

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, August 10, 2010—6:00 pm**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, August 10, 2010, 6pm 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, and Commissioner William Dixon; all members were present.

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

GUESTS PRESENT: There were approximately fifteen guests in attendance.

CALL TO ORDER/PLEDGE/ROLL CALL: Mayor Clemmons called the meeting to order at 6:00 pm. Mrs. Silvers led the Pledge of Allegiance to the Flag. Roll call was taken; attendance is reflected above. Mayor Clemmons informed everyone that long-time member of the Board of Adjustment, Long Range Planning Committee, and current Chairman of the Planning and Zoning Board Mr. J.W Brown had suffered a stroke last week. He asked for everyone to keep Mr. Brown and his family in prayer.

APPROVAL/ADJUSTMENT OF AGENDA: *Commissioner Melahn moved to approve the agenda, as written, seconded by Commissioner King and unanimously carried.*

PUBLIC HEARING: *Commissioner Nance moved to open the public hearing to receive comments regarding the rezoning request made by Mr. Craig Autry for his property at 1358 Beach Drive (Tax ID#s 2550000304, 2550000305, 2550000307, 2550000308) to be rezoned from R-8 to R-6, seconded by Commissioner Melahn and unanimously carried.*

Mayor Clemmons asked if anyone had signed up to speak; the Town Clerk relayed that no one had signed up. Ms. Southward was asked to explain the request. She noted that the subject property is located on the Calabash River just over the bridge on the right hand side of HWY 179/Beach Drive. When the rezoning application was originally filed, the subject property was in four parcels (hence the four Tax ID numbers referenced above) but the property has since been combined into one parcel totaling approximately 1.6 acres. The property meets all dimensional requirements of the requested R-6 and adjoins property zoned R-6, MFH-II, and CB. She further noted that this property was included in the annexation that became effective July 1, 2009. Previously this property was in Sunset Beach's ETJ and zoned for residential use that would be comparable to an R-7, which Calabash does not have. Despite best efforts by Calabash, the property owner was unable to be reached when the Town originally zoned the property after annexation and ultimately zoned the property R-8. Mr. Autry, property owner, is now requesting

R-6. The Planning & Zoning Board has recommended approval of the request for R-6. Ms. Southward also noted that she had received one comment back in response to the notifications sent to adjacent property owners. The comment was in opposition to the rezoning.

Mayor Clemmons asked if there was anyone present who wished to comment on the rezoning request. There were no speakers forthcoming. *Commissioner Melahn moved to close the public hearing and re-enter Regular Session, seconded by Commissioner Nance and unanimously carried.*

CONSENT AGENDA:

1. Approve minutes of July 13, 2010, Regular Meeting.

Commissioner Melahn moved to approve the Consent Agenda, seconded by Commissioner Dixon and unanimously carried.

MAYOR'S COMMENTS: Mayor Clemmons thanked the Calabash Community Services Committee (CCSC) and staff for hosting the 3rd Annual Town Hall Day. He gave special thanks to the CCSC Chairperson, Commissioner Knight. He noted that Bob Townsend of WECT News Channel 6 had conducted an interview with him last week, which will air tomorrow during the 5:00 News and again during the Thursday morning broadcast.

PUBLIC COMMENTS: none

CORRESPONDENCE: correspondences that were included in the Board's packets are attached hereto and made a part of these minutes.

TOWN ADMINISTRATOR'S REPORT: Mr. Marziano's written report is attached hereto and made a part of these minutes. Mr. Marziano pointed out that Town Services has had difficulties with the three lawnmowers; it seems as though one is always out of commission leaving them with only two. They have found a 60-inch 2010 Toro mower for \$7200. This purchase could come out of their capital outlay/equipment; \$7500 has been budgeted to this account. There was a consensus of the Board to move forward with the purchase. Mr. Marziano also highlighted the stormwater runoff problems that have been occurring on River Road and Riverview Drive. He feels an engineer should be contracted to investigate the flow of water on the two roads. Mr. Marziano is looking into stormwater management and implementation grants available in the state. He feels the Town needs a five-year plan. Commissioner Dixon said Riverview Drive needs more coffer dams to slow the flow of the water. Mr. Marziano also pointed out that he has developed a budget vs. actual graph to illustrate the town's spending. The graph will be included in his monthly reports from now on.

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

COMMITTEE REPORTS:

1. Fire Department: Commissioner Nance pointed out that the minutes of the July 20th Board of Director's meeting have been included in the Board's packets. He further pointed out that repairs to the generator, which serves both the Fire Department and

Town Hall have been completed. The Town will consider a contribution to this matter during New Business.

2. Planning & Zoning Board: Commissioner Knight noted that the PZB did not hold an August meeting as there was no agenda items to be considered.
3. Finance: Commissioner King reported that the total of all funds is \$1,233,704.38. This amount is down slightly from last month because the Town forwarded the final payment of \$150,000 to Brunswick County for the sewer project making the Town's total contribution \$500,000. Mrs. Silvers has collected 99.23% of 2009 taxes; Ms. Silvers was recognized with a round of applause.
4. Wastewater: Ms. Southward reported that the Brunswick County Sewer Extension Project is near completion. Almost all tanks for the grinder pumps have been installed. The County is waiting for the State to complete a certification of the lines so that residents may begin to hook up to the system. There is minor clean up needed along Persimmon Road, Thomasboro Road, in Village Green, Hunter's Trace, Calabash Acres, and Pine Bur Acres. The Wilson Ave pump station is complete. The Beach Drive pump station is complete except for the driveway still needs to be installed, which should be done in the next two weeks. Bay Point is basically the only neighborhood where construction is still happening. Services and grinder pump tanks are being installed and should be completed in that neighborhood in the next couple of weeks.
5. Town & Merchant: The Calabash Merchant's Association will hold a meeting on August 17, 2010 to discuss the Car Show and Seafood Festival slated for the fall.
6. Stormwater: the written report is attached.
7. Long Range Planning: The next meeting will be held Thursday, August 19, 2010 at 4pm. The committee will further discuss a sidewalk extension and the park.

OLD BUSINESS:

1. Discussion/Action regarding the abeyance for signs/animated signs (tabled item). *Commissioner King moved to remove this item from the table so that the Board could discuss/act on the matter, seconded by Commissioner Melahn and unanimously carried.* It was noted that the original 90-day abeyance of the animated signs ordinance came due yesterday. *Commissioner Melahn moved to accept staff's recommendation to extend the abeyance until such time as a workshop has been scheduled, abeyance not to exceed 90-days, seconded by Commissioner King and unanimously carried.* The Board noted that the workshop would be held sometime in September and could be set during the Board of Commissioners Regular Meeting on September 14th.
2. Discussion/Action to consider the revision to §32.05 Committee Appointments (regarding staff appointments to committees). Mr. Marziano reviewed the revisions; the Board complimented his work. *Commissioner Nance moved to approve the ordinance amendment to §32.05 as presented by the Town Administrator, seconded by Commissioner King and unanimously carried.*
3. Discussion/Action to consider the revision to §32.07 Written Communications (tabled item). *Commissioner Melahn moved to remove this item from the table so that the Board could discuss/act on the matter, seconded by Commissioner Nance and unanimously carried.* Commissioner Melahn explained that he has revised the title of this section to be "Communications" rather than "Written Communications". The Section now covers "official" (meaning reflective of the Board as a whole) and "unofficial" (meaning

reflective of an individual) communications. Based upon research by the Town Attorney and opinions from the School of Government (SOG) it would be a violation of first amendment rights to mandate that a Board member not use their title (i.e Mayor or Commissioner) for unofficial correspondences. It does appear however, that the disclaimer statement included in §32.07 (C) is appropriate. The title of “Commissioner” belongs to the individual not the Town according to the SOG. Mr. Lewis recommended making the provisions contained in §32.07 as advisory recommendations rather than requirements. Commissioner Knight said she too wrote to Fleming Bell at the SOG as well as the North Carolina Association of County Commissioners. She read the email she sent to Mr. Bell and his response, which supported what Mr. Lewis had said; the Town cannot require someone from using their title but a disclaimer stating that this is the individuals’ opinion is acceptable. Commissioner King said that it has been an unwritten policy that Board members not use their title when writing Letters to the Editor in the paper. Commissioner Knight referenced two letters she had written several months ago that she felt Commissioner King had a problem with because he had brought them up at a previous Board meeting. Commissioner Knight read the letters/email correspondences into the record; they are attached hereto and made a part of these minutes. She further stated that when she wrote the two correspondences she was trying to obtain information in order to prepare herself for meetings she had at other venues. Discussion ensued between Commissioners Knight and King around this matter for several minutes. Commissioner Melahn, attempting to bring discussion back to the subject matter, said he felt there should be a distinction between official and unofficial correspondence and using the disclaimer statement accomplishes this goal. Mr. Lewis suggested that the phrase “It is recommended that” be added to the beginning of the first sentence of 32.07 (C)(2). He also suggested that the first sentence of 32.07(C)(4) be changed to read: “The following general guidelines are recommended:”. Commissioner King asked Mr. Lewis if he was saying that paragraph (C)(2) could not remain as it is written; and if not its worthless. Mr. Lewis re-examined the paragraph and retracted his suggestion; he felt it was fine to leave the paragraph as drafted by Commissioner Melahn. Mr. Lewis said the disclaimer statement is a good idea so that the recipient of a correspondence does not get confused as to whether the information is reflective of the Board as a whole or just the individual. Commissioner Knight said at the last meeting Commissioner King brought up the correspondence she previously read into the record this evening. She said that she used the term “I” ten times and doesn’t understand how anyone could read it and think it was reflective of the Board as a whole. Commissioner King said that if this policy is passed it applies to all the Board members and he didn’t know why she was singling herself out. *Commissioner Melahn moved to approve the revisions to §32.07 to include the amendment provided by Mr. Lewis [add “The following general guidelines are recommended” to the beginning of (C)(4)] Commissioner King seconded the motion and Mayor Clemmons called for a roll-call vote: Commissioner Dixon “yea”; Commissioner Nance “yea”; Commissioner King “yea”; Commissioner Melahn “yea”; and Commissioner Knight “yea”. The motion to approve the revisions to §32.07, as amended, carried by a unanimous vote.* Mayor Clemmons called for a ten-minute recess.

4. Discussion/Action to consider the rezoning request made by Mr. Craig Autry to rezone his property at 1358 Beach Drive from R-8 to R-6 (Tax Parcel ID#s 2550000304,

2550000305, 2550000307, & 2550000308). *Commissioner Melahn moved to approve the rezoning request submitted by Mr. Austry for his property at 1358 Beach Drive (Tax ID#s 2550000304, 2550000305, 2550000307, 2550000308) from R-8 to R-6 seconded by Commissioner Dixon and unanimously carried.*

NEW BUSINESS:

1. Discussion/Action to approve the Tax Collector's Tax Settlement for 2009-2010 Fiscal Year Tax Collections. Commissioner King said that as of today, the Tax Collector, Mrs. Silvers, has collected 99.23% of taxes billed for the 2009-2010 year. Mrs. Silvers was asked to go over her report with the Board; a copy of the report is attached hereto and made a part of these minutes. *Commissioner Nance moved to approve the Tax Collector's Settlement Report for the 2009-2010 Fiscal Year, as presented by Mrs. Silvers, seconded by Commissioner Dixon and unanimously carried.*
2. Action to charge the Tax Collector to collect 2010 taxes. The Town Clerk was asked to read the "Charge to Collect" statement into the record; a copy is attached hereto and made a part of these minutes. *Commissioner King moved that the Board approve the Charge to Collect 2010-2011 taxes, seconded by Commissioner Melahn and unanimously carried.*
3. Discussion/Action to consider an amendment to Chapter 117 of the Calabash Code of Ordinances—Farmer's Market. Mr. Marziano explained that the revisions included would give him the authority to waive the fees for vendors (as a whole) when he deems it necessary. He said in an effort to get some business he would like to waive the vendor fee for the remainder of the season. The other change is to add another day of the week that the market is open; it would now be open Monday's in addition to Saturday's. Commissioner King said he would like to strike §117.06(D) as it refers to smoking and pets; the Board agreed by consensus to this suggestion. Commissioner Dixon said the Farmer's Market should be open by May 1st each year. *Commissioner King moved to approve the revisions to Chapter 117 Farmer's Market of the Code of Ordinances, as amended, seconded by Commissioner Nance and unanimously carried.*
4. Discussion/Action to consider approval of payment of \$1,606.61 to the Calabash Fire Department (CFD) for half of the invoice amount for repairs made to the generator that services Town Hall and the CFD. It was noted that the CFD has paid the full amount of the invoice--\$3213.23 for the repairs made to the generator. An itemized invoice has been included in the Board's packets. *Commissioner Nance moved to approve reimbursement to the CFD in the amount of \$1,606.61 for repairs made to the generator, seconded by Commissioner Melahn and unanimously carried.*
5. Discussion by Commissioner Nance regarding River Road. Commissioner Nance explained that there had been an ongoing problem with the condition of River Road, which was thought to have been caused by a sewer pipe that is under the road. Attempts by staff to have Brunswick County Public Utilities examine the situation were unsuccessful. Commissioner Nance contacted County Commissioner Norris about the problem and the matter was immediately investigated by Brunswick County Public Utilities. Brunswick County has informed the Town that they will be repairing River Road in this area. Commissioner Nance asked for a consensus of the Board that a "thank you" letter be sent to Commissioner Norris for his prompt attention to this matter. The

Board agreed to the letter and it was determined that it should come from Mayor Clemmons.

CLOSED SESSION:

1. Pursuant to G.S 143-318.11(a)(6)—Personnel Matters: annual employee evaluation and employee performance. *Commissioner Dixon moved to adjourn to Closed Session for the aforementioned reasons and stating the aforementioned statute, seconded by Commissioner Nance and unanimously carried.* The Board, Town Administrator, and Town Attorney retired to the Town Administrator’s office for Closed Session.

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

ACTION AS A RESULT OF CLOSED SESSION: *Commissioner King moved to give Mrs. Carolyn Silvers a 2.5% pay increase to be effective upon her anniversary date, seconded by Commissioner Knight and unanimously carried.*

PUBLIC COMMENTS: none forthcoming.

BOARD COMMENTS: none forthcoming.

ADJOURN: *Commissioner Melahn moved to adjourn, seconded by Commissioner King and unanimously carried.*

(SEAL)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk