner Nance seconded the motion and Mayor Clemmons called for a roll call vote and the vote was as follows: Commissioner Dixon-yes, Commissioner Nance-yes, Commissioner King-yes, Commissioner Melahn-yes, and Commissioner Knight-no; the motion to adopt the 2010-*

2011 fiscal year budget, as written, with a 7 cents tax rate carried by a vote of four (4) to one (1). It was noted that the Budget Ordinance would be effective July 1st.

3. Discussion/Action to schedule a workshop for signs/animated signs (date to be determined by the Board of Commissioners). Commissioner Melahn was under the impression that Commissioner King was going to draw up a proposal regarding this matter. Commissioner King said there was a 90-day abatement on enforcing animated signs and therefore he has not yet drawn up anything. *Commissioner King moved to table this matter until July, seconded by Commissioner Melahn and carried unanimously.*
4. Discussion/Action regarding privilege license fees for sweepstakes. Get update from the Town Attorney. Propose an amount to charge and schedule a public hearing. Mr. Lewis reported that Chris McLaughlin of the School of Government (SOG) has written a blog about this matter. Based on the School of Government's information, Mr. Lewis is of the opinion that the Town could charge more than \$5 per machine. However, he cautioned the Board to not be excessive. He was of the opinion that other municipalities that are charging \$1000, \$2000, and \$3000 per machine will likely be sued. He referenced the second paragraph on page 4 of the McLaughlin Blog, which states the following: "How much tax is too much? Nobody knows for sure. The NC Constitution states that local taxes must be 'just and equitable', but I cannot find any NC court opinions that directly address the question of exactly when a tax becomes so burdensome as to become unjust or inequitable." Mayor Clemmons said these people are coming into town, providing jobs and trying to make a living. As far as he knows there have been no problems associated with these businesses. The businesses have been declared legal by the state. Why would we charge them so much more than we would charge any other business? Mr. Lewis said there is one of two reasons why other towns are charging these types of businesses so much. One, they don't want these businesses in their town. Or, two, because the towns think they can make a lot of revenue from these machines. Mr. Lewis felt that either reason was not fair and not in line with the purpose of privilege license fees. He felt the recommendation to charge \$100 per machine was reasonable; some fee in that area. Mr. Marziano referenced the research he had prepared for the Board, which shows what other towns in the state are charging. The medium fee is around \$500 per machine. He would recommend charging \$300-\$500 per machine. He also pointed out that some towns are charging a flat fee for the business type rather than per machine; flat fees range from \$75 to \$2600 per business. Some places are charging both a flat fee and a per machine fee. Commissioner King asked how the flat fee would work for gas stations, restaurants etc. that have machines. Mr. Marziano said as he understands it other municipalities are not charging flat fees for those situations; just to businesses primarily engaged in sweepstakes. Commissioner Dixon asked the highest and lowest fees being charged in the state. Mr. Marziano said the lowest is \$0 and the highest \$3000. Commissioner Knight contested by stating that \$5000 is the highest fee charged. Commissioner Melahn said of the town's canvassed by Mr. Marziano the minimum is \$0, the maximum is \$3000, the median value (most commonly occurring) is \$500, and the average is \$1112.42. Based in brackets: \$0-\$99 there are four, \$100-\$499 there are four, from \$500-\$999 there are nine, and from \$1000-\$3000 there are sixteen. There are many towns charging \$1000 or more per machine (based on the data provided by Mr. Marziano, which is attached hereto and made a part of these minutes). Commissioner Melahn felt it was reasonable to charge \$1000 per machine based upon what other towns in the state are doing. Commissioner King asked

Mr. Lewis if he had any idea how many lawsuits were pending in the state regarding fees that municipalities are charging. Mr. Lewis said he does not know who or how many lawsuits are involved. He noted that Raleigh, Greensboro, and Charlotte have not been included in the information provided. Mr. Lewis stated that sweepstakes are currently a legal business just like anyone else and they should not be treated differently than any other legal business. If you are charging one business \$10 to do business in the town and another business \$1000 it doesn't seem fair and just and the town might open themselves up to a lawsuit. Commissioner Melahn said there is a flipside; if the town of Calabash is charging \$100 for this type of business and everyone around us is charging \$1000 then Calabash would be inundated with all the businesses of that nature. Mr. Lewis said the Town can go ahead and charge what they want but he cautioned that a business could file a lawsuit. If a court rules against the Town they might have to pay out more than was ever taken in. Mayor Clemmons asked what the Town would do with the money if they charged \$1000 per machine. He compared the notion to charge higher fees to former "sin taxes". Mayor Clemmons agreed with Mr. Lewis; the license fees should be fair and equitable. These are businesses like any other businesses; they are just trying to make a living. Commissioner Knight read a statement that Christopher McLaughlin had posted on the internet: "Are these taxes legal? I think so. Cities possess broad authority to levy privilege license taxes on businesses within their borders." She went onto say that Mr. McLaughlin states there are a variety of ways that business are charged: percentage of the flat fee of the day and per machine. She said Wilmington charges \$3000 per machine, Hendersonville \$2600 per machine, and one that charges \$500 per machine plus \$60 for every \$400,000. She feels Calabash has been behind the eight ball for a long time. Other towns have researched and done their homework. Calabash has now done their homework too. Commissioner Nance said he is hearing what Commissioners Melahn and Knight are saying. The other side of the story is the legalities and from experience he has learned to go with the legalities rather than going by what other places are doing. He said that he would have to agree with Mayor Clemmons and Mr. Lewis about such fees being fair and balanced. He said the Board could always go back and make changes. At this time, he is not in favor of a high privilege license fee. He felt a high fee could be seen by a court as a way of the town trying to deter these business. He said if Calabash were to get in a lawsuit, nobody but the attorneys would win. Mayor Clemmons said he feels there are three sides: a legal side, and illegal side, and a fair side and he would like to see Calabash be fair. Mayor Clemmons said he was going to allow Mr. Scott Buff to briefly address the Board. Mr. Vincent Knight from the audience objected by asking if anyone else would be given the opportunity to speak on the matter at this time. Mr. Knight said there is nothing fair about gambling machines; these businesses are going to make money on every machine, every day. Mayor Clemmons called Mr. Knight out of order and said he would give him a chance to speak. Mr. Buff addressed the Board. He said if the Board imposes a \$1000 per machine his business license would cost \$85,000 and that would put him out of business. He said the Town Attorney is correct; there are class-action lawsuits all over the state. He said the town should impose a fair fee and use the money to buy something that is needed, like the street-sweeper that was discussed earlier. Commissioner Knight asked Mr. Buff if his Calabash business is the only business he owns. Mr. Buff said it is not, he owns several businesses in several states; not all his businesses are sweepstakes businesses but he does own other sweepstakes. Commissioner Knight asked him what he pays for his sweepstake businesses

in other parts of North Carolina. Mr. Buff said he doesn't pay anything anywhere else at this time. He said in Kannapolis, it is going to court in August. She asked if he operates in Leland. Mr. Buff said he does have a business in Leland and that he went to their town council meeting and they will be revising what to charge. She asked what they are charging him now. Mr. Buff said Leland is not charging him presently. She asked him again and he said just a regular business license, which is \$180. He urged the Board to be fair in what they decide. Mayor Clemmons asked if anyone else would like to comment; he would allow them 3-minutes. Mr. Knight said in his mind this is not a legitimate business. The machines make a certain percentage of profit. They are not going to lose a dime. It's not like some poor soul that opens a legitimate business that has to work. They put these machines in they're going to make x amount of money off each machine—its gambling. Its not a fair legitimate business. It doesn't matter if you charge them \$5000 they will still be running their businesses. He said they are not legitimate businesses and he doesn't feel they are Christian businesses. Mayor Clemmons asked if there was anyone else who wanted to comment. Mr. John Buccelli asked [Mr. Buff] how much each machine costs. Mr. Buff said they cost about \$3000 each. Mr. Buccelli said if someone spends that much per machine they must anticipate making a lot of money. Mayor Clemmons asked for people to only address the board. There were no other comments forthcoming. *Commissioner Melahn moved to charge \$1000 per machine, seconded by Commissioner Knight and there was discussion.* Commissioner King said looking at the information provided, the closest town on the list to Raleigh is Zebulon and they charge \$200 per machine; he felt this was fair. He asked what the highest permit fee is. Ms. Silvers said restaurants is the highest fee Calabash charges \$42.50 and that is set by the State. She added that when sweepstakes first came into town, we had nothing on the books. The closest thing we had was video game machines, which are \$5 per machine and that's how they have been charged. Commissioner King said the privilege license fee statutes say that only a reasonable amount could be charged. He does not feel that \$1000 per machine is reasonable. Commissioner Knight asked if anything on this matter was discussed at the recent Tax Collector's Workshop that Ms. Silvers attended. Ms. Silvers said it was discussed and other towns laughed when she told them that Calabash charges \$5 per machine. She said that most towns represented at the workshop were charging upwards of \$1000. She said some places charged on gross receipts because some of the machines calculate how much money each machine makes. She added that privilege licenses are for making revenue. Mayor Clemmons pointed out that a motion has been made to propose that the fee be \$1000 per machine; a public hearing would have to be held before any changes are made. Commissioner Melahn said the board first has to set a proposed charge and then schedule a date for the public hearing. Commissioner Dixon suggested increasing the fees year by year; the first year a business is in Calabash they pay \$200, second year \$300 and so on. Commissioner King asked if anyone on the board had ever played the machines; everyone said no. He then asked if anyone has a machine in his or her home or business; everyone said no. Commissioner Melahn said if anyone on the board or any member of their immediate family would benefit from the outcome of this matter, they cannot vote. *Mayor Clemmons called for a roll call vote on the motion and second to set the fee at \$1000 per machine: Commissioner Dixon-No, Commissioner Nance-No, Commissioner King-No, Commissioner Melahn-Yes, and Commissioner Knight-Yes; the motion was denied by a vote of three (3) to two (2). Commissioner Dixon moved to set the*

fee for sweepstakes at \$200 per machine, seconded by Commissioner King and there was discussion. Commissioner Melahn said this would be second to the bottom from what any municipality charges. Commissioner King said there are a lot more municipalities in North Carolina than what has been included in this data. He said he is just doing what he feels is right. Commissioner Knight said that in Wilmington they are paying \$3000 per machine. She thinks we are being very reasonable, very reasonable. Commissioner Nance said that he had no comment. The Clerk was asked to read the motion back, which she did; and is written above. Commissioner Nance asked if Commissioner Dixon's motion was per machine or simply \$200 for the business. It was clarified that the \$200 was per sweepstakes machine. Mayor Clemmons called for a roll call vote: Commissioner Knight said that from all the residents she has spoken to, she will not embarrass them it has to be at least \$1000 so, her vote to the motion of \$200 is No, Commissioner Melahn-No—I think you've come very close to hitting rock-bottom, Commissioner King-Yes, Commissioner Nance-Yes, and Commissioner Dixon-Yes; the motion to set the proposal amount to charge for sweepstake business at \$200 per machine carried by a vote of three (3) to two (2). Commissioner King moved to schedule the public hearing to consider the amendment of increasing the privilege license fee schedule from \$5 per machine to \$200 per machine for Tuesday, July 13, 2010, 6:00 pm at Town Hall, seconded by Commissioner Nance and the motion carried unanimously. Mayor Clemmons stated that he wanted everyone to understand that the fee has not been set at \$200, rather that is the proposed amount; a public hearing must be held before any changes could be made. Ms. Silvers asked if she was not to issue any new licenses or send out renewals for existing sweepstakes businesses until after the public hearing. It was noted that existing privilege licenses have to be renewed by June 30, 2010 because existing licenses expire on June 30th. Mr. Marziano said the public hearing needs to be held before July 1st. Commissioner King moved to rescind his previous motion to hold the public hearing for an amendment to the privilege license fee schedule for July 13, 2010 at 6pm, Commissioner Nance rescinded his seconded/seconded Commissioner King's motion to rescind and the motion carried by a unanimous vote. Commissioner King moved to schedule a special meeting to hold a public hearing and take action for Monday, June 28, 2010, 11:00 am at Town Hall regarding the proposed amendment to the privilege license fee schedule to change the amount for sweepstake businesses from \$5 per machine to \$200 per machine, seconded by Commissioner Nance and carried by way of a unanimous vote. Commissioner Nance requested the floor from the Chair. He asked if the Board would consider recessing the remainder of the agenda to another date and time. Mayor Clemmons said action needed to be taken on New Business 3 & 4 and then he would recommend recessing until June 28th. Mr. Lewis said he would like to share something with the Board in closed session and it would be very brief. Staff noted that items 1, 2, and 3 of New Business needed addressed; New Business #4 could wait until another date and time.

NEW BUSINESS:

1. Discussion/action to consider an amendment to Title I of the Calabash Code of Ordinances—add §10.30-§10.33 regarding public records. Commissioner Melahn explained that the town presently does not have an approve schedule of public record retention and disposition. Such a schedule is made available from the Department of Cultural Resources, Division of Historical Resources, Archives and Records Section, Government Records

Branch makes such a schedule available to municipalities, which may be used only if officially approved by the municipality. The addition of this subsection adds general statute references, the incorporation of this schedule by reference and official approval by the Town to Title I, Chapter 10. The entire records retention schedule from the Department of Cultural Resources is 191 pages. Chapter 10 has been drafted to include the approval of the schedule by reference since it is so long. It was noted that Mr. Lewis had reviewed the changes to Chapter 10 and provided a list of suggestions that mainly pertained to typographical and grammatical errors; the corrections would be made. Commissioner Melahn stressed the importance of adopting these revisions to Chapter 10 because without adopting the schedule of records retention we are not permitted to use it and everything (including post-it notes) are public record and cannot be disposed of without being in violation of state statutes. The Town Clerk explained that the Town has always followed the records retention schedule but the Town has never officially adopted it. *Commissioner Melahn moved to approve sub chapters to Title I beginning §10.30, seconded by Commissioner Knight and unanimously carried.*

2. Discussion/action to consider renewing the Debris Management Contract with Brunswick Trucking Company. Staff explained that the contract is the same as last year's; prices have not increased. Mayor Clemmons asked if the contract and the company are in line with the new FEMA requirements for debris management; Mr. Marziano said it meets FEMA's requirements. Mr. Lewis said he reviewed the contract and it looks fine. *Commissioner Nance moved to approve the debris management contract with Brunswick Trucking Company, seconded by Commissioner Dixon and unanimously carried.*
3. Discussion/action to determine the Town of Calabash's contribution to the 4th of July Celebration. Commissioner Dixon suggested \$500. Commissioner Nance deferred to Commissioner King who said there had been a reference earlier in the year that the Town would pay for the entertainment as they had done last year. The Merchant's Association and donations would fund everything else. Commissioner King said that entertainment and the stage would cost about \$5,500 this year. Commissioner Dixon asked to be excused for a moment; Mayor Clemmons noted that if a vote were taken in his absence, he would be counted as a "yes" vote. Mayor Clemmons said at the April Board of Commissioners Meeting he indicated his support for the event and complimented the Merchant's Association for their sponsorship of the event. At that time it was recommended by the Mayor that the Board support the event, including financial support. Everyone he speaks with wants the celebration including the Board. He supports the town being a part of the celebration. He said in addition to offering financial support, the town supports the event by providing the liability insurance for the property and up keeping the event property. Last year, he recalls that the town gave approximately \$2600, which went to the band. This year the band(s) have been upgraded due to the success of the event. Mayor Clemmons said he felt that the committee in charge of organizing the event felt a better-known band should perform this year. Mayor Clemmons agreed that there should be a higher quality performance because of the large turn-out; give the spectators the best show that we can. Commissioner Nance asked Commissioner King what the town needs to give to support the Merchants; and be fair an reasonable about it. Commissioner King said that they need \$5500-\$6000. There are two bands starting about 3pm. He estimated that at least half the population of Calabash enjoyed last year's event. It was a huge success for the town and gave us good publicity from here to Raleigh. It is estimated that this year will be 1.5 to 2

times larger this year. It will be the only fireworks show on the 4th of July between Wilmington and Cherry Grove. Commissioner Melahn said the problem is that we are going to be running a very tight budget. Commissioner King said it would come out of this year's budget (2009-2010). Mayor Clemmons referenced the budget amendment included in the Board's packets. There are funds available if the Board approves the ordinance amendment. Mr. Marziano said the ordinance amendment was prepared as a worst-case scenario based on 4th of July Organization Committee meetings. He never anticipated the town's contribution to be as much as the \$6000 included in the amendment. Mayor Clemmons said about three weeks ago he requested to meet with the head of the Merchant's Association, 4th of July Committee chair people. On his behalf, the Town Administrator made this request. He is concerned that three weeks later, he has received no input. Mayor Clemmons said he supports the town supporting this event and the event itself. The Mayor's financial support is not in question. In fact, he feels the town should contribute even more than \$5500. His concern is that he thinks the person that gives oversight financially for the town and board should have been part of the decision making process. He is disappointed that the Mayor has not been included in the decision-making. Cecelia Herman asked to be recognized; Mayor Clemmons said he was not taking any comments from the public at this time. Commissioner Knight asked if we were taking care of the insurance for the property; the town is assuming the insurance. Mayor Clemmons said it falls under our regular liability and represents a savings for the event. She asked if a platform was being constructed for the stage. Commissioner King said a platform would not be built. Rather, a stage is being rented. Commissioner Knight asked if there was a possibility to sell raffle tickets at the event. Commissioner King said raffle tickets are being sold at the event to cover other costs. In addition to the \$5500 for entertainment there is \$13,000-\$14,000 of other expenses associated with the event. Commissioner Knight said if we give \$5500 then the town would be paying about one-third. Commissioner King said a little less than one-third. Mayor Clemmons allowed Mrs. Herman to speak. She asked if the Calabash Fire Department had been consulted with about the event. The Board informed her that the Fire Department will have a truck at the event site and they will try to assist with traffic control. Mrs. Herman said she was notified today that they are going to have a skeleton crew on the 4th and if they get a call they would have to leave. According to the law, she understands that fireworks cannot go off if a fire department is not present. Mayor Clemmons said the County will issue a fire permit for the fireworks display and they wouldn't issue the permit if all applicable laws could not be met. Mr. Marziano said the County handles the fire inspection/permit. The fire department is there incase there are any problems. He said the town is aware that the fire department will have a skeleton crew but Chief Bork is trying to get some volunteer fire fighters organized to assist. Commissioner Nance pointed out that we are trying to determine a contribution amount from the town. Actual logistics of other factors associated with the event can be worked out another time. Mayor Clemmons stated that he felt it would not be in the Board's best interest for any member of the 4th of July Committee to make the motion associated with the Town's contribution. Commissioner Nance said he is a member of the Merchant's Association but not a member of their sub-committee for the 4th of July Celebration. *Commissioner Nance moved that the Town of Calabash contribute \$4500 to the 4th of July Celebration if it is within the budget to do so. The motion died due to lack of a second. Commissioner Dixon motioned for the Town to contribute \$6500 to the 4th of July Celebration, seconded by Commissioner Nance and there*

was discussion. Commissioner Knight asked Mr. Marziano if the Town could afford \$6500. Mr. Marziano said he was sure the money could be found and the budget amendment adjusted but believed that Commissioner King had stated that \$5500 would be sufficient. Commissioner Knight said that would work \$1000 better for her. Mr. Marziano said it would be less strenuous on the current budget to go with \$5500. Commissioner Nance asked Commissioner Dixon if he would be willing to amend his motion to \$5500. *Commissioner Dixon amended his motion from \$6500 to \$5500; Commissioner Nance amended his second to agree with \$5500. Mayor Clemmons called for a vote, which carried by way of a four (4) to one (1) vote with Commissioner Melahn voting in opposition.* Mayor Clemmons asked if New Business #4 needed to be acted upon this evening—the budget amendment regarding the contribution to the 4th of July Celebration. Mr. Marziano said action on the amendment could wait if the Board wished to recess.

Commissioner Knight moved to suspend the regular agenda sequence and move Closed Session pursuant to G.S 143-318.11 (a)(3)—Legal Matters to this point of the agenda, seconded by Commissioner Melahn and unanimously carried.

Commissioner Knight moved to enter closed session pursuant to G.S 143-318.11 (a)(3)—legal matters, seconded by Commissioner Melahn and unanimously carried.

Upon returning to Sanborn Hall, Commissioner King moved to enter regular session, seconded by Commissioner Knight and unanimously carried. The Mayor announced that no action was needed as a result of closed session.

RECESS: *Commissioner King moved to recess tonight's meeting/agenda until June 28, 2010, 11:30 am at Town Hall, seconded by Commissioner Nance and carried by a unanimous vote.*

(SEAL)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
RECESSED MEETING (from 6/8/2010)
Monday, June 28, 2010—11:30 a.m.**

MINUTES

The Calabash Board of Commissioners reconvened their Regular Monthly Meeting of June 8, 2010, on Monday, June 28, 2010, at Town Hall, 882 Persimmon Road, Calabash, NC. The purpose of the recessed meeting was to address the remaining items of the June 8th Agenda.

CALL TO ORDER: Mayor Clemmons called the meeting to order at noon on June 28th; the meeting started late due to a Board of Commissioners' Special Meeting that convened at 11:00 am on the same day.

ROLL CALL: Commissioner Mary Louise Knight, Commissioner Joseph Nance, Commissioner William Dixon and Mayor Clemmons were all present. Also present were the following staff members: Town Attorney Mark Lewis, Town Administrator Hiram J. Marziano, II and Town Clerk Kelley Southward. There were also approximately five members of the public in audience. *Commissioner Nance moved to excuse Commissioners King and Melahn from the meeting as both had been present on June 8th but were unable to attend today's meetings, seconded by Commissioner Dixon and unanimously carried.*

NEW BUSINESS: (continued from June 8th)

4. Discussion/Action to approve/deny budget ordinance amendments—clean up of the 2009-2010 Fiscal Year Budget. The proposed amendment decreases Public Buildings, Capital Outlay (10-500-72) by \$17,500 and increases Sanitation, Contracted Services (10-580-45) by \$12,000 and increases Town Services, Community Services (10-560-46) by \$5,500. *Commissioner Nance moved to approve the Budget Ordinance Amendment, seconded by Commissioner Dixon and there was a brief discussion.* Commissioner Knight asked what the \$5,500 was for. Mr. Marziano explained it is the amount approved by the Board on June 8th for the Town to contribute to the 2nd Annual Independence Day Celebration. *Mayor Clemmons called for a vote and the motion carried unanimously.*
5. Discussion/Action to appoint a member to the ABC Board for a three-year term ending June 30, 2010. *Commissioner Nance moved to re-appoint Mr. Chuck Schreiber to the ABC Board based upon a recommendation to do such from the other two sitting members of the ABC Board, seconded by Commissioner Knight and unanimously carried.*
6. Discussion/Action to make appointment(s) to the Planning & Zoning Board (make a recommendation to the Brunswick County Board of Commissioners for ETJ members). Ms. Southward relayed that the only letter of interest received was from Mr. Kenneth Drennan for the one ETJ seat on the PZB. Commissioner Knight said she attended the PZB meeting where Mr. Drennan's letter interest/resume was reviewed and both she and the PZB were very impressed. *Commissioner Knight moved to recommend to the Brunswick County Board of Commissioners that Mr. Kenneth Drennan be appointed to the Calabash Planning*

& Zoning Board as the ETJ member, seconded by Commissioner Nance and unanimously carried.

7. Discussion/Action to approve/deny the 2010-2011 Holiday Meeting Schedule. It was noted that Commissioner Melahn had requested that instead of staff having off Easter Monday that they get Good Friday off instead; the change has been incorporated to the proposed schedule. Staff was asked if that is what they wanted and the staff present concurred. *Commissioner Nance moved to approve the 2010-2011 Holiday Meeting Schedule, as presented, seconded by Commissioner Knight and unanimously carried.*
8. Discussion regarding signs (Mayor Clemmons). Mayor Clemmons thanked the merchants for their recent support with the enforcement of temporary signs, which has helped to clean-up Beach Drive. He also thanked Code Enforcement staff for all their efforts noting that there is not a position devoted to signs although sometimes it seems as though there could be a part-time position devoted to the issue. He said that the Town Administrator has implemented a plan to which there is evidence to support that the plan is working. The Town Administrator and Building Inspector have many hats that they wear in addition to serving as Code Enforcement Officers. Some years back the Town's position was "let's hold the line on signs", which is difficult to do. In the future, he hopes to see the line pulled back. He said the Board should give clear direction to the Code Enforcement Officers and Zoning Administrator. Direction needs to be consistent. It is important to have the Board's support in enforcement of signs. Commissioner Dixon stated that some people "go around the bush" by complaining about small things to Town Hall rather than coming to him directly (where Town Services issues are concerned). He said there are people trying to make him look bad in his oversight of Town Services. If he is not doing a good job and has not been doing a good job for the past 5 years he said he would give the job to someone else.
9. Discussion/Action regarding removing staff members from all committees (Commissioner Nance). *Commissioner Nance moved to table this matter until Commissioner Melahn is present because he has important information regarding the issue, seconded by Commissioner Knight and unanimously carried.*

CLOSED SESSION: Commissioner Nance recommended holding off the scheduled Closed Session until the July 13th Regular Meeting. Commissioner Knight said she had a matter that had to be addressed to today. *Commissioner Nance moved for the Board to enter Closed Session pursuant to G.S 143-318.11(a)(6)—Personnel Matters: annual employee evaluation and employee performance, seconded by Commissioner Knight and unanimously carried.*

Upon returning to Sanborn Hall, Commissioner Nance moved that the Board enter Regular Session, seconded by Commissioner Knight and unanimously carried.

ACTION AS A RESULT OF CLOSED SESSION:

1. *Commissioner Dixon moved to give Mr. Courtney Marshall of Town Services a 1.5% pay increase, seconded by Commissioner Nance and unanimously carried.*
2. *Commissioner Knight moved that Mrs. Carolyn Silvers, Tax Collector, be acknowledged for receiving her Tax Certification from the N.C Tax Association by receiving a \$1,000 bonus, seconded by Commissioner Dixon and unanimously carried.*

PUBLIC COMMENTS:

1. Mrs. Cecelia Herman thanked the Board for acknowledging Carolyn Silvers, who does an excellent job of collecting taxes. She pointed out that Mrs. Silvers might be the Town's first certified Tax Collector.

BOARD COMMENTS:

1. Commissioner Dixon requested Mr. Lewis comment on the action taken at the meeting that took place earlier in the morning regarding the \$200 per machine privilege license fee that was approved for sweepstake machines. Mr. Lewis said all the Board members took an oath to uphold the constitution and laws of North Carolina. In part, this includes that everyone should be treated fairly and equitably. Based on the lawsuits against some other towns he felt that \$1000 or \$2000 per machine was excessive. He is aware of one town being sued for charging \$500 per machine. He said that both the NC House and Senate have passed a bill outlawing the machines as of December 1, 2010. Once the machines become illegal, he believes that business owners who have invested in the machines are going to try to recoup some of their investment by bringing suite against towns that charged excessive fees. In addition they could sue for attorney's fees and they can sue individual board members. He felt that \$200 was a reasonable amount to charge even though it doesn't necessarily mean a business still wouldn't attempt to bring suit against the Town. Commissioner Knight asked what Mr. Lewis was basing his opinion on. Mr. Lewis said his opinion is based upon the writings of Chris McLaughlin and observation of what has been happening in other municipalities throughout the state. There was a discussion about how much money the Town would have potentially had to give back if deciding to charge \$1000 per machine. Commissioner Knight said that if we had it we could have given it back but if sweepstakes are deemed illegal by the state, Chris McLaughlin said towns would not have to give any fees back. Commissioner Nance asked her where would we have gotten the legal fees (to pay our attorney) for a court to decide that we don't have to refund any fees? Commissioner Knight believes we should have been charging fees equal to surrounding towns. She said that everyone is entitled to his or her own opinion and she is just going with the opinion of the people in town that she has spoken with.
2. Mr. Marziano noted that Commissioner Melahn had requested an item be read into the record during this time. Ms. Southward read an invoice from McLamb Construction that contained the price of \$1,080 for work Commissioner Melahn had done on his property. It was noted that the invoice was marked "paid" and a copy of the check from Commissioner Melahn to McLamb Construction was included (a copy of the document is attached hereto and made a part of these minutes). Ms. Southward noted that the Town had recently paid McLamb for paving a portion of Carlyle Street, where Commissioner Melahn lives, and he just wanted everyone to know that he paid for the work done on his property.

ADJOURN: *Commissioner Nance moved to adjourn at 12:45 pm, seconded by Commissioner Knight and duly carried.*

(SEAL)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk