

**TOWN OF CALABASH  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
TUESDAY, OCTOBER 13, 2009-6:00 P.M.**

The Calabash Board of Commissioners held a Regular Monthly Meeting on Tuesday, October 13, 2009, 6:00 p.m. at Town Hall, 882 Persimmon Road, Calabash, NC.

**MEMBERS PRESENT:** Mayor Anthony Clemmons, Commissioner Emily DiStasio, Commissioner John Melahn, Commissioner Forest King, and Commissioner Dixon. Commissioner Herman was not in attendance.

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

**GUESTS PRESENT:** There were approximately ten guests in attendance.

**CALL TO ORDER/PLEDGE/ROLL CALL:** Mayor Clemmons 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:** Added to New Business #8 was the appointment of an ad-hoc committee to review the changes submitted by the Ordinance Review Committee and to make suggestions to the Board of Commission. Commissioner King stated that Town Attorney Mark Lewis requested the ,addition of a Closed Session, pursuant to C.S. 143.318.11 (a)(3) consult with an attorney (Item #2).

As there were no other adjustments, *Commissioner Melahn made a motion to approve the agenda as amended, seconded by Commissioner Dixon and carried unanimously.*

**MAYOR'S COMMENTS:** Mayor Clemmons reminded everyone that Friday, October 16, 2009 was Town Hall Day from 11:00 a.m. to 5:00 p.m.

**PUBLIC COMMENTS:**

1. Mr. Al Kale of Coldwell Banker-Sloane in Sunset Beach: Spoke in support of Mr. David Stanaland's request that his property along Route 179 remain commercial as to alter the zoning would reduce the value of the property.
2. Mr. Mack Sanders, 1126 River Drive: Asked questions concerning the accuracy of the bid price, costs and fees associated with the sewer project. Mr. Sanders asked to meet with the Mayor to obtain the information he wanted. He also wondered about the fact that Commissioner Dixon's house was for sale and what might happen if he moved out of town. Mark Lewis said that a committee would appoint someone. Commissioner King opined that the Board of Commissioners would appoint someone to fill the position.

**CONSENT AGENDA/APPROVAL OF MINUTES:**

*Commissioner Melahn made a motion to approve the regular meeting minutes of September 8, 2009, seconded by Commissioner King and which carried unanimously.*

**CORRESPONDENCE:** In a related item, Ms. Southward stated that a large portion of the Rural Grant application was recently completed and sent to the consultant, who will forward the information to the Rural Center.

**TOWN ADMINISTRATOR’S REPORT:** Ms. Southward reported that she is working on the Rural Grant

**BUILDING INSPECTOR’S REPORT:** The Interim Town Administrator was instructed to look into one of the items listed on the report. The written report is attached hereto and made a part of these minutes.

**COMMITTEE REPORTS:**

1. **Fire Department:** In the absence of Commissioner Herman, Fire Chief Bork stated that all was well and that no word had been received concerning the grant that had been submitted.

2. **Planning and Zoning:** Ms. Southward stated that the Planning and Zoning Board reviewed three items at their October meeting. They reviewed a rezoning request submitted by Mr. Jack Haynes, whose property is along Beach Drive, and recommended approval from MFH II to Central Business. They reviewed Shallotte Partners Master Engineering Site Plan and compared it with their overall site plan that was approved with their Conditional Use Permit. The item was tabled until their next meeting so they can insure that all items match the overall site plan. The final item reviewed and then approved by the Planning and Zoning Board was the Pearl agreement. Ms. Southward reminded everyone that the Public Hearing concerning the Pearl is next Wednesday, October 21<sup>st</sup> at 6:00 p.m.

3. **Finance:** Commissioner King reported that per the auditor, the better the ABC Board does the less the funds the Town will receive toward the end of the year.

4. **Wastewater/Sewer:** Mayor Clemmons reported on the status of the work performed by McLamb Construction. There will be a contractor’s meeting, the date to be announced when it is firm. He stated that the work might be complete by July. Any concerns raised by citizens should be forwarded to the Town Hall, with staff forwarding the concerns to Mr. Pierce’s office. Ms. Southward said she was expecting to receive a form that can be completed with details of the concern.

5. **Town and Merchant:** Commissioner King reminded everyone that November 14<sup>th</sup> is the date of the first annual Calabash Seafood Festival and Car Show.

6. **Stormwater:** Commissioner Dixon reported that drains have been cleaned and Saltaire ponds have been cleaned. There is a pipe in Saltaire that needs to be repaired. Ditches will be cleaned when the weather is cooler.

7. **Long Range Planning:** Commissioner King stated there was no activity to report.

8. **Ordinance Review Committee:** Related item to be discussed under Old Business.

9. **Emergency Management:** No activity to report.

## OLD BUSINESS

1. **Discussion/Action** to select a firm to complete a legal review of the Unified Development Ordinance (tabled item). *Commissioner King made a motion to bring the tabled issue back up for discussion. Commissioner Dixon seconded the motion, which carried unanimously. Discussion commended. Commissioner King made a motion to hire Mr. Dexter Hayes to complete the legal review of the changes recommended by the Ordinance Review Committee at the quoted price of \$3300. Commissioner Dixon seconded the motion which carried unanimously. Discussion continued with Commissioner Melahn stating that he had concerns regarding copywriting. He stated that exactly what Mr. Hayes would be reviewing was unknown at this time. He felt there were no legal issues with the UDO as it exists. The Town has a contract with Holland Consulting to supply a legal document. Commissioner Melahn questioned whether contracting with Mr. Hayes relieves Holland Consulting from any legal contractual agreement responsibilities. Mayor Clemmons asked Mark Lewis to comment. Results of the Mayor's roll call vote were: Commissioner King, Commissioner Dixon and Commissioner DiStasio voted for the motion and Commissioner Melahn voted against the motion. The motion's vote carried three (3) to one (1). The Interim Town Administrator was directed to contact Mr. Hayes.*

2a. **Discussion/Action** to officially zone the 92 properties that were formally a part of the Sunset Beach ETJ that became a part of Calabash municipal limits on July 1, 2009-Public Hearing was held on September 8, 2009.

1. *Commissioner Melahn made a motion to zone twenty (20) R.J. Sommersett parcels to MFH-II. Commissioner King seconded the motion which carried unanimously.*

2. *Commissioner DiStasio made a motion to zone eighteen (18) Bonaparte I lots to MFH-II. Commissioner King seconded the motion which carried unanimously.*

3. *Commissioner Melahn made a motion to zone eleven (11) Oak Ridge Plantation lots Planned Unit Development. Commissioner King seconded the motion. Following discussion, a vote was taken, which carried unanimously. Mayor Clemmons asked that a list of the lots be attached to the minutes.*

4. *Commissioner DiStasio made a motion to zone sixteen (16) Shady Forest lots MFH-II. Commissioner Melahn seconded the motion which carried unanimously.*

5. *Commissioner DiStasio made a motion to zone eleven (11) lots in Landing II MFH-II. Commissioner Melahn seconded the motion which carried unanimously.*

Having recessed the meeting at 6:52 p.m. for a five minute recess, the Mayor called the meeting back to order at 7:00 p.m.

2b(1). **Discussion/Action** on Tax Parcel #'s 2550000305, 2550000307, 2550000308, and 25500003 (along Beach Drive and unassociated with a subdivision). Mayor Clemmons suggested that as the Town Clerk had been unable to contact the owner, Mr. Jim Bunce, the item be tabled. *Commissioner Melahn made a motion to table the zoning designations for Tax Parcel #'s 250000305, 2550000307, and 2550000308. Commissioner King seconded the motion which carried unanimously.* Ms. Southward stated that a certified letter was sent to the owner a month ago without a reply. The Mayor stated that a good faith effort needed to be made to contact and speak with the owner. The Town attorney will assist in the effort.

2b(2). **Discussion** continued regarding the zoning of Parcel #25500003. Commissioner Melahn recommended the property be zoned Highway Commercial. Commissioner King disagreed. Discussion continued. Commissioner Melahn stated that Highway Commercial is more consistent with the zoning further up on the opposite side of the river and has all the opportunities as Central Business and nothing would be eliminated. Following discussion, *Commissioner Melahn made a motion to zone Tax Parcel #25500003 Central Business. Commissioner King seconded the motion which carried unanimously.*

3a. **Discussion/Action** regarding amendments to Chapter 32-Town Policies-Amend §32.10 Purchasing-add the requirement that a specification be written for purchase orders of \$1000 or more. Commissioner Melahn stated that section §32.14 be added to §32.10 so specific information would be included on the purchase order. Specifications would include the work to be done, what is to be purchased, identify any required intermediate requirements, and define what the town would acquire as a result of the purchase.

*Commissioner Melahn made a motion to approve the amendment to Chapter 32, Section 10, Purchasing, adding the requirement that a specifically written request be attached to purchase orders of \$1000 or more. Commissioner DiStasio seconded the motion which carried unanimously.*

3b. **Discussion/Action** to add §32.14 pertaining to the unsolicited recording of closed sessions and private conversations of public officials. Mayor Clemmons asked Mark Lewis to offer his opinion regarding attendant fines. According to Mark Lewis, this applied to everyone. Commissioner King stated that this should only apply on town property, and not for the general public. Both the Mayor and Commissioner King stated that this should apply to official town business only. During discussion it was determined to amend §32.14 (c) to include the words "on town property." *Commissioner Melahn made a motion to approve Chapter 32, Section 14 pertaining to recordings of full session meetings and private conversations of town officials and town employees on town property be approved the addition of §32.14 as amended. Commissioner King seconded the motion which carried unanimously.*

## **NEW BUSINESS**

1. **Discussion/Action** to review and consider voting on the re-codification of Title 1, Chapter 10, General Provisions of the Calabash Code of Ordinances. Commissioner Melahn stated that he had been trying to re-codify all of the Town Ordinances, excluding the Land Use section. The information will be converted into an electronic format, with larger typeface and will be easier to read. Commissioner Melahn outlined the work he had accomplished. There was discussion regarding the definition of "reasonable time." The Mayor stated that if a directive is given to a

member of staff, a reasonable time for completion of the assigned task will be determined by the Board of Commissioners. Commissioner Melahn agreed that any directive must be accompanied with a time frame for completion. *Commissioner Melahn made a motion approving the re-codification of Chapter 10 of the General Provisions of the Calabash Code of Ordinances. Commissioner DiStasio seconded the motion, which carried unanimously.* It was noted that 10.09 contained a typographical error.

2. **Discussion/Action** to schedule Public Hearings for Tuesday, November 10, 2009, 6:00 p.m. at Town Hall regarding the following revisions to Title 15-LandUses of the code of Ordinances. *Commissioner DiStasio made a motion to schedule Public Hearings on November 10, 2009 at 6:00 p.m. for: (1) the amendment of §153.140-Central Business District to include “Telephone Promotional Sweepstakes” as a permitted use; (2) the amendment of §153.309-Specific parking standards to include parking regulations for businesses that offer “Telephone Promotional Sweepstakes”; (3) the amendment of §153.306-parking space Dimensions to include provisions for “packed parking” and (4) a request to rezone Tax ID #241OB002 and Tax Parcel #241OB001 (9160 Beach Drive) from MFH-II to Central Business. Commissioner Melahn seconded the motion which carried unanimously.*

3. **Discussion/Action** to consider increasing petty cash from \$150 to \$250. *Commissioner Melahn made a motion to increase petty cash from \$150 to \$250 for tax season. Commissioner King seconded the motion which carried unanimously.*

4. **Discussion/Action** of the North Carolina Parks and Recreation Trust Fund (PARTF) grant process/application. Commissioner King stated that the Long Range Planning Committee had not met recently to discuss the location of a park on the one acre tract adjacent to the Town Hall. This being the case, it was determined that no action would be taken.

5. **Discussion/Action** to consider a Budget Ordinance amendment-transfer \$1200 from 10-420-08 (Town Administrator Miscellaneous Expenditure Act) to 10-560-46 (Community Services). *Commissioner King made a motion to approve the transfer of \$1200 from 10-420-08 to 10-560-46. Commissioner DiStasio seconded the motion which carried unanimously.*

6. **Discussion/Action** to consider release of taxes and applied interest/penalties for Tax Parcel #2410000106; release of \$3,362.58 for 2007 and the release of \$7,379.67 for 2008 for a total release of \$10,742.25. *Commissioner King made a motion releasing the total amount of taxes. Commissioner Melahn seconded the motion which carried unanimously.*

7. **Discussion/Action** to clarify the intent of Chapter 155-Natural Resource Protection. Following discussion, *Commissioner DiStasio made a motion directing this item back to the Planning and Zoning Board. Commissioner King seconded the motion which carried unanimously.*

8. **Discussion/Action** to form an ad-hoc committee to review the changes submitted by the Ordinance Review Committee and to answer questions. The Mayor appointed Commissioner Herman, Commissioner Melahn, Mr. Michael Aburshakra, ORC vice-chairperson, and Mr. Scott Stewart.

## **CLOSED SESSION**

*Pursuant to G.S. 143-318.11 (a)(6) and (3) Commissioner King made a motion to enter into Closed Session. Commissioner Dixon seconded the motion which carried unanimously.*

Upon returning from Closed Session the Town Clerk was directed to contact Mr. Sparks concerning a background check and drug testing prior to employment.

Bonaparte Streets

The Town of Calabash has the power of eminent domain and can proceed with condemnation.

File to Pamela Grainger

Letter of interest

Wait 30 days

File condemnation papers

*Commissioner Dixon made a motion that the Board return to Regular Session, seconded by Commission DiStasio which carried unanimously.*

**BOARD COMMENTS:** No comments were forthcoming.

**ADJOURNMENT:** *Commissioner King made a motion to adjourn, seconded by Commissioner DiStasio and carried unanimously.*

SEAL

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Anthony Clemmons, Mayor

Attest:

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Kelley Southward, Town Clerk

