

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, NOVEMBER 10, 2009-6:00 P.M.**

MINUTES

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

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

STAFF PRESENT: Interim Town Administrator/Town Clerk Kelley Southward and Town Attorney Mark Lewis.

GUESTS PRESENT: Approximately twenty-five guests were in attendance.

CALL TO ORDER/PLEDGE/ROLL CALL: The Mayor called the meeting to order at 6:00 p.m. and led the Pledge of Allegiance to the Flag. Roll call of the Board was taken; attendance is reflected above.

APPROVAL/ADJUSTMENT OF AGENDA: Removed from the agenda was the Presentation of the 2008/2009 Audit as well as New Business #8 consideration of approving the 2008/2009 Fiscal Year Audit. A Community Service Report was added to the Committee Report portion of the agenda. *Commissioner Melahn made a motion to approve the agenda as amended, seconded by Commissioner King and carried unanimously.*

PUBLIC HEARINGS: The Mayor asked for and received a motion by Commissioner Melahn to proceed to the Public Hearings. Commissioner Dixon seconded the motion which carried unanimously.

1. Receive public comments regarding a proposed amendment to §153.306 of the Calabash Code of Ordinances-add Section C provisions for Packed Parking – if approved, this ordinance would add provisions for allowing packed parking under certain conditions. (Calabash Ordinance Amendment #2009-11-01)

Commissioner King read the item for the audience. There were no public comments forthcoming. Ms. Southward explained that the ordinance would be used when everyone arrives and departs from an event or business at the same time (allowing 4 rows of packed parking). The Planning and Zoning Board recommended that the total percent of the aggregate parking be reduced from sixty-seven to fifty percent. As there were no further comments, the Mayor closed this public hearing.

2. Receive public comments regarding a proposed amendment to §153.140(A) of the Calabash Code of Ordinances-if approved, this amendment would allow Telephone Promotional Sweepstake businesses as a permitted use in the Central Business zoning district. (Calabash Ordinance Amendment #2009-11-02)

Commissioner DiStasio read the item for the audience. Commissioner King provided an explanation. As the current Calabash Code of Ordinance does not contain Telephone Promotional Sweepstakes, which makes the Town in violation of state statutes, and the Board has ruled that such businesses are approved, the amendment will be added to the Town's ordinances. Commissioners addressed a question posed by Mr. Don Hege of Ash as to what would happen if the state made such businesses illegal. Commissioner Herman asked Mark Lewis about the injunction and whether Telephone Promotional Sweepstakes are permitted. Mr. Lewis stated that there was confusion regarding this type of business and Internet gaming and sweepstakes. He stated that there were bills pending in the legislature to close "loop holes." He stated that the town can proceed as it chooses, that there are many differences of opinion on how the town can proceed.

3. Receive public comments regarding a proposed amendment to §153.309 (B) of the Calabash Code of Ordinances-if amendment #2009-11-02 above is approved, this amendment would regulate the parking requirements associated with businesses engaged in Telephone Promotional Sweepstakes-1 space for every 2 machines plus 1 space for each employee on the largest shift. (Calabash Ordinance Amendment #2009-11-03)

Commissioner Melahn read the item for the audience and Mayor Clemmons provided an explanation of the proposed ordinance. Mr. Bill Seip, of Village Green, asked if the proposed ordinance applied to other types of businesses and if so, are the requirements in addition to current parking requirements. The Mayor replied in the affirmative. Commissioner Dixon questioned how strip malls would deal with proposed parking requirements. Commissioner DiStasio questioned what would happen with strip malls with existing parking and spaces already allotted. Would a permit be refused in the event no more parking spaces are available? Mr. Don Hege stated that they were "beating a dead horse" as how can the town enforce parking requirements? Commissioner King disagreed with the proposed ordinance as he could not agree with adding parking when a few machines are added to the business.

4. Receive public comments regarding a rezoning request submitted by Mr. Jack Haynes, property owner, to rezone the property at 9160 Beach Drive (Tax ID#241OB002) from Manufactured Housing II (MFH-II) to Central Business (CB). There were no comments forthcoming regarding the rezoning request.

Commissioner Melahn motioned to close the public hearings, seconded by Commissioner King and unanimously carried.

MAYOR'S COMMENTS: Mayor Clemmons reported that the Board of Commissioners has offered the position of Town Administrator to Mr. Hiram Marziano, II. Mr. Marziano has been serving as the Assitant Town Manager for the City of Troy for two years and will start his new position as Calabash Town Administrator on November 16, 2009. The Calabash Merchants Association will hold a Seafood Festival and Car Show on Saturday. The Calabash Christmas Tree Lighting and Parade will be Friday, December 4th at 6pm.

PUBLIC COMMENTS:

1. Mr. Anthony Feilback of the Thistle encouraged the Board to revoke the Conditional Use Permit issued to Shallotte Partners for a multi-family project earlier this year. He furnished the Board with a copy of the recorded subdivision that he obtained from the Register of Deeds showing that the subject property is only 19-acres, not 22.56, which is what the Conditional Use Permit was approved for.

2. Mr. Jim Myers of Shallotte Partners said his engineer is present to answer any questions the Board may have regarding the size of the property in which the Conditional Use Permit has been issued for; the request to revoke his permit is ludicrous. He said that Mr. Feilback's request is just an example of how the Thistle is against any development on adjacent property. Mr. Myers felt that he has done everything the Town has requested of him.

CONSENT AGENDA:

1. Approve minutes of August 11, 2009; Regular Meeting
2. Approve minutes of October 13, 2009; Regular Meeting
3. Approve minutes of October 21, 2009; Special Meeting/Public Hearing

Commissioner Melahn motioned to approve the Consent Agenda, seconded by Commissioner King and unanimously carried.

CORRESPONDENCE: The Mayor briefly mentioned two items: 1) a Weatherization Assistance Program designed to help make homes more energy efficient and 2) an Urgent Repair Program through the NC Housing Finance Agency; additional information can be obtained at Town Hall.

INTERIM TOWN ADMINISTRATOR'S REPORT: Ms. Southward apologized, she did not have time to prepare a written report. She relayed that Town Hall has been very busy in all areas and stated that she looks forward to Mr. Marziano joining the team.

BUILDING INSPECTOR'S REPORT: Commissioner King noted that the report included information regarding a fire inspection that was performed after an anonymous letter had been received at Town Hall. He was of the understanding that the Board had agreed that anonymous complaints/letters are not to be acted upon. Ms. Southward noted that originally the letter was anonymous but approximately a week after the anonymous letter was received, a second letter with the same complaint was received by a gentleman who identified himself and that is when the matter was checked out.

COMMITTEE REPORTS:

1. Fire Department: Commissioner Herman read her written report aloud; the New Chief, Randy Bourk, has hit the ground running—Commissioner Herman's written report is attached hereto and made part of these minutes. Commissioner Herman also submitted her resignation to the CFDBOD, as her Commissioner Term has expired she is no longer to serve on behalf of the Town.
2. Planning and Zoning: written report is attached hereto and made part of these minutes. Ms. Southward relayed that the PZB reviewed Shallotte Partners Master Site Plan during their November meeting.
3. Finance: Commissioner King reported that 29% of the 2009 taxes have been collected thus far; as CD's mature, they are being rolled back into the General Fund because interest rates are no longer yielding as much as what they had been when the CD's were originally set up.
4. Water/Wastewater: Construction of the Sewer Extension Project has begun. Town Hall is receiving more compliments on the contractors work than complaints; hopefully this trend will continue. Almost all low-pressure lines have been installed.
5. Town & Merchant: As the Mayor stated, Saturday, November 14th the Merchants will host the Calabash Seafood Festival and Car Show; the first ever, hopefully to become an annual event.
6. Stormwater: written report is attached hereto and made part of these minutes; Mayor Clemmons noted that the Town is moving forward with necessary repairs in Hidden Valley.

7. Long Range Planning: a meeting will be scheduled for next week.
8. Community Service Committee: the CSC is assisting with the Christmas Tree Lighting as well as organizing the Town Christmas Party.

OLD BUSINESS:

1. Discussion/Action to consider Non-Profit Funding Application submitted by Communities in Schools. Commissioner King motioned to approve a \$100 donation to Communities in Schools, seconded by Commissioner Dixon and unanimously carried.

Mayor Clemmons called for a brief, 5-minute recess at 7:00 pm; the Board reconvened at 7:05pm. Ms. Mary Knight addressed the Board about a swale causing drainage problems in Calabash Acres; Town Services staff would be directed to look into the matter.

2. Discussion/Action to consider amendment to §153.306 of the Calabash Code of Ordinances-add regulations for Packed Parking. The Board discussed the proposed ordinance and revised the first sentence of item #3 to read: "Packed parking shall not constitute more than 67% of the required parking spaces for the business." The also noted a typo in item #6. Commissioner Melahn motioned to approve the Packed Parking Ordinance, as amended; seconded by Commissioner Herman and unanimously carried.
3. Discussion/Action to consider amendments regarding Telephone Promotional Sweepstakes:
 - a. Amend §153.140 of the Calabash Code of Ordinances-add Telephone Promotional Sweepstakes as a permitted use in the Central Business District. The Board discussed the amendment and felt the word "retail" should be added in front of the second "outlet in item #1 of the amendment. It was noted that any use that is permitted in the Central Business district, it is also permitted in the Highway Commercial district; as per the language in the existing Code of Ordinances. Commissioner King motioned to approve the amendment to 153.140, which adds Telephone Promotional Sweepstakes as a permitted use in the Central Business zoning district, as amended; seconded by Commissioner Dixon and unanimously carried.
 - b. Amend §153.309 of the Calabash Code of Ordinances-add parking requirements for Telephone Promotional Sweepstakes. The Board discussed the proposed amendment. The overall consensus seemed to be that parking is already a precious commodity in Town and to require additional parking for the addition of four machines or less to an existing business is excessive. The Board noted that if parking becomes a problem they could always consider adding the regulation at a later date. Once discussions concluded, Mayor Clemmons solicited a motion relating to the amendment; no motion received and therefore the proposed amendment died.
4. Discussion/Action to consider an amendment to the Official Zoning Map-rezone Tax ID#241OB002, 9160 Beach Drive from MFH-II to Central Business (CB); rezoning request submitted by Mr. Jack Haynes, property owner. Commissioner Melahn noted that the requested amendment is in line with the Town Land Use Plan, the lot meets the dimensional requirements, and adjacent properties are zoned CB. Commissioner Herman motioned to approve the rezoning of Tax ID# 241OB002 to Central Business from MFH-II, seconded by Commissioner Dixon and unanimously carried.

5. Discussion/Action to consider zoning Tax ID#'s 2550000304, 2550000305, 2550000307, 2550000308 (properties owned by Mr. Jim Bunce and Mr. William Autry) Residential-8 as recommended by the Planning and Zoning Board; the Board of Commissioners held a public hearing on September 8, 2009, the matter was tabled by the Board of Commissioners on October 13, 2009. Mr. Lewis reported that Mr. Bunce, one of the two owners of these properties, has passed away and he has been unable to make contact with Mr. Autry. However, he spoke with colleagues of Mr. Autry's who were aware of what was happening with the properties, which leads Mr. Lewis to believe that Mr. Autry has received the multiple correspondences the Town has sent him regarding the zoning of the newly annexed properties. Mr. Lewis said the Town needs to zone the properties and he recommends moving forward with the recommendation made by the Planning & Zoning Board, which was R-8. Commissioner Melahn motioned to zone Tax ID#s 2550000304, 2550000305, 2550000307, and 2550000308 as Residential-8000 (R-8), seconded by Commissioner King and unanimously carried.

NEW BUSINESS:

1. Discussion/Action to consider revising the Job Description for the Office Assistant to include updating Code Books once the Board of Commissioners pass ordinances. Commissioner Herman felt the proposed addition to the job description was redundant, Commissioner DiStasio and the Town Clerk seemed to agree. The addition read as follows: "Establishes and maintains ordinance history files and issues all ordinance updates for all Official Books of Ordinances as required by Calabash Code Title I Chap. 10 sections §10.50 and §10.51 under the direction of the Town Clerk." As discussions continued the Board felt the words "Establishes and maintains" should be removed from the beginning of the sentence and replaced with "Assists Town Clerk/Deputy Town Clerk with maintenance of"; the Board agreed that this wording was more appropriate. Commissioner Melahn motioned to approve the revised job description for the Office Assistant, as amended, seconded by Commissioner King and unanimously passed.
2. Discussion/Action to consider revising the Branch/Brush/Leaf Pick-Up Program to run year round vs. nine months. The Town would be obligated to issue burning permits for the three months that the pick up program is not available; it would be easier to simply continue the program year round. Commissioner Dixon motioned to approve the Branch/Brush/leaf Pick-Up Program as a year round, 12-month service; seconded by Commissioner Herman and unanimously carried.
3. Discussion/Action to consider purchase of Calabash street maps at a cost of approximately \$750 for 100 (11x17) and 6 (24x36). Staff noted that people often come to Town Hall requesting a current street map; the only one available to give out is more than ten years old. The Board felt they could re-coupe some cost associated with printing the maps if they sold them to the public. Commissioner Herman wanted to know if future printings would cost less; the Clerk said she would check on that. Commissioner King motioned to approve an expenditure of \$750 for street maps and that the public was to be charged \$3 for an 11"x17" map, seconded by Commissioner Melahn and unanimously carried.
4. Discussion/Action to consider re-codification of Title VII of the Code of Ordinances-Traffic Violations. The Board reviewed the revisions made to Title VII by Commissioner Melahn. The Clerk noted that §70.11 had been removed and said it needed to stay because in fact the Town does

levy a motor vehicle tax on every vehicle registered in Town; the County actually does this for the Town for a fee but the tax is in fact levied by the Town. Commissioner Melahn motioned to approve the recodification of Title VII-Traffic Violations, as amended (§70.11 shall remain), seconded by Commissioner DiStasio and unanimously carried.

5. Schedule Meeting of the Long Range Planning Committee. Commissioner King motioned to schedule a Long Range Planning Committee meeting for Thursday, November 19, 2009, 10am at Town Hall, seconded by Commissioner Melahn and unanimously carried.

6. Action to schedule a Special Board of Commissioners Meeting for Monday, November 16, 2009 at 10:00 a.m. to remove the appointment of the Interim Town Administrator Kelley Southward and appoint/swear-in Hiram J. Marziano II as Town Administrator, Zoning Administrator, Personnel Officer, and Budget Officer. Commissioner King motioned to schedule the Special Meeting for Monday, November 16, 2009, 10:00 am at Town Hall, seconded by Commissioner Dixon and carried unanimously.

7. Discussion/Action to identify areas of Shallotte Partners' Master Site Plan that must be addressed by the developer before the plan can be approved; if necessary, schedule a Special Board of Commissioners meeting to hold a workshop to identify such areas. Mayor Clemmons asked that everyone keep conversation to a minimum and consider scheduling a workshop for the matter so that it can receive the attention it deserves. Commissioner King felt the Board should attempt to take action this evening. Commissioner Melahn noted that Shallotte Partners does not have their DOT permit; if the Town does not know how many ingress/egresses there will be how could they approve the Master Site Plan? Commissioner Herman said every time Shallotte Partners comes before the Town, there is a change to the plan. She said the ditch along the rear and right side of the property were not shown on that plans that were approved with the conditional use permit but the ditch is now shown on the Master Site Plan. She shared Commissioner Melahn's concern about the DOT permits. Commissioner Herman said that according to staff's and the Planning & Zoning Board's review, these plans do not match their DENR stormwater permit. Commissioner Herman asked Mr. Feilback (sitting in audience) if the map he submitted to BOC during public comments is the only map registered at the County; Mr. Feilback answered in the affirmative. She also has a problem that the PZB recommends including the ditch in the buffer. Commissioner DiStasio motioned to hold a workshop to review Shallotte Partners' Master Site Plan on Tuesday, November 17, 2009, at 4:00pm at Town Hall, seconded by Commissioner Herman and there was brief discussion. Commissioner King said there is no reason why the Board cannot proceed tonight. Mayor Clemmons called for a roll-call vote, which was as follows:

Commissioner DiStasio "Yes"
Commissioner Melahn "Yes"
Commissioner King "No"
Commissioner Herman "Yes"
Commissioner Dixon "No"

The motion to hold a workshop on the matter carried by a vote of three (3) to two (2). Mr. Jim Myers of Shallotte Partners stood and expressed his objections to the Board not taking action tonight.

Commissioner Melahn asked to be excused for medical reasons. Commissioner DiStasio motioned to excuse Commissioner Melahn, seconded by Commissioner Dixon and unanimously carried.

CLOSED SESSION:

1. Pursuant to G.S. 143-318.11 (a)(6)-Personnel Matters; performance evaluations.
2. Pursuant to G.S. 143-318.11 (a) (3) –Consult with the Town Attorney regarding legal

matters; nuisance abatement and streets.

Commissioner DiStasio motioned to enter Closed Session pursuant to G.S 143-318.11(a)(6) and (3) seconded by Commissioner Dixon and unanimously carried.

Commissioner Herman made a motion to return to open session following the closed session. Commissioner DiStasio seconded the motion, which carried unanimously.

ACTION AS A RESULT OF CLOSED SESSION:

1. Commissioner Herman made a motion to condemn Bonaparte streets (Bonaparte Drive, Ash Place, E. Calabash Drive, West Calabash Drive and Rivers Edge Place). Commissioner Dixon seconded the motion which carried unanimously. This action was taken at the request of the Bonaparte Property Owners Association. Mr. Lewis recommended condemnation of the roads including the rights-of-ways. The Board directed Mr. Lewis to begin the condemnation process.
2. Commission Dixon made a motion promoting part-time Town Services Technician I employee James Morgan to full time status starting November 11, 2009 with his ninety-day probationary period intact. Commissioner King seconded the motion, which carried unanimously.
3. Commission King made a motion directing the town attorney to take legal action against two residential property owners who have been delinquent in abating long standing nuisance violations. Commissioner DiStasio seconded the motion, which carried unanimously. It was noted that the situation with both property owners had been going on for several years and that it was necessary to consider adjacent property owners.

PUBLIC COMMENTS: none

BOARD COMMENTS: none

ADJOURN: Commissioner Herman made a motion to adjourn, seconded by Commissioner King and carried unanimously.

SEAL

Anthony Clemons, Mayor

Attest:

Kelley Southward, Town Clerk