

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
December 9, 2008-6:00 p.m**

MINUTES

The Calabash Board of Commissioners held a Regular Meeting on Tuesday, December 9, 2008, 6:00 p.m at Town Hall, 882 Persimmon Road, Calabash, NC.

MEMBERS PRESENT: Mayor Anthony Clemmons, Mayor Pro Tem Forrest King, Commissioner Emily DiStasio, Commissioner Cecelia Herman, Commissioner John Melahn, and Commissioner William Dixon; all members were present.

STAFF PRESENT: Vincent Long, Town Administrator; Kelley Southward, Town Clerk; and Stanley Dills, Building Inspector/Code Enforcement Officer.

GUESTS PRESENT: There were approximately 20 guests in the audience.

CALL TO ORDER/PLEDGE: Mayor Clemmons called the Meeting to order at 6:00 p.m and led everyone in the Pledge of Allegiance to the Flag.

ROLL CALL: The Board took a roll call for the record; attendance is reflected above.

APPROVAL/ADJUSTMENT OF AGENDA: Commissioner Herman requested to add Item # 6 to Old Business-Refer Ordinance Amendment Regarding Temporary/Portable Signs for Promotional Events/Sales to the Planning & Zoning Board to Make a Recommendation to the Board of Commissioners. Mayor Clemmons requested to add "Report from the Ad-Hoc Christmas Committee" under Committee Reports and to add "End of Year Board Comments" after Mayor's Comments. *Commissioner Melahn motioned to approve the agenda, as amended; seconded by Commissioner DiStasio and carried by way of a unanimous vote.*

PUBLIC HEARINGS: *Commissioner King motioned to open the Public Hearings, seconded by Commissioner Melahn and carried unanimously.*

Public Hearing #1: Ordinance #2008-03, an ordinance to amend the text of Section 153.052 of the Calabash Code of Ordinances to clarify that all members of the Calabash Planning & Zoning Board serve three-year, staggered terms. Mayor Clemmons asked if anyone wished to speak on this matter; there were no comments forthcoming.

Public Hearing #2: Ordinance # 2008-04; an ordinance to amend Section 153.306, Parking Space Dimensions, of the Calabash Code of Ordinances; the proposed amendment would cause additional standards and requirements to what is currently applied to parking space dimensions.

- Mr. Jody Nance of Calabash Small Engine addressed the Board stating that he opposes this amendment because it will due hardship on businesses especially existing

businesses. Mr. Nance said he could understand these extra standards being applied to business of new construction but to continue to add standards to what is currently in Town is beginning to stifle the builders that want to come to this area. Mr. Nance feels the current 19/20-foot requirement is sufficient.

- Brian Smith of WB Properties addressed the Board, as a builder, Mr. Smith said he feels the future of parking lots is a reduction, not an increase. The demand to be more energy efficient will reduce the size of automobiles, which will lessen the need for large drive isles and parking spaces. Stormwater controls only become more stringent as well, especially here on the coast.

Public Hearing #3: Consideration of the Town adopting the North Carolina Fire Code Appendices to be used and applied in all applicable matters within the Town of Calabash. Mr. Dills gave a background to this item. Essentially the N.C Fire Code has an Appendix that is only applicable if adopted by the local municipality. Both Brunswick County and Sunset Beach have officially adopted these appendices, Carolina Shores relies on the County for Fire Inspections and review, and Ocean Isle reports that they use the appendices but have not officially adopted them.

- Mr. Michael Aburshaker of the Gold and Silver Connection addressed the Board with a great opposition to this document. Mr. Aburshaker said it was unacceptable for the Town Building Inspector to request a Knox Box for any business (a key to the business would be in the box that is located on the outside of the building). Mr. Aburshaker urged the Board to listen to the Calabash Merchants Association to gain input from the local businesses.
- Mr. Jody Nance requested that the Board not adopt the Fire Code Appendices. He suggested the Board send this matter back to the Planning Zoning Board to adjust the document to fit to Calabash.
- Mr. Keith Hardee of Ella's Restaurant went on record as being opposed to Knox Boxes.
- Mr. Don Hege said when he was on the Fire Department in the late 1970's to the early 1980's lock boxes were tried for businesses at that time and they did not work.

Public Hearing #4: Technical amendments of Ordinance # 2008-A02 and accompanying Map; Ordinance # 2008-A02 is the annexation ordinance resulting from the petition of voluntary annexation submitted by owners of real property in Devaun Park (15-acres along the Calabash River). This ordinance was approved on August 12, 2008, and became fully effective on August 13, 2008. Upon filing the map with other agencies, it was discovered that coordinates contained in the legal description were incorrect due to an advantageous error made by the surveyor. The technical amendments to Ordinance # 2008-A02 and accompanying Map are a correction of the coordinates and in no way changes any boundaries that were originally intended and approved.

There were no comments forthcoming on this matter.

Commissioner Herman motioned to close the Public Hearings, seconded by Commissioner Melahn and carried by way of a unanimous vote.

CERTIFICATE HEARINGS:

1. **Consider the application for a Certificate of Convenience and Necessity filed by Rocco Caponigro for the purpose of providing taxi services in the Town of Calabash.** The Board spoke with the applicant, Mr. Caponigro, and they noted that he has met all the requirements set forth in _____ of the Calabash Code of Ordinances, which, among other things includes a background check and proof of liability insurance. Mr. Caponigro noted that he would like to start the business as soon as possible. The Board asked if he would offer 24-hour service. Mr. Caponigro said he was unsure if 24-hour service will be necessary in this area; he said he will use his best judgement. *Commissioner Melahn motioned to approve the Certificate of Convenience and Necessity for Mr. Rocco Caponigro DBA as Myrtle Beach Golf Vans. The motion to approve was seconded by Commissioner King and carried with a unanimous vote.*
2. **Consider the application for a Certificate of Convenience and Necessity filed by Robert Clementi for the purpose of providing taxi services in the Town of Calabash.** The Board of Commissioners noted that Mr. Clementi's application is not complete. Although he has provided the Town with a background check, he has not provided proof of liability insurance nor a list of his proposed rates and other items required by _____ of the Calabash Code of Ordinances. Mr. Clementi explained that he did not want to purchase the vehicle (and insurance) he would use for this venture until he knew that he would be able to move forward. Mr. Clementi said he has recognized the need for a taxi service in the Town especially for helping elder citizens who may not drive anymore get to where they need to go. Mr. Clementi said he would be happy to provide the Town with any documentation they would like, he simply does not wish to invest the money into purchasing the vehicle if the Town would not be in favor of the business. *Commissioner Herman motioned to approve the Certificate of Convenience and Necessity for Mr. Robert Clementi on the condition that all requirements of _____ of the Calabash Code of Ordinances are met and approved by staff. Commissioner King seconded the conditional approval, and the motion carried by way of a unanimous vote.*

PUBLIC COMMENTS: Ms. Suzy Horne of 1285 Beach Drive stated that she has heard that petitions against the Sewer Extension project have been received by the Town. Ms. Horne said she would've liked to sign the petitions and went on record as being opposed to the sewer project. Ms. Horne opposes the proposed Sewer Extension Project because of the estimated cost that property owners will be assessed. Ms. Horne said her home sits on nearly four acres of land and she simply would not be able to pay the assessment; she feels she will lose her home if the project is approved and does not see the need for sewer.

MAYOR'S COMMENTS: Mayor Clemmons presented a letter of recognition to Mr. William Seip, who attends nearly every Regular Board of Commissioners Meeting; Mayor Clemmons thanked Mr. Seip for being a concerned citizen.

END OF YEAR BOARD COMMENTS: Mayor Clemmons said he has been proud to serve the community, staff, and Board in 2008. Commissioner DiStasio said she is happy to have met the goal of completing job descriptions this year. Commissioner Melahn was delighted to have made progress with the Town Policies in 2008. Commissioner King stated that he is proud to serve and wished everyone a Merry Christmas and a happy New Year. Commissioner Herman

said it seems as though “we’ve only just begun”. A lot was accomplished over the past year; it was a difficult year and there is more to accomplish. She hopes the Board Meetings will be shorter in the New Year and wished everyone a Merry Christmas and happy New Year. Commissioner Dixon wished everyone a Merry Christmas as well. Mayor Clemmons said the UDO nears adoption; hopefully it will be adopted in 2009 and will help the Town to move forward in a more orderly manner. Staff also thanked everyone for the opportunity to serve and wished everyone a safe and happy holiday season.

APPROVAL OF MINUTES:

- 1. November 11, 2008-Regular Meeting**—*Commissioner King motioned to approve the minutes of November 11, 2008, as written; motion seconded by Commissioner DiStasio and carried by a unanimous vote.*

CORRESPONDENCE: Mr. Long noted that the League of Municipalities have been forwarding a lot of emails regarding the future of involuntary annexations in North Carolina.

TOWN ADMINISTRATOR’S REPORT: Attached hereto and made a part of these minutes.

BUILDING INSPECTOR’S REPORT: Attached hereto and made a part of these minutes.

COMMITTEE REPORTS:

- 1. Fire Department:** Commissioner Herman reported that the CFD held its Regular Monthly Meeting on November 10, 2008, and was directly followed by the CFD Annual Meeting; Commissioner Herman was out of Town and did not attend. On November 24th a Meeting was held a Brunswick County to discuss the future of the CFD, Mr. Tom Grile relayed the findings of his study of the department. It seemed as though there may be difficulties in the two towns (Calabash & Carolina Shores) jointly taking over the CFD as both boards were split in the decision. The other options were discussed at the Meeting; Commissioner Herman’s written report is attached hereto and made a part of these minutes.
- 2. Planning & Zoning:** Commissioner DiStasio suggested that someone from the P/Z Board give the Report to the BOC every month and that a written report is included in the Board’s packages; she was unable to attend the December P/Z Meeting.
- 3. Finance:** Commissioner King reported that tax collections are going well; approximately 44% of what was billed has been collected so far. Approximately 39% of total budgeted revenue has been collected for the 2008-2009 Fiscal Year; right on target for five months into the budget year.
- 4. Water/Wastewater:** The Sewer Project is on hold for six months (request made by Calabash BOC last month). During the six-month hold engineering plans will be finalized and the Town will explore financing options to lower the assessments. Hopefully, once the new President elect is sworn into office, there will be federal money available for infrastructure projects; the Town is also looking into other grants.
- 5. Town & Merchant:** The Christmas Tree Lighting Ceremony last week went well. Next year they will expand the parade that was incorporated into this year’s ceremony; an organization committee will meet in 6-months to begin preparing for next year’s event.

The Merchants Association will hold a Holiday Social at 6:30 pm on December 18th at Crow Creek.

6. **Stormwater Report:** written report attached.
7. **Long Range Planning:** The committee will meet again the week of January 12th.
8. **Public Meeting Procedures:** Commissioner Melahn said the committee has received a 15-page draft and needs to schedule a meeting to discuss the draft.
9. **Ad-hoc Christmas Committee:** Commissioner Herman explained that she and Commissioner DiStasio were asked to head up this committee for the purpose of organizing the Town's Christmas Party for Elected Officials, appointed board members, and staff. After exploring options the Christmas Party will be held Saturday, December 13, 2009, 6pm at Haley's Restaurant. From 6pm-8pm dinner will be provided for the Board of Commissioners, Planning & Zoning Board, Board of Adjustment, Community Service Committee, and Town Hall Staff. From 8pm-10pm there will be live entertainment and dancing, all are invited and there will be a cash bar.

Commissioner Dixon motioned to take a brief recess; seconded by Commissioner King and carried by way of a unanimous vote.

OLD BUSINESS:

1. **Action to schedule a Public Hearing for January 13, 2009, 6pm at Town Hall to receive comments regarding the draft ordinance governing State of Emergency Events.** *Commissioner DiStasio motioned to schedule the Public Hearing for the draft State of Emergency Ordinance for January 13, 2009, 6pm at Town Hall; seconded by Commissioner Melahn and carried by a unanimous vote.*
2. **Discussion/Action of the Branch-Brush-Leaf Pick Up Program & Interim Pick Up Program.** Attached hereto and made a part of these minutes is a copy of the Branch-Brush-Leaf Pick Up Program that is scheduled to begin the first week of April and end the first week of December; Brush will be picked up during the first week of each month. Commissioner Dixon noted that there are elderly/disabled citizens who cannot utilize the yard-debris dumpsite that may need debris picked up now. The Board decided that citizens, who are physically unable to get yard debris to the yard debris site prior to the start of the program, could call Town Hall and request Town Services to pick up their debris. *Commissioner Dixon motioned to approve the Branch-Brush-Leaf Pick Up Program; seconded by Commissioner Herman and there was discussion.* Commissioner King wanted to know the cost of the project. Mr. Long said it would be a couple months after the program was up and running before costs could be projected; a projected cost will be available for next year's budget. *Mayor Clemmons called for a vote and the motion to approve carried by way of a unanimous vote.*
3. **Discussion/Action to approve a Town Travel Policy; Chapter 32.12 of the Code of Ordinances.** Commissioner Melahn had drafted §32.12 Personal Mileage Reimbursement to the Town Policies Chapter of the Ordinance. To summarize, the Section states that Town employees must use a Town vehicle for all business associated with the Town, the Town Administrator must approve any exception; and that Town Officials usage of town vehicles and car-pooling is encouraged but not mandatory. Commissioner DiStasio felt that the portion of the Section referring to Town employees

should be removed because the Personnel Policy covers Town employees. *Commissioner Herman made a motion to approve §32.12 Personal Mileage Reimbursement to read as follows: "Town Officials-in recognition that Town officials will rarely be in the vicinity of Town Hall and may have personal business to attend to and the official is not otherwise compensated for his/her time, the use of the Town vehicle or car-pooling is encouraged but not mandatory for all Town officials while on Town business."* *Commissioner DiStasio seconded the motion and there was discussion.* Mayor Clemmons stated that Board members are public servants and common sense and commitment to duty should always be used. *Commissioner Herman called the question to put the motion on the floor to a vote; Mayor Clemmons called for a vote to call the question and the vote was as follows: Commissioners Herman, DiStasio, and Melahn voted in the affirmative while Commissioners Dixon and King voted in opposition; the motion to call the question carried by a vote of three (3) to two (2). The vote to approve the motion submitted by Commissioner Herman and seconded by Commissioner DiStasio carried by a vote of four to one; Commissioner King voted in opposition.*

4. **Action to approve the technical amendments/revisions to Ordinance # 2008-A02 & Map (technical revisions of coordinates for the Voluntary Annexation of 15-acres of Devaun Park effective August 13, 2008).** *Commissioner King motioned to approve the technical revisions to Ordinance # 2008-A02 & Map; seconded by Commissioner DiStasio and carried by way of a unanimous vote.*
5. **Discussion/Action to approve the Conditional Use Permit for Shallotte Partners for the purpose of constructing a multifamily residential development in the R-8 zoning district on their 22.56-acre parcel identified in the Brunswick County Tax records as Tax ID# 24100001.14 located at the corner of Old Georgetown & Clariday Roads (interior parcel).** One week earlier, on December 2nd, the Board of Commissioners held a Public Hearing regarding Shallotte Partners' Conditional Use Permit Application. Because the Board of Commissioners had requested some additional information from Shallotte Partners on December 2nd, the Town Clerk went over the application packet with the Board. Commissioner DiStasio noted that there are two pictures showing height the of the proposed buildings in some of the newly submitted documentation; one picture has a flat roof shown to be just under 35' and one with a peeked roof with the 35-foot line between the eave of the building and the peek of the roof. Commissioner DiStasio then pointed out that during the Public Hearing on December 2nd, a representative of Shallotte Partners testified to the Board that the buildings were three stories with peeked roofs that were 35-feet to the roofs' highest point. Now, they are saying nearly 45-feet to the peek. Mr. Long said that all details would be discussed but for now the Clerk was simply going over the application packets. The Clerk pointed out that the project narrative accidentally gives two different numbers for total units in the project; she clarified that Shallotte Partners' is seeking a total of 216 units.

Commissioner DiStasio also noted that there is no input from the fire department regarding this project. Mr. Dills said the fire department is normally brought in on projects at a later stage; the Board disagreed, noting that it is a requirement at this stage to have the fire department review projects and forward their input. Commissioner Herman said the Board does not require a formal report from the fire department at this stage but rather comments of potential problems. Of course, a major factor in the fire departments

in put is the height of the buildings, which the Board does not seem to have yet. Mayor Clemmons noted that there is not a preliminary site plan for this project but rather an overall site plan and said he would prefer to see a preliminary site plan. Mr. Long said the Board could set it as a condition that a preliminary site plan is approved prior to the issuance of any permits tonight's goal is to discuss the Conditional Use Permit. Commissioner DiStasio said that the CUP is only to allow multifamily dwellings; this is not a PUD. Commissioner Herman said the conditions for R-8 are clearly laid out in §153.219 (G) of the Code of Ordinances.

Commissioner Herman said she is concerned that the PZ Board reviewed a different set of plans—they made a recommendation for approval so long as some things were changed. Mr. Dills explained that when the matter went before the PZ Board Shallotte Partners was requesting 228 units, which is one additional building that was located in the NE corner of the property. When the PZ Board reviewed the project, they applied net buildable area to R-8 conditional use; the current ordinance does not refer to net buildable area in R-8 conditional use. Because the PZ Board had applied NBA, they recommended 15 buildings/180 units for the project.

After the PZ Meeting staff met with Shallotte Partners and it was determined that NBA should not apply because using the density calculations set forth in the R-8 conditional use section (8,000 sq ft for the first unit in each building and 4,000 for each additional unit in the building) accounts for the requirements of NBA. For example, the area needed for each building is 52,000 sq ft (more than an acre) when the footprint of each building is only about 5,000 sq ft. At the meeting between staff and Shallotte Partners it was also discussed to take ½ of the road that will service both the HC lots and the apartments out of the total acreage. Previously, the entire road was calculated in the total density for the R-8 portion. Taking out ½ of the road caused the need to reduce the project by one building (twelve units), which is what was presented to the BOC on December 2nd and continues to be the case this evening; a total of 18 buildings/216 units. Mr. Dills said that staff could find no indications in the current Code of Ordinances that would cause Net Buildable Area to be applied to an R-8 conditional use.

After the Board discussed the matter of the road that will service both the HC lots and the R-8 at length, Commissioner Herman read the conditions for multifamily in the R-8 as set forth in §153.219 (G). She argued that these are the only conditions that the project must comply with and that the Board does not have the right to change the requirement of any of the conditions in the ordinance or add to or take away from the requirements in §153.219 (G). Mr. Dills argued that State Statute allows the Board to set extra conditions that apply town wide and are included in the Town's ordinance. Commissioner Herman said this is a prime example for the need to have an attorney present at these meetings.

There was a discussion based on the fact that Shallotte Partners owns the 22.56-acre parcel zoned R-8 (the subject property) as well as the 21 perimeter lots zoned HC. Because Shallotte Partners own both, it's easy to want to look at the project like a PUD especially because the stormwater system for the HC lots has been designed to flow to retention ponds on the R-8 parcel and the road contained in the R-8 parcel will service

both. But, the fact remains that this is not a PUD; the Board is considering multifamily as a conditional use in the R-8 for the 22.56-acres only. There was further discussion of the need to take ½ the road out of the total acreage for the R-8 because it will serve both the HC and the R-8.

Discussion moved back to height. It was again stated that during the Quasi Judicial Public Hearing one week ago, Shallotte Partners' representatives testified, under oath, that these three-story buildings (with 9-foot ceilings) were designed with a pitched roof and did not exceed 35-feet in height. Mr. Dills explained that in the building world, height of a structure is determined from an average between the eave and the peak. Mr. Myers of Shallotte Partners apologized for the accidental statements at the Public Hearing saying that from ground to peak of the roof the buildings do not exceed 35-feet. Commissioner Herman asked what the height for the pitched roof actuality is; Mr. Myers said the building with the pitched roof is 43-feet. Commissioner Herman again noted that the ordinance states that the maximum building height is 35-feet (and that means to the peak). Other Board members and some staff still argued that the Board could set a condition to allow 35-feet to the eave and an additional 10-feet to the peak of the roof for a total of 45' because this is permitted in another section (the PUD) of the ordinance.

Mr. Myers displayed a large rendering of what a typical building in the project would like with a flat roof that made the building 35-feet and what a building would like with a pitched roof that made the building 45-feet. The Board members all agreed that they liked the look of the pitched roof far better than the look of the flat roof but Commissioners Herman & DiStasio continued to say that the ordinance does not allow the Board to approve anything in excess of 35-feet. Mr. Myers said he would develop the project at 35-feet with flat roofs but would prefer to build the more aesthetically pleasing pitched roof.

Mayor Clemmons stated that years ago when maximum height was established at 35-feet in Calabash, land was cheap so developers were able to build horizontally. Now, land is expensive so to make a return on their investment, developers must build vertically; Calabash needs to get with the times and allow a height that exceeds 35-feet. This prompted a lengthy discussion about the Town's proposed UDO, which allows 45-feet throughout the Town and permits multifamily as a use by right in the R-8; some argued that the UDO should already be in affect and this matter would not have to come before the Board of Commissioners. At some point in the discussion Mayor Clemmons talked about a former height referendum in the Town's history and the fact that now the Town can determine the height in Calabash. Other Board members agreed that the Board has the authority to change the 35-feet height limit but that it must be done through an ordinance amendment, which requires a public hearing before a vote. Mayor Clemmons said he would like to see this project developed so long as certain conditions are applied.

From the audience, Mr. Don Hege asked if, because these are apartments, is this a HUD project. Mr. Myers said absolutely not. In fact, this is a high-end apartment complex, which is why they would much rather build the project with the pitched roofs. Mr. Myers referenced the impact on The Thistle, claiming that even with pitched roofs, people at

The Thistle would never be able to see the buildings because the tree line exceeds 50-feet. Mr. Myers said they have also proposed a 30-foot buffer strip, double what they are required to do, for added buffering between their project and The Thistle. Mr. Myers felt his proposed apartments, if built, would be the best in Brunswick County; comparable to Crow Creek and Brunswick Plantation. Then, Mr. Myers addressed the stormwater issue. He said that they are spending hundreds of thousands of dollars for the stormwater system to be carried from the HC lots to the ponds on the R-8 lots. He went on to say that it would save him a lot of money if he dug ditches along Old Georgetown Road to hold the stormwater for the HC lots but it would be ugly; if that is what the Town wants, he would be happy to oblige. Mr. Myers said he thought all issues that were discussed last week at the Public Hearing has been addressed and all requests of the Board have been provided.

Mayor Clemmons asked if Mr. Myers knew how much the building pads were going to be elevated. Mr. Myers engineer estimated that Old Georgetown Road is at an elevation of approximately 49-feet and the building pads would be at approximately 51-feet. Mr. Myers said they would leave as many trees as possible—it would cost money to have trees removed. Mr. Myers again stated that this would be a quality project and that the rental company would screen people carefully; this is not a HUD project.

At this time, Mayor Clemmons asked that each Commissioner state their opinion of the project. Mayor Clemmons started by stating that he believes the project to be a high quality, viable project and feels that the 43-foot buildings should be permitted; its time to see some development in little Calabash, everyone around Calabash allows building in excess of 35-feet. Commissioner DiStasio said she cannot see allowing a height beyond 35-feet unless it is changed in the ordinance in the correct manner; if the Town is not going to go by the ordinances then they should just be thrown away because its senseless to have ordinances if you're just going to ignore them. Commissioner Melahn said he does not have any objection to 43-feet; if Shallotte Partners were to wait until the UDO was approved they would be permitted to go to 45-feet (it was pointed out that the UDO has not been approved). Commissioner King said he thinks the project would look a lot better with a decent roof; to build the project with a flat roof would be a shame and an injustice to the Town—the flat roof picture looks like a box or a stack of trailers. Commissioner King agreed with Commissioner Melahn in that, most likely, in the near future 45-feet will be on the books in Calabash and he felt that the Board could legally approve the 43-feet now; in an apartment building a 9-foot ceiling looks a hundred times better than an 8-foot ceiling.

Commissioner Herman agreed that 9-foot ceilings are better and that the 43-foot, pitched roof looks a lot better than the 35-foot flat roof. However, she disagreed that the Board has the authority to do whatever they want and go against the current ordinance. She said that this Board has had the opportunity for over a year to pass the UDO and they have not done it, so, obviously the Board doesn't care about allowing nice-looking 45-foot roofs. She said the current ordinance clearly states that the maximum height is 35-feet. Commissioner Dixon said he would like to see the pitched roof at 43-feet. Commissioner Dixon felt the Town is going to nit-pick so much, to the point that no developer is going

to want to come to Calabash. Mayor Clemmons suggested contacting the Town Attorney to render a legal opinion on whether or not the Board could approve the project at 43-feet.

Mr. Long read from §153.218 where it refers to conditional use permits. The section states that when conditions of a Conditional Use Permit are not complied with the Zoning Administrator can revoke the CUP. Thus, this implies that the Board has the authority to place added conditions to the Conditional Use Permit.

The matter of the roads resurfaced for discussion. Mr. Myers said all the roadways are a part of the R-8 parcel. From the audience, Mr. Anthony Feilback of The Thistle asked for someone to explain how this project is not a PUD. He stated that the HC lots are dependant on the R-8 parcel for access and stormwater control and there is shared ownership between the two portions. Mr. Feilback seem to think that Shallotte Partners was circumventing the ordinances by breaking out the residential from the commercial because the project would not be allowed by ordinance as a PUD since the commercial portion exceeds 10% of the entire project. Mr. Feilback argued that the road would have to be dedicated to the Town since the commercial portion must use the road. Mr. Feilback felt there were a lot of questions not being answers and issues not being addressed.

Mr. Dills again, attempted to explain that even though the entire road belongs to the R-8 parcel, the HC lots must use the road for access. Therefore, he and the Zoning Administrator did not feel it was fair for Shallotte Partners to utilize the entire road in their gross acreage, which plays a major factor in determining density. So, they requested that Shallotte Partners calculate their gross acreage from the centerline of the road for the R-8 parcel. Mr. Dills said that is one item that the BOC needs to determine if they are going to require of Shallotte Partners—the centerline of the road is the boundary line for the parcel. The other factor the BOC needs to decide is, will they allow the HC to use off-site stormwater storage on the R-8 parcel. The Stormwater Ordinance allows off-site retention for stormwater and Shallotte Partners have obtained a State Stormwater Permit to do this. Does the BOC want to require that the acreage used to retain the HC stormwater be removed from the gross acreage for the purpose of determining density?

Commissioner Herman said the only reason that 2 years ago this, what was, one 35-acre parcel was subdivided into the 22-parcels, that it is today, is because the residential and commercial portions were to be separate projects. Now, because the two parcels are dependant upon one another, the projects are co-mingled and Mr. Feilback's point is valid that this should be a PUD application. Discussion of these matters continued. Nearly 2-hours into discussion of this matter, Mayor Clemmons called for a brief recess (5-minutes).

Upon returning from the short break, the Board discussed the Conditional Use Permit (attached hereto and made a part of these minutes). In the CUP the Board added allowing 35-feet to the eave with an additional 10-feet for ornamental roofing, not to exceed 45-feet in height; space above 35-feet is not to be habitable area and that detailed elevation

drawings shall be submitted to the Building Inspector prior to the issuance of any permits. They also added that the roadways shown on the Overall Site Plan should be held in common between the R-8 parcel and HC lots and access easements must be assigned to the 21 HC lots. Also, the buffer shall be a minimum of 25-feet was listed as a condition. The CUP stated that the project should not exceed a density of 216 units. The following condition was included in the CUP: If any of the conditions affixed hereto or any part thereof shall be held invalid, illegal, or void then this permit shall be void and of no effect.

Commissioner King motioned to approve the Conditional Use Permit for multifamily in the R-8, as discussed by the Board for Shallotte Partners' property identified as Tax ID# 24100001.14; Commissioner Dixon seconded the motion and there was discussion. Commissioner DiStasio wanted to know if this approval was contingent upon the attorney's review. It was noted that the attorney's review is a condition of the CUP; Town Administrator Long read all of the conditions of the CUP (CUP attached hereto and made a part of these minutes). Commissioner Herman asked if there was an expiration date on the CUP; staff noted that there is an expiration date included in the ordinance—if not work does not begin within 6 months the permit expires unless the Board sets another specific time period. The Board also added an approximate start/finish date to the CUP (start March 2009/finish October 2010). Mayor Clemmons called for a roll call vote:

Commissioner DiStasio- "yes"

Commissioner Melahn- "yes"

Commissioner King- "yes"

Commissioner Herman- "yes"

Commissioner Dixon- "yes"

The motion to approve the Conditional Use Permit for Shallotte Partners carried by way of a unanimous vote.

6. Action to refer an ordinance amendment regarding temporary/portable signs for businesses promotional/special sales events to the P/Z Board. *Commissioner Herman motioned to direct the P/Z Board to make a recommendation to the BOC for an amendment to the Code of Ordinances for temporary/portable signs for promotional/special sales events; seconded by Commissioner Melahn and carried by way of a unanimous vote.*

NEW BUSINESS:

- 1. Discussion/Action to consider approving Resolution #2008-01, a Resolution Concerning Brunswick County Property Tax (a similar resolution has been adopted by the City of Southport who, is requesting other municipalities to adopt their own resolution in the hopes that the Brunswick County Board of Commissioners will form a Tax Task Force to study the property tax system).** *Commissioner Herman motioned to approve Resolution #2008-01; seconded by Commissioner King and carried by way of a unanimous vote.*

2. **Action to schedule a second Public Hearing for the UDO-**the Public Hearing will be held at Town Hall. *Commissioner Melahn submitted a motion to schedule a 2nd Public Hearing for the proposed Unified Development Ordinance for Tuesday, January 27, 2008, 7:00 p.m at Town Hall; seconded by Commissioner Herman and carried by a unanimous vote.*
3. **Action to appoint a Commissioner to the Fire Department Board of Directors.** Mayor Clemmons recommended the Board reappoint Commissioner Herman to the Calabash Fire Department Board of Directors. *Commissioner King motioned to reappoint Commissioner Herman to the CFD Board of Directors. The motion was seconded by Commissioner DiStasio and carried by way of a unanimous vote.*
4. **Action to schedule a Public Hearing for January 13, 2009 for the 2006 International Property Maintenance Code.** *Commissioner Herman motioned to schedule the Public Hearing for the 2006 International Property Maintenance Code for January 13, 2006, 6:00 pm at Town Hall. Commissioner DiStasio seconded the motion and the motion carried by way of a unanimous vote.*

CLOSED SESSION: *Commissioner Melahn motioned to enter Closed Session pursuant to G.S 143-318.11 (a)(3)(5)&(6) (legal matters, property acquisition, and personnel matters).*

Upon returning from Closed Session, Commissioner Herman motioned to enter Regular Session, seconded by Commissioner Melahn and carried unanimously.

ACTION AS A RESULT OF CLOSED SESSION: *Commissioner DiStasio motioned to approve a 2.5% merit increase for Barbra Hagan, effective December 11, 2008; seconded by Commissioner Melahn and carried by a unanimous vote. Commissioner DiStasio motioned to approve a 2.5% merit increase for Kelley Southward, effective December 11, 2008; seconded by Commissioner Melahn and carried by a unanimous vote.*

PUBLIC COMMENTS: none

BOARD COMMENTS: none

ADJOURN: *Commissioner Herman motioned to adjourn, seconded by Commissioner Melahn and carried unanimously.*

(seal)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk