

**MINUTES OF THE REGULAR MEETING
OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

January 11, 2005

The Town Council of the Town of Carolina Beach met in regular session on January 11, 2005 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Dennis Barbour, Mayor Pro Tem, Pat Efird; Councilman, Joel Macon; Councilman, Gary Doetsch and Councilman, Jack Lynch. Also present were: Town Manager, Calvin R. Peck, Jr., and Town Clerk, Lynn N. Prusa.

Following invocation by Councilman Lynch, he then led in the pledge of allegiance. Mayor Barbour called the meeting to order.

ADOPT THE AGENDA

Before adopting the agenda, Al Clyburn, Town Attorney, asked to be heard on Item #8 to set a public hearing to consider the revocation of the Conditional Use Permit for Park Place development. Mr. Clyburn announced that at the December 14, 2004 Council meeting, he recommended to Council that we reconsider that Conditional Use Permit for some issues that were brought to his attention, specifically a notice issue by the filing of petition in Superior Court. As you get into working with petition for a Conditional Use Permit, things evolve and new facts comes to your attention, and he no longer has the concerns that he had on December 14, 2004 and does not believe that this Council has jurisdiction to reconsider a Conditional Use Permit that has been made the subject of a lawsuit in Superior Court. In his opinion, only the Superior Court at this point has any jurisdiction to rule on the Conditional Use Permit that Council has already issued. Mr. Clyburn recommended that Council take Item #8 off the agenda tonight and let the Superior Court resolve that issue. He thinks that the Superior Court is really the only body that can make a ruling on that issue.

A motion was made by Mayor Barbour to adopt the agenda striking Item 8 and adding the following items: 18(a) recognize individuals for donation of funds for the purchase of 2 tazers and request for budget amendment and 18(b) request by the town manager for a closed session to discuss a personnel matter [G.S. 143-318.11(a)(6)]. **MOTION CARRIED UNANIMOUSLY.**

RECOGNIZE NEW EMPLOYEES

Bill Younginer, Police Chief, recognized Chris Latham, for his 5 years of dedicated service to the Town of Carolina Beach.

Mayor Barbour recognized James Banks, for his 5 years of dedicated service to the Town of Carolina Beach.

PUBLIC DISCUSSION

Mr. Bobby McConville, resident of 110 Sugar Loaf Court, spoke concerning the North-End fencing. He does not believe that the way the fence has been constructed as far as how it is being lined up along the dune line is the kind of way that the North-End Committee had envisioned the placement of the fence. He is not speaking on behalf of the North-End Committee, but doesn't feel that it is what the committee envisioned. He asked that Council take a look at it because the construction does not look strong, it is too far towards the ocean, and the stress of the pedestrians and vehicles on that small amount of beach left will be too extreme and what is left will deteriorate. Mr. McConville suggested to Council to stop the construction and bring it back to the North-End Ad Hoc Committee and bring CAMA in to see if this is a problem to move it back further. Although he could not recall the exact footage from the marsh, there was a certain amount of footage and where this is lined up is way beyond what they asked for. Mr. McConville was told that the way the fence was lined is based on an overhead picture and trying to recreate some of the dune that has been lost. He believes that is a worthy cause, but he does think it should occur at the expense of pedestrian and vehicular access. Mr. McConville thought the committee was trying to protect the environment and keeping the access available. Mr. McConville mentioned that there are no restraints on camping at this point, but if camping occurs up along that fence, the vehicles are right on top of it. He asked that Council stop construction and look at what is happening.

Council told him that they would look at it.

Mr. Bob Myers, resident of 1401 Canal Drive, said that he feels a bit like a fool standing here. Why? Mr. Meyers said that generally there is strong evidence that Council has their minds made up prior to holding a public hearing on nearly every issue. His allotted time for speaking does not provide opportunity to defend statement with examples so he will move forward. Mr. Bob Myers read a published quote by the Mayor from the Wilmington Star-News issued on December 16, 2004 regarding an interview after last month's Council meeting. Mr. Meyer's said that the following is a quote from the paper:

To make everything proper we will consider rescinding the Conditional Use Permit, Mayor Dennis Barbour said. If the permit is revoked, the developer, Manning Companies can then reapply without changing the project, Mr. Barbour said. I would not expect the outcome to be any different.

Also, Mr. Meyers said that earlier in that interview, the Mayor was also quoted saying that the public hearing is nearly a technicality meant to clear up an oversight on the town's part.

Before proceeding, Mr. Meyers asked the other council members if they agreed with the Mayor's statement and asked them to give a brief response. Mayor Pro Tem Efirid, Councilman Doetsch, and Councilman Lynch answered by stating that they agreed. Councilman Macon responded by saying, not necessarily.

Mr. Meyers continued that that this clearly communicates to us is that there can be no argument presented by the Tide Winds Condominium owners, which would have any credence in their less than objective mind to warrant reconsidering the decision that was made. There is nothing that we can present which will sway you from supporting private interest so strongly in opposition to the welfare of us private citizens. Mr. Meyers addressed the Mayor by saying that, you of all people should be a proponent of our rights. Your quasi-judgmental position should drive you to uphold and support the rights of these town citizens with the most protective attitude possible. You sir, have not been anointed emperor or king, you were elected and only by a margin of 32 votes and in a democracy to serve the public according to our laws applicable to all. He wonders what gives you the mandate to effectively usurp our rights to due process. He wonders why you are willing for the town to offer CAMA purchased public lands to benefit a developer when the developer had been in negotiations to buy adjacent land for the project's parking. You apparently care nothing about the effects on us mere citizens with adjacent property. This suggests that the citizens of this town should have answers to an important question. Mr. Meyers asked each Councilmember to address his questions for the record even if that record shows that you refuse to respond. Mr. Meyers asked Council if you or anyone in your immediate family expects to gain financially from the Park Place or Arcadia projects when or while being built, or have you or anyone in your immediate family positioned yourself to expect to gain financially from them?

Mayor Barbour said that he thinks Mr. Meyers is party in the lawsuit existing between the Town of Carolina Beach and the property owners in the condominium. Mayor Barbour asked the town attorney if it is proper for us to respond under those circumstances? The town attorney recommended to Council that they not respond given the fact that he is a party to a lawsuit that is now pending in the Superior Court of New Hanover County.

Mr. Meyer addressed the town attorney by saying that the lawsuit has to do with a technicality dealing with revocation; it does not have anything to do with why the approval was made in the first place.

Councilman Macon said that he does not have a problem answering the question, and responded, no. Mayor Pro Tem Efird responded, no, but she would certainly like to sell some of them. Mr. Meyers said that he understands that, and he thinks that is why some of these approvals have been made. Mayor Pro Tem Efird said that she does not appreciate that remark.

Mayor Barbour said that he asked the attorney that question because we legally should probably not answer that question, but made a statement to Mr. Meyer. Mayor Barbour said that as well as any other project that is currently approved or in the works here at Carolina Beach, that he has no financial interest in it, and has no desire to have any financial interest in it or any financial gain. Mayor Barbour said that what he does and what he approves as Mayor, and as one member of this board, is for one reason only, for the betterment of the Town of Carolina Beach and its citizens.

Councilman Lynch feels that we could disclose that at the proper time, but he does not feel that this is the proper time or that we should be cross-examined by parties involved in a lawsuit.

Mr. Leroy Franks, resident of 908 Canal Drive, addressed some things that he read in the paper. Mr. Franks said that the Island Gazette stated on 12/29/04 that in August of 2004, the Carolina Beach planning department sent an email message that the Courtyard Marriott did not meet the Land Use Plan (LUP) along with 75% of the development that has occurred since 1997. In reply, Mr. Christianberry, District Planner with the North Carolina Division of Coastal Management, stated that any CAMA major permit will be subject to the current LUP. Approval of LUP update will not be ready for board approval or CRC certification until about this time next year. Mr. Franks commented that as elected officials, they are charged with the responsibility to enforce the LUP. He asked why they have not enforced these regulations? Most of you have been on town council for several years. Is the town sued for not enforcing these regulations? What is our legal liability? How much will this cost the taxpayers? Did the Town Council notify FEMA and CAMA officials of these violations when they occurred? How does the Town Council propose to resolve these conflicts?

In addition, Mr. Franks said that research has shown that in the area where the proposed Park Place is located that the property taxes have increased. Yet, the amount these properties can be sold for is decreasing at a very rapid rate. Is this what you mean by economic impact? Well, it sure is. Mr. Franks said that the Island Gazette stated 12/29/04 that Councilman Doetsch said that suppose we stop there and then put in the statement except in areas where economic redevelopment is needed to insure the growth of the town. Who benefits from this economic impact except the developers? He continued that the Island Gazette dated 2/15/04 states that the town offered some public property to resolve the parking requirements for the Park Place project. He said he has information that it was not the property owners that elected to make their properties unavailable, but Mr. Manning withdrew his offer because of the town's free offer of land. What a sweetheart deal? He asked Council if they would give public property to a local resident to build a concrete monster in the Central Business District (CBD) or are these special deals reserved for out-of-town developers? Mr. Franks asked how many more sweetheart deals has the town made? What is the cost to the taxpayers? Is this the economic impact that you keep talking about? Personally, he does not want any of his money made available to these developers.

Ms. Sarah Wagner, resident of 316B Greenville Avenue, first welcomed the new police chief. Ms. Wagner had some questions about what was conducted in the December 14, 2004 Council meeting as reported in the Island Gazette. She said that there were some remarks made by Mr. Clyburn in the Island Gazette, and she asked if it was permissible for her to address some questions to Mr. Clyburn to clarify some statements he made during that public meeting.

Mayor Barbour said, he is sure that would be fine off-line, but this is for input. Ms. Wagner said that this is actually public input because it pertains to the parking issue. She wanted to know who in the town made the town's parking lot available and at whose behalf the offer was made and what date the offer was made? Mayor Barbour does not think we can fully answer those questions just asked unless we had some time to do research. Mayor Barbour asked Ms. Wagner if she would like to submit them, we would be happy to give her a response. She said that would be great and thanked Council. Mayor Barbour told her to give them to the clerk because it becomes public record.

Mr. Alan Gilbert, a resident of 601 Atlanta Avenue, addressed his question about the parking lot. He said that one of the things he heard lately is that the Boardwalk is economically

depressed and needs to be revitalized. A couple of things he saw under the conditional use permitting are the parking lots. It seems similar to what happened with the Courtyard Marriott and the closing off of Woody Hewett Avenue. It seems obscure to him in respect to closing off Woody Hewett Avenue, that we have an economically depressed area that we would basically give away a road that was the southern access to this economically depressed area. Basically, it seems like we would be isolating that area a little more, which seems to go with the giving away of the use of the parking lots, specifically for a private entity. It seems like since that parking lot is on the edge of the Boardwalk that you're taking away parking that could be used to help the economic status of the other Boardwalk and those businesses and giving it specifically for use for a private entity to basically have economic gain. With the issue of giving away the parking lots and Sara Wagner's questions to be answered, but he heard the same thing when he read the report in the Island Gazette that someone in the town had recommended instead of Mr. Manning spending over \$1.8 million for a parking lot that he could use the town lot so he was a concerned about it.

Councilman Lynch commented that we did not give the parking lot away, we leased it. We still own it and he thinks we leased it for 99 years, but we gained back double the parking spaces and also new restroom facilities and other facilities so he fails to see how the town's been damaged.

Mr. Gilbert said that the people on the Boardwalk that need the economic redevelopment probably didn't have a deal offered to them like that to help provide them parking, which he understands that we need to move ahead progressively but he thinks that where Mr. Manning plans on building is not adjacent to the Boardwalk in those depressed areas. Mr. Gilbert thinks that maybe someone should have offered to enhance it because that is what he has heard from the people that have businesses on Boardwalk that there is not parking so he is just throwing it out there for public thought that if a parking deck is needed and could be provided to those folks maybe instead of giving a 99 year lease, because he was stationed in Guantama Bay so he knows where 99 year leases go, so basically we have given up control of that and those bottom parking spaces there is nothing that excludes the people from those condominiums or restaurant to use those. So, if he wanted to park in there, these people could be parking there and I could not get to the Boardwalk.

Councilman Lynch does not think so and he is not arguing with him, but thinks that this is old news. Councilman Lynch said that no one came from the Boardwalk and said we need help with parking. We have not had anyone come and say that they wanted to build anything at the Boardwalk. Mr. Gilbert said that he appreciates that, and we have not been proactive in this town to help support that Boardwalk either.

Further, Mr. Gilbert mentioned that he has discussed with Mr. Chase and feels that Mr. Chase has taken on a huge burden when he came onboard and he has been shouldering quite a burden from the inconsistencies in the zoning and the LUP. Mr. Gilbert thanked Mr. Chase for being courtesy in his customer service role.

First, Mr. Gilbert asked when were the zoning height changes made in the present zoning ordinance? Mayor Barbour diverted that question to Mr. Chase. Mr. Chase responded, 2002.

In 2002, Mr. Gilbert does not think that we would be in this situation where we are now with the LUP if someone had taken and embraced that the LUP needed to be updated. We would not

be in the situation right now where the potential of people are being denied permits because of the conflict between that so it would have taken a leader or somebody in the position that Mr. Chase has now to recognize that inconsistency was going to cause a lot of problems. We have discussed it and for the record he thinks that might be impeding a lot of the progress from that.

With respect to the 5-minute limit for public speaking, Mayor Barbour explained to Mr. Gilbert that we try to limit everyone to 5 minutes to give everyone the opportunity to speak. Mr. Gilbert said he had three separate issues, and he would have taken a turn for 5 minutes on each issue. Mayor Barbour clarified that the intent of Council is to hear everyone and that is the reason for having 5 minutes per person, not 5 minutes per issue. But, Mayor Barbour informed Mr. Gilbert that he could address his other issue briefly.

Mr. Gilbert thanked Council and said that he did have a conversation with Councilman Doetsch that clarified some of this. Mr. Gilbert said that he has gone through since 2002 and added up all of the Conditional Use Permits that have been issued and did the math on that. He did not include, although he asked Mr. Chase, for some data on occupancy certificates, but there are some things he has not caught up with his plate being full so that data has not been readily available. But, what he was trying to do is take all of the Conditional Use Permits that have been granted and take all the occupancy certificates that have been granted and look at blocks of 10 years and their potential. Mr. Gilbert asked Mayor Barbour from 1980 to 1989, how many housing units were built? Mayor Barbour said, he had no clue. Mr. Gilbert responded, 1500. Mr. Gilbert asked, do we agree that from 1980-1989 the 1500 housing units may have impacted the economy a bit in this area? Councilman Lynch asked Mr. Gilbert how many were torn down? Mr. Gilbert said that maybe we could answer that, but his research is how many units were built, and he does not have what was torn down. But, would we agree that economically that may have caused some issues in the town? It has been communicated to him that caused some grief and issues in the town with number of housing units coming on the market, does anybody want to agree with that? Councilman Lynch does not think it has caused any grief. He thinks it is a positive thing when he sees new construction and old houses being torn down. Mr. Gilbert said, so from 1980 to 1989, you're saying that the 1500 housing units that came on the market as condominiums was a positive thing?

Councilman Lynch said that redevelopment for Carolina Beach is a positive thing, but he does not think 1500 is a real number. How many were replaced? He asked if there were 1500 brand new places built? Mr. Gilbert said that from 1980 to 1989 that the Council of Governments (COG) provided that information to the town as how many houses units were built. He understands that it suppressed the economy here, but you're saying that it didn't, would you go on the record saying that? Councilman Lynch said he does not fully understand his question and the point.

Mayor Barbour said that we do not intend to debate your issues. If you have questions that need answers, please submit them as part of the record and we will be happy to answer them. Mr. Gilbert asked that somebody in the town consider how many units are being built that started in 1997 and are projected to being built to the year 2006. He asked that someone look at that and consider what the failsafe is so we don't have housing glutton.

Councilman Macon said he understands the question and as a building inspector during a good portion of that time, he said the bottom fell out of the market in general all over the United

States. It wasn't just something that was a glut on the market in Carolina Beach and all of a sudden everything went to pot. He thinks that the housing industry as a whole suffered all over the country. He was in the construction business at the time and he remembers when he was a carpenter building new houses and then all of sudden he was doing additions. He was actually doing work to the contractor's homes and building additions to their houses so they could keep us busy. He thinks there are trends in markets and he does not think that is a valid point and said he was sorry, but had to disagree with Mr. Gilbert.

Mr. Gilbert said that Councilman Macon's partner, Dan Wilcox, brought it to his attention that those 1500 units did provide a glut and that was an issue. There were other people on the Council that brought to his attention that the housing glut did affect it. Mr. Gilbert appreciated Council's answers.

Councilman Lynch added that Atlantic Towers Condominiums, the single bedrooms, he does not know what they sold for, but he bets that they did not sell for more than \$40,000-\$50,000. Today, they are selling for \$230,000-\$250,000 so if there was a bit of a glut, isn't it pretty good today? Mr. Gilbert asked him how many of those he owns? Councilman Lynch responded, two. Mr. Gilbert asked Councilman Lynch if he would mind answering his question that came before if he had any financial interest? Councilman Lynch said, not with P.A.C.E. involved. Mr. Gilbert said, not as a resident you wouldn't answer that question if you have an interest or your family members? Councilman Lynch said that he does not have a right to ask him that question.

Mayor Barbour asked that the public not applaud. He understands that we all have passion about our subjects whether it is pro or con and he wants everyone to feel at ease when it comes to speaking. We appreciate your support, whichever way that might be, but please hold your applause.

Ms. Birdie Clark, resident of 233 Florida Avenue, said she is a 30-year resident and she has been a little confused by some of the things that she has seen happening at Council meetings and Planning & Zoning meetings. She would like some discussion at some point concerning the council-manager form of government. Ms. Clark would like someone to explain how our town manager system works or the definition of it. She has been looking into some definitions of the council-manager form of government and one of the things is that council-manager form of government is a system of local government that combines a strong political leadership of elected officials in the form of a Council or other governing body with strong managerial experiences of an appointed local government manager. The form establishes a representative system where all power is concentrated in the elected Council and where the Council hires professional trained manager to oversee the delivery of public services. Is the city-manager form of government a responsive form of government? In Council-manager form of government, Council members are the leaders and policymakers elected to represent various segments of the community and to concentrate on policy issues that are responsive to citizens' needs and wishes. The manager is appointed by the Council to carry out policy and ensure that the entire community is being served. Ms. Clark continued to say that, the Mayor and Council also focus on the community's goals, major projects and such long-term considerations as community growth, land use development, capital improvement and strategic planning. From this definition that Ms. Clark just read, she has some real questions about some of the things that have been going on and that seems like how the idea of our city-manager government suppose to work. But, for example, she has been at meetings where

something has come up on the agenda that is going to be put on the agenda and there have been comments made by either the town manager or council members before it has even come to the public hearing or is even put on the agenda for the public hearing that there have been prejudicial comments made either in favor of or against whatever is coming up. She is not sure that is the role that should be going on. Ms. Clark asked if somebody at some point would define what Carolina Beach's city manager job descriptions and definitions are and share that with us. And, take a moment to make sure that, in fact, that is what is going on. She feels like some of the definitions, especially the part of representing all people and being attentive to and responsive to the people that she is not sure that is happening. Another point Ms. Clark made was that, in a town there are residents who are developers who are business people who are just residents. Although everyone gets a say or vote and because you are a developer doesn't mean that you don't count, but it seems like on certain decisions when the majority of the people that are supporting something would be developer-realtor interest people that she thinks it says something about things that are going on. She is not saying that it is bad or good, but it puts it in a certain light, and she would like us to be able to look at all of the people's views on that.

Ms. Jennifer Page, resident of 610 Atlanta Avenue, spoke about progress and revitalization in Carolina Beach. Ms. Page said that since progress is the goal of the town and hers, it is very important that we take the proper measures to ensure that any approved project can and will be completed once it has begun so as not to cause the town harm of any kind. A couple months back she wrote a letter to the Island Gazette concerning a possible vision for Carolina Beach and she has been researching the current and past revitalization efforts in Asbury Park, New Jersey, a once thriving beach town and only an hour train ride from Manhattan. Back in the 1980's Asbury Park had a revitalization plan. To kickoff this plan, the city approved a 16-story condominium project called Ocean Mile. The construction began in 1986 and the city even gave the developers half of the adjacent avenue meeting to the centerline and making it one-way to accommodate the footprint and parking decks of the building. During construction one partner bought the other one out. By the time they framed the 11th floor, he filed bankruptcy. At that point, all development activity in the redevelopment area stopped. Ms. Page showed a picture to Council of what it has looked like there for the last 15 years, which is a major eyesore to the town. She said that we can only guess what this has done to the image and economy of Asbury Park. It has been a symbol of the images failing and neglected waterfront. This has set them back 15 years because the 1984 revitalization plan did not get off on the right track and left the city worse off than it was before. It has taken them until now to recover from this and find qualified investors to restore the historic casino and convention hall along with developing the properties in between. A particular developer is going to use the existing structure of the failed Ocean Mile condo to build a stylish multi-use, multi-story art deco building. With 16 stories, it will be the tallest building on the city's waterfront revitalization area. There is an 8-story multi-use condo to the north-end and then 4 and 5-story condos to the south-end. In fact, one objective to this new redevelopment plan amendment is to cut back the Ocean Mile Condominium project and return Ocean Avenue to its original width. She is just as concerned with the future of Carolina Beach as you all so we as a town need to require financial statements and or performance bonds from developers so the town and taxpayers will not bear this potential burden with the current town debt of about \$14 million. This burden is not something we can risk and where is the guarantee that this won't happen to us?

Councilman Lynch said that when a lender makes a loan that they typically require that the builder have a performance bond. The purpose of that performance bond is to ensure that the

building is finished. He does not know what happened there, but he has been around construction all his life, but he does not think it is the town's position to be approving credit and take financial statements. Councilman Lynch also feels that certainly under no circumstances should the town get involved in finishing projects because we are not really suppose to be involved in developing. Her point is well-taken, but feels that is a real long shot in that happening in Carolina Beach. Ms. Page hopes so, but it is her understanding that this town is being run like business so she thought we should consider that.

Councilman Macon also pointed out that many years ago, due to a citizen that had an abandoned property that sat for a long period time, we adopted ordinances that allowed us to tear property down and assess a lien on the property. We did that on a property at Carolina Beach Avenue South so there are ordinances in place if that were to happen.

Mr. Jim Rees, resident of 610 Atlanta Avenue, said he recently watched again a show called "Pleasure Island Conversations," which aired on local public access television during the 2003 mayoral elections. On that show, Mayoral Candidate, Dennis Barbour, spoke about reducing the amount of time to go through the Conditional Use Permit process by 30-days. This would be implemented by shortening on the public advertising and public meeting schedules. With that philosophy implemented, some large projects have been approved in a very short amount of time. Mr. Rees feels that not only is this injustice to the public, meaning town residents and adjacent landowners, but also leaves the town less time to scrutinize plans and paperwork and to fulfill legal obligations to adjacent landowners. For instance, Mr. Rees said that Park Place went from a Conditional Use Permit application on Friday, July 23rd to Town Council's approval on August 10, 2004, which was 12 working days or 18 total days. Planning & Zoning Committee had 10 working days, less with the revisions, to review one of the largest projects ever in Carolina Beach. Mr. Rees continued by saying that, as a result of failure to notify adjacent landowners, a lawsuit is now pending against the town, which could result in high legal cost and wasted town staff man hours.

Further, Mr. Rees suggested a minimum of 30-days from first publicly advertising an application for a Conditional Use Permit to the next Planning & Zoning Commission meeting. This would give the town time to fulfill their responsibility to have everything in order and give the public time to make an informed decision, which is our responsibility.

In response to Mr. Rees comments, Mayor Barbour addressed that the statements he made at the Pleasure Island Network was not solely to benefit large projects such as we have, but it is also to benefit the resident that wants to open up a restaurant in a former building or whatever that opportunity might be that our ordinances require them to go through a Conditional Use Permit and that does not short change the amount of time spent by our staff prior to the point where it is scheduled for a Conditional Use Permit with Planning & Zoning following Town Council. Before it ever gets to Planning & Zoning Commission, it goes through our review board of all of our staff here and they get to scrutinize things as well. So, the process has only been proposed to be shortened to the benefit of everyone in Carolina Beach wishing to open a business and make it easier. His platform was customer service for Carolina Beach and that was one item on that customer service list that he proposed.

Councilman Macon added that Mayor Barbour also got tired of hearing him complain about how long it took to get a building permit for a sign or house. It was taking a month to issue a

building permit for house, when he can remember issuing one in one day when he was building inspector.

Councilman Doetsch also said that the whole process of that was not user-friendly. When people would come in to get something, they would not have the full details on what they needed when they made their next trip back. At the 2004 Budget Retreat, Councilman Doetsch said that one of their issues was how to make town hall more user-friendly.

Councilman Macon said that it worked because he applied for a permit one day and received the next day.

CONSENT AGENDA

Councilman Doetsch made a motion to approve the consent agenda as follows:

Approval of the Minutes:

Regular Meeting December 14, 2004

Consider Request for Budget Transfers and Amendments:

Budget Transfers

Amendments-Operations & Clerk

The Operations Department is requesting that \$2835.24 be transferred from the water and sewer fund account 308000.45-Professional Services and be placed into the general fund account 105000.33-Supplies for the purchase of new Christmas light displays. This department is also requesting that \$321.31 be transferred from the water and sewer fund account 308000.46 and be placed into the general fund account 105000.03-Overtime. Monies are needed to appropriate that which were spent for overtime during Hurricane Charley. As you know the Council entered into an agreement last year to allow a cell tower to be placed on a water tower in return for monthly compensation. We have been receiving this compensation; however these monies were not appropriated. Along with receiving monthly payments we are obligated to pay a monthly management fee of 1/3 of collections for the cell site in the amount of \$660 this also needs to be appropriated. Therefore I am requesting that \$22,040 be appropriated to account revenue 103350.02-Cell Tower Rental, \$4620 be appropriated to expenditure account 105000.46-General Maintenance Professional Services and \$17,420 be appropriated to account revenue account 103990.00-Unappropriated Fund Balance.

The Clerk/Personnel Department received \$1750 in grant monies to establish an EAP Program and \$2880 in grant monies for the wellness program. Therefore, these monies need to be appropriated into our current budget year so they can be utilized. The request is to increase revenue line item 103550.07 in the amount of \$1750, increase revenue line item 103550.05 in the amount of \$2880 and increase expenditure line item 104300.55 in the amount of \$4630. As I stated above, these are amendments and require Council's approval.

Transfers-Operations

The following are all requests from the Operations Department to transfer monies from within the same fund. The first request is to transfer \$551.42 from account 105000.15-Public Buildings Maintenance into account 105000.16-Public Buildings Equipment Maintenance. These monies are needed to cover a shortfall in the account. The second request is to transfer \$71.82 from account 309000.15-Stormwater Ditch Maintenance into account 309000.16-Stormwater Maintenance and Repair of Equipment, these monies are needed for equipment repair.

The next three requests are for the purpose of covering shortages in the accounts, they are: decrease account 309000.15-Stormwater Ditch Maintenance in the amount of \$1.53 and increase account 309000.33-Stormwater Supplies; decrease 105000.35-Public Buildings Small Tools in the amount of \$3 and increase Public Works Administration account 104930.14-Travel and Training; decrease account 308000.46-W&S Adm. Professional Services in the amount of \$233.05 and increase 308000.75-W&S Adm. Capital Projects less than \$10,000.

There are two requests for transfers due to overtime monies used during Hurricane Charley; they are : decrease account 105650.03-General Fund Fleet Maintenance Overtime and increase 104930.03-Public Works Administration Overtime in the amount of \$212.48 and decrease account 308000.46-W&S Administration Professional Services and increase 308000.03-Water and Sewer Adm. Overtime in the amount of \$348.31.

The last request for a transfers is for the purchase of additional water meters, the request is to increase 308120.55-Water Meters in the amount of \$12,721 and decrease the following accounts 308110.45-WWC Contract Services in the amount of \$5721, decrease account 308110.46-WWC Professional Services in the amount of \$5000 and decrease account 308120.46-Water Professional Services in the amount of \$2000.

Transfer-Planning

There are additional monies needed for the CAMA Land Use Plan Update in the amount of \$1450; therefore the Planning Director is requesting that \$1450 be transferred from account 104910.75-Capital Projects under \$10,000 and placed into account 104910.45-Contract Services.

Consider other requests to:

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit at 608 S. Lake Park Blvd. for a take-out restaurant.

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit at 608 Carolina Beach Avenue South for 4-multi-family units.

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit at 310 & 313 Canal Drive for a Mixed Use Redevelopment (Harbor Master's)

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit for a Mixed Use/Planned Unit Development at 1000 N. Lake Park Blvd. (Jubilee Park)

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit for a Planned Unit Development at 305 Lake Park Blvd. South for Park View Development.

Adopt Resolution No. 05-808 declaring the town will match a NC Governor's Crime Control and Public Safety Grant for the purchase of software from Southern Software. (Exhibit 1)

Set a public hearing date for February 8, 2005 at 7:30 p.m. or soon thereafter to consider amendment to Chapter 12 Planning & Development, Article VIII Drainage Advisory Committee, Chapter 16 Utilities, Article V, Section 16-236 Meetings

MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING – ACCEPT PUBLIC COMMENTS FOR PROPOSED BUDGET FY 2005/2006

Calvin R. Peck, Jr., Town Manager, said that the proposed budget calendar that Council has adopted includes a time for public discussion at this first public hearing on the budget that will begin the July 1, 2005 through June 30, 2006. Mr. Peck further said that we have begun the Capital Improvement Plan process within staff and we will present the draft at the February 26, 2005 Budget Retreat. Council will prioritize issues and items and areas of concern and then staff will develop a budget and present it to Council. According to state law, a balanced budget must be presented by May 30, 2005 and Council must adopt it no later than the July 31, 2005. The plan now is to have a public hearing to adopt the budget the second Tuesday in June 2005. We have found that with citizen's groups that have needs and concerns, it is much easier if they address them at the beginning of the process so we can address their needs than wait until the middle of June and bring up new concerns so this is the first opportunity for the calendar.

Mr. Peck added that the Budget Retreat will probably be here at town hall at about 8:00 a.m. in the training room and break in the atrium.

Mayor Barbour made a motion to open the public hearing for comments on the upcoming 2005-2006 budget. **MOTION CARRIED UNANIMOUSLY.**

There being no comments, Mayor Pro Tem Efird made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.** Immediately following, Mayor Pro Tem Efird rescinded her motion to allow for public comments. **MOTION CARRIED UNANIMOUSLY.**

Ms. Sarah Wagner, resident of 316B Greenville Avenue, commented about the Carolina Beach School and asked that council consider the school as a priority. Councilman Doetsch asked her if she was in favor of mobile classrooms? Ms. Wagner would prefer to see permanent additions made to the building, or consider space for a new school. She feels we really need more space and particularly the little children will be best served in a mobile unit. Ms. Wagner

thinks that mobile units will take up the playground space because children need room to play for recess. The more temporary structures that are out there on the playground, the less space they have to play and the less safe it is for them on the playground. Obviously, if the option is 50 kids in a classroom or mobile classroom, the option is mobile classroom because no one is served by having overcrowded classrooms. However, if we can find money in the budget or have a referendum to build bigger facilities that is the answer for the long run and what she would like to see.

Councilman Macon mentioned that the school is not really part of our budget because it is the county. He suggested that her comments would be better served at the County Commissioners meetings and school board meeting because they are the ones that actually control that. Our budget does not even have a line item for the school. Ms. Wagner thought that some of our tax money is Carolina Beach tax? Councilman Macon explained that some of the money does go there, but the percentage of taxes that go to New Hanover County actually does go to the school system, but he does not recall the percentage. It is a fairly high percentage along with social services. Ms. Wagner thanked him.

Ms. Ann Bowman, Chairman of the Operations Committee, thanked the citizens of Carolina Beach for supporting the Storm Water Project. She is also a resident of Carolina Sands and she is eagerly looking forward to our project and that it will be happening in the next couple of months.

Ms. Bowman asked that everybody remember back to a time when it would rain more than an inch, the whole town flooded. It has been a long time since we have seen that, and it is all due to the storm water fees that were instituted because we have so wisely spent our money. Her point is to say thanks for all the time and effort in advance that Council will spend on the budget. She knows that weighing wants versus needs is a difficult task. Ms. Bowman said that she is a property manager for homeowners associations, and they are just now implementing their 2005 budget. This is the reason she has not been to the last two Council meetings because she has also been involved in budget meetings.

Ms. Bowman commended Council for taking the time and effort they will spend on the budget and for the improvements that she is confident that will be coming to our town because of the budgeting that they do. She also thanked the town manager because she feels that none of us could operate without him.

Mayor Pro Tem Efird made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING - CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT (1) 9,600 SQ. FT. STRUCTURE TO INCLUDE 6 RESIDENTIAL UNITS AND 1 OFFICE/RETAIL UNIT (MIXED USE DEVELOPMENT) LOCATED AT 103 CHARLOTTE AVENUE

Prior to speaking, Scott Chase, Planning & Development Director was sworn in by the town clerk. Mr. Chase reviewed the proposed Conditional Use Permit requested by Plantation, Inc. with Council as follows:

BACKGROUND/HISTORY:

The applicant is proposing to construct (1) 9,600 sq. ft. structure to include 6 residential units and 1 office/commercial unit (Mixed Use Development) at 103 Charlotte Ave. The project is located in the Central Business Zoning District and is being proposed under mixed-use development. The project will include ground floor commercial and (6) 2-bedroom residential units above with parking located underneath the structure and adjacent to the structure. Height, Density, Setbacks, and landscaping in the Central Business District are examined through Conditional Use Permit review. The parcels are located within the 100-year floodplain and will be required to have elevated living space and commercial space or commercial space on the ground floor may be floodproofed. The property is also located within a CAMA Area of Environmental Concern.

ANALYSIS:

Maximum lot coverage within the Central Business District is 0%; the footprint of the structure is approximately 3,904 sq. ft., which is of the allowable square footage. Density of units allowed under the Central Business District is examined through review of a Conditional Use Permit and the applicant is proposing in this case 6 residential units, and 1 office/commercial unit. The proposed structure will not exceed 50' in height. Setbacks in the Central Business District are 0' (side), 0' (front), and 0' (rear). The applicant's structure is setback 0' facing Charlotte Avenue and 11' feet facing Woody Hewett Street. The applicant is providing for 16 on site parking spaces. The parking required for the residential units will be 12 spaces. Parking for the 1,200 office/retail space will require 4 parking spaces at 1/300 sq. ft. for a total of 16 required spaces. The applicant is providing for street trees and sidewalks consistent with the Town's recently approved landscape ordinance. (See attached Site Plan & Applicant's Narrative).

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspections. Mixed Use Development proposals are allowed with the approval of a Conditional Use Permit in Central Business District zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. Prior to issuance of a building permit, an engineered storm water and drainage plan must be submitted and approved.
2. The storm water system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. Drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
4. A driveway permit and construction permit from the Town of Carolina Beach will be required before issuance of Building Permit.
5. Approval from the Division of Water Quality for a CAMA Minor Permit.
6. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
7. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
8. Flood Certification must be presented prior to issuance of certificate of occupancy.
9. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance.
10. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
11. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
12. Indicate on plan frequency of refuse collection and agency to be used and adequate access must be provided to the dumpster site. The refuse collection site shall be enclosed on all four sides and shall remain closed except when facility is in use.
13. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.

14. All permits required by Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
15. A sign permit must be obtained for any new signs located on the property.
16. Maintenance of parking, streets, drainage systems, utilities, and other such facilities- All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
17. Certification shall be provided that all improvements, including but not limited to paving, drainage, storm water, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
18. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
19. Prior to issuance of building permit, all approval letters and final site plan shall be submitted and approved, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
20. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

The Planning and Zoning Commission heard this proposal at its December 9, 2004 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 1. Refuse collection site must be enclosed with fence of at least 6' in height.**
- 2. Relocation of storm drain for better flow.**
- 3. Relocation of handicap space for better access to commercial unit.**
- 4. Catch basin should catch water flow coming down the ramp.**

Following Mr. Chase's presentation, Mayor Barbour made a motion to open the public hearing.
MOTION CARRIED UNANIMOUSLY.

Prior to speaking, Mr. Alan Gilbert, resident of 601 Atlanta Avenue, and member of a civic organization for responsible growth, was sworn in by the town clerk. He thinks this project is about the beautiful essence of progress and this is progress to him. It is responsible and architecturally it is wonderful. Mr. Gilbert feels it will add to the skyline and this is what a responsible developer can bring to our community. This is with the rules or supply and demand as they apply to real estate, this is what we need more of. Mr. Gilbert thinks that we

need to do everything in our power to make sure that these types of projects are brought to us with open arms. Mr. Gilbert followed this proposed project through the Planning & Zoning Commission meetings and went to the applicant's website. He thinks these folks that are bringing this to the table offer a fully funded project so there is no squirming over banks or anything else. This is the type of progress that we need and he will stand behind anything like this that is brought to the table. He thanked the town for being open-minded about this, and hopefully, there are no hurdles that they have to jump through that will make this more cost-effective for more people to do this.

Prior to speaking, Ms. Sarah Wagner, resident of 316B Greenville Avenue, was sworn in by the town clerk. Ms. Wagner echoed Mr. Gilbert's sentiments. She was also at the Planning & Zoning Commission meeting when this developer made the proposal and requested a Conditional Use Permit. Ms. Wagner agrees with Mr. Gilbert that the project is architecturally pleasing. This is exactly the kind of development that some of us have been asking for month after month. It is so nice to see that there are some developers that want to build things, that those of us who are still interested in a low profile beach town, this is what we are looking for in a low profile beach town. This will make a pleasant addition to our Central Business District and the downtown Boardwalk area. This makes it more pedestrian and family friendly. Ms. Wagner said that if there are any developers here that want to build more projects that are short and architecturally pleasing and fit in with the town to bring them on because they are there to support it. She knows that there have been many months when all we did was hammer the Council and the Planning & Zoning Commission in saying that we do not like it. But, we promised if a developer proposed something that we could stand behind we would. She is in favor of granting the Conditional Use Permit for this project.

There being no further comments, Mayor Pro Tem Efirid made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Lynch made a motion to approve the request for a Conditional Use Permit to construct a 9,600 square foot structure to include 6 residential units and 1 office/retail unit (mixed use development) at 103 Charlotte Avenue, applicant Plantation Inc., subject to specific standards 1-7, general conditions 1-4, staff recommendations 1-20 and the Planning & Zoning Commission's recommendations 1-4 as described herein. **MOTION CARRIED UNANIMOUSLY.**

Councilman Lynch thanked Plantation, Inc. for bringing this project to us and he agrees with Mr. Gilbert and Ms. Wagner that this is a nice project for Carolina Beach. He feels that Plantation, Inc. has done some nice projects in the City of Wilmington and we appreciate having him here. A spokesperson for Plantation, Inc. thanked Council for their support and cooperation.

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT TO CONSTRUCT (1) 6,000 SQ. FT. STRUCTURE TO INCLUDE 5-6 OFFICE UNITS (MULTI-USE FACILITY) LOCATED AT 700 LAKE PARK BLVD.

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. He reviewed the proposed Conditional Use Permit requested by applicants, SECOF, Inc. and Scott Jones as follows:

BACKGROUND/HISTORY:

The applicant is proposing to construct (1) 6,000 sq. ft. structure to include 5-6 office units (Multi-Use Facility) at 700 Lake Park Blvd. The project is located in the Highway Business Zoning District and is being proposed under multi-use facility. **A multi-use facility is defined as a facility containing more than (2) two stores, service establishments, offices, or other permitted uses planned, organized, and managed to function as a unified whole and featuring all of the following: 1) common driveways, 2) common parking, 3) common signage plan, and 4) common landscaping plan.** The project will include parking underneath the three-story structure with 5-6 office units located within the structure. The parcel is located within the 100-year floodplain (A9-Zone). Nonresidential construction may be floodproofed in lieu of elevation.

ANALYSIS:

Maximum lot coverage within the Highway Business District is 60%; the footprint of the structure is approximately 2,240 sq. ft., which is of the allowable square footage. The structure will not exceed 50' in height. Setbacks in the Highway Business District are 10' (side), 30' (front), and 20' (rear). The applicant's structure is setback 30' facing St. Joseph St. and exceeds required setbacks around the perimeter of the property. The applicant is providing for 27 on site parking spaces. The parking required for the office units will be 20 spaces, based on 1/300 sq. feet (office use). The applicant is proposing 27 parking spaces. The applicant is providing for street trees consistent with the Town's recently approved landscape ordinance. (See attached Site Plan & Applicant's Narrative).

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspections. Multi-use facility proposals are allowed with the approval of a Conditional Use Permit in Highway Business District zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. Prior to issuance of a building permit, an engineered stormwater plan must be submitted and approved. The stormwater system shall be installed according to approved plans and a letter signed and sealed by a licensed engineer shall be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy or payment of stormwater management contribution satisfactory to the Town.
2. Drainage plan must be submitted prior to issuance of a building permit. The system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. A driveway permit and construction permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
5. Flood Certification must be presented prior to issuance of certificate of occupancy.
6. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance.
7. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
8. The types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
9. Indicate on plan frequency of refuse collection and agency to be used and adequate access must be provided to the refuse collection site. The refuse collection site shall be enclosed on all four sides and shall remain closed except when facility is in use.
10. The structure must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
11. All permits required by Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
12. A sign permit must be obtained for any new signs located on the property.
13. Maintenance of parking, streets, drainage systems, utilities, and other such facilities-

- All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
- a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the multi-use facility for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Facility Association.
14. Certification shall be provided that all improvements, including but not limited to paving, drainage, storm water, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
 15. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
 16. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
 17. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

The Planning and Zoning Commission heard this proposal at its December 9, 2004 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 1. The proposal shall provide for curb and gutter and 5' wide sidewalk facing St. Joseph Street and shall be approved by the Operations Department prior to Certificate of Occupancy.**

Further, Mr. Chase informed Council that the Planning & Zoning Commission has also recommended a second proposal that the applicant contain the storm water onsite, although it was inadvertently left off their staff memo it should be included in their recommendations.

Before concluding his presentation, Mr. Chase advised that town staff has met with the applicant and the engineer is also here tonight to explain the storm water retention on the site if needed.

Councilman Doetsch questioned the 6-foot fence and if it was required by us? Mr. Chase said that was actually proposed by the applicant. He thinks a business should have as much visibility as possible and is not in favor of the 6-foot fence, but he does not mind the landscaping. Councilman Lynch asked what the Planning & Zoning Commission said about the fence? Mr. Chase told them that Planning & Zoning Commission thought it was acceptable. They did not acknowledge it as an issue as long as the landscaping was being

proposed as a 5-foot wide buffer. Councilman Macon is not a big fan of fences either, but does not think that we should get into dictating whether someone should have a fence or not.

Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, Mr. Ken Coffey, resident of 234 St. Joseph Street, was sworn in by the town clerk. He is the builder of the proposed project, and his engineer was present to answer any questions about the storm water on site. Mr. Coffey said he hears some concerns about the fence and he will recommend to the applicant that some would like to see it removed. He personally does not have a problem with it. Originally, Mr. Coffey explained that there was a 30-foot access easement that came through the Subway property to this and their intention was for them not to be driving across the landscaping. He thinks there might be some agreement between Subway and Calder & Calder, who is going into this facility. Councilman Doetsch said that he does not understand the reason for the fencing because he would want as much visibility as possible on Lake Park Blvd. Mr. Coffey said this project consists of two businesses that just need more room and our expanding into this facility and he is glad to see it.

In addition, Mr. Coffey said that the Planning & Zoning Commission requested curb and gutter and 5' wide sidewalks and they have made it their plan to put that in there as their request. He said that his storm water engineer has met with the town and just recently got it resolved.

Prior to speaking, Jeff Malpass, engineer for the project, was sworn in by the town clerk. He stated that they plan to detain equivalent of 1" runoff from their site underground and releasing it over a time period of 2-5 days to help with water quality issues. Mayor Pro Tem Efird said that property used to always fill up with a lot of water with just a little bit of rain.

He said that they will probably build it up a little because it slopes and allow it to drain toward St. Joseph Street ditch.

Councilman Doetsch asked what business was to the south of the property? Mr. Chase responded, the bank. Councilman Doetsch withdrew his concerns about the fence and understands the reasoning for it now.

Prior to speaking, Mr. Michael D. Puritis, resident of 707 St. Joseph Street, was sworn in by the town clerk. He said he owns the property immediately adjacent to this property on the left side. He does have a problem with the fence going out to the street because it obstructs his business and normally you would not have a 6' fence in a business area. He also wants to make sure that the town ensures the drainage problem is properly addressed.

Mr. Alan Gilbert, resident of 601 Atlanta Avenue, thanked Mr. Coffey and his applicant for recognizing the need for quality commercial development in Carolina Beach to help balance out the number of housing units that are going in. He had the opportunity to speak with the engineer during the Planning & Zoning Commission meeting and he was very pleasant to answer his ignorant questions about storm water. He thinks it is great that they are going to try and manage some of it onsite. As long as it is not a burden to developers, he would like to see all projects manage all other storm water onsite. Although, he knows it could be a burden for long-term after speaking with the engineer.

There being no further comments, Mayor Barbour made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

For clarification, the town manager said that the recommendation from Planning & Zoning Commission was to retain all water onsite. The proposal from the applicant is to detain the first 1" of storm water onsite and then convey the rest to the town's system. He said that staff is fine with that recommendation. Mr. Peck asked that Council include one of those specific options in their recommendation.

Councilman Macon thinks that we have two options, which is to retain it onsite or pay a fee. He assumes that there is some type of fee associated since they are not retaining it all onsite. Mr. Peck advised that unless they retain 100% onsite, there will be development fee for storm water. Councilman Macon wanted to make it clear to the audience that is the way the current system is setup.

Councilman Lynch asked if staff is fine either way? Mr. Peck said, yes.

Mayor Barbour explained that the fees we charge for development when the town handles the storm water is to address the impact on storm water as far as town drainage and culverts or whatever we have to install to take care of storm water runoff.

There being no further discussion, Mayor Barbour made a motion to approve the Conditional Use Permit for the 700 Lake Park Blvd. to construct (1) 6,000 square foot structure to include 5-6 office units (multi-use facility) to include 1-4 general conditions; 1-17 staff recommendations; the (1) condition indicated by the Planning & Zoning Commission; and the additional requirement for management of storm water up to 1" onsite; and that the developer and property owner work with the owner on the north side to ensure his property's egress entrance and signage is not blocked; and to include that the fence height be reduced on the northern boundary so it does not obstruct the view of the adjacent business. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING - CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR (2) MOBILE CLASSROOM UNITS LOCATED AT 400 S. FOURTH STREET FOR NEW HANOVER COUNTY SCHOOLS C/O CAROLINA BEACH ELEMENTARY

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the following request for a Conditional Use Permit:

BACKGROUND/HISTORY:

Carolina Beach Elementary School is proposing to place (2) mobile classroom units on the site located at 400 S. Fourth St. (See attached site plan) The property is located in the R-3 Zoning District. Schools are allowed by conditional use permit in the R-3 Zoning District. Each unit will accommodate 24 students and each unit will have a restroom. In 2002, a mobile classroom was placed on the school site. The property is located within a 100-year flood zone. The structures will have to be elevated or floodproofed.

ANALYSIS:

The Technical Review Committee met on November 22, 2004 and had concerns over the additional parking facilities that may be required by the additional units. The Carolina Beach Zoning Ordinance requires 1 space per employee and 5 for visitors for school parking. The TRC also recommended if the proposal is to be approved, that a time limit be placed on the mobile units and a long term plan be submitted to include plans for replacing the existing mobile units with on-site permanent structures.

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspections. School related projects are allowed with the approval of a Conditional Use Permit in R-3 zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

- 1) The location and dimensions of refuse collection container and a statement identifying the method and frequency of refuse collection and agency to be used must be included on the site plan. The refuse collection site must be enclosed on all four sides.
- 2) The proposed and existing mobile units are temporary in design and nature. The units must be replaced with on-site permanent structures within 3 years of the date of approval for the Conditional Use Permit.
- 3) All permits required by Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy that includes Flood Elevation Certificate.
- 4) A parking plan must be presented prior to issuance of building permit that will accommodate the minimum requirements of the Town of Carolina Beach Zoning Ordinance. All parking that is proposed within Town Right-of-Way must be approved by the Dir. of Operations.
- 5) Landscaping plan must be submitted and approved prior to Certificate of Occupancy.
- 6) Drainage plan must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
- 7) Prior to issuance of a building permit, an engineered storm water plan must be submitted and approved. The storm water system shall be installed according to approved plans and a letter signed and sealed by a licensed engineer shall be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy or payment of storm water management contribution satisfactory to the Town.
- 8) Certification shall be provided that all improvements, including but not limited to paving, drainage, storm water, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.

The Planning and Zoning Commission heard this proposal at its December 9, 2004 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

1. Change condition number 2 and extend time to 5 years.

Following Mr. Chase's presentation, Councilman Doetsch asked if there were currently any trailers on that property now and how long has it been there? Mr. Chase replied, one since 2002. Councilman Doetsch inquired whether some time this year if that one goes away? Mr. Chase said, no. Councilman Doetsch asked if it is because we did not put the requirement or 3 years in there? Mr. Chase advised that he could not locate a Conditional Use Permit for the 2002 structure. Councilman Doetsch wonders if there is any good reason why we would think that the county would get rid of the ones that we are getting ready to approve in 3 years, when this one has been sitting there for 3 years.

Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mr. Alan Gilbert, resident of 601 Atlanta Avenue, said that his wife is a volunteer coordinator for the Carolina Beach School. He has two children in the school now and one more child attending the school within a year and 6 months. His wife took him on a tour during a typical day and it is very overcrowded. Both his sons have over the maximum of students that is recommended in their classes. It is his understanding that these portables will be used to alleviate the classroom overcrowding. There will not be new teachers coming in so there won't be any need for parking spaces, but what they are trying to do is take teachers out there and spread out those students. Mr. Gilbert advised he was at the Planning & Zoning Commission meeting and talked to New Hanover County and he understands the philosophy behind these portables. It is his understanding that a new elementary school will be placed at Veteran's Park that will relieve some of the overcrowding. As for the portable that is there now, it is being used because the art teacher and music teacher does not have a class room so they push around a cart so taking that away is not really going to help the situation. His son was taking exams in the hallway with the fluster going on and the assistant principal took him in his office where it was quiet. Mr. Gilbert thinks it would be considered harm maybe to force these people also economically maybe an impact to force them to take the one out that is there now and put a 3-year requirement on it with the way the New Hanover County budget is, there are some bond referendums coming up and it might help us stimulate supporting the bonds if we want those portables gone.

Mr. Gilbert further thinks that 5 years seems reasonable if the new school is going to go in and suggested maybe extending the one that is there now.

Mr. Gilbert also mentioned that as his wife has asked the town for support on small issues, that the town manager and staff have been very serving. He knows that there are other people in the community, like Mr. Barbour, who have offered their services. On behalf of his wife, he thanked the town for their support and Mr. Barbour's support. He thinks these portables are necessary to help us facilitate the school.

Prior to speaking, Mr. Eddie Anderson, Director of Facility Planning and Construction for New Hanover County Schools, was sworn in by the town clerk. Mr. Anderson said he is sure that Council is familiar with the overcrowded conditions at Carolina Beach Elementary School. He does not feel he needs to convince anyone that mobile classroom units are needed. In fact, the town has been very supportive of our request and we appreciate that. Unfortunately, Mr. Anderson said that the mobile units are only a temporary solution and what Carolina Beach School needs is a major renovation. They agree with staff's recommendations that the landscaping buffers, parking, and refuse collection are important and serious issues that need to be addressed. Mr. Anderson also advised that they think parent pick-up and drop-off areas, bus loading areas, play space, building access, security and handicap accessibility are also serious issues that need to be addressed. However, they do not think that tying these issues with the immediate critical need of mobile units is appropriate. Last week, Mr. Anderson continued that, the Board of Education unanimously approved a bond referendum package that does include major renovations and construction to Carolina Beach Elementary School. This proposal calls for utilizing Anderson Elementary School being constructed at Veteran's Park for the 2006-2007 school year to house the students from Carolina Beach Elementary School while construction efforts are underway and they would return to Carolina Beach for the 2007-2008 school year. The issues noted by staff and the additional issues would be addressed as part of those renovations; therefore, we are considering Town Council dropping conditions 1, 4, and 5 requiring schools to bring the existing Carolina Beach Elementary site

into compliance with current regulations per refuse collections, specifically requiring at this time providing a screening around the refuse collection, bringing parking into current compliance and landscaping. We agree that those are important issues, but right now we are trying to get appropriate classroom space for the children that are there. The mobile classrooms are not being added to add students and not being added to add the increased population of Carolina Beach. We are trying to get students in more appropriate classrooms spaces. They are currently being taught in make-shift classrooms on the stage in the media center, dining area, closets and hallways.

Councilman Lynch asked if those requests were made to the Planning & Zoning Commission? Mr. Anderson apologized that he did not have a copy of staff's recommendations at that meeting, and they were not made to the Planning & Zoning Commission.

Concerning condition #2, Councilman Doetsch said there would be no need to put an extension on the 3-year limit. Mr. Anderson asked Council to consider changing the word "replace" with "remove" because it puts a financial burden on the Board of Education. They are dependent on funding and they might not be able to meet that, but removing the mobile units might be an alternative. They do not have any objections to the 5-year.

Mr. Anderson said they intend to implement 1, 4, and 5, but they think it would be more appropriate to tie those items to a larger renovation of Carolina Beach Elementary School and not the mobile units. Councilman Doetsch asked if we could look at those remedied by 2007? Mr. Anderson said, yes. Councilman Doetsch asked if they need to keep the trailers there more than 3 years? He cannot see a need by the projected number of kids that are going to be there in 2007 with the expansion.

Mr. Anderson said that they do envision needing those 3 mobile units until renovations take place in Carolina Beach.

Mayor Barbour asked what the financial impact is on conditions 1, 4 and 5? Mr. Anderson said that they do not know what the specific impact would be until those requirements are defined.

For clarification, Councilman Lynch questioned the changing of the wording in the second sentence under condition #2? Mr. Anderson would insert that the units must be "removed or replaced."

Councilman Doetsch does not understand why we have neglected to upgrade this school in the last 30-40 years, although he is sure that there have been small renovations. He is disappointed in the county and school board for neglecting the school for that long. For him, it is hard to find a whole lot of sympathy for the school board or the county on this issue, but the kids should not suffer in the meantime. He asked that Mr. Anderson relay his feelings to the school board and county commissioners of their inability to fix this school until now.

Mr. Anderson does not disagree with him, but he does think that recognizing that is why the Carolina Beach Elementary School was a priority of staff and why it is a priority of the Board of Education. He is not making excuses for how we got here today, but fixing those problems is a priority of theirs.

There being no further comments, Mayor Pro Tem Efirid made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Lynch agreed with Councilman Doetsch's comments that the school has been neglected, but made a motion to approve the Conditional Use Permit for (2) Mobile Classroom Units at 400 S. Fourth Street subject to specific standards 1-7, general conditions 1-4; delete requirement #1; delete requirement #4; delete requirement #5; and add in requirement #2, second paragraph "must be removed or replaced with onsite permanent structures."

Mayor Barbour commented about the refuse collections in item #1. He said that refuse collections are on the south side and close to the school. It seems reasonable to require that it be enclosed. It is commonly used for collection of refuse other than school. Mayor Barbour thinks it is fair to request it be enclosed to help give the school the capacity they need for refuse as well as to prevent other people from using their facilities that they pay for. Mayor Barbour suggested that in the last sentence in Item #1 that the refuse collection facilities be enclosed.

Councilman Lynch said that he would amend his motion after further discussion.

Concerning Item #5, Mayor Barbour thinks that as many kids that use the playground, the landscaping would probably not last and it is reasonable not to consider not requiring it and exclude Item #5.

Concerning Item #4, Mayor Barbour said that parking is always a problem whenever there are functions at Carolina Beach School. The county currently owns property to the immediate south of the school and it has been the desire of the town for the school's benefit to turn those lots into parking for some time.

Mayor Barbour asked if we were to require that parking be planned for that area, is it required that it be a paved parking area? Mr. Chase said, probably so with the way the requirements are now? Mayor Barbour said he will not require that the proposed approval be subject to paved parking, but he would encourage the county to include that in its upgrade along with mobile classrooms just to accommodate what is currently there. They have to park on the side of the streets.

Concerning Item #4, Mr. Chase asked if that would stand as written? Councilman Lynch does not think that we should require that because they are just shifting students due to overcrowding and he does not think we should put that burden on them trusting that they are going to do something about the school. He feels it would be a good gesture on the town's part to waive it. Mayor Barbour said that if we require use of right-of-way then that would exclude some of the parking that is currently being used so we definitely do not want to do that.

Concerning more parking, Councilman Macon asked, why don't we just put a time limit on it so they can work into their plan for their renovation of the property? Mr. Anderson said that we have been through the planning process whether that site is best served for parking or play space. He feels there are some other options, but he assured Council that inner planning and design for the renovations we will take that condition under consideration.

Councilman Doetsch said that we are running out of space there and the logical thing to him is to go up instead of covering more ground.

Mr. Anderson said that they are actually considering that in a lot of these facilities. As for the bond referendum, there are 7 schools that were built in the 1940's or before. They are very similar and these are the ones that they have identified as the most critical needs in their priorities. Because of the limited land, they are considering multi-story.

Councilman Lynch asked when they estimate starting on the Carolina Beach Elementary School subject to the approval of the bond referendum?

Mr. Anderson said that Anderson Elementary and Veteran's Park is currently funded. If the bond is approved, we would design renovations to take place during the 2006-2007 school years. The type of renovations and reconstructions they are talking about are just not possible with students on campus so we are considering using that facility for Carolina Beach students.

Councilman Lynch said, one thing we want to be sure of is that we don't want to lose that school. Mr. Anderson agreed.

Councilman Doetsch said that he is willing to support his position, but he is not real pleased at the time it has taken for the school board and county to get around to it. He feels that is not acceptable.

Councilman Lynch agreed with Councilman Doetsch's comments that the school has been neglected, but made a motion to approve the Conditional Use Permit for (2) Mobile Classroom Units at 400 S. Fourth Street subject to specific standards 1-7, general conditions 1-4; keep last sentence of requirement #1 that the refuse collection site must be enclosed on all four sides; delete requirement #4; delete requirement #5, but request to have a plan for utilization of the property to the immediate south of Carolina Beach School be developed for additional parking for Carolina Beach School; and add Planning & Zoning Commission's condition to change Condition #2 to extend time to 5 years and include in second sentence "must be removed or replaced with onsite permanent structures" described herein. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour told Mr. Anderson that we consider the Town of Carolina Beach and the Carolina Beach Elementary School to be a partnership. We want to see the school succeed and if there is anything the town can help him do to let us know.

Councilman Lynch mentioned that some of those students who have transferred up to the middle school are really standing out. Councilman Lynch thanked the teachers and principal of the school. Councilman Doetsch thanked Mr. Anderson for sharing this information with us.

Mr. Anderson thanked Council and looks forward to working with us on the renovations.

The town manager also mentioned that the Assistant Principal, Mark Minskey's, last day is Friday. He is leaving to takeover as principal of a school in Pender County. Council said they would miss him greatly.

CONSIDER REQUEST FOR A CONDITIONAL USE PERMIT FOR A COFFEE SHOP (RESTAURANT) PORT CITY JAVA LOCATED AT 1328 N. LAKE PARK BLVD. – THE PAVILION

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. He reviewed the proposed Conditional Use Permit requested by the applicant, Saieed Construction.

BACKGROUND: This project is for a coffee shop café at The Pavilion (multi-use facility) that is currently under construction in the highway business zoning district (HB). The use will take up approximately 1,700 sq. feet in the 22,000 sq. foot building that will primarily house medical facilities. Their menu will consist of roasted coffees, baked goods, sandwiches, salads, and will also contain a juice bar. There will be no alcohol sales on the premises. The coffee shop will employ between 12-15 people on shifts. The hours of operation will be from 6am to 9pm during the week and will close at 10pm Fridays and Saturdays. The Café proposes 34 seats. (See attached narrative)

ANALYSIS: Coffee shop/Restaurants/Café is allowed by Conditional Use Permit in the HB district. Parking requirements according to Article 7, Section 7.1 (d) of the Zoning Ordinance, is based on 1 space per 3 seats for a restaurant. For the proposed 34 seats they will have to provide for 12 parking spaces for the use. The total number of required spaces for the facility (including coffee shop) is 111, based on multi-use facility requirements of 5 per 1,000 sq. feet. The total number of parking spaces for the site is 138. The ordinance states for drive thru windows for restaurants they must provide 6 stacking spaces. The site plan shows the stacking of vehicles and a passing lane around the drive thru. (See attached site plan)

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspections. Coffee shop proposals are allowed with the approval of a Conditional Use Permit in Highway Business zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. An agreement must be submitted between the tenant and owner for the total number of allocated spaces for parking prior to issuance of building permit.
2. The location and dimensions of refuse collection site and a statement identifying the method and frequency of refuse collection and agency to be used must be included on site plan. The refuse collection site shall be enclosed on all four sides and shall remain closed except when facility is in use.
3. All permits required by Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
4. A sign permit must be obtained for any signs located on the property.
5. Certification shall be provided that all improvements, shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee) prior to Certificate of Occupancy.
6. Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.

The Planning and Zoning Commission heard this proposal at its December 9, 2004 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above.

After Mr. Chase's presentation, Mayor Barbour made a motion to open the public hearing.
MOTION CARRIED UNANIMOUSLY.

Prior to speaking, Ms. Jennifer Paige, 610 Atlanta Avenue, was sworn in by the town clerk. Ms. Paige commented that the property owners to the east side were supposed to leave a buffer of trees, but there is only one left. She asked that they replant that whole area with something indigenous, such as wax myrtles and put it back the way it was to create a nice barrier for those residents.

There being no further comments, Mayor Pro Tem Efird made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Ebird made a motion to approve the request for a Conditional Use Permit for Port City Java Coffee Shop (Restaurant) at 1328 N. Lake Park Blvd. at The Pavilion subject to the 1-7 specific standards; 1-4 of the general conditions; and 1-6 of the staff's recommendations as described herein. **MOTION CARRIED UNANIMOUSLY.**

Councilman Macon addressed Ms. Paige's comments. He appreciated her thought process, but he feels that is more between the developer and owner of the property than something we should put on Port City Java because they are going into a unit that is built as a tenant. He does not disagree with her that it needs to be replaced, but he does not think it is Port City Java's position to do it. Councilman Macon thinks that the developer and the owner of property promised something then they should deliver it.

Mayor Barbour said that those conditions for buffering should be part of the conditions adhere to prior to given a Certificate of Occupancy for the whole facility.

There being no further discussion, Mayor Barbour made a motion to recess for a 5-minute break. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour resumed the meeting back in order. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS - PRESENTATION BY TOWN MANAGER CONCERNING THE IMPLEMENTATION OF PHASE I FREEMAN PARK BEACH

Calvin R. Peck, Jr., Town Manager, reviewed with Council the management proposal for Phase I Freeman Park Beach. (Exhibit 2) Mr. Peck made this proposal to the North-end Committee and received their endorsement of the plan on December 16, 2004. Mr. Peck announced that Ted Lashley, Parks & Recreation Director, will be the beach manager and responsible for 5 areas of the plan.

Mr. Peck addressed to Council that the key differences between the county ordinances and the town ordinances, are the county ordinances allow overnight camping, open fires, and animals under voice command, whereas Carolina Beach has a leash law. Further, the proposal is to hire two new police officers with their primary focus to be Freeman Park. The proposal from the police chief is to move more experienced seasonal officer to the North-End and bring on new officers to cover general law enforcement duties. We have transferred a 4-wheel drive vehicle from the planning department to the police department so they have an additional pick-up truck to use at the North-End. In addition, we are going to add a 4-wheeler and ATV for one of the officers to get around. The fee was set previously and the recommendation is \$10.00 for a one-day permit. Mr. Peck said that individuals will receive a receipt at the entrance. There is a \$40.00 fee for an annual permit. The proposal is to implement a hang tag from the mirror. The tags will be sold at a number of areas such as town hall, bait shops, gas stations, etc.

As for the total revenue, Dawn Johnson, Finance Director, said that we took the numbers based on Fort Fisher Park and the fees that they have collected since they started their program. They have 3 miles of beach versus our 1 mile beach. Mr. Peck said that we estimated \$100,000 for personnel costs. When we finish the season, we will look at adjusting expenses.

As for the entrance to the North-End, Mr. Peck continued that nothing permanent can be built forward of the frontal dune on the northwest end of Canal Drive. Mr. Peck pointed out position 6 as the best long-term solution. However, after we see how Phase I goes, next fall and winter we plan to make a request for a variance to the CRC to put in some less temporary structures and to make a more long-term approach to it. The idea is to put a pay station at position 3 or 4 at our new parking lots. There will be no gate or booth, just a chair and umbrella making sure individuals get a copy of the rules and explain how the pay station works. Initially, Mr. Peck said we are looking at hours of operation from 8:00 a.m. to midnight, but we might need to adjust the time in the future. Mr. Peck described that there would be a paved one lane going out, one lane with the pay station, and one lane for annual passes so they can bypass with their hang tag. Mr. Peck also has inquired about getting an easement or lease for a turn around place, but CAMA is only going to allow a clay surface.

Mr. Peck stated that there will also be no lifeguards after the North-End Pier so people will need to swim at their own risk.

As for sanitation needs, Mr. Peck mentioned that none of the portalet companies have true 4-wheel drive, off-road vehicles so they cannot take their vehicles up to the North-End and service them. Although, Mr. Peck pointed out an area where we can make a firm enough surface at the entrance so that their trucks can pull in and service some portalets. Mr. Peck thinks we should have an active management plan in place by March 15, 2005. We plan to have a dedication ceremony. Mr. Peck said that we recognize that this is Phase I and we might need to make adjustments. He asked for patience and input on what changes may need to be made in the future. We will work with CAMA in the future to make it more permanent.

Councilman Macon asked what the target date for selling the year-round tags? Mr. Peck said that with Council's approval, we can have them ready within a month.

Councilman Lynch requested for the town's Public Information Officer to get out a press release and send it to local and other out-of-town newspapers. Mr. Peck commented that we would send the information out to Greensboro and Charlotte newspapers too.

Mr. Peck added that they are also trying to re-establish the old, existing dune line. Councilman Doetsch mentioned that we should eventually establish some crossovers of this new dune line. Mr. Peck said that we want to protect the private property interests so the sand fence will keep people from driving back in the marsh.

Mr. Peck asked Council to adopt this plan then we will come back to Council at the February Council meeting with a budget, personnel, a fee structure, etc. in place so we can start advertising now for the new police officer positions.

Mayor Barbour commented that he would like us to pursue extending portalet facilities further down the beach than just at the entrance of the North-End. He knows of one company that might be able to provide the 4-wheel collection. Mr. Peck said that he would be happy to talk with them. He does think that we would be able to provide trash facilities further down the beach too.

A motion was made by Councilman Macon to approve Freeman Park Phase I. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS - CONSIDER ADOPTING REVISIONS TO THE OFFICIAL STANDARDS OF PRACTICE FOR THE PLANNING AND ZONING COMMISSION

The Planning & Zoning Commission meeting held on December 9, 2004, the Commission recommended changes to the Standards of Practice and the process for public hearing items. The planning staff would like the Town Council to adopt the recommended revision as the Official Standards of Practice for the Planning and Zoning Commission.

Scott Chase, Planning & Development Director, briefly went through the changes with Council.

Councilman Lynch commended Mr. Chase for a good job.

Concerning page 7 item #4, Councilman Doetsch questioned the verbiage from reading the Town Land Use Plan and Policies to Town Policies in reference to the Land Use Plan. Mr. Chase referenced that verbiage is directly out of the Zoning Ordinance.

There being no further discussion, Mayor Pro Tem Efird made a motion to adopt the revisions to the Official Standards of Practice for the Planning & Zoning Commission as presented.

MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS - CONSIDER SETTING A MEETING DATE AND TIME FOR A JOINT MEETING WITH TOWN COUNCIL, OPERATIONS ADVISORY COMMITTEE AND TECHNICAL REVIEW COMMITTEE TO DISCUSS STORM WATER AND REQUIRED PAVING FOR PARKING SURFACES

Scott Chase, Planning & Development Director, advised that this request came from the Planning & Zoning Commission and each member has unanimously recommended that they would like to have a joint meeting with Council, the Operations Committee, and the Technical Review Committee. He explained that they would like to discuss the storm water policies since there are some inconsistencies with the required paving. The Land Use Plan indicates that you can use alternative sources for paving a driveway, but our Zoning Ordinance and Town Code implies that you have to either use asphalt or concrete. Mr. Chase said that we would like to explore other opportunities with using permeable surfaces.

Mr. Peck proposed that we schedule a joint meeting for the February 24, 2005 workshop meeting.

Councilman Macon mentioned that he will not be here for the meeting, but he has complained about this ordinance for two years. He feels it is ridiculous to require someone to pave their driveway, when we are worried about impermeable surfaces.

Council agreed to schedule a joint meeting at for 5:00 p.m. for the February 24, 2005 workshop meeting.

NEW BUSINESS - APPOINTMENTS TO THE PLANNING AND ZONING COMMISSION

Scott Chase, Planning & Development Director, announced that we do have two appointments to the board that have expired. The Planning & Zoning Commission has unanimously voted to recommend reappointment of Commissioners Detlev "Lank" Lancaster and John Keith to the Planning & Zoning Commission.

Mr. Peck made Council aware that these two appointments were not advertised. If Council is comfortable making a reappointment they can, or if they want to seek applicants through the process and advertise we can do that.

Mayor Pro Tem Efirm asked, do we not keep on file those people who may have applied for these appointments? The town clerk advised that we do try to keep those applications on file; however, she does think we have any right now.

Mr. Chase also mentioned that staff concurs with the recommendation from the Planning & Zoning Commission.

There being no further discussion, Councilman Macon made a motion to advertise for the two vacancies and the current members will serve until advertising and selection has been made. **MOTION CARRIED UNANIMOUSLY.**

ITEMS NOT ON THE AGENDA

Recognize Individuals for Donation of Funds for the Purchase of (2) Tazers and Request for Budget Amendment

William Younginer, Police Chief, advised Council that he has talked with the Police Advisory Board concerning some things he would like to do in the future as funds are available. One thing he has suggested is purchasing tazers for the police department. The Bigley Family and Skipper Family have each donated \$1,100 to the police department to purchase (2) tazers, which includes training for 8 officers.

Chief Younginer requested Council approve the budget amendment for the purchase of the (2) tazers so the donation can be deposited into their department account.

Chief Younginer advised also that the police will send thank you letter and recognize them with a plaque and pictures that were taken.

There being no further discussion, Councilman Macon made a motion to approve the budget amendment for the purchase of the (2) tazers. **MOTION CARRIED UNANIMOUSLY.**

After passing of the motion concerning the budget transfer, Mayor Barbour suggested that staff continue any discussion of items not on the agenda as follows:

The town manager reminded Council about the CRC meeting February 26, 27 and 28. Council will receive more information about it later. He also mentioned that on February 2, 3, and 4 is the North Carolina City Manager Seminar at Research Triangle Park and he will be attending it.

Briefly, Ted Lashley, Parks & Recreation Director, informed Council that they awarded Mack Overby Construction the work for the gazebos. They should start work on them in about 10-12 days.

First item Mayor Barbour addressed was to remember Columbus Ebird in our thoughts because he is undergoing hip surgery. Secondly, Mayor Barbour announced that the Port, Waterway & Beach Commission has been lobbying Congress for beach renourishment, Intracoastal Waterway maintenance and shallow draft inlet maintenance. We do not need beach renourishment funding this year. We received waterway maintenance at Snow's Cut and Carolina Beach Inlet, but one thing that is lacking is shallow draft inlet maintenance for Carolina Beach Inlet. Mayor Barbour said that it usually is about a \$1 million allotment from the federal government. He explained that their budget year started last October and ends this coming October. There are no funds currently in the federal government's budget to maintain that inlet and it will close. It will not stay open all year without some maintenance. Mayor Barbour further explained that usually the Corps of Engineers does that maintenance and dredging, but we have been unsuccessful to acquire that money. We have been able to get fishing clubs and fishermen in this area interested to write letters to the congressmen and representatives. He advised the clubs and charter fishermen to put together an economic impact of what it will cost commercial fishermen, charter fishermen, etc.

Mayor Barbour proposed that we establish an ad-hoc committee that will work 2-3 meetings to establish what the economic impact would be so we will have some ammunition when we go back to the state and federal governments this March.

Mayor Barbour took a moment to explain the system and how it works. He said that when the government is determining the traffic flow in and out of the shallow draft inlets, they only consider commercial traffic. They do not consider recreational traffic so we are trying to get them to rewrite the rule to consider both commercial and recreational traffic.

Mayor Barbour proposed that we establish an ad-hoc committee of 7 members consisting of commercial fishermen, charter fishermen, Pleasure Island Merchant's Association, the Winner Head Boat Fleet, Got-Em-On-Line-Bait Fishing Club, the Cape Fear Blue Water Club and one member from the Chamber of Commerce because it affects everyone. He has volunteers for the committee. He suggests Joe Blackburn for commercial fishing; Don Pierce for charter fishing; Duke Hagerstrom for Pleasure Island Merchant's Association, Winner Fleet will provide a representative; Donny Harrell for the Got-Em-On-Line-Bait Club; and Mark Maus for the Cape Fear Blue Water Club. The only position he does not have a name for yet is for the Chamber of Commerce.

Mayor Barbour made a motion that we establish the positions with the names that he has mentioned above and add a member from the Chamber of Commerce, and a name from the Winner Fleet Head Boat to serve on this board so we can have some real numbers to give to the state and federal government. **MOTION CARRIED UNANIMOUSLY.**

If the federal government does not help, we are hoping that the state will. But, we have to have this information because in February the federal government approves their budget for end of the year 2007.

Councilman Doetsch suggested Ray Rothrock for the Pleasure Island Merchant's Association and move Duke Hagerstrom to fill the position for the Chamber of Commerce. Mayor Barbour said that he would ask Ray Rothrock if he has the time to serve on the committee.

Lastly, Harry Oakes, Assistant Operations Director, informed Council that the trash can pick-up machine came in. Mayor Barbour said that they would like a demonstration to see how it works.

Request by the Town Manager for a closed session to discuss a personnel matter [G.S. 143-318.11(a)(6)]

A motion was made by Mayor Barbour to go into a closed session to discuss personnel and pending litigation with the town attorney [NC GS 143-318.11(a)(6) and (a)(3)].

Mayor Barbour made a motion to go back into open session. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour made a motion that we form a temporary position for planner II and also approve the budget amendment to provide a salary for the temporary position until June 30, 2005. **MOTION CARRIED UNANIMOUSLY.**

ADJOURNMENT

There being no further business, Mayor Pro Tem Efird made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.** The meeting adjourned at 11:02 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____