

**TOWN OF CALABASH
BOARD OF COMMISSIONERS
REGULAR MEETING
TUESDAY, SEPTEMBER 8, 2009-6:00 pm**

MINUTES

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, September 8, 2009, 6:00 pm 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: Kelley Southward, Town Clerk/Interim Town Administrator and Mark Lewis, Town Attorney.

GUESTS PRESENT: There were approximately 20 guests in attendance.

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

The Mayor welcomed everyone to the meeting and introduced Mr. Randy Bork, the newly hired Calabash Volunteer Fire Department Fire Chief. The Mayor took a moment to remember long time resident, Mr. Waylon Thomas, who had recently passed away. The Mayor asked every one to keep his family and friends in their thoughts.

APPROVAL/ADJUSTMENT OF AGENDA: The Mayor drew everyone's attention to the memo in the packet from the Interim Town Administrator/Town Clerk. The three items included: the removal of New Business Item 3; the addition of #2 to New Business (acceptance of a resignation letter submitted by a Planning and Zoning Board member) and (3); the addition of #7 to New Business (discussion/action regarding the amendment of the Town Services Technician II job description); renumber New Business accordingly. It was agreed to add to Old Business (Item #4) discussion and action to consider a proposal submitted by Brunswick Trucking for pond work at Saltaire Village.

Commissioner Melahn made a motion to approve the agenda as amended, seconded by Commissioner DiStasio and carried unanimously.

PUBLIC HEARING: *Commissioner Herman made a motion to enter a Public Hearing to receive comments regarding the proposed zoning of 81 lots in the annexation area commonly known as "Bonaparte Area Annexation" that became effective July 1, 2009. Commissioner King seconded the motion which passed unanimously.* The Mayor observed that no one in the audience had signed up to speak; he solicited speakers but there were none. Commissioner Melahn said that he had received a message from Mr. David Stanaland that the zoning on his property (Parcel #25500003) remain commercial. The Mayor said that Mr. Stanaland had indicated the same thing to him. Commissioner King said that in a conversation he with him that Mr. Stanaland would be open to zoning the property Mixed District. Mr. Don Hege of Ash asked that if rezoning occurred now,

what would happen once the UDO was adopted. The Mayor replied that if a property was rezoned before the UDO was adopted, it would be grandfathered. Commissioner King said that the subdivisions in what was formerly the Town's Extra Territorial Jurisdiction would retain their current zoning and the property originally in Sunset Beach's ETJ, will be zoned in accordance with the zoning of adjacent properties.

Commissioner Melahn made a motion to close the public hearing, seconded by Commissioner DiStasio and carried unanimously.

MAYOR'S COMMENTS: Referring again to Mr. Waylon Thomas, the Mayor provided funeral details.

PUBLIC COMMENTS:

Mr. Anthony Feilback: 1815 Old Thistle Club Road. Mr. Feilback thanked the Town for responding to letters submitted and concerns expressed regarding the Shallotte Partners Conditional Use Permit, the inaccuracy of the information they have provided and asked for a status report. The Mayor said that Mark Lewis is still reviewing the situation and a definitive answer could not be given until the Town's attorney and the attorney for Shallotte Partners provided their full reviews. The Mayor stated that Commissioner Herman and Inspector Stanley Dills have read all his letters. Commissioner Herman stated that the Town is moving forward but waiting for a legal opinion.

Mr. Jody Nance: 1083 River Road. Mr. Nance deferred his comments until the end of the meeting. Mr. Scott Stewart also requested to comment at the end of the meeting.

Mr. Don Hege of Ash asked a question about the UDO and when it would be reviewed. The Mayor asked the Interim Town Administrator to address the question. Ms. Southward stated that the Ordinance Review Committee (ORC) had completed its review. Their review comments were forwarded last month to the members of the Planning and Zoning Board. At their September meeting, Planning and Zoning Board members approved the changes suggested by the ORC. It was the recommendation of the Planning and Zoning Board that the Board of Commissioners approve all the changes recommended by the ORC and that a legal review be undertaken. They suggested Mr. Dexter Hayes complete the legal review. The ORC also suggested Mr. Hayes.

Mr. Mike Abushakra, the next speaker and a member of the ORC, reinforced the idea that Mr. Hayes was a good choice to complete the legal review.

There were no additional speakers. The Mayor requested Ms. Southward make sure that a record of comments made during the Public Hearing was accomplished.

CONSENT AGENDA/APPROVAL OF MINUTES

1. May 18, 2009-Budget Workshop
2. July 9, 2009-Special Meeting
3. August 4, 2009-Agenda Workshop
4. September 1, 2009-Agenda Workshop

Commissioner Melahn made a motion to approve the Consent Agenda as presented, seconded by Commissioner King and carried by a unanimous vote.

MINUTES:

Commissioner Herman made a request that the Town Clerk work backwards with the minutes – with the most recent month first.

Commissioner King noted that Mr. David Stanaland had just arrived for the meeting. Both he and his real estate agent wanted to speak. The Mayor asked them to wait until the end of the meeting to address the Board.

CORRESPONDENCE: The Mayor stated that there was one letter that he would address later.

INTERIM TOWN ADMINISTRATOR’S REPORT: Written report attached hereto and made a part of these minutes.

BUILDING INSPECTOR’S REPORT: Written report is attached hereto and made a part of these minutes.

COMMITTEE REPORTS:

1. **Fire Department:** Written report is attached hereto and made a part of these minutes.
2. **Planning and Zoning:** The Mayor mentioned that a new entrance to the Pearl is being constructed.
3. **Finance:** Town of Calabash tax bills will be sent out shortly. Rollover of Certificates of Deposit back to the General Fund has occurred.
4. **Wastewater/Sewer:** Mayor Clemmons reported that the County had awarded the Sewer Extension bid to L.M. McLamb Construction on September 7th. Word was received last month from Dempsey Benton from the Office of Economic Recovery and Investment, that Calabash did not receive any stimulus funds. Senator Soles has been asked to assist the Town in receiving for more information as to the reason for the decision. The Town has requested a copy of all written and electronic information related to the decision not to approve the Town’s grant application. The Mayor stated that the Town will continue to pursue acquiring Rural Center Grant funding.
5. **Town & Merchant:** Commissioner King stated that a car show and seafood fest was being planned for November 14th. Registration starts at 9:00 a.m. with the car judging to be completed by 3:00 and awards distributed by 5:00 p.m. Live entertainment will follow. Sponsors and participants are being sought. Mayor Clemmons suggested that members of the Merchant’s Association meet with Town staff a month prior to the event. Mr. Hansen’s property is the site of the festival.
6. **Stormwater:** Written report is attached hereto and made a part of these minutes.
7. **Long Range Planning:** Commissioner King stated that a meeting was held with W.K. Dickson on September 2, 2009. They started the review of the road assessment survey that had been prepared and several options were mentioned. Discussions on this subject will continue. Also discussed was the park to be situated on the one acre lot adjacent to the Town Hall. This item is on the agenda for later in the meeting.

8. **Ordinance Review Committee:** Ms. Southward stated that committee members had completed their review. They recommended Mr. Hayes complete the legal review. The Planning and Zoning Board had reviewed and accepted the changes and forwarded their official approval to the Board of Commissioners. If there are significant changes from the last time a public hearing was held, and if the Board approves the changes recommended by the ORC, another mailing would have to go out and another hearing would have to be held. After that the UDO could be considered for adoption.

9. **Emergency Management:** Ms. Southward reported that the committee had met several times. The committee erected a large bulletin board in the “command center” – Sanborn Hall. The committee is looking into getting large maps to assist in the event of an emergency. The Mayor stated there was a large, new antenna located on top of the water tower.

OLD BUSINESS

1. **Discussion/Action** to consider task Order #4 from WK Dickson; an agreement for a park and surface parking lot preliminary layout construction and budget development (tabled). Commissioner King stated that the Long Range Planning Committee recommended that the Board did not approve Task Order #4 and that the work be accomplished in-house. Such items as parking, a stage, picnic/cook areas, playground, bathrooms and a walking trail could be included. *Commissioner King made a motion that the Long Range Planning Committee under take the work related to the park adjacent to the Town Hall on an in-house basis and report back to the Board of Commissioners. Commissioner Melahn seconded the motion, which passed unanimously.*

2. **Discussion/Action** to select a firm to complete a legal review of the Unified Development Ordinance, as recommended by the Planning and Zoning Board upon their review of the revisions suggested by the Ordinance Review Committee. Commissioner King stated that the Ordinance Review Committee and the Planning and Zoning Board both recommended a legal review be under taken and both recommended Mr. Dexter Hayes complete the legal review. Commissioner Herman stated that the Planning and Zoning Board had not done its job and had not completed its work. Commissioner Herman cited statute 160A-383. She said that the Planning and Zoning Board needed to provide a written recommendation and stipulate how the UDO compares with the Land Use Plan. She stated that the requirements of the statute have not been fulfilled. As the Board of Commissioners had not reviewed changes recommended by the Ordinance Review Committee, Commissioner Herman asked if it not be advisable for the Board of Commissioners to review the changes before it has a legal review. Discussion continued. *Commissioner Melahn made a motion to table the legal review until the Board of Commissioners has had an opportunity to review the changes. Commissioner DiStasio asked Commissioner Melahn to repeat the motion. After Commissioner Melahn repeated the motion, Commissioner DiStasio seconded the motion. Following discussion continued, the Mayor called for a roll call vote. The results were Commissioners DiStasio, Melahn and Herman voting “yes” and Commissioners King and Dixon voting “no.” The motion to table carried by a vote of three (3) to two (2).*

Mayor Clemmons recessed the meeting for a five-minute break.

3. **Discussion/Action** to release Closed Session minutes of March 10, 2009 and April 14, 2009 (tabled item). *Commissioner King made a motion to bring the tabled issue back up for discussion. Commissioner Dixon seconded the motion, which passed unanimously. Commissioner King made a*

motion to release the minutes with the names of any personnel stricken. Commissioner Dixon seconded the motion. Discussion continued with Mr. Lewis stating that anytime personnel are discussed in closed session such issues must remain confidential and that all personnel issues should be stricken from what is released. The results of the roll call vote called by the Mayor are as follows: Commissioners Dixon, King and Melahn voting for the motion and Commissioners Herman and DiStasio against the motion. The motion carried with a vote of three (3) to two (2).

4. Discussion/Action to consider a proposal submitted by Brunswick Trucking for Saltaire Village Pond work. *Commissioner Dixon made a motion to accept the \$3,800 bid submitted by Brunswick Trucking to complete the Saltaire Village pond work. Commissioner Herman seconded the motion. The motion carried four(4) to one (1) with Commissioner King voting against the motion.*

NEW BUSINESS

1. Discussion/Action to award bid to connect Sanborn Hall to the generator. Commissioner King recommended that an electrician be asked what needed to be done to connect the generator to Sanborn Hall. *Commissioner King made a motion to table the matter. Commissioner DiStasio seconded the motion, which passed unanimously.*

2. Discussion/Action to accept the resignation of Planning and Zoning Board member Ms. Alinda Meares. Ms. Meares' resignation was accepted by the Board.

3. Discussion/Action to consider making an appointment to the Planning and Zoning Board. *Commissioner King made a motion to appoint Mr. Al Watts to the Planning and Zoning Board with a term to expire October 13, 2010. Commissioner Melahn seconded the motion, which passed unanimously.*

4. Discussion/Action regarding "telephone promotional sweepstakes machines"-consider allowing existing businesses (those who hold a valid privilege license) to install these machines. Mr. Lewis stated that the activity is essentially gambling. *Commissioner King made a motion instructing the Town Clerk to issue a Business Privilege License to any business in Town holding a current privilege license. Commissioner Dixon seconded the motion, which carried unanimously.* Discussion continued with it being determined that even if a business already has a privilege license the second one for the machines will insure that the conditions outlined in the injunction are being met.

5. Discussion/Action to consider Thistle's Final Plat of Crail Court-the first 15 lots of Phase II. *Commissioner Herman made a motion to approve Thistle's Final Plat for Crail Court. Commissioner King seconded the motion which passed unanimously.*

6. Discussion of G.S. 160A-237-Authority to hold water and sewer assessments in abeyance. *Commissioner Melahn made a motion directing the Town Clerk to write to Brunswick County Board of Commissioners asking them to consider passing, by resolution, G.S. 160A-237. Commissioner Herman seconded the motion, which carried unanimously.*

7. Discussion/Action to amend the of job description for Town Services Technician II. *Commissioner DiStasio made a motion to amend the Town Services Technician II job description.*

Commissioner Melahn seconded the motion. Following discussion Commissioner DiStasio amended the motion to clarify that the amendment to the Town Services Technician II job description is language that states one person of this position should be appointed Lead Coordinator of the Town Services Department amend August 11, 2009 description. Commissioner Melahn seconded the amended motion, which carried unanimously.

8. **Discussion/Action** to consider appointing Mr. Bill Danford to “Lead Coordinator” for the Town Services Department. *Commissioner Dixon made a motion to appoint Mr. Danford as Lead Coordinator for the Town Services Department. Commissioner Herman seconded the motion, which carried unanimously.*

9. **Discussion/Action** to consider disposal of surplus property. *Commissioner King made a motion to approve a resolution to allow the private sale of surplus Town property. Commissioner Herman seconded the motion, which carried unanimously.*

10. **Discussion/Action** to direct the “Commissioner of Policies” to create a policy on the disclosure of recording. *Commissioner King made a motion to create a policy on the disclosure of recording. Commissioner Melahn seconded the motion, which carried unanimously.*

11. **Discussion/Action** to consider a partnership agreement with the U.S. Census Bureau. *Commissioner DiStasio made a motion to approve a partnership agreement with the U.S. Census Bureau. Commissioner King seconded the motion, which carried unanimously.*

Calling for a change in the agenda, Mayor Clemmons called to hold the agenda in abeyance so as to revise the order of the agenda. *Commissioner King made a motion to hold the agenda in abeyance and move Public Comments ahead of the Closed Session. Commissioner Dixon seconded the motion, which carried unanimously.*

PUBLIC COMMENTS

1. Mr. Jody Nance, 1083 River Road. Mr. Nance commended the Board of Commissioners for passing the promotional sweepstakes. Regarding the UDO, he felt that there are delay tactics, and that some Commissioners are not working with merchants. He stated that the Mayor stating his position was not appropriate. He felt that the UDO should not continue to drag on. He felt that members of the Planning and Zoning Board should be trusted and that Board should take a step back and be more willing to work.

2. Mr. Scott Stewart stated that he wanted to make an observation. He was a member of the UDO review committee. He stated that he is a professional landscape architect with twelve years of planning experience. His feeling was that the people appointed to the UDO committee should be trusted. He recommended Mr. Hayes to complete the legal review. Mr. Hayes had an extensive career and is an excellent planner. He stated that the Board of Commissioners was missing an opportunity to converse with Mr. Hayes and to answer questions. He went on to say that Ms. Janet Thomas and Ms. Kelley Southward did an awesome job getting the draft UDO revised and that the Ordinance Review Committee customized the UDO for Calabash.

3. Mr. David Stanaland, the executor of his father’s estate wanted Section #5 on the map to remain commercial. He has been paying commercial taxes on the property for 55 years. He preferred the

property be zoned Central Business. The Bunce family, who own property in the same area, will be contacted to learn their zoning preference.

4. Mr. Mike Abushakra stated that UDO Review Committee did what they were asked to do. Change request forms were submitted. He wanted to know what the time frame for approval would be as the ORC had been given ninety days to complete their review. A copy of the review committee's change request forms will be provided to the Board of Commissioners.

CLOSED SESSION

Pursuant to G.S. 143-318.11 (a) (6) *Commissioner Herman made a motion to enter into Closed Session. Commissioner Dixon seconded the motion which carried unanimously.*

Upon returning from Closed Session, *Commissioner DiStasio made a motion that the Board return to Regular Session, seconded by Commissioner King and carried unanimously.*

ACTION AS A RESULT OF CLOSED SESSION: *Commissioner DiStasio made a motion raising the salary of Mr. Danford to \$14 per hour starting September 9, 2009. Commissioner Dixon seconded the motion which carried unanimously.*

BOARD COMMENTS: Commissioner DiStasio stated that if an employee is fired, they should not be eligible to be rehired.

ADJOURNMENT: *Commissioner Melahn moved to adjourn, seconded by Commissioner King and carried by a unanimous vote.*

(SEAL)

Anthony Clemmons, Mayor

Attest:

Kelley Southward, Town Clerk