

**TOWN OF CALABASH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
March 10, 2009 – 6:00 pm**

**MINUTES**

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

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

**STAFF PRESENT:** Ms. Kelley Southward, Town Clerk.

**GUESTS PRESENT:** There were approximately 75 guests in the audience.

**CALL TO ORDER:** Mayor Clemmons called the meeting to order at 6:00 pm and led everyone in the Pledge of Allegiance to the Flag. Mayor Clemmons welcomed everyone to the meeting, saying it was always good to have citizens input. The Board then took roll call; attendance is reflected above. Mayor Clemmons introduced Ms. Gean Seay, who will be the new recorder of the minutes.

**APPROVAL/ADJUSTMENT OF AGENDA:** Mayor Clemmons placed on the table the approval/adjustment of the agenda and brought attention to two items it was felt met the requirements of being recommended in good faith and importance that the board consider adding to the agenda.

The first item, Discussion/Action pertaining to "A" Frame Portable Signs (Old Business #5) would come under Old Business. There was a discussion regarding adding the item. *Commissioner King moved that it be added to the agenda, seconded by Commissioner Dixon. There being no further discussion, a vote was taken with all but one commissioner (Commissioner Herman) voting aye, and the issue was added to the agenda under Old Business as Item 5.*

Mayor Clemmons stated that the County had indicated that they were prepared to consider the Board's recommendation on the method of selection for sewer. This moving in concert with the bids would give citizens a pretty good idea of how much the assessments would be. In the interest of time and avoiding too many workshops, he asked Commissioner Melahn to consider the assessment selection being added to his workshop on Rules & Procedures. Commissioner Herman thought the Board had discussed holding off until the bids came back when they would know the actual cost of the project. Commissioner King said they were not proposing to say what the price would be, but picking the preferred method of repayment and didn't see why that part could be initiated. Commissioner Herman didn't have a problem discussing it in a workshop. Commissioner Melahn was concerned about the possibility of a lengthy discussion on the method of assessment and felt it might warrant a separate workshop. Commissioner

King suggested it be tied to the Rules & Procedures workshop; and if it went too long, it could be recessed to another day.

The third item proposed being added to the agenda was the Discussion/Action pertaining to Resolution #2009-03; consider approval of Resolution in support of Legislation Delaying the Implementation of the Rate Increases in Home Insurance (New Business #10). Commissioner King said this is an issue that affects everybody in town and with the County and the Legislature actively working on it right now, it needed to be acted on now if at all. *Commissioner Herman moved that the Board add the Resolution on Legislation to Delay the Implementation of the Rate Increase to New Business, Item No. 10. Commissioner King seconded. The motion passed unanimously.*

Ms. Southward asked if since they had done separate votes for 1 and 3, they wanted to do a separate vote for the second item, the piggy back, to amend Item 2, Old Business, to include a workshop for the assessments. *Commissioner King moved that they piggy back the workshop on the method of repayment to Commissioner Melahn's workshop for Rules & Procedures. Commissioner Herman added it was the method of assessment. Commissioner DiStasio seconded. The motion was unanimously approved.*

Ms. Southward asked if the Board wanted to add to the agenda any discussion on the absence of a Town Administrator as it related to the cost of current town projects and those going out for bids. Mayor Clemmons said two of the bids were under 10,000 and were initiated at the time the Town Administrator was present and had the money so they would technically carry over and that there was one project over 10 that someone would have to approve. Commissioner King said if it was over 10, it would have to come back to the board anyway. It was decided not to add it to the current agenda.

Commissioner King said in the absence of the Town Administrator in the Town Hall, somebody needed to have authority to spend money and asked if that should be addressed. Mr. Lewis suggested they name someone to act in the capacity of the Town Administrator. Commissioner Herman said the ordinance called for the appointment of an interim Town Administrator when the seat of the Town Administrator was empty. Commissioner King asked if the Board felt immediate action needed to be taken. Mayor Clemmons asked if the Board would entertain a motion to appoint an Interim Town Administrator, which would have the duties and responsibilities as a regular Town Administrator. *Commissioner Herman moved that the Board add No. 11 under New Business, appointment of a Interim Town Administrator. Seconded by Commissioner King. There was no further discussion and the motion passed unanimously. Mayor Clemmons added that would be with compensation.*

**ANNOUNCEMENTS:** *Mayor Clemmons asked for a motion to formally announce and accept the resignation of Vincent L. Long, III, Town Administrator. Moved by Commissioner Melahn and seconded by Commissioner Dixon. The Mayor added it would be with regrets on his part. There was no further discussion and the motion carried unanimously.*

Commissioner Herman asked if there had been a vote to accept the agenda as amended. For the sake of safety and time, *Mayor Clemmons asked for a motion to approve the agenda as adjusted. Moved by Commissioner Herman, seconded by Commissioner DiStasio. Unanimously approved.*

**PUBLIC COMMENTS:** Mayor Clemmons noted that public comments are limited for time's sake to 5 minutes and that there were some ground rules posted on the wall. Persons wishing to make a comment would come forward and state their name and address.

**Don Hege:** Ash, North Carolina. Mr. Hege stated he'd been involved in Calabash most of his life and that it had come to his attention that some people at Town Hall must not agree with his political views or they don't like him and he didn't give a damn. Mayor Clemmons said that was an inappropriate comment. Mr. Hege continued that he needed answers to a few questions concerning a recent complaint letter he had submitted to the town. He used a proper complaint form, which said it was to be investigated by the Town Administrator for closure. He said he wanted his complaint investigated and he wanted closure. He requested that the Mayor, not a Commissioner, investigate his complaint and take the necessary steps, that if he had broken any ordinances, he was hereby requesting any fines be submitted to him and he would be glad to pay them and wanted to know how this would be handled in the absence of an administrator.

The Mayor answered he had received the complaint while it was still hot, directed the Town Clerk to turn it over to the Town Attorney, and that as soon as he had the Mr. Lewis' opinion, appropriate action would be taken through the Board.

Mr. Hege suggested that it would be a good idea for the code enforcement officers to take a public relation course on how to deal with the public in enforcing the code, that they did not need to get in people's faces.

Commissioner Herman asked when Mr. Hege submitted the complaint, and he responded the 9<sup>th</sup>. Mayor Clemmons said he had received it this day and it was being processed.

**Bob Burris:** Mr. Burris said his comments dealt with Item 4 under Old Business and that he would like to speak at that time if it was appropriate and agreeable with the Board. The Board agreed that would be appropriate.

**Doug Baxley:** Mr. Baxley was with Mr. Burris and also preferred to speak while the Board was discussing Item 4 under Old Business.

**Jim Meyers:** Mr. Meyers wanted to speak under Item 4, Old Business.

**Leon Applegate:** Mr. Applegate briefly reviewed the history of the bond issue for building satellite campuses around the county and some of the buildings that are being constructed right now at the Brunswick Community College (BCC). He learned in August that a building of about 7 to 8,000-square feet was to be built on 10 acres of land on Thomasboro Road that was given to the county and that it would be done within a year or so. In January no or very little progress had been made on the site, because there was a problem with getting the building plans okayed by the State and the County Commissioners have to change the zoning on that piece of property. The Commissioners plan to have a public meeting on that issue and Mr. Applegate expressed the need for a good turnout at the meeting.

Commissioner Herman referred to a letter sent by Mr. Applegate to the Board referencing Mr. Halberstadt's involvement and the planning board at Bolivia recommending approval of the

variance to the County Commissioners who will meet in May for the final decision and asked if Mr. Applegate believed it would be on the agenda in May. Mr. Applegate didn't know and said it'd been left up to the County Commissioners and he would pass on anything he learned.

**Richard Mansfield:** Mr. Mansfield had been seen earlier but could not be located.

**Anthony Feilback:** 1815 Old Thistle Club Road. Mr. Feilback wanted information in the minutes regarding the meeting between Shallotte Partners, the Town Attorney, and Mr. Clemmons regarding the issuance of the conditional use permit and wanted that information forwarded to him and his counsel as to why the permit had been issued, contrary to the letter they received from the Town Attorney recommending that it be rejected. He further stated that he had been informed of this by Mr. Vince Long.

Ms. Southward said the opinion had been in a letter from Mr. Lewis and had been removed from the agenda the previous month because Mr. Lewis was unable to attend. Mr. Lewis said the recommendation was based on incorrect information.

**MAYOR'S COMMENTS:** Mayor Clemmons and two employees have visited the International Recording Studio on Georgetown Road at the invitation of DeCarol Williamson. The building also houses a transmission studio that transmits gospel music to the four corners of the earth right from Calabash. It is a very impressive building dedicated as Mr. Williamson indicated, to the glory of God. There are only two or three recording mixing machines to that scale in all the world, so right in Calabash, there is certainly a very impressive monument and he has made the facility available to the Town, Staff and Board, for use as a conference room with kitchenette and dining room. There is also a video conference phone for video calls with a large screen. He encouraged members to stop by and visit. Mr. Williamson will soon be building his home on The Pearl and has indicated that he wants to live in Calabash.

**APPROVAL OF THE MINUTES:** February 10<sup>th</sup> and 11<sup>th</sup>, 2009 - Commissioner DiStasio noted an error on page 10 of the minutes in the last paragraph, six lines down, which should read "Commissioner Melahn said he is not recommending censuring Commissioner King at this time".

Commissioner King noted on page 2, third paragraph, all five Commissioners voted, and it should be 3 (three) to 2 (two) instead of 3 (three) to 1 (one).

Mayor Clemmons asked Ms. Southward if the third sentence of the third paragraph on page 2 (*normally the Board votes on all proposed amendments to agenda at once*) was a side comment or if it had been said. Ms. Southward said it had been said, she believed by Commissioner Herman.

Mayor Clemmons noted on page 11 the 11<sup>th</sup> line in the last paragraph should read *getting too involved*.

Commissioner Herman said according to the Minutes, they had approved a Budget Ordinance Amendment contingent upon applying for financing and asked where the Town was in that process. Mayor Clemmons said it was to be addressed with the new Town Administrator and it had been proposed for closed session. Commissioner Herman said no, it was in last month's

minutes on page 13 and read from the Minutes: "With the stipulation that the Town Administrator will pursue financing to reimburse that account" and said to her knowledge, that had never fully acted on. The Mayor added that it was then still open to the Board's pleasure. Commissioner Herman asked why they needed the Board's pleasure, that it had been passed based on the stipulation, that she knew it was the Board's pleasure. The Mayor said alright, they would direct whoever. Commissioner Herman suggested possibly the Finance Director could do it. The Mayor said no problem.

With no further changes suggested, *Commissioner Melahn moved approval of the amended Minutes, seconded by Commissioner Herman. The motion carried unanimously.*

**CORRESPONDENCE:** The correspondence was from Mr. Applegate who had just spoken in reference to the correspondence.

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

**COMMITTEE REPORTS:**

1. **Fire Department:** Commissioner Herman left her written report at home but briefly described a meeting she had attended with Karl Bennett, Jerry Dale, and attorney Barrett Graham, who is a specialist in fire fighting law. The county held a meeting February 5<sup>th</sup> that she was unable to attend, regarding fire tax versus fire fees and the funding of departments in the county. Commissioner Herman met with him the following day to discuss different aspects of joint municipal departments and ways in which to fund the ever increasing cost of fire fighting. The Committee lost one of their members, Mr. Bobby Thorn passed away, and it was decided that the vacancy would not be filled. They welcomed a new board member, Ms. Acten, filling the seat for one vacated by the present chief Carl Naecker, when he accepted the position. Ms. Linda Bennett resigned her position on the Board of Directors and the Board unanimously appointed Karl Bennett to fill that. She thought it very important that there were more than 120 calls in the month of February (fire, miscellaneous, and medical), which showed it's been increasing and how important this department is to the community. She will provide a written report to the Town Clerk.

Mayor Clemmons said that one of the long time supporters of the Fire Department, Bob Crocker, passed away recently and asked that everyone keep in mind his family at this time.

2. **Planning and Zoning:** Written report attached and made a part of these minutes.
3. **Finance:** Commissioner King reported the interest rate was down and money in the bank was not doing so well, and added the first budget meeting was coming up Tuesday at 2 o'clock.
4. **Wastewater/Sewer:** Mayor Clemmons reported they were proceeding in two areas and hoped to have them back in the very near future, which will give them an idea of what the cost was going to be. That coupled with the assessment fee selection method will even further indicate the cost. What they don't know is how much possible stimulus money may be available from the county. They have recently met with the representative and applied for a 3 million dollar grant, which may be affected in part by the financial situation of our country. There are also two other possible grants and a

STAG grant through McIntyre's office, so they're doing all they can to help with the cost both now and in the future. He stated the need for sewer was evident in that there were more than 222 failing septic systems in Calabash and the Town had to do everything it could do to make sewer affordable to all their citizens, including the Calabash River. When asked if she had anything to add, Ms. Southward said she felt the representative was optimistic and thought the 3 million dollar grant was hopeful. The Mayor added that being on the fragile coast and adjacent to a river increased their points in applying for some types of grants. But win or lose, they were going to give it their best shot.

5. **Town & Merchant:** Commissioner King noted the economy was bad and there were a lot of businesses in town that were kind of on the edge and the Town would appreciate any support given to any of these businesses, that when needing something, they should consider local businesses and do a neighbor a favor. He also mentioned he appreciated the Fire Department holding a fund raiser to help rebuild the burned out wheelhouse of a long-time shrimper in Calabash.
6. **Stormwater:** No report.
7. **Long Range Planning:** Commissioner King reported there was nothing to report since the last meeting except that they did have two items of business coming up later on in the agenda.
8. **Ordinance Review Committee:** Mr. Cooper reported their first meeting was organizational. The purpose of the committee was to discuss the focus, including inputs and concerns of the public at the public hearing. A vision statement for the Land Use Plan was read and committed to, and homework was assigned; and the next meeting will be focused on General Provisions and Basic Definitions. They're presently working on definitions and interpretations and are about three quarters of the way through the UDO. He further stated that beyond the Committee's expertise, they were utilizing the staff and once the definitions had been completed, he expected things to move forward rather quickly. He encouraged additional input from the Board and the public and added the meetings were always open with an open agenda.

## **OLD BUSINESS:**

1. **Discussion/Action** to consider approving a contract for legal services submitted by Mark Lewis, Attorney & Counselor at Law. Commissioner Herman was concerned that Mr. Lewis' office had received three requests for rulings or opinions that had not been heard back from. One was sent on February 20<sup>th</sup>, one sent last week on public documents, and one just recently. She also felt that the gentleman from Thistle raised a very interesting point because the last information that the Board had to her knowledge, or that she had, was that the conditional use permit was to be revoked from Shallotte Partners. Mr. Lewis stated he recommended that in a letter and it was based on information that came from the Town Code Enforcement person, who later rescinded the information that he had given, so it was not applicable. He further stated that it was not done in a formal meeting but with the Town Administrator. Commissioner Herman felt one of the past problems was that communications weren't being shared. Mr. Lewis said three issues had been submitted to him and he immediately answered two of the three (on March the 4<sup>th</sup>). And on one of them, received Friday, he talked to the Mayor and decided it would be best to talk about it in closed session. Commissioner Herman said she had been very pleased with the matters he had handled. Commissioner King asked what he had received on Friday, and Mr. Lewis responded it was the letter

requesting information. Commissioner Herman asked how the contract would be interpreted if Mr. Lewis was unable to make a regular monthly meeting, and he responded that he didn't foresee that happening but the time would be credited. Commissioner Melahn said Mr. Lewis' presence had been extremely helpful in recent closed sessions, which was echoed by Mayor Clemmons. *There being no further comments, Commissioner DiStasio moved that the Board approve the contract for legal services of Mr. Lewis. The motion was seconded by Commissioner King and passed unanimously.*

- 2. Discussion/Action** to schedule a Workshop to review the additions/revisions to Chapter 30-Meetings (Rules & Procedures) of the Calabash Code of Ordinances. Commissioner Melahn explained that Chapter 30 dealt with the town government and that the general provisions in the existing ordinance have been pretty much carried forward with very few changes. Major changes fell in the category of meetings and procedures. Mayor Clemmons asked if he was going to add the assessment when he made the motion. Commissioner Melahn responded he would make the motion but could not schedule the workshop without a date. Several time periods were discussed, and March 26<sup>th</sup> was agreeable with all members. *Commissioner Melahn moved to schedule a workshop to review the additions/revisions to Chapter 30-Meetings (Rules & Procedures) and continue with a workshop pertaining to the definition of means of assessment for the proposed sewer system on the 26<sup>th</sup> of March at 4:00 pm. The motion was seconded by Commissioner DiStasio.* The Mayor explained the Board currently uses Robert's Rules of Order, an antiquated book of more than 600 pages, which the Board plans to reduce to a document of basic rules for conducting a meeting under Parliamentary procedures. The document would be open ended for adding new rules as needed. Commissioner Melahn added that Robert's Rules do not necessarily meet state statutes and the changes had been adapted from a book by Fleming Bell, II of Chapel Hill, N.C., The Institute of Government, written specifically for small town councils in North Carolina. The Mayor complimented Commissioner Herman and Commissioner Melahn for an outstanding job and said he expected it would be a great help to the Board. *There being no further discussion, the motion carried unanimously.*
- 3. Discussion/Action** to approve a technical revision to the February Budget Ordinance Amendment that combined Fund 72 and Fund 65. Commissioner King said the BOC had at their last meeting voted to close an account related to sewer and transfer the money to another account begun as buy down money for the current sewer project, basically streamlining and putting everything in one place. In that process, there was an incorrect account number in the Budget Ordinance Amendment. They had 72-100-00 and it should have been 72-397-10. *Commissioner King made a motion that the Board clarify that and make the appropriate change in the Minutes. Seconded by Commissioner Melahn. There being no further discussion, the motion carried unanimously.*
- 4. Discussion** of correspondence from Shallotte Partners. Mayor Clemmons asked that someone speak on behalf of Shallotte Partners. Mr. Bob Burris of the law firm of MacMillan, Pearce & Burris in Charlotte and General Counsel for Shallotte Partners came forward to speak. He stated that the Zoning Ordinance in the Land Use Plan as it presently exists encompasses what they were asking for, that the building height,

pursuant to the Zoning Ordinance, be 35 feet and that there be a provision as had been discussed in the quasi judicial hearing of December 2<sup>nd</sup> and the vote on December 9<sup>th</sup> to include 10 feet above the 35 feet of non-inhabited space for the roof, etc. He reiterated that the Board on December 9<sup>th</sup> had discussed and were of the opinion that the building regulation included the extra 10 feet above the 35 feet.

He read from the minutes of December 9<sup>th</sup>, 2009: "Upon returning from a short break, the Board discussed a Conditional Use Permit, attached hereto and made a part of these minutes, the Board added 35 feet to the eave with an additional 10 feet for the ornamental roofing, not to exceed 45 feet and not be habitable". He stated the Board voted unanimously to grant the permit. He then noted the Land Use Plan speaks very clearly in two separate areas: On page 2, No. 22, "It is the policy of the Town of Calabash that no residential or commercial structure shall exceed 35 feet in height [with additional height allowable (up to 10 feet) for roof, architectural, or ornamental features] and on page 81, "It's the policy of the Town of Calabash that no residential or commercial structure shall exceed 35 feet in height when measured from the ground level to the soffit. An additional 10 feet from the soffit will be allowed for the roof, ornamental/architectural features." The Zoning Ordinance states one thing, the maximum building height to be 35 feet. It is the opinion of Shallotte Partners that in the Land Use Plan, the Town has explained, clarified, and interpreted what that provision meant and that another quasi-judicial hearing and another vote seemed to be incorrect. The 45 feet and the 35 feet was in prior minutes, the Board had discussed it, it has already been before a public hearing and been before a vote; and to do it again when they had already voted on it seemed superfluous. The Mayor said he sensed Mr. Burris was rushing and that he would not be held to the 5 minutes allowed for Public Comments, they were now under Old Business. Mr. Burris thanked him and added that the Zoning Ordinance itself said where you start and end your measurement and that was 35 feet measured going up the wall. He summarized that their position was that the Board had already done it, there was nothing else for them to do except to say that's what they did.

Mayor Clemmons asked exactly what Mr. Burris was asking the Board to do. He replied, for them to say that was what they voted on, that's what they intended, that the building height should be 35 feet, which includes 10 more feet for roof and non habitable space. Commissioner DiStasio said the ruling had been rescinded because it was wrong, it was illegal and that as far as the Land Use Plan went, it was a vision, not the Ordinance. And the vision was to go along. In the [draft] UDO, they put the 35 feet plus the 10 extra; but as far as the Current Ordinance is written, the project is a multifamily dwelling and a multifamily dwelling is only 35 feet.

Mr. Burris said she was exactly correct but it was not rescinded as such because the Conditional Permit was issued saying 35 feet and called Commissioner DiStasio's attention to another provision in the Zoning Ordinance (153.015) which defined the word Building and said the height of a building was the vertical distance from the average sidewalk grade or street grade or finished grade and the building line, whichever was the highest, is to the highest point of the building. He added that the section was talking about exterior walls.

Commissioner Herman said the Land Use Plan was a 20-year vision for the town, it said that there would be bicycle paths and they didn't have bicycle paths now, the Land Use Plan didn't mandate them. The Land Use Plan and the UDO were being worked on at approximately the same time and the plan was to give the developer the extra 10 feet as the future development came about. She said the Town Ordinance had been very clear for many, many years that the highest point had always been counted as the peak of the roof. She continued that in §153.219 of the Conditions it clearly said when multifamily was put in a conditional use situation and moved it from a permitted use in R-8 that one of the conditions had to be no higher than 35 feet as defined by the current ordinance which has always been interpreted to mean from ground level to the highest point of the building, the peak of the roof.

Mr. Burris said he couldn't speak to what was done before, he only knew what he had read in the December 2<sup>nd</sup> and December 9<sup>th</sup> meeting minutes. Commissioner Herman said it was in the minutes that it was contingent upon a ruling from the Town Attorney that nothing was illegal, and then they got a ruling that it was. Commissioner DiStasio agreed it was written as being contingent. Commissioner Herman continued that the Attorney said the Ordinance clearly stated it was 35 feet to the peak.

Mr. Burris said with all due respect he felt that was an interpretation and not a ruling; and it appeared to him that the Land Use Plan interprets what 35 feet means. Commissioner Herman said not at all, it was written to change what the height meaning was and to add the additional, it was not to interpret the current ordinance but was a vision for future development to allow additional ornamental roofing so they didn't have Bronx tenements with flat roofs. She said the Land Use Plan had no muscle in and of itself; its muscle came from the Ordinance and the Ordinance currently states 35 foot maximum.

Mayor Clemmons said he totally agreed with the strictest interpretation, that it was 35 feet period; but on the other side of the coin, when ordinances are written, they should reflect the Land Use Plan and that is often a condition of applying for grants. Mr. Burris said he wouldn't argue but asked they also take a look at 153.015, that he believed it meant the building should be measured from the sidewalk up the wall height. The Mayor said he believed it was a mute issue because the Board was saying it was okay if the UDO was passed but right now it was not okay.

Commissioner Melahn said he believed the discussion was that the 35 feet was the stipulation on the Conditional Use Permit and that was to be revisited even if the UDO had been passed. Commissioner DiStasio agreed that they were asked if they could come back after the UDO was passed and the building hadn't been built yet, could they go above 35 feet. It was to stay 35 feet until the UDO was passed.

Commissioner King said when he remembered a project being held up for months and months and months because of the Land Use Plan and that although the Land Use Plan was not law, it was supposed to carry a lot of weight. He added that changing the current Ordinance had been considered just a couple of months prior but nothing had been done. Mr. Burris said everyone seemed to be in favor of the project, that it had been approved unanimously when discussing the 35 and extra 10 and that if the Board felt that way, they would ask that they go ahead and change the 35 feet and do it as

soon as possible, at least before the April meeting because the delay was like a snowball that continued to get bigger and bigger and they didn't want the delay to get so long that the project was no longer feasible.

Mr. Lewis said he was not at the December meeting when the Board passed the Conditional Use Permit subject to his legal approval. The PUDs in Calabash under the current Ordinance allow 35 foot with the additional 10 foot non-inhabitable but this was not a PUD and therefore did not come under that. The Zoning Ordinance says 35 feet period, not 35 feet plus anything. He said all he could suggest to the Town Board is that because it was a Zoning Ordinance and the issue of the Land Use Plan, which was a planning document as stated by Commissioners Herman and DiStasio, if it was the pleasure of the Town Board, they could move to amend the Town Ordinance to allow the extra 10 feet and hold a public hearing on it. His recommendation would be that if it was done, it be done as a zoning amendment.

Mayor Clemmons said they could go to Town Hall and apply for a Zoning Amendment request and state exactly what you're asking the town to amend. Commissioner DiStasio said it would have to go to Planning & Zoning first. Mr. Burris said that had not been their understanding, which is the reason the letter had been worded the way it was. Commissioner Herman said the current Ordinance gave the definition of building height as the vertical distance from the outer sidewalk grade or street grade or finish grade and the building line whichever is the highest to the highest point of the building, which was to her, the peak. Someone from the audience commented that it was old and needed to be changed prompting Commissioner Herman to say she agreed and that was one of the reasons it had been incorporated in the UDO, because it was old but not everything that's old was bad. Commissioner Melahn believed the height is 35 feet period. Commissioner King agreed that the Ordinance reads 35 feet but he had based his opinion that night on a paragraph read by the Town Administrator that seemed to authorize that the Board take the rules and regulations from other sections. He added that they did make the motion to pass it, granted that everything was legal about it. He felt things were a month and a half to two months behind because they didn't start the ball rolling on the change. Commissioner Dixon agreed that it was 35 feet.

Mayor Clemmons summarized that it was the position of the Board that it was 35 feet period and they also had from the attorney the means of a request for amendment to the Ordinance. Commissioner King asked if there was a current ordinance requiring that it had to go to the Planning Board before it went to the Board of Commissioners. Commissioner Herman said that was the procedure. Commissioner King said they get out of line with procedure all the time. Commissioner DiStasio said why bother to have a Planning & Zoning Board if you were not going to use them according to procedure. Commissioner King said they had built the project up for some time and time was money. He felt if they agreed to change the current ordinance there should be some way to streamline it.

Commissioner Melahn said the Ordinance required prior to the next meeting. Commissioner DiStasio said it couldn't be prior to the next meeting. Commissioner Melahn said the Board would have to agree that it be something advertised to have a public hearing.

Mayor Clemmons asked Ms. Southward if it had not been sent to the Planning & Zoning Board and they indicated they did not want to take action on it. Ms. Southward said the matter of height went before the Planning & Zoning Board in January, regarding the definition of height as it was worded in the UDO, not in the current Ordinance and that they tabled that in January until March. Mayor Clemmons asked why they came back and said that was already in the UDO and they were not going to act on it. Commissioner King said they had done that twice.

Mr. Lewis said if they scheduled a public hearing before the next Board Meeting, that was a month off and ask the Planning & Zoning Board to give their input, that could be a part of the Board's decision because they could be against it and the Board could still vote for it or they could be for it; but that would give a month's time. He asked if that was not enough time. Commissioner DiStasio said they could not vote on an issue at a public hearing, so there would be another month to go. Commissioner Herman asked Mr. Lewis if a copy of the ordinance was available for the public when a public hearing was advertised. He responded "exactly". She said they could then schedule the public hearing but it would have to be advertised the required time. Ms. Southward said she would check on the time. Mayor Clemmons said in view of the pressing issue and how much time was already involved, there was no reason the Board could not act on the same night of the public hearing. He asked the Board to consider expediting the issue. He added that Mr. Burris needed to petition the Ordinance change. Ms. Southward stated that 153.075, Changes and Amendments: The Board of Commissioners may on its own upon recommendation of the Planning Board or upon application by any person, amend, supplement, change, modify, or repeal the regulation or district boundary established by this chapter. Commissioner Herman asked for clarification on the "on our own".

Commissioner Melahn said the Board had been told that the height was not an issue until the actual construction began because of all the infrastructure design and what have you could be put in place. Mr. Burris said that was basically correct but the problem with that was that if they did the plans for a flat roof at 35 feet and start with that and then find down the road they can do the extra 10 feet, they have to do a complete change – or vice versa, which in either case would mean starting all over again.

Mr. Lewis said he'd be happy to draw something up at the pleasure of the Board. Commissioner Herman said it would seem appropriate to her that Mr. Burris submit the request and Mr. Lewis draw up the Ordinance change. Mr. Burris said he would be happy to submit the request. Ms. Southward said the Board might want to keep in mind that an Ordinance such as they were suggesting already existed in the UDO if they wanted to word it the way it was in the UDO. Commissioner Herman said they could make a determination once they got the request. Mr. Burris said they would have the request in the morning.

Jim Myers was recognized and said he had written the letter because he had understood it was what Mr. Lewis had said but he may have been mistaken. He also pointed out that after their meeting with some engineers that the project could have 246 units but they were staying at the 216 that was already approved because they wanted to have a

good project. Commissioner Herman said she was with him until he said he could have 246 units and she certainly wanted to see that engineering report. He said he would be happy to show it to her but it would not come up, he just wanted to indicate that he was trying his best to work with everyone for the best quality project. He asked if they were to request a public hearing the same night of the Town Council meeting or the Tuesday night before like they had done in December. Commissioner King said it would have to follow the regular meeting because the document had to be on display for a certain period of time prior to the public hearing. Ms. Southward said after they filled out their paperwork, it would normally go the Planning & Zoning Board, which would make a recommendation, and the Board of Commissioners would schedule a public hearing but there had to be enough time in between when the Commissioners advertises the public hearing. Normally if something came before them in April to schedule a public hearing, they would schedule it for May.

Mr. Lewis said Mr. Myers had two attorneys present, both very capable; and it was as simple as just requesting that the Town amend its Ordinance giving you a height to be consistent with the zoning.

Mr. Feilback respectfully requested the Town and Mr. Myers address the adjoining issue of the incompatible use and the impact of where this project was sitting. They share a 2250 foot property line with the project and the impact on their real estate is a big factor in the equation. He added he did expect the Town and the Mayor and the Board to respectfully take a look at what was going on, especially if they were going up with a 45-foot height limit next to a single family residential community, that nobody wanted a 3-story building in their back yard. His concern is not with the project but with the buffer, the setback, and the impact.

Mayor Clemmons said he understood that the prior Town Administrator, Mr. Feilback, and Jim Myers walked the property and reached some consensus. Mr. Feilback said there had been a conversation but it was all soft conversation. Mayor Clemmons asked Mr. Myers if they were talking about 2 stories on the buffer. Mr. Myers said it had been brought up as an economic issue and much to Commissioner Herman's dismay, Mr. Long suggested that if they lowered the building, maybe they could add another building and get more density; but economically it would not work. He said there was a difference between a gated community and an apartment complex and it would be a direct impact. Commissioner King asked if the property was not zoned highway commercial. Mayor Clemmons said the perimeter was but it was Williamson property. He added it was his understanding that once a property was zoned, the owners had by rights permitted uses and they certainly had a right to build multifamily. Commissioner Herman said not by right, it was not a permitted use in R-8. The Mayor added with a conditional use permit and if they met the requirements, anyone had a right to build within those parameters. Mr. Feilback said he also had the right to object to the nature of an incompatible use between adjoining properties and have that brought into consideration and even brought back into the procedural side that wasn't even technically brought before the Planning & Zoning Board. He didn't want to bring all this up again but would if he had to. He said it was not a scorched earth policy; they just wanted to come up with a solution. Mr. Feilback said they had sent two letters, the first was not responded to and the second letter was after a meeting with Vince Long and it

was to the attorney who had chosen not to respond to the issue because he said the information was incorrect. He said the solution would take concessions from the Town, just like the Town gave the ability to put that many units when 178 is what was actually approved by the zoning. Commissioner Herman said 180. Mr. Feilback said the P&Z pumped it up to 2 so they rounded it up, and that was what was approved by Planning & Zoning but then the whole thing was tabled. But the modifications that were happening during the public hearing didn't go through any of that.

Mayor Clemmons said he operated best from a request that was to the point and he thought the Board needed to know succinctly, you say incompatible and then give your empirical proof of setbacks, etc., etc.; but just saying incompatible was not enough. Mr. Feilback said the aspect of multifamily nature of the impact relative to a single family community was all based on what was going to be there to buffer the two properties so they don't negatively impact the value of the other. The Mayor said he had been told it was even difficult to see the 35-foot structures; Mr. Feilback said he hadn't been out to the property recently and he would love to have him come out. The Mayor reiterated that he needed empirical descriptions. Mr. Feilback said he could see the telephone poles from Georgetown Road, which were up to 1300 feet away.

Commissioner DiStasio asked if one the five things required in the conditional use permit wasn't the impact on the community and the nearby area. The Mayor replied that was in the Zoning and that another was that it conform to the Land Use Plan. Mr. Lewis said the Town Board was not there to serve as an arbitrator between Mr. Feilback and Shallotte Partners, they both had attorneys; and they had issues that they may be able to solve through attorneys or otherwise. He continued that the Town's job was to receive the application for the Conditional Use Permit and go through the process of granting the permit, which they did. They can pass ordinances and amend their ordinances, that's their job. Their job was not to be an arbitrator. He encouraged Mr. Feilback to talk through his attorney with the attorneys of Shallotte Partnership and see if they couldn't work it out. Mr. Feilback said part of the issue did have to do with what the Board did and how it came about. Mayor Clemmons said he went to the setbacks and the drainage ditch and without going on the property and having reviewed a number of subdivision projects, as long as you meet the required setbacks and buffer materials, the Building Inspector and Zoning Administrator ensures that; and as far as he was concerned, the Town and the Board met those requirements when they approved it. He added it might be up for discussion whether that was enough.

Mr. Feilback asked if they were not considering modifying the height from 35 to 45 feet, didn't the buffer need to be addressed in coordination with that, because the impact would reach further out. Mr. Lewis stated he was not Mr. Feilback's attorney but advised that just as Shallotte Partners could ask for an amendment to the Zoning Ordinance and public hearing to change the height, he could do the same thing and request that if that was done, that the Zoning Ordinance Amendment also include whatever provision he thought was appropriate as far as buffers. Mr. Feilback said fair enough. Mr. Sisk asked what the apartments were going to rent for, and Mr. Myers said he thought the 1-bedrooms were 780 and the 2-bedrooms were going to be 895.

5. **A-Frames** Stanley Dills, Building Inspector, requested that the Town Administrator make a ruling on the enforcement of the ordinance prohibiting temporary freestanding

“A-Frame” signs. Commissioner King said the signs had been used in Calabash as long as he had been coming to Calabash, especially for the advertising of oyster roasts. He did not believe allowing the signs would result in everyone putting one out. Commissioner Herman said they were currently prohibited and she thought when they worked on the UDO it was for special events, that they were called temporary signs. Commissioner King said oyster season carried over longer than just one 14-day period and that presented a problem. Commissioner Herman thought everyone putting out a sign would be counterproductive, but the current rule was for special promotions or sales to attract new customers. Commissioner Dixon said there were only a couple of restaurants in town that had an oyster roast, that the town had been built on oyster roasts on sawdust floors 50 to 60 years ago, and it had to be advertised. Mr. Hardee said he’d had a sign in front of his restaurant for 45 years and he was not going to take it down. Mr. Sisk asked if he could just put one out on Mondays to advertise that he was open for dinner on Monday nights. Commissioner Herman replied he could put it out for 14 days. Mr. Sisk asked if he would have to get a permit every 14 days and she replied yes but only once a quarter because that was what was written in the Planning & Zoning Ordinance ~ a temporary portable business sign promoting a special event or a sale for a business shall be permitted for a period not to exceed 14 days and may be utilized once per quarter. It shall not exceed 6 square feet per sign, not more than two sides per sign, shall only be permitted during business hours and shall require a no-fee permit. Signs may not be placed in the public right-of-ways, on sidewalks, or in a manner that could obstruct vehicular line of sight. Any other sign regulations pertaining to placement, content, form, etc. must be complied with. She felt the issue pertaining to right-of-ways was a state law.

Mr. Sisk asked why they couldn’t just let people put one out and rescind it if it became a problem. Commissioner King said he agreed it should be for advertising something special, like oysters during season, pizza special, etc. Mr. Sisk said he did supper for the Lion’s Club and the church. Commissioner King said he was not in favor in permanent signs, that it should be advertising some kind of special, something out of the ordinary. Commissioner King said there should be somewhere where he could have his hours of business on his business sign. Commissioner Herman said the bottom line was if it was in the ordinance, it needed to be enforced; and if it was not a good ordinance, it needed to be revoked, that enforcement needed to be consistent. She said the Planning Board had rescinded their recommendation but originally recommended a temporary ordinance beginning April 1<sup>st</sup>.

There was a motion from the floor that there be a committee formed to go over all the rules and come back to the Board with a recommendation of the good ones and the bad ones. Commissioner Herman said there was such a committee, a Citizen Review Committee of the UDO. Mayor Clemmons invited everyone to join the next meeting of the Committee Tuesday of the following week at 5:30 for their input.

There was a recommendation from the floor from Mr. Spatholt that there be a number of days given for use of the signs per year, to be used at the owner’s discretion, that it was not the place of the Board to tell people how to run their businesses. He continued that business owners would not put a sign out that would detract from their business. Commissioner Herman replied they already had, that signs were in the right-of-ways,

and it was against the law. The speaker said just like the Town Hall sign right out front. He said how could Calabash not be allowed to have a sign out for oysters, that the town was changing and members on the Board were the reason.

Commissioner King said he had a letter from the Building Inspector asking for a ruling. He asked if they could make a ruling on a trial basis. Mr. Lewis said the Board had the absolute authority to tell the Building Inspector to either enforce or not enforce the current law, especially since they were obviously considering a change in the rule. Commissioner Herman said the ones currently out were in violation of the law and challenged Mr. Lewis to tell her she was not there to uphold the laws of the Town of Calabash, that she was there to arbitrarily decide what ordinances they would and would not enforce. Mr. Lewis replied if she was going to enforce the ordinance, she had to do it across the board; and if she thought an ordinance was wrong and her intention was to change the ordinance, he thought it was perfectly reasonable to tell the Zoning Administrator not to enforce the code ordinance at this time. Mayor Clemmons added there had to be the caveat of pending Board action or final resolution. Mr. Lewis said this would not be saying it was legal, just that it was not going to be enforced while it was under review. Commissioner Dixon said the butterfly signs in Shallotte had been out for years and he didn't understand the 14 days. Commissioner Herman said the original April 1<sup>st</sup> date was to be in time for the Easter crowd. The Mayor asked for a motion to hold the current ordinance on temporary signs in abeyance. Commissioner Herman said she had a problem with the ones that were not promotional. Commissioner King said he would make it his mission to personally speak to individuals who had non-promotional signs and not harass them in any way until they had a chance to come up with a resolution. Mr. Sisk said they hoped to have a merchant association to work and coordinate with the Board and have a member of the association be a liaison to the Town Hall and the Commissioners. Commissioner Herman said she didn't have a problem with ignoring promotional signs. Mayor Clemmons asked for the Board's pleasure.

*Commissioner King moved to hold in abeyance the enforcement of the Ordinance pertaining to temporary, portable A-Frame promotional signs pending the Board's action. Seconded by Commissioner Dixon. Discussion ensued throughout about singling out promotional instead of across the board. The Mayor clarified that it would be held in abeyance until such time the Board could review and make any amendments and then go with a public hearing, and that the normal procedure would be expedited. The motion passed unanimously.*

The Board recessed from 8:33 to 8:45 pm.

## **NEW BUSINESS**

- 1. Grievance Procedure** Mayor Clemmons reported a review of the grievance procedure indicated that any grievance should be submitted within one month of the event happening. He stressed that there were many reasons for not sitting on a grievance; but if the grievance was related to discrimination or sexual harassment, then the State law comes in and they would need more than a month. He encouraged the Board to have some informal procedure for a grievance more so than interdepartmental. He has

contemplated recommending to the Board appointing what he would call a morale officer. He asked Commissioner Melahn to review the present grievance procedure and bring it in compliance with state and federal standards in the areas of discrimination and sexual harassment and that they review the one-month period. Commissioner DiStasio said that would be under the Personnel Policy and she didn't understand what his problem was. The Mayor repeated his prior comments to which Commissioner DiStasio said she didn't have the document with her and didn't know what it was. The Mayor asked that she meet with him to review it and she agreed.

2. **Building Inspector's Status** exempt or non exempt/salary or hourly. Commissioner DiStasio said Chris May had talked with Dr. Diane Juffras of the UNC School of Government who was an expert on employment law, and she said the Building Inspector is not an exempt position. She will forward this opinion as soon as she receives it via e-mail.
3. **S. Preston Douglas & Associates, LLP** To consider approving the contract between the Town and S. Preston Douglas & Associates, LLP, for accounting/auditing purposes. Commissioner King reported the company had taken care of their books as well as the ABC Store for sometime and they knew and trusted them, and they had done a good job in the past. He recommended that they renew the contract. *Commissioner DiStasio moved approval, seconded by Commissioner Herman. There being no discussion, the motion carried unanimously.*
4. **Tax ID# 2410000102** To consider approving the Minor Subdivision of a 94-acre parcel proposed to be subdivided into 2 parcels. Ms. Southward apologized and said the subdivision was exempt and not a minor subdivision. It is the 94-acre parcel owned by Ocean Isle Investment Company, and they were proposing to break out 10 acres of the 94 in the parcel. There would remain an access easement that would remain with Ocean Isle Investment Company. Commissioner Melahn clarified that they were asking to subdivide in accordance with General Statute 160A-376(a)(2) and that it was basically an exclusion according to the State of North Carolina. *Commissioner Melahn moved that the Subdivision request, Tax ID#2410000102 should be subdivided into two parcels, appears to be an exclusion to the Subdivision Ordinance according to GS 160A-376(a)(2) and be approved. Seconded by Commissioner DiStasio. The motion carried unanimously.* Mr. Lewis said they didn't need to take their vote back but since it was exempt, it didn't need to be approved, it just had to be stamped.
5. **Fire Department** Exploring the possibility of the Calabash Fire Department becoming a joint municipal fire department with Carolina Shores. Commissioner Herman recommended the Board meet with the Carolina Shores Board of Commissioners for a presentation by Attorney Barrett Graham, who was familiar with a municipal fire department formed by four small towns in Carteret County. The effort with expected completion by late summer would provide a blueprint if the two towns were to move forward with considering a combined municipal fire department. It is felt State Legislative approval was not necessary and with the will of the governing boards of the towns, an agreement could be drawn up by their attorneys in consultation with the county attorney. Mr. Graham would be available as well to provide his expertise.

Commissioner King felt the relationship between Calabash and Carolina Shores was much different than the relationship between the four small towns Commissioner Herman had mentioned, he doubted they had been divorced. He added it was a very complicated issue and the Board had to make sure they didn't wind up at any disadvantage, because there were personalities currently on their Board that had been a part of past conflicts. Commissioner Herman said that was exactly why she felt it should be a joint meeting so both boards could hear the same words and understand the same statements rather than interpretations. She said Attorney Graham had made it very clear at a meeting on fire funding that not for profit fire departments are not going to survive as the cost for fire fighting increases and another alternative has to be found. She felt he was very clear that statewide, going to the county was not a viable option and losing local control was not a good idea. She didn't know whether either town felt a joint municipal fire district was economically feasible. She reiterated that she was not asking for a vote for the idea but just for a joint informational meeting, that it was time to grow up and work together for the benefit of the citizens.

Commissioner King said he thought part of growing up was experience and he had experienced it before. He reiterated that he felt it was a complicated issue, the two towns had a past history, there were still personalities on both boards that were involved in that conflict and anything they do had to be looked at very carefully. Commissioner King said a little bit of experience comes with maturity and he didn't appreciate the questioning of whether or not he was grown up yet. Commissioner Herman said she wasn't talking about him, there were some on that Board that needed it, too. Mr. Hardee said the main one was still on that Board that caused Calabash and Carolina Shores to split. Commissioner King added that was the main one that was pushing the combined fire department.

Mayor Clemmons said his only concern was that had only 1400 people and maybe 800 full time residents and Carolina Shores had triple the population and tax base; but they always want Calabash to pay the same, 50/50 and in some cases it had been 80/20 with Calabash taking the blunt. He was afraid that they would want Calabash to be on an even 50/50 basis. Commissioner DiStasio said there was nothing being said about merging right now, just listening to the man. The Mayor said he was just giving the Board a heads up past history and he didn't want to go down that road again.

*Commissioner Herman moved that they set a joint meeting with the Carolina Shores Board and the Calabash Board to have a presentation by Attorney Barrett Graham regarding the formation of a joint municipal fire district. Seconded by Commissioner DiStasio. The motion carried 3 to 2 (Commissioners King and Dixon voting nay).*

Discussion followed about setting a date and the fact that Calabash had refused a joint meeting with Carolina Shores and the Sheriff's Department until they had an initial meeting without Carolina Shores, which was their prerogative.

- 6. Traffic Calming Solutions** Mayor Clemmons reviewed a handout on "radarsign" that detected speed, counted number of vehicles, and the time involved. The sign could be mounted on a small utility trailer. He suggested the Board review this item for possible inclusion in next year's budget. A "radarsign" positioned by the county in front of the day

care was reported to have been slowing people down. The cost of a unit is \$3500 with \$270/year for maintenance. The county has three units and they break down on a regular basis. Commissioner Dixon suggested the sign stopped working because Calabash had 35 mph and Carolina Shores side had 45 mph and the machine didn't know what to do with it. The mayor encouraged members of the Board to consider this item in that it would increase community safety.

7. **Task Order #2, Master Plan Development by WK Dickson** To consider approving Task Order #2-Preliminary Mast Plan Development by WK Dickson. Commissioner King explained the plan was related to the 10 acres just bought next to Town Hall and how to best utilize it so it would meet the Town's needs for the next 15 to 20 years. The agreement would include wetlands delineation to see how much land was buildable, holding public hearings and workshops to get input from the public, and possibly some mailings for public input. *Commissioner King made a motion that the Board sign the contract for Task Order #2 and give WK Dickson permission to begin work on the Master Plan. Commissioner Melahn seconded and there was discussion.* Commissioner Herman wanted a clarification on Task Oder #2 Preliminary Master Plan, that the \$19,550 was the total cost. Commissioner King said that was the total cost for everything she saw listed and that if the Board asked WK Dickson to go outside the parameters of the contract on the table, there would be additional cost for that. Commissioner Herman said that seemed reasonable and then asked how long they were being given. Commissioner King said he had been told they should have it done within 90 days. Commissioner Herman said she didn't see the need for an accelerated schedule.

Commissioner DiStasio asked if they wanted to do this now or put it in next year's budget, if there was fund money available at this time. Commissioner King said there was money in Professional Services. Mayor Clemmons asked if Mr. Lewis had been privileged to look at the contract. Mr. Lewis replied he had not. Mayor Clemmons suggested that in the future any agreements or contracts go through the attorney. *Commissioner King amended his motion to add "subject to attorney's review and approval".* Commissioner DiStasio wanted assurance there was available money and was reassured by Ms. Southward, in Professional Services.

*Mayor Clemmons called for a vote. The motion carried unanimously.*

8. **Task Order #3, Roadway Assessment Program by WK Dickson** To consider approving Task Order #3 – Roadway Assessment Program submitted by WK Dickson, a proposed contract/agreement between the Town and WK Dickson for a road assessment survey, to include assessment of roads currently in town limits as well as 3.5 miles of roads in the proposed annexation area. Commissioner King reviewed the issue with the Board and estimated a cost of about \$13,000. Mayor Clemmons added it would come out of Powell money. *Commissioner King moved that the Town enter into a contract with WK Dickson for the Task Order #3, the Roadway Assessment Program, subject to the attorney's review and approval. Seconded by Commissioner Dixon.* Commissioner Melahn said he hadn't seen too much of what WK Dickson had actually accomplished and he suggested tabling the item based on satisfactory completion of Task Order #2. Commissioner Herman said she would say do it the opposite way.

Commissioner King said they had done everything they'd been asked to do so far. The Town asked them to apply for grants and they had got them in line now for in excess of 3 million dollars. He had no doubt about their doing what they said they would do. Commissioner Melahn said he would just feel more comfortable seeing something of this nature that they had done before the Board made a decision but he wasn't saying no.

Commissioner Herman said the roads were 20 years old and that she had been asking for several years to have some kind of prioritization of paving and now they finally have a consultant and if they weren't happy with their work, they didn't have to pay them. Commissioner Melahn said they also had a predetermination clause in both contracts, but he just wanted to voice his concerns. Discussion followed on various pothole locations and sizes.

*There being no further discussion, the motion was carried unanimously.*

**9. Town Administrator Position** Mayor Clemmons said calls had already been placed to the three that had been available for the last interviews. Ms. Southward reported that all three were available and interested. The Mayor asked how the Board wanted to proceed. Commissioner DiStasio said if none of the three were acceptable, they could advertise in the paper. Mr. Hardee said they ought to hire all three of them because it would take all three, the way the Board was getting rid of them. Commissioner Herman suggested they proceed with interviewing the three by contacting them for availability dates. It was decided that Ms. Southward would make arrangements for the interviews at which time a special meeting would be called.

**10. Delay of Rate Increases in Home Insurance** Each Commissioner had before them a resolution in support of Legislation delaying the implementation of the rate increases in home insurance by William M. Sue, Chair of the Brunswick County Board of Commissioners. *Commissioner King moved approval of the Resolution, seconded by Commissioner Melahn, and the motion carried unanimously.*

**11. Appointment of an Interim Town Administrator** *Commissioner Herman made a motion to appoint Kelley Southward the Interim Town Administrator. The motion was seconded by Commissioner Melahn. There being no discussion, the Board voted and the motion carried unanimously.*

## **CLOSED SESSION**

*Pursuant to G.S. 143-318.11 (a)(6), Personnel Matters, Commissioner DiStasio moved that the Board go into Closed Session. Seconded by Commissioner Melahn and carried unanimously. The Board moved into closed session at 9:27 p.m.*

*Upon returning from Closed Session at 10:02 p.m., Commissioner Herman moved that the Board enter into Regular Session, seconded by Commissioner Dixon and carried unanimously.*

**ACTION AS A RESULT OF CLOSED SESSION:** There was no action as a result of the Closed Session.

**PUBLIC COMMENTS:**

**Jennings Edge** Following a comment by the Mayor that the Board worked hard, Mr. Edge said maybe the Board worked too hard.

**BOARD COMMENTS:**

Regarding the sewer project, Commissioner Herman asked if it had been put out for bid yet. Ms. Southward said DOT had been delayed by the stimulus money but the planner expects to either have a permit in hand by the end of the month or knowledge of whether or not they will receive one.

Ms. Southward said some Board of Adjustment Member terms are coming up in April so they will be on the next agenda and asked if the Board would like her to advertise the positions or see if the members coming up for reappointment want to be reappointed. Commissioner Herman said she thought that would be the recommendation of the Chairman and whether anyone was going off. She said it takes awhile for members to get up to speed but she also understood there had been accusations of conflict of interest so she didn't know how the Board wanted to deal with that. Mayor Clemmons said he had not been privileged to be given that information but it should be given to the attorney. Commissioner Herman said there were Planning & Zoning Board members on the Board of Adjustment because sometimes they were appealing a Planning & Zoning ruling or decision.

Ms. Southward said it had not happened to her knowledge since she'd been with the Town but it could be a possibility. Mayor Clemmons said the Chairman of the Planning & Zoning Board was on the Board of Adjustments, and Commissioner Herman said someone else was as well. Ms. Southward added that Mr. Keefe was on the Board. Mayor Clemmons asked if they would not abstain from voting on anything that presented a conflict of interest, and Mr. Lewis said if there was a conflict of interest, they should not vote. Mr. Lewis said they would have to request to be recused from voting. Mayor Clemmons said the Board would just make sure the Chair understood the procedure involving conflicts of interest.

A member of the audience reported Carolina Shores had a radarsign machine and perhaps Calabash could borrow theirs because there hadn't been an overflow of requests to have it put in front of anybody's house. Mayor Clemmons said there were speeders especially on Persimmon Road and Beach. A discussion ensued in which it was brought out that the town would not be able to put the signs on any state roads.

**ADJOURN:** *Commissioner Herman moved to adjourn, seconded by Commissioner DiStasio and carried by a unanimous vote.*

(seal)

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Anthony Clemmons, Mayor

Attest:

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Kelley Southward, Town Clerk