

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
Tuesday, February 10, 2009-6:00pm**

MINUTES

The Calabash Board of Commissioners held a Regular Meeting on Tuesday, February 10, 2009, 6:00 p.m at Town Hall, 882 Persimmon Road, Calabash, NC.

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

STAFF PRESENT: Vincent Long, Town Administrator and Kelley Southward, Town Clerk.

GUESTS PRESENT: There were approximately 80 guests in attendance at start of the Meeting.

CALL TO ORDER/PLEDGE/ROLL CALL: Mayor Clemmons called the Meeting to order at 6:00 p.m and led everyone in the Pledge of Allegiance to the Flag. For the record, the Board took roll call; attendance is reflected above. Mayor Clemmons welcomed everyone and acknowledged that many of the guests were present due to interest in the UDO. He also noted that the Board would hear public comments and laid down some “ground rules”. Mayor Clemmons also stated that no matter the outcome of the UDO, he would be appointing a committee to address citizen’s concerns of the UDO/current Code of Ordinances.

APPROVAL/ADJUSTMENT OF AGENDA:

1. Commissioner Herman requested to remove Item 1-A through 1-B (Discussion/Action regarding the UDO) from the Agenda. Commissioner Herman stated that she had not had ample time to review the concerns voiced at the UDO Public Hearing from citizens and property owners because she had been out of town.
2. Commissioner Melahn requested to replace Item 1-A through 1-B with Discussion/Action to schedule a Public Informational Meeting for the UDO to address apparent misunderstandings, and misconceptions of the UDO. Commissioner Melahn stated that there seems to be confusion and misinformation regarding the UDO and recommends the Board hold an informational meeting for the public to address these issues.
3. Commissioner Melahn requested to add Item #5 to New Business-Discussion & possible action pursuant to Title III , Chapter 32.11 (B) (3), (B) (7), (B) (10) (b), and (B) (12).
4. Mayor Clemmons announced that [Interim] Town Attorney, Mark Lewis, is in the hospital and therefore requested that Item # 2-Discussion/Action of proposed contract from Mark Lewis for Legal Services- & # 4-Discussion/Action of Shallotte Partners Conditional Use Permit- of Old Business be removed from the agenda.

The Board discussed, at length, the request to remove the vote pertaining to the UDO from the agenda. Commissioner DiStasio stated that she too had not had enough time to review the concerns related to the UDO and did not feel it was an appropriate time to vote on the document. At one point, Mayor Clemmons stated that he heard a rumor that a commissioner has completely discounted the concerns voiced at the UDO Public Hearing. He also stated that he believes removing the UDO vote from the agenda is nothing more than a tactic to delay until the public loses interest and goes away. Commissioner Herman called Mayor Clemmons “out of order” for his statements saying that according to State Statutes the Mayor is not to take part in debate. Commissioner Herman also felt it was inappropriate for the Mayor to talk about rumor, innuendo, and gossip.

Commissioner King said if it is the intent to remove the UDO from the agenda and to then hold a public informational meeting to discount the concerns of the people and a ploy to delay voting until citizens lose interest then he is against removing the vote from the agenda. However, if the other Board members truly need more time to consider citizen’s concerns and recognize that there are problems with the UDO, which require changes to be made then he might agree to remove the matter from the agenda. Commissioner Herman said she recalls several citizens urging the Board to take their time and don’t rush the UDO and she would like more time to address those citizens’ concerns.

After about twenty-five minutes of debate, Mayor Clemmons stated that he would entertain a motion to remove Item 1 (the UDO vote) from the agenda. This prompted another five minutes of debate because even though each proposed amendment can be voted on one by one, normally this Board votes on all proposed amendments to agenda at once. *Finally, Commissioner Herman submitted a motion to approve the agenda, as amended (items 1-4 above). Commissioner Melahn seconded the motion and the vote was as follows: Commissioners Herman, DiStasio, & Melahn voted in the affirmative while Commissioners King and Dixon vote in opposition; the motion to approve the agenda, as amended, carried by a vote of three (3) to one (1).*

PUBLIC COMMENTS:

1. Chuck Lydon: Are property owner taxpayers and citizen taxpayers going to be treated equally? Mayor Clemmons said they would both be treated the same.
2. Jody Nance: Does not understand what is so bad with Calabash the way it is or why the UDO is necessary; feels the UDO contradicts itself. Told Commissioner Melahn that he was elected under the pretence of change and does not believe he is changing anything. Believes Commissioner Melahn to be siding with Commissioners Herman and DiStasio.
3. Mack Sanders: What is the status of the sewer project? Mayor Clemmons said there would be an update on the sewer during Committee Reports as wells as a discussion during Old Business. Mayor Clemmons asked if he had a specific question; Mr. Sanders said not at this time.
4. Chester Wojcik: Asked if it was true that Brunswick County has approved a 10-year payback plan for the sewer project. Mayor Clemmons said that is correct if the Town moves forward with the entire project. Mr. Wojcik commended the Board for applying for the \$3 million grant. He requested the Board check with the property owners

(approximately 214) of Pine Bur Acres before removing the subdivision from the sewer project.

5. Don Hege: Mr. Hege prefaced his comments by saying his statements should not be taken personal by any member of the Board rather his statements are political. Over the years, Mr. Hege has had the opportunity to work with architects, engineers, and consultants who, sometimes copy pages from one job to another; mostly, consultants do this. He believes the UDO is the worst copy job he has ever seen. The consulting firm should have been present to address concerns. Therefore, he believes a committee must be formed to review and make proper changes to the UDO that work for our town. A return of tax money should be refunded (from the consulting firm) to the Town. He believes there to be a legal conflict of interest because Commissioner Herman and Commissioner Melahn were members of the Planning & Zoning Board when the Planning & Zoning Board was drafting the UDO-he has submitted a letter of complaint regarding the matter to the Town. He demands that Commissioners Herman and Melahn remove themselves from the vote on the UDO and if they do not remove themselves from the vote, he demands they resign as commissioners. Commissioner Herman requested the Town Clerk relay the opinion of the Town Attorney regarding herself and Commissioner Melahn having been members of the Planning and Zoning Board when the Planning & Zoning Board was reviewing UDO. The Town Clerk relayed that both the Town Attorney, Mark Lewis, and the School of Government has stated that there is no conflict of interest in this matter; a person may hold an elected position as well as an appointed position and there is no conflict of interest in Commissioner Melahn and Commissioner Herman voting on the UDO. Mayor Clemmons told Mr. Hege that as soon as the Town received his letter regarding this matter last week, the Town Attorney was contacted and the Clerk has relayed his legal opinion of the matter. Mr. Hege threatened a class action lawsuit.
6. Fletcher Frink: Asked when, if the UDO is passed, will nonconforming buildings have to come into conformity. Mayor Clemmons said if a building or sign is destroyed 50% or more than it would have to come into conformity; if a building burns down it must come into conformity. If you wanted to expand a nonconforming building you would have to go before the Board of Adjustment, Mayor Clemmons explained; if you disagree with the BOA then you appeal to Superior Court. Everything that is in noncompliance at adoption will be grandfathered in as nonconforming. Commissioner King said as soon as someone wants to make a change [to their business] they have to make everything comply with the UDO. Commissioner Melahn said there has been a lot of concern about the sign regulations; the regulation stating that if a sign is 50% destroyed it must be made to comply is in the current Code of Ordinances. Sign setbacks are 10-feet off the right of way/10-feet off the property line. Mr. Frink said the Town of Calabash sign in front of Town Hall is two-feet inside the right of way. He also noted that Town Hall does not meet the required rear setback. Commissioner King agreed that most of the sign regulations in the UDO are the same as the current Code of Ordinances. He said that is was the sign regulations in the current code that split Calabash and Carolina Shores 10 years ago; the current sign regulations came from Carolina Shores and don't fit for Calabash. Commissioner King said Calabash made a mistake by not purging bad ordinances from the code when the towns split. Commissioner King said instead of addressing the bad ordinances the Town is trying to pull them together to make them

easier to read so they are easier to enforce. Mr. Frink suggested the Town use the UDO as a reference guide but not as rule. Mr. Frink feels the UDO is too restrictive; especially the sign regulations and the setback regulations. Mr. Frink believes the regulations in the UDO will force small businesses to spend a lot of money. Commissioner King said if a business' sign is destroyed through no fault of the business/property owner, all signs for the business must comply before the business can obtain a permit to replace the one that was destroyed.

7. Jim Myers: Mr. Myers said he had signed up for Public Comments to request Old Business, Item #4 be removed from the agenda, which the Board had done on their own accord; Mr. Myers had no other comments.
8. Linda Perkins: Concerned with the sewer, stated that a lot of Calabash Acres residents are on fixed incomes. If the Town does not receive grant money how will citizens on fixed income get the money to pay for sewer? Mayor Clemmons said the Town is working on more than just grants; he asked that she wait until later in the agenda for the update on the sewer project. Commissioner DiStasio said it is her understanding that if 2/3 of the people want sewer (determined by a vote of the people) then a 30-year payback can be applied for.
9. Alinda Meares: Said the Board is aware of petitions submitted by Calabash Acres and Pine Bur Acres. Mrs. Meares read an article from the current edition of the Brunswick Beacon regarding the payback plan the County Board of Commissioners had approved for the Sewer Project. The article states that Calabash would be allowed a 10-year payback if the entire sewer project moves forward but if the project moves forward omitting Calabash Acres & Pine Bur Acres the assessments would have to be repaid in 3-years. Mrs. Meares noted that tonight, the Calabash Board of Commissioners plans to take action on recommending how the County bids the project. Mrs. Meares also asked about a budget amendment referencing sewer money. Commissioner King explained that by accident, two accounts had been set up to set money aside for the sewer project. The budget amendment is to combine these two accounts to make it easier to see how much money is available for the sewer. She said Calabash Acres wants sewer if it will cost property owners nothing but if it costs as much as one thousand dollars, Calabash Acres does not want it because the people cannot afford it. Mrs. Meares said that they [Calabash Acres] do not want to be put in a position where they have to sue the Board [Calabash Board of Commissioners] they want to work with the Board. Mayor Clemmons said the Board is doing everything they can to get the assessment as low as possible and they have no intension of pushing the sewer on anyone who does not want it. Mrs. Meares said with the current economy now is not the time to put this burden on the people; the Town is already in debt to the County for \$800,000, which is too much of a financial burden already. Maybe in five years the economy will be better and the people will be able to afford the sewer. Mr. Mitch Meares asked why the Board did not stop the project months ago as the people had requested; when the Town was only in debt to the County for \$400,000—last month the Board did not even know where the other \$400,000 came from. Mayor Clemmons said at the last Sewer Progress Committee Meetings (held at the County Complex) the Town received an update of incurred expenses. Mrs. Meares asked if citizens could attend these meetings; Mayor Clemmons said as far as he knows, the meetings are open to the public.

10. Simon Allen: Why do some of the Board members feel compelled to move forward with the sewer? When he began getting signatures for the Pine Bur Acres petition the Town only owed the County about \$300,000; he would like to see an itemized bill from the County to see exactly where the \$800,000-\$900,000 has been spent.
11. Melinda Sandford: What percentage of tax revenue is from business owners and what percent from residents? The Board said they would have to research the matter. As business owners, they are not entitled to vote in Calabash elections. Commissioner Herman said that most revenue the Town receives is based on population.
12. Karen Moushores: Said she would like to volunteer for the UDO Review Committee to represent the businesses. Mayor Clemmons said he has already chosen the committee members but he would consider appointing alternate members; Commissioner King reminded everyone that all committee meetings are open to the public.
13. Janet Thomas: Will the Committee only discuss concerns voiced at the UDO Public Hearing? Mayor Clemmons said the Committee will address the concerns voiced at the UDO Public Hearing, concerns voiced tonight, concerns that Committee members may have, and any concerns Board members may have. Ms. Thomas went on record stating that she is concerned that the R/C zoning district does not allow mobile/manufactured homes. Mayor Clemmons said that concerns regarding the UDO may also be forwarded directly to Committee members or to the Town Clerk who will forward to the Committee.
14. Dean Spatholt: Voiced a concern about the size of parking spaces and parking lot drive isles required in the UDO; he feels they are too large. He is also concerned that if a business wishes to expand in anyway all of their parking must conform to the requirements of the UDO.
15. Larry Ward: The public does not appear to trust the Board of Commissioners. When the Board finally decides to vote on the UDO, will the vote be closed to the public? The Board said the vote would take place during open session of a Board of Commissioners Meeting; public is permitted (and encouraged) to be present.
16. Kurt Hardee: Pointed out that all 26 speakers at the UDO Public Hearing were against the UDO. Seemed to be skeptical of the motives for removing the vote from tonight's agenda. Commissioner Herman said some of the objections of the UDO from the public seem to be stemming from misinformation and/or misinterpretation. Mr. Hardee said it doesn't matter what the public or the Board interprets but rather, it is how the person hired by the Town and charged to enforce the UDO interprets it. Commissioner Herman said the ultimate power would still reside with the Board of Commissioners. She went onto say that the original goal was to make the current ordinance more concise and that is why 95% of the UDO is exactly the same as the current ordinance; tonight [when Commissioner King made the reference] is the first time she has heard anyone state an objection to the current code because it was written by Carolina Shores [when the towns were one]. Commissioner King said there is a lot of stuff in the current ordinance that has never been enforced but now, because it has carried over to the UDO, it would be enforced.
17. Suzy Horne: If a hurricane destroys the whole town would it have to be rebuilt in compliance? Does not want to see the Calabash she knows and loves become like Pauley's Island. The Board said the Town would have to be rebuilt in compliance with the UDO. She also asked if the people received an opportunity to vote on the sewer; no they did not receive a vote.

18. Mike Fink: Concerned about replacing/rebuilding after destruction from an “Act of God”. Does not want to see the businesses being over regulated because of the hardships it places on business owners.
19. Earl Benton: Throw the UDO away. Just use common sense when developing Town regulations; look at the Town and draft ordinances with Calabash in mind. Town has paid a lot money for nothing; there is no common sense in the UDO.
20. Pricilla Knight: (Purple Dahlia) stated that it was the small town charm that attracted her to Calabash. Calabash is a genuine fishing village; it is not a modern/busy world replica of a fishing village and that’s what attracts people to the Town and what makes tourists spend their money here. Urged the Board to preserve the charm of the Town.
21. Don Hege: Asked if the “Rezoning Signs” on Riverview Drive would be removed; yes the signs will be removed nothing should be happening with the rezoning of the Mixed District until the UDO is voted on. He asked if he could submit a petition against the UDO; the Board said he could submit a petition.
22. Joe Lassiter: Asked about the UDO Committee; Mayor Clemmons said the appointment of the committee is the next item on the agenda he has selected the committee members himself.

COMMITTEE APPOINTMENTS: MAYOR CLEMMONS

1. **Mayor Clemmons to appoint a UDO Review Committee:** Mayor Clemmons read a brief statement and then appointed a committee to work with the Town Administrator/Zoning Administrator to address citizen’s concerns related to the Unified Development Ordinance (UDO) and/or the current Calabash Code of Ordinances. Mayor Clemmons appointed Janet Thomas (citizen), Commissioner Forrest King, the Town Administrator (other Town staff will be at his disposal), Commissioner Herman, and Mr. Michael Abushakra (Merchant) to the UDO Review Committee; the Mayor will oversee the Committee. Town Administrator Long suggested Mayor Clemmons appoint a Chairperson; Mayor Clemmons said the Committee could elect a chair at their first meeting. Originally, Mayor Clemmons said he thought the Committee would be able to work out all the kinks within 30 days but the public, and even some Commissioners, seemed to disagree. So, Mayor Clemmons said there would be no time limit placed on the Committee at this time. *Mayor Clemmons called for a brief recess; the recess lasted about ten minutes.*
2. **Mayor Clemmons to add duties to the Meetings/Rules & Procedures Committee to include overseeing the in-house recodification of the General Code of Ordinances.** Mayor Clemmons added the duty of overseeing the in-house re-codification of the General Code of Ordinances (Titles I through XIII) that staff is currently working on.

ACTION RELATED TO THE UDO:

1. **Schedule a Public Informational Meeting for the UDO:** During Approval/Adjustment of Agenda, Commissioner Melahn had requested this item on the agenda (see above). There was a debate as to whether a Public Information Meeting was necessary now that the UDO Review Committee has been established. *Commissioner Melahn motioned to schedule a Public Informational Meeting, date and time yet to be decided, to address apparent misunderstandings, misconceptions, and misinterpretations of the UDO. Commissioner Herman seconded the motion and the vote was as follows: Commissioners Herman, Melahn, and DiStasio voted in the*

affirmative and Commissioners King and Dixon voted in opposition; the motion carried by a vote of three (3) to two (2).

MAYOR'S COMMENTS: None forthcoming.

PRESENTATION: Mr. Jim McCallum of Community in Schools (CIS) gave a brief overview of the nonprofit organization. Mr. McCallum requested that the Board keep CIS in mind during the budget process and consider making a donation.

APPROVAL OF MINUTES:

- 1. January 13, 2009-Regular Meeting**
- 2. January 6, 2009-Agenda Workshop**
- 3. January 28, 2009-Special Meeting-Sheriff's Department Workshop**
- 4. January 27, 2009-UDO Public Hearing**
- 5. December 9, 2008-Closed Session**
- 6. December 18, 2008-Closed Session**

Commissioner Melahn submitted a motion to approve the minutes, as listed. Commissioner DiStasio seconded the motion and the motion carried by way of a unanimous vote.

CORRESPONDENCE:

Mayor Clemmons referenced two items of correspondence: (1) On February 20, 2009, there will be an Open House at Jesse Mea Monroe Elementary School and (2) Governor Purdue is requesting input related to transportation reform.

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. Mr. Long added that a representative from The Pearl met with him and Building Inspector earlier in the day to inform the Town that they will be making changes to the last approved Master Plan; there is going to be a significant reduction in density. The Town Administrator and Building Inspector have scheduled a meeting with representatives of The Pearl to further discuss the changes.

COMMITTEE REPORTS:

- 1. Fire Department:** Commissioner Herman's written report is attached hereto and made a part of these minutes.
- 2. Planning & Zoning:** P/Z written report is attached hereto and made a part of these minutes.
- 3. Finance:** Commissioner King said that with all the changes to the agenda at the start of the Meeting he forgot to request to add an action item to New Business to direct the Tax Collector to advertise tax liens in April; total amount permitted for advertising is \$9813.36. Mayor Clemmons said the Board is permitted to add an item to the agenda at anytime; he added this matter to New Business, item #6.
- 4. Water/Wastewater:** The Board said this would be discussed under Old Business.
- 5. Town & Merchant:** No report.

6. **Stormwater:** Written report is attached hereto and made a part of these minutes.
7. **Long Range Planning:** Commissioner King reported that WK Dickson has submitted a grant application to the Clean Water Trust Fund for a three million dollar grant for the sewer project on behalf of the Town. Total amount of grants submitted for the sewer project is 4.5 million.

OLD BUSINESS:

1. **Discussion/Action to adopt the State of Emergency Ordinance to be included in Title IX of the Calabash Code of Ordinances, Chapter 99-Public Hearing was held January 13, 2009.** *Commissioner Melahn motioned to approve the State of Emergency Ordinance to be included in Title IX of the Calabash Code of Ordinances-Chapter 99. Commissioner King seconded the motion and the motion carried by way of a unanimous vote.* Commissioner Dixon asked if there was some way to identify property owners trying to get back into Town after an evacuation from a natural disaster. It was relayed that any property owner can obtain a sticker for their vehicle from Town Hall for the purpose of entering Town after natural disasters and utilization of the yard debris dumpsite and the recycling site.
2. **Discussion/Action to review service proposal for legal services submitted by Mark Lewis, Attorney & Counselor at Law.** This item was removed from the agenda at the start of the Meeting because Mr. Lewis was unable to attend the Meeting.
3. **Discussion/Action for the Board to direct the Town Administrator to write a letter to Brunswick County to bid the Sewer Expansion Project with two options: 1-full project and 2-“Area A” only.** The Town wants to request that the County bid the construction of the sewer project as two projects. The full project would be the original plan, which includes Persimmon Road, several lots along Thomasboro Road, Hunter’s Trace, Village Green, Calabash Acres, Pine Bur Acres, Bay Point, and some lots along Beach Drive/HWY 179. The second bid would be to do “Area A” only, which includes Persimmon Road, Hunter’s Trace, & Village Green (and possibly a few lots along Thomasboro that are not are part of Calabash Acres). Mr. Long said knowing a real cost estimate will be a big determinant in moving forward with the project. Other factors include choosing a method of assessment and award of grants; the Town does not expect to know about the Rural Center Grant until June and the outcome of the CWTF grant will not be known until October. *Commissioner Herman motioned to direct the Town Administrator to write a letter requesting the County seek construction bids for the sewer project with the two options. Commissioner King seconded the motion and the motion carried by way of a unanimous vote.*
4. **Discussion/Action of Shallotte Partners Conditional Use Permit.** This item was removed at the start of the Meeting because the Town Attorney was not present.

MOTION TO RECESS: At this time the Meeting had reached three hours. *Commissioner Melahn motioned to recess the Meeting unit tomorrow, Wednesday, February 11, 2009, 4:00 pm at Town Hall. Commissioner Herman seconded the motion and the motion carried by way of a unanimous vote.*

MINUTES OF WEDNESDAY, FEBRUARY 11, 2009-4:00 PM TOWN HALL

At 4:00 pm on Wednesday, February 11, 2009, the Board of Commissioners reconvened the Regular Meeting of Tuesday, February 10, 2009; Mayor Clemmons called the Meeting to order. Once again all members of the Board were present: Mayor Anthony Clemmons, Commissioner Emily DiStasio, Commissioner John Melahn, Commissioner Forrest King, Commissioner Cecelia Herman, and Commissioner William Dixon. The Town Administrator, Vincent Long, and Town Clerk, Kelley Southward, were also present. There were three guests in the audience; Mitch Meares, Ford McDonald, and Laura Lewis.

Commissioner Melahn motioned to amend the agenda by moving New Business, item #5 to New Business, item #1; and renumber New Business accordingly. Commissioner DiStasio seconded the motion and the motion carried by way of a unanimous vote.

NEW BUSINESS:

1. **Discussion & possible action pursuant to Title III, Chapter 32.11 (B) (3), (B) (7), (B) (10) (b), and (B) (12).** Commissioner Melahn stated that this item applies specifically to Commissioner King. Commissioner Melahn was apparently trying to cite Commissioner King in violation of the above referenced sections; the Board decided to look at each one separately.
 - 32.11 (B)(3)—Commissioner Melahn said more specifically, he believes Commissioner King to be in violation of 32.11 (3) “Interest in official act (a) Any town official who has a direct or indirect pecuniary or material benefit interest in any official town act or action shall not participate at any time or in any manner in the discussion or consideration of such matter (2) The town official shall be deemed to have an interest in any official act or action affecting (d) any nonprofit organization for which a town official currently is an employee, officer, director, or board member.” Commissioner Melahn felt Commissioner King is in violation of this section because he is the Town liaison for the Calabash Merchant’s Association. Commissioner Melahn also stated that Commissioner King was the either the Reader, Director, or an Officer of the Merchant’s Association. Commissioner King said that was incorrect, he is simply a member of the Merchant’s Association.
 - 32.11 (B) (7)—“Independence of Commissions and Committees; Because of the value of the independent advice of commissions and committees to the public decision-making process, members of the board of commissioners shall refrain from using their position to unduly influence the deliberations or outcomes of the commission or committee proceedings.” Commissioner King asked Commissioner Melahn to explain, as he did not understand what Commissioner

Melahn was trying to say. Commissioner Melahn said this too relates to Commissioner King's participation in the Calabash Merchant's Association and his vote on the UDO. Commissioner King called the accusations ridiculous.

- 32.11 (B) (10)(b)—“Respect for Process; Public Officials shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of the Board of Commissioners, commissions and committees, the staff or public and otherwise interfere with the orderly conduct of meetings. This provision is not intended to limit the right of a Public Official to comment on the manner in which the business of the City is being conducted.” Mayor Clemmons asked Commissioner Melahn who he has been meeting with to discuss these items. Commissioner Melahn said he had not met with anyone to discuss these concerns. Mayor Clemmons asked Commissioner Melahn if he had discussed these concerns with any other members of the Board; Commissioner Melahn said he had not discussed these matters with any Board members. Commissioner Melahn said the previous two sections stated are possible violations made by Commissioner King and believes this one, 32.11 (B) (10)-Respect for Process, is a clear violation of the Code of Ethics policy made by Commissioner King at the Board's Agenda Workshop on February 3, 2009; and, with the exception of Commissioner Herman, the rest of the Board was present to witness the violation. Mayor Clemmons felt that at least the first two matters mentioned require a legal ruling; Commissioner Melahn and the rest of the Board members agreed. Getting back to “Respect for Process” Commissioner Melahn reiterated that he felt comments made by Commissioner King at the February 3rd Agenda Workshop were a clear violation of 32.11 (B)(1)(b). Commissioner King said he will go ahead and break it again and made the following statement to Commissioner Melahn: “If you are able to continue and see this term to the end, based on your actions so far, we're going to do our best to see to it you do not be reelected for another one. I have said it again so, if it was wrong the first time, its wrong the second, and I am guilty twice.”

Commissioner Melahn quoted Commissioner King's original comment from the official recording of the February 3rd Agenda Workshop stating that the comment was made at slightly over seven minutes into the official recording. Before Commissioner Melahn had the chance to read the quote Mayor Clemmons interjected and asked if Commissioner Melahn was publicly censoring Commissioner King. Commissioner Melahn said he is not recommending censoring Commissioner Melahn at this time; any action taken on this item will be subject to a review. Mayor Clemmons said the Town Attorney is not present and there is such a thing as liable and cautioned all Board members to be aware of that. Commissioner Melahn said he is willing to have any of these matters reviewed by the Town Attorney; these are his personal concerns. Commissioner King said he did not call into question Commissioner Melahn's charter or actions at the time of the original statement. Rather, Commissioner King asked Commissioners Melahn & DiStasio if it was their intent to put voting on the UDO on the Agenda in spite of the concerns expressed during the UDO Public Hearing.

Mayor Clemmons asked Commissioner Melahn the purpose of all this if it is not his intent to lodge a complaint against or to censor Commissioner King. Commissioner Melahn said any decision made would be based on the Town Attorney's review of the matter. Mayor Clemmons said he did not understand Commissioner Melahn's agenda. Commissioner Herman was given the floor. Commissioner Herman said she was not present at the Agenda Workshop but when she listened to the tape of the Workshop she was appalled by what she heard. She also stated that she had directed an email to the Mayor regarding the matter and received no response. She believes the intent is to ensure that this behavior is not permitted at Board Meetings; if Commissioners want to address each other in this manner out of the public eye then so be it but it is not acceptable behavior for public meetings. Commissioner King said the Board has a responsibility to the people and he was appalled that Board members were seeking to put the UDO on the February Agenda for a vote when so many people spoke against the document at the Public Hearing. Commissioner Herman said there might have been 100 people at the Public Hearing and at last night's meeting but there are 1400 citizens the Board represents.

Mayor Clemmons tried to get everyone back on track and again asked Commissioner Melahn the purpose behind this. Mayor Clemmons said he takes that as Commissioner Melahn censoring Commissioner King in public. Commissioner Melahn said he is not censoring he simply wants the situation reviewed by the Town Attorney. Commissioner King said it was just a few meetings ago when a Commissioner made reference to the Town Attorney, putting him in a bad light; he suggested that tape be reviewed by the Attorney as well for being in violation of the Code of Ethics policy. Mayor Clemmons felt the Board was setting a dangerous precedence by trying to call one another out every time they get a little heating and make comments that might be slightly over the top. If we do this now for this matter, then it shall be done judiciously from here on out.

Mayor Clemmons said that in the past he had a concern about three commissioners meeting but he met with them privately to address the concern; he certainly did not bring the matter up in public. Commissioner DiStasio requested the Mayor allow Commissioner Melahn to read the subject statement made by Commissioner King at the February 3rd Workshop. Commissioner DiStasio read the statement made by Commissioner King, which was as follows: "*John, let me tell you this buddy, you go ahead and vote that thing through and I hope you enjoy your four years cause it will be your last four years, I promise you, if you make it that long, I promise you.*" Commissioner DiStasio said she felt the statement was a threat. Commissioner King says he stands by his statement. Mayor Clemmons said the Board is getting to involved in parliamentary procedures and policy. He asked Commissioner Melahn what action he recommends the Board takes if the Attorney reviews the matter and believes Commissioner King to be in violation of the Code of Ethics policy. Commissioner Melahn referenced 32.11 (12) Violations.

Discussion of this situation continued at length. At one point Mayor Clemmons referenced an picture in the Brunswick Beacon from several months back that showed three Commissioners and the Building Inspector huddled around a table apparently looking at something related to Town business. Mayor Clemmons felt this was inappropriate. Discussions continued. After about 45 minutes, Mayor Clemmons called for a brief recess.

After a ten-minute recess the Board reconvened. Mayor Clemmons cautioned the Board in their decision of this matter stating that their decision has the potential to bring the Town to a standstill. He would prefer that any violations or concerns regarding the Code of Ethics be discussed and dealt with in private; should the same behavior continue after being addressed in private, then yes, take further action of this nature. Mayor Clemmons said he spoke with Commissioner King after the incident in which Commissioner Melahn is referring to and expressed a concern to keep emotions under control during public meetings. The floor was turned over to Commissioner Melahn. *Commissioner Melahn moved to that any action or further discussion on this topic be tabled until such time that the Board has legal opinion available from the Town Attorney on all items; until the Town Attorney renders an opinion. Commissioner DiStasio seconded the motion and the motion carried by a vote of three (3) to two (2); Commissioners Melahn, Herman, & DiStasio voted “yeah” Commissioners Dixon and King voted “no”.*

Commissioner King submitted a motion that the Town Attorney renders an opinion as to whether or not it is legal for three commissioners to meet to discuss Town business at a Planning Board meeting that was not advertised as a joint Commissioners Meeting. Commissioner Dixon seconded the motion and there was discussion. Commissioner DiStasio wanted to know what Planning Board Meeting it was that this photograph was taken. Commissioner King said it does not matter what meeting the photo was taken; his motion is general referring to any meeting held by the P/Z Board. Commissioner Herman said she was appointed Commissioner of Zoning by Mayor Clemmons, who directed her to oversee and render advise to the Planning & Zoning Board. Mayor Clemmons said he saw the picture in the paper and it appeared as though the three commissioners (Herman, DiStasio, and Melahn) were standing around a table looking at some plans; he did not recall this being a meeting of the Board of Commissioners. So, he asked the Chairman of the Planning Board if he knew anything about the picture. The Planning Board Chairman said that after a P/Z Meeting the three commissioners looked over the building plans for the Town Hall expansion and went off by themselves to discuss the plans; a couple of the P/Z Board members felt excluded by their actions. Mayor Clemmons said until now he never made this information public. Commissioner DiStasio said it was in the paper—it doesn’t get more public than that. Commissioner Herman said she does not ever recall seeing Laura Lewis at a Planning Board meeting because Sunset Beach Commissioners meet the same night of the Calabash P/Z Board. Mayor Clemmons said this is identical to the motion just passed; the Board should

keep that in mind when voting on this matter. Mayor Clemmons called for a vote. *Commissioners King, DiStasio, and Herman voted “yeah” while Commissioners Dixon and Melahn voted “no”; the motion carried by a vote of three (3) to two (2).*

2. **Action to approve a Budget Ordinance Amendment to close Fund 72-“Capital Reserve” and move the balance into Fund 65-“Sewer Project” the balance of Fund 72 is \$46,677.37.** It was explained that Fund 72 and Fund 65 were erroneously established for the same purpose; to set funds aside for the sewer project. To make it easier to see total sewer project fund money the Funds should be combined. *Commissioner Herman motioned to move the balance of Fund 72 (\$46,677.37) to Fund 65, seconded by Commissioner King and carried by a unanimous vote.*
3. **Discussion/Action of the Long Rang Planning Committee’s Goals & Objectives and other recommendations for the 2009-Fiscal Year Budget.** The LRP Goals & Objectives for the 2009-2010 Budget are attached hereto and made a part of these minutes. Commissioner Melahn said he would like the word “affordable” added to #5 between the word “provide” and “wastewater”. *Commissioner King motioned to approve the Goals/Objectives from the Long Range Planning Committee, as amended. Commissioner Melahn seconded the motion and the motion carried by way of a unanimous vote.*
4. **Action to approve a Budget Ordinance Amendment to transfer \$163,350 from the Fund Balance to the General Fund to 10-500-72 (Public Buildings-Capital Outlay) for the purchase of property (vacant lot at corner of Traders Lane and Persimmon Road Tax ID # 241PA011).** This Budget Amendment is to appropriate funds to an expense account for the purpose of purchasing the lot at Traders and Persimmon; the closing date for the purchase is February 17th. Commissioner Herman said she wanted to see the property financed because of the current national recession and the Town has no credit history because we’ve always paid cash for everything; she felt it was a consensus of the Board back in December to finance the property. The Board discussed this matter and recognized that financing would have to be approved by the LGC. Mr. Long said the Town could pay cash and then move forward with a reimbursement resolution to reimburse the cash purchase; the Town would have to get on an LGC agenda, which may take several months. *Commissioner Herman motioned to approve the budget ordinance amendment to transfer \$163,350 from account 10-108-01 to account 10-500-72 for the purchase of the property with the stipulation that the Town Administrator will pursue financing to reimburse that account. Commissioner Melahn seconded the motion and the motion carried by a vote of four (4) to one (1); Commissioner DiStasio voted in the opposition.*
5. **Action to approve the Family Member Transfer subdivision of Tax ID #24100001 (approximately 9 acres of vacant land into three parcels located along Old Georgetown Road adjacent to the Pearl).** The Town Clerk explained this item and relayed to the Board that the Planning & Zoning Board has reviewed the matter and recommends approval. *Commissioner Melahn motioned to approve the Family Member Transfer subdivision of Tax ID #24100001 into three parcels, seconded by Commissioner Herman and carried by way of a unanimous vote.*

6. **Direct the Tax Collector to advertise tax liens in the April 23, 2009 edition of the Brunswick Beacon.** At this time the amount of property tax liens totals \$9,813.36. *Commissioner King motioned to direct the Tax Collector to advertise current delinquent taxes in the appropriate places at the appropriate times, seconded by Commissioner Herman and carried by way of a unanimous vote.*

CLOSES SESSION:

1. **Personnel Matters pursuant to G.S 143-318.11 (a)(6).** *Commissioner King motioned for the Board to enter Closed Session pursuant to G.S 143-318.11 (a) (6). Commissioner Melahn seconded the motion and the motion carried by way of a unanimous vote.*

Upon returning from Closed Session Commissioner Melahn motioned for the Board to enter Regular Session, seconded by Commissioner DiStasio and carried unanimously.

ACTION AS A RESULT OF CLOSED SESSION: *Commissioner DiStasio motioned to hire Mr. Silvers at the rate of \$9.39 per hour for the position of Town Services Technician I and subject to a 90-day probationary period; offer conditional upon satisfactory completion of a physical and a drug/alcohol screening. Commissioner Dixon seconded the motion and the motion carried by way of a unanimous vote.*

PUBLIC COMMENTS: none

BOARD COMMENTS: *Commissioner Herman read the following statement: “If the UDO and the citizen concerns need to be addressed with the intent of amending or scraping the ordinance of any reminance of Carolina Shores the UDO should be returned to the Planning & Zoning Board, the appropriate place, an advisory to the Board of Commissioners. This is the appropriate vehicle for establishing a sub-committee of the Planning & Zoning to address these concerns and advise the Board of Commissioners. Talk of conflicts of interest of prior Planning & Zoning, as unfounded as they are, would no longer be an issue and the current makeup of the Planning & Zoning Board should no longer be objectionable. The current Planning & Zoning consists of two merchants, two businessmen, one resident with government experience, and two ETJ members appointed by the County—all residents or soon to be residents of the Town. Approximately 100 people attended the Public Hearing and last night’s Meeting. However, we were all elected to represent over 1400 citizens. The current committee create is problematic for me. Clearly many of the merchants in attendance and residents at the Meeting had no idea of this committee, as one quickly stepped up to volunteer and was politely told by the Mayor that committee members have already been selected; Commissioner Forrest King, Merchant; Janet Thomas, a current or former employee of Forrest King; Mr. Abushakra, a current tenant of Forrest King, the Town Administrator and myself. Any resident or merchant wishing to be a part of sorting this out should have been welcomed with open arms to the committee. Had they shown interest prior to this, we may not have been where we are today.”*

Commissioner Herman then stated the following:

“I decline your appointment, Mr. Mayor, to this committee. I believe this is a circumvention of the long history of procedural tradition in this town and an insult to the Planning & Zoning members who give up their time and energy to guide this town.”

Commissioner Melahn said it is his concern that the UDO will drag on for months and months. The current Land Use Zoning Code is difficult to follow and violates State Statutes. He said the vote on the UDO has already been delayed for more than six months to be reviewed and changes recommended.

Mayor Clemmons relayed that he received a message from Jerry Pierce, Director of Brunswick County Public Utilities, informing the Town that the County is submitting for federal stimulus money to help fund the sewer project.

ADJOURN: *Commissioner Melahn motioned to adjourn, seconded by Commissioner DiStasio and carried by way of a unanimous vote.*

(seal)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk