

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

October 11, 2005

The Town Council of the Town of Carolina Beach met in regular session on October 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, Jack Lynch; Councilman Joel Macon; and Councilman, Gary Doetsch. Also present was Town Manager, Calvin R. Peck, Jr. and Town Clerk, Lynn N. Prusa.

Councilman Jack Lynch led everyone in the invocation and pledge of allegiance. Immediately following, Mayor Barbour called the meeting to order.

ADOPT THE AGENDA

Mayor Barbour made a motion to adopt the agenda with the following changes:

Remove from the agenda Item #5 “Recognize Citizen of the Quarter.” This item is being postponed to November 15, 2005.

Remove from the agenda Item #17 “Request for a Conditional Use Permit Extension for 504 Harper Avenue (R-1 Zoning District)”.

Re-number Item #4(a) “Public Hearing – Consider All Matters Covered by Resolution No. 05-842, a Preliminary Assessment Resolution for Street Paving in the Area Known as Wilmington Beach (Croaker Lane, NC Avenue, SC Avenue, Spot Lane, Searay Lane, Mackerel Lane, Bonito Lane, Swordfish Lane, Texas Avenue, Snapper Lane, Bowfin Lane and Tennessee Avenue)” to Item #6(a).

Re-number Item #6 “Introduce New Town Employees” to Item #4(a).

Re-number Item #7 “Recognize Employees for Years of Service” to Item #6. Mayor Barbour stated that an additional employee who is not on the list will be introduced.

Insert New Item #7 “Flooding Update by the Operations Director.”

Insert New Item #9(m) “Proclamation November 1, 2005 as ‘Medical-Surgical Nurses Day’ by adopting proposed Proclamation No. 05-826.”

MOTION CARRIED UNANIMOUSLY.

INTRODUCE NEW TOWN EMPLOYEES

The following new employees with the Town of Carolina Beach were introduced to Council:

Dana P. Hurst
General Maintenance Worker
Operations Department

Michael Andrews
Police Officer I
Police Department

Kenneth Murray
Utility Maintenance Mechanic/WW
Operations Department

Sara Hartman
Administrative Support Specialist II
Human Resources and Town Clerk Departments

Simon Sanders
Police Officer I
Police Department

Council welcomed them to the Town of Carolina Beach.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Barbour recognized the following employees for their years of service:

Margaret Dowling
Parks Maintenance Supervisor
Parks and Recreation Department
5 Years of Service

Junior Brewer
Public Works Supervisor
Operations Department
10 Years of Service

Darren DeWolf
Public Works Supervisor
Operations Department
25 Years of Service

William Younginer
Chief
Police Department
1 Year of Service

PUBLIC HEARING – CONSIDER ALL MATTERS COVERED BY RESOLUTION NO. 05-842, A PRELIMINARY ASSESSMENT RESOLUTION FOR STREET PAVING IN THE AREA KNOWN AS WILMINGTON BEACH (Croaker Lane, NC Avenue, SC Avenue, Spot Lane, Searay Lane, Mackerel Lane, Bonito Lane, SwordFish Lane, Texas Avenue, Snapper Lane, Bowfin Lane and Tennessee Avenue)

Calvin Peck, Town Manager began making a PowerPoint slide presentation (*Exhibit #1*). Mr. Peck showed a slide of the project area. He stated that all of the highlighted streets are unpaved streets within the southern area of Carolina Beach, formerly known as Wilmington Beach area. He stated that there are two options for the plan, along with the paving, is what to do with the drainage. The first option is grass swales. He stated that while it is a less expensive way of dealing with the stormwater, it is a much higher maintenance item. The roll type curb and gutter

is what you can see over most all of Carolina Beach that has curb and gutter. He stated it doesn't have that distinctive block shape and so ultimately we save money in the long run by not having to make curb cuts and the like. It is more expensive upfront, but a lot lower maintenance in the long run. The roads and drainage are approximately \$3 million. Sidewalk is about \$320,000 and curb and gutter about \$.5 million. Total project is approximately \$3.9 million.

Mr. Peck stated that the way new roads are done – to assess road improvements – to repay over some period of time at some interest rate to be determined, there are a total of 253 property owners of 467 equivalent 50 x 100 lots. If someone has a 100 x 100 lot, they would be assessed for two assessments. The law in the Town Charter, Section 9.1, gives the Town the authority to make street improvements and to assess the property owners. It gives the same authority for sidewalk improvements. One other piece of law that is important is that that general statute allows the Town ten years from the date of the assessment to bring action or proceedings. So, that's one of the limiting factors we have as to how far off we can push the assessment process. In the past when the Town has initiated street assessments in the '70's, '80's and '90's, two-thirds of the cost was paid by the property owners exclusive of intersections. The actual intersections themselves – any pipe that may have run under or through the intersections and any paving – was paid by the Town plus one-third of the cost. The property owners had five years to repay. Interest has been between 6% and 8% and there has been no discount authorized for early payment in any Town initiated street assessment that Mr. Peck could find.

Mr. Peck stated that when citizens have petitioned for street and/or sidewalk assessments, and there have been some – none since '79 – but in every case there was a petition, 100% of the cost was paid by property owners exclusive of intersections that the Town paid for. The rest of the information remains the same.

Recommendation from staff is to construct the total project – do the paving, do the drainage with curb and gutter and sidewalks, and to assess the property owners two-thirds of the project exclusive of intersections, curb and gutter, and sidewalks. Therefore, the property owner would pay two-thirds of the paving and drainage project minus intersection work. The Town would pay one-third plus the intersections, plus curb and gutter, plus sidewalks. Seven years would be allowed to repay the debt and 6% interest charged over that seven year period of time.

Actual cost on the next slide reflects \$3.89 million. These are estimated numbers, but they are numbers that they are pretty confident in, in that they are the same rate that they received when the Carolina Sands project was bid. Those costs are current as of late spring-early summer. The Town would pay approximately \$300,000 for intersections. The estimate is 10% of the cost. When we get closer into it, we'll have our engineers figure what is and what isn't. A little over \$1 million for the third, \$.5 million for curb and gutter and \$300,000+ for sidewalks equals a total cost to the Town of \$2.081 million or \$2,081,000. In addition, he recommends the Town, at this time, as part of the same project, bid out the Cape Fear and the Harbour improvements for approximately \$.5 million, for a total project of \$4.4 million. Property owners will pay approximately \$1.809 million divided by the 467 properties, which equals an assessment of \$3,618 per property assessed. If paid for over seven years, that is approximately \$550 a year.

Mr. Peck stated the next step now is to hold a public hearing. Notice was mailed. They had to start the process again with a preliminary resolution adopted at the last meeting because the percentage was changed. That necessitates starting the process over. He stated we're at Item #3, which is to adopt the assessment resolution and then Council is to direct the project to be undertaken. Item #2 would be the next thing to do, which pending questions, would be to hold a public hearing.

Mayor Barbour thanked Mr. Peck for his presentation and asked if Council had any questions.

There being no questions from Council, Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

David Wray of Wrangle Homes stated they have three properties that are being included in the assessment on Bowfin, Alabama and South Carolina Avenues. He stated their company has made significant improvements to the gravel road beds to bring about better access to their properties in attempts to sell them. They are interested and hopeful that those improvements that they have made to the road beds would be included or possibly deducted from their portion of assessments for those roads.

John Balestrine, a resident of 114 Bowfin Lane, stated that on the 7th of October it was raining and the lake was overflowing. He stated that the drainage system that Seagrove Development put in where their new streets are was backing up and there was also a big puddle on Tennessee. He feels Wilmington Beach residents should not be paying for any drainage improvements and this should be done by the Town of Carolina Beach. He stated that the Town is paying for Carolina Sands' drainage. He asked isn't Wilmington Beach's drainage going to aid that? He states we do need the paving on the roads and he thinks it should have been done years ago. He thinks the property owners should pay less than two-thirds. He doesn't think the swale drainage is going to collect any more trash and dirt than the curbs would. He thinks it would be a lot cheaper and most of the homeowners could mow it. He believes they should pipe the ditches and put swales on top, which seems to work out best. He stated the curb drainage may look nice, but repairs and maintenance will be more costly. The 1100 block of Bowfin Lane was partially paved when Bowfin was repaved and he stated the work was done wrong and the road has a hump in it. He stated he pointed that out to the people who were supervising the project and nothing was done about it. He said the road was paved wrong and now they'll probably be tearing it all out again. He stated Council can check with the County Engineer on that. He feels the sidewalks are a waste of money and that over 70% of the people don't want them. He asked why are we even getting them? He said if the Town wants to save money, why don't they wait until the area is developed because with the big driveway aprons, there won't be as much sidewalk to put in. He said that the October 3rd *Star News* stated that our taxes at Carolina Beach could go from 100% to 200%, and that Carolina Beach will have all the money it needs if they just wait a few years. He believes the cost of lot owners should be at a fixed rate per lot and they still don't know how much it is going to cost them. He got the feeling at the last two meetings that this was a done deal before the last two meetings were even held. He stated it seems that only the developers get what they want and they can push almost anything through. He stated the majority of the owners do not even live and vote in the Wilmington Beach area.

Leroy Franks of 908 Canal Drive said he would like to make the Council aware that the federal government has recognized rubber sidewalks and gutters now over concrete. The government does not recommend concrete anymore, especially in a coastal area.

Rick Rogge, a resident of Mackerel Lane, stated he is very excited about the project and is extremely supportive of it. He is glad that the Council has stepped up to pay more than 50% and picked up the cost of the sidewalks. He thinks they will tremendously enhance the neighborhoods. He stated as we see continued development in this area, there will be more and more families and the likelihood of walking on the street will become less possible. He hopes that everyone will realize this will be a great advantage to the value of their properties.

Jeffrey Tarvin of 1513 Snapper Lane agrees with Mr. Rogge that this is a very important project and he strongly favors having sidewalks. He thinks they will add great atmosphere to the area and make it much more interesting for people to go out in and walk.

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

Councilman Doetsch made a motion to adopt Resolution No. 05-842.

Mayor Barbour stated that a motion to adopt Resolution No. 05-842 was on the floor and asked for any further comment.

Councilman Lynch addressed the comment that was made by the gentleman who stated that 70% of the people didn't want sidewalks. He stated that survey was taken based on the residents paying for 100% of the cost. He said that the *Star News* did not report that the taxes were going to go up 100% to 200%. He stated that the revaluation could go up by 100% to 200%, but higher valuations don't necessarily mean higher taxes. He wanted to correct that.

Mr. Peck stated that 05-842 was the preliminary resolution. He stated the resolution to be adopted is 05-847.

Mr. Doetsch amended his motion to adopt Resolution No. 05-847.

Councilman Lynch said the sidewalks are not in here and asked if that was a separate issue. He asked if the sidewalks and curb are in this resolution, as he did not see it. Mr. Peck stated that sidewalks, curb and gutter are not a part of the assessment. Councilman Lynch asked if it was understood though that they are going to do them? Mr. Peck stated that is correct.

There being no further discussion, Mayor Barbour said there is a motion to adopt proposed Resolution No. 05-847 (*Exhibit 2*). **MOTION CARRIED UNANIMOUSLY.**

Councilman Lynch stated he had one more question regarding the transfer of property. He assumes that if a spouse dies and the remaining spouse is living, that spouse would not have to pay the remaining assessment and asked if that was correct. He asked if he died and his wife was still living, if she could continue making the payment? Mr. Clyburn, Town Attorney, stated yes.

Councilman Lynch asked what if both spouses die? Would the children or heirs have to pay? Mr. Clyburn stated if there was a balance still due – yes. Councilman Lynch asked about a transfer or sale – do they have to pay? Mr. Clyburn stated yes.

FLOODING UPDATE BY THE OPERATIONS DIRECTOR

Mayor Barbour thanked everyone for bearing through an extraordinary rainfall this past weekend. They estimated it on the rain gauge to be between 12” and 14”.

The Operations Director, Steve Pagley, gave a flooding update as follows:

Mr. Pagley stated that we know that the lake is approximately 11 ½ acres of land that holds the body of water. He shared with Council a map in red indicating all the areas of land that have water coming directly into the lake after a rain storm (560 acres). He stated one of the things we are doing now to change some of those flows is 2/3 of the Carolina Sands and all of the Seagrove Subdivision development stormwater will go directly into the new retention pond behind Carolina Sands, which is three acres. Therefore, that will remove 68 acres of stormwater flow going into the lake when all that is completed. He stated that the contractor is working on the project and started two weeks ago in the back of Carolina Sands. They are laying the large 60” pipe right now.

Mr. Pagley stated that one acre is 43,560 square feet and one inch of water on an acre is 27,160 gallons. Therefore, if you have a foot of water on an acre, you have 325,920 gallons of water standing there. He stated the lake is approximately three feet in depth. He stated he talked to his stormwater crew supervisor and superintendent and he just went ahead and took the average because there are spots that are six feet and spots where there are two feet, etc. He took it down to an even three feet all the way throughout the whole 11 acres. He stated that the lake holds 10 million gallons of water (10,755,000 gallons of water) at the normal level, but not when it breaks crest. He said there are other numbers if you look at the pipes and ditches and so forth in that area, it would be close to 50 million gallons of water, which the stormwater estimated for them with all the pipes full and ditches full. He said to keep the numbers simple he did the numbers on 11 acres (even though the lake is 11 ½ acres). He stated his administrative assistant and he are working on getting a grant from the Coastal Regional Development Association. The grant would be used to clean out the lake (not dredge the lake). He doesn't think it could be dredged any deeper than its original depth. They are looking at trying to remove approximately three to three and a half feet of sand and silt that has collected over the years. He stated if they can do that, they can change the capacity of the lake to 21.5 million. He asked if there are any questions.

Councilman Doetsch asked if you can change the capacity of the lake provided they keep it pumped dry? Mr. Pagley stated provided they keep it pumped dry before the event starts.

Mr. Pagley said he put together the map using 560 acres with one inch of rain, which equals 15.2 million gallons of water. He stated in different areas of New Hanover, Pender and Brunswick County, there were 13” to 14” of rain. He took the 12” of rain that the rain gauge registered at

the wastewater treatment plant. With 12" of rain on 560 acres, you're looking at 182 million gallons of water that potentially came to the lake because our ground is still saturated from the last storm we had, Hurricane Ophelia. He said a lot of the water, as seen on Dow Road, is still standing there. With the ground saturated as it was, a lot of the water would not penetrate into the ground and sheet flowed across areas like Dow Road. There were also flooding problems in an area up there in the northwest corner that does not even go to the lake. They have one pump now that pumps 5,000 gallons a minute in a 16" water line that pumps from the lake, goes down 3rd Street, up Spartanburg Avenue, to Birmingham, and cuts across and dumps into Henniger's Ditch. That's about 3,500 linear feet of 16" pipe approximately 3' to 4' underground. He said the pump is rated 5,000 gallons a minute at the pump. 5,000 gallons a minute pumping 24 hours a day is 7.2 million gallons. So, if you have 83 million gallons of water coming into the lake in 3 days at 61 million gallons a day minus the 7.2, you still have 53 million gallons to do something with. As shown on the additional smaller map below, they have discharge pipe that's 36 – double 36 in some areas – and 48 in others, which goes to the marina. You can't depend on that all the time because of the high tides. It can be depended on for 10 to 12 hours when the flap can come open when the tide drops. So, they can estimate about 28 million gallons going that way into the lake over 12 hours. That leaves somewhere about 30 million gallons in a rain event like we had in the last couple of days. 6" pumps have been installed at Driftwood on Lake Park Boulevard and pumped those over the dune, which pumped them uphill and against quite a bit of head pressure because of the bends in the pipe. That was probably able to move 3,000 – 4,000 gallons a minute from that area into the ocean. Mr. Pagley stated they started pumping Tuesday morning, October 5 at 6:45 a.m. His stormwater crew supervisor keeps a good log book and all Mr. Pagley had to do was go look at his log book and there were the records. They reflect the hours run and so forth on the pump. He could actually tell him that he had already spent \$3,800 in diesel running that pump, pumping to Henniger's Ditch.

Regarding the pumps – Mr. Pagley stated that 16" PVC will probably take 6,000 gallons per minute. With that length, there's head loss and friction. So, to install another pump pumping into the same line is not exactly the answer. He stated if you have two pumps pumping 5,000 gallons a minute and the line can only take 6,000 gallons a minute, that wouldn't solve the problem. If you were to install another pump, you would want to lay a parallel 16" water line separately for that pump. If that would be the case, we could move 14.4 million gallons of water in 24 hours out of there. He stated he cannot install a larger pump, a larger pipe such as a 48" pipe or a 36" pipe because you already have an existing wastewater collection system and you already have an existing water distribution system and this 16" pipe goes under, over and in between. So, if 48" water discharge line were to be installed from the lake to Henniger's Ditch, quite a bit of the sewer and water distribution system would be moved, which would probably cost in the millions of dollars to do so. Mr. Pagley was asked if a 24" inch pipe could be laid? He stated they would actually have to do spot digging from the lake all the way up to Henniger's Ditch to see if there would be any conflict with sewer or water services. They feel that they could lay another 16" pipe right next to the existing 16" pipe on the same grade because all the conflicts had been resolved when that one was put in. So, it's either a larger pipe which is estimated in the millions, or they can put in another pump and lay another 16" line parallel, which would run about \$420,000 installed. To take care of the rain event like we had last week, eight pumps and eight 16" lines would need to be installed.

The stormwater department has been able to maintain that pond for three years until we did have two named events come through here. When Tuesday came around, they turned the pumps on, which was the right thing, because the weather service said we were expecting to get 4” of rain – not 12” of rain. Mr. Pagley stated they wouldn’t have done anything different unless they were estimating 12” of rain. Mr. Pagley stated they have been able to maintain that lake from flooding until this year when we actually had Ophelia and the Tropical Storm Tammy come through here. They have done a great job and they probably would have been able to handle this event if they would have been given different information on Tuesday morning. Mr. Pagley asked for any further questions.

Councilman Lynch asked Steve if he would recommend that Council consider, after more study, laying the 16” line? Mr. Pagley stated yes. He would recommend that if we could to, later on after the study, do a budget amendment for what the costs are estimated to be. Councilman Lynch asked if they did that and we had advance planning, how much rain could we get before the lake would flood – 8” or 10” of rain? Mr. Pagley stated that in his opinion, with 2 pumps and 14 million gallons (it is a 10 million gallon lake), they could pump it down with 20 to 24 hours. They should be able to handle 6” of rain on that 560 acres without a problem. Councilman Lynch said he personally saw Mr. Pagley and a lot of his employees out in the rain, as well as the Mayor and a lot of other people, riding around in the rain. He knows it was a tough weekend for the Town of Carolina Beach and he thinks they did their best. He stated everyone in this room wants to know, though, how we can stop the lake from flooding, as well as the other low lying areas that were highlighted in yellow. Councilman Lynch said he felt Mr. Pagley is addressing that tonight.

Mr. Pagley stated that when they went up to that area Saturday morning, the neighbors showed him the area and what the problem was. He stated they tried to correct that problem and they were able to pump some of the water on Raleigh East over the crest down to the ditch down to Monroe. As soon as they were able to open up the storm drain at the corner of Raleigh and Dow, the water started coming down in that area. The water from this area actually travels down Dow Road all the way to Clarendon, one block down 8th, down Columbia, down 7th and back up Sumter. He stated that in the first couple of blocks is a State maintained stormwater system.

Councilman Doetsch said one thing to consider as we improve the drainage throughout the Town of Carolina Beach is that the water going to the lake is going to get there a lot quicker than we’ve ever seen it get there before. In the past it has had to get to a certain level before it would dump over roads, etc. to get to the lake and by the lake. But as Mr. Pagley’s staff and crew continue to work on the drainage issues of the beach, the time that it takes for that water to get to the lake is going to be lessened considerably, he believes. So, we definitely need to move ahead on any of these issues we can do to improve the capability of pumping water out of there faster. He supports that 100%.

Mr. Pagley stated that we can try to manage it, but that is an elevation map that was sent to him by the engineer and when you get a high tide of five feet, some of the area that is covered in yellow is 3.2 feet above sea level. So, the flat valves at the marina will take water coming back to the lake because they don’t always close all the way because of shellfish, rust and so forth. So, you will have water coming back to that lake from time to time depending on the tide. One

of the problems with Ophelia is we had five days of high tide so we couldn't depend on that drain line draining the lake to the marina. That's why we had flooding at that time. This time we had flooding because of saturation and we still have quite a bit of debris on the ground that has not been picked up yet. It could have probably flowed better instead of going around the piles of brush and so forth.

Mayor Barbour stated he noticed one thing that Operations did is areas they knew they had trouble with before such as over in Carolina Sands that was prone to flooding since the project hasn't gotten far enough long to be able to relieve that area – Operations set up a large pump over on the main drive going into Carolina Sands and kept that fairly well under control. He said there were areas flooded this time that no one anticipated flooding and that haven't flooded in years and years and years that he recalls. So, this was a rather unusual event. One thing we also did is that we sent our people out to take pictures of those areas that flooded this time that we haven't seen before and haven't known we had a problem with before. So, those areas that have isolated flooding and especially back on the Raleigh and Monroe area, we are going to look at that closely and see how we can relieve that. \there was a line failure that occurred on Raleigh that contributed to that from a plastic pipe that either floated up out of the ground or washed out of the ground and blocked the flow. Once Operations relieved that point, water started flowing pretty well.

Mr. Pagley said the citizens helped out there. Before Operations got there, the citizens cut the pipe in half and then when Operations got there, they brought a backhoe and moved it out. He stated there was a large amount of debris in there such as silt, wood, etc.

Mayor Barbour stated that he has talked to a lot of people pertaining this and we have a lot of work to do. Rather than trying to make a decision here today as to what the best effect would be to help control flooding. Whether we will ever control 14" or 15" of rain going to the lake, at this point they don't know, but he thinks it is going to take the engineers putting together a plan using a lot of the information Steve Pagley covered. He stated the best transmission right now to move water is the 36" pipe going to the marina. If you go down there at low tide when the lake is full, it is amazing how much water is being discharged at that point. He would ask an engineer to look at the feasibility of replacing that pipe because it is not a pressure pipe and can't take any pressure, to put a pump on that pipe that's much larger. Being there isn't an existing drain pipe, we can replace a drain pipe with another drain pipe that could be pressurized. Whether that is feasible, he doesn't know. That's for an engineer to answer. He committed for the engineers to do a feasibility study on what the best relief – best transition of water will be at the best cost.

Mayor Barbour then went over points in today's press release. He stated that after Ophelia and the lake flooding, he was called to ask and go meet with Mike Easley, along with other officials downtown. He actually had the Operations Department prepare a package of photographs depicting the flooding around the lake. He had two requests to give him. One of them was to get his help in acquiring the grant to dredge the lake deeper. If we can increase the capacity that the lake will hold – double the capacity – then it can handle more rain as it is coming in while you're trying to relieve it in some other way. So, Mayor Barbour put that in Mr. Easley's hand when he left here. He hasn't heard back from him so he is going to write another letter reminding him of the letter he gave him after Ophelia and asking him to please consider that and help us because

we have had a second event that was even worse than the first. Also, the Town is already partnering with the DOT to resolve some of the road flooding on 421 and also on Dow Road. Those are State roads and it is Mayor Barbour's feeling that they have an obligation to help keep the water out of their roads. He stated hopefully they can help us.

Mr. Pagley stated they are partnering with us. They partnered with us on 421 in front of Golden Sands and now they are going to partner with us on Charlotte and 421 in front of the Pancake House to repair that pipe. Mayor Barbour stated that that's an area that when it floods, really there is no place for the water to go to and it pools. Mayor Barbour asked for Council's support to commission an engineering study immediately to determine what the pump capacity is and the needs to control flooding to see if we can handle X number of inches of rain. We may not get 15" but maybe we can get to 10" or 11". He thinks that none of us here have the engineering background to determine what that reachable capacity might be. This study should also cover the cost analysis for all the recommendations. With the assistance of Cape Fear Resource Conservation Development and the Department of Environmental and Natural Resources (DENR), we are continuing to seek this grant. It is a shared grant and is not a 100% payout grant. Mayor Barbour asked Steve if it was a 66% share? Mr. Pagley stated yes, that the Town would be responsible for 33% of it – matching funds – indirect or direct costs. Mayor Barbour stated 33% is better than 100%, so we are continuing to seek that. He thinks we have a good case to clean the lake because of the debris build-up over all the years. He stated we have also identified all those areas prone to flooding, cleaning of the ditches and removal of blockages which will hopefully help in the future.

Mayor Barbour stated they had also purchased recently a sewer camera, which has the capability of running down a line like a rat and looking at the inside of lines to see what lines may be plugged or need replacing. They will utilize that when it comes to identifying areas prone to flooding. Mayor Barbour stated that this \$2 million project in Carolina Sands will divert quite a bit of water to the west that will not wind up in the lake. He stated currently all of it is coming to the lake. They are going to look at everything, as Mr. Pagley mentioned. Mayor Barbour said some people said that the pump was not running on Tuesday. He has Danny's log. Danny logged cranking the pump up at 6:45 a.m. on Tuesday, October 5th. It was shut down, according to Danny, about twice for about an hour – one time for a cyanoid replacement and one time for a switch replacement. So, the pump was running the whole time. Mayor Barbour stated that prior to Ophelia, the ground was fairly dry so when we started pumping the lake, the lake went dry. This time the water level of the ground was much higher so the efforts that started on Tuesday didn't really suck the lake dry because we still had water running in the lake. Mayor Barbour said they are committed to trying to solve this problem and hopes they will be able hopefully with the engineering study to determine what we can do that will control the flooding to what capacity. He stated hopefully we won't have to deal with this type of flooding the rest of this year.

Councilman Lynch asked if we could get a time limit such as getting some kind of report within 60 to 90 days on the grant? He said he recalled the lady saying the grant was not a very lengthy process. Mr. Pagley said the grant process is due January 1st. Councilman Lynch asked how long it would take to do the engineering study the Mayor spoke of? Mr. Pagley stated they could

start next week. He said they were going to start surveying elevations on the lake and the areas up in Raleigh, Magnolia and some other areas not highlighted.

Councilman Doetsch asked if they were going to pursue the pipe going to the yacht basin from the lake? He thinks there is a great need to capture a lot of capacity going that way. Councilman Macon asked if we needed an engineer's report to know that if we lay another pipe beside the other one and put in a second pump that we would get rid of twice as much water? Mr. Pagley said that basically that's what they worked out today basically – twice as much water.

Mayor Barbour stated that a lot of the information Mr. Pagley was sharing was from having the engineering services engineer down here today doing a preliminary overview of the situation and that's where they got to the additional pumping capacity with one pump. Councilman Lynch stated what they would like to do is just to do it all at one time. If they could get the grant and do the cleaning up of the lake, do whatever it takes to help stop the lake from flooding, and then do whatever it takes to help the neighborhoods that are now flooding not flood – if they could do all that at one time, it would make a lot of sense and the Mayor asked for support. He doesn't think they would get any objection from anyone on this Council.

Mr. Pagley responded to Councilman Macon's question by saying they are going to start their study of those areas and so forth and they're going to put their grant together because 33% matching – that cost can be applied towards the matching. Dredging the lake – the fuel that we use to pump down the lake we can apply towards the grant as part of the 33%. He can't turn it in no sooner than January 1st and get anything back from them, but if we are awarded the grant then at that time he would come back and ask for the matching funds. Councilman Doetsch said in a lot of cases when you apply for grant money, if you have an engineering study to go along with your application it makes it go a whole lot quicker. Councilman Lynch thinks it is a good idea to put some heat on Governor Easley also because we've got some good photographs. Mayor Pro Tem Efird stated a bad area right now is Monroe and 8th – really, really bad.

Mr. Pagley stated they put in a cultex system on the Florida Avenue project last year and that seems to be taking the water. That place always flooded. Now it removes the water from there pretty quickly – three or four hours. They are going to look at putting some of those in that intersection because that intersection sits pretty low.

Councilman Lynch thanked Mr. Pagley for the information and asked when they could expect a report. Mr. Pagley stated he would give an update every council meeting regarding where they are with the grant package and so forth, as well as their costs at that time and how much has been spent.

Mayor Barbour said he thinks we need to make a motion to authorize an engineering study for the flooding situation – prone areas to flooding – and also the study for the lake.

Councilman Doetsch made the motion to authorize an engineering study for the flood prone areas to include the lake. **MOTION CARRIED UNANIMOUSLY.**

Mr. Peck asked to respond to Councilman Macon's question. He stated he asked that question of their engineer and he's not necessarily convinced that is the best way we could spend the money. So, rather than putting another pipe in and putting a pump in the ground first so that we are getting something done, his recommendation was to look at the whole system and he'll come back with a prioritized list. Mayor Barbour stated that is what he would like to see. Mayor Barbour said he has been asked why don't we put a big pump in that pumps to the ocean. Well, outfalls to the ocean are basically outlawed. They give us permission during emergency situations when the lake is already flooded to try to recover by pumping into the ocean. But to install something permanently to be used on a routine basis would not be permitted. He stated that is why our options for pumping are basically through our existing line to the marina or through the line or beside the line that goes to Henniger's Ditch, which is a natural flow. Mayor Barbour stated if anyone has a recommendation or question, please email himself or Mr. Pagley and they will be happy to pass those on to the engineer.

D.A. Lewis, a resident of 604 Clarendon Boulevard, asked to address the Council. He stated that a few years back, Council bought two pumps and put them in the pump house. He stated he has seen both of them and has seen both of them running. He wanted to know how many were running during this flooding? Mr. Lewis stated the pumps were supposed to be super pumps and said if we were down to one pump, he would like to know what happened to the other pump and why it isn't in that pump house and running? Mr. Peck stated that the 16" line is not capable of taking water from more than one pump at a time. The plan was always that there was a primary pump and a backup pump. If the primary pump went down, the backup pump, which was a smaller pump, would run. He stated the primary pump is fine and is working all the time. Council allocated funds to replace the backup pump with a better and more efficient pump. That pump has been purchased and is in the process of being installed. So, while there was not a backup pump available, it was not needed.

Councilman Doetsch asked with the plumbing that is currently there couldn't you run two pumps now? Mr. Pagley stated that is correct. Councilman Doetsch stated he was over there with Danny during the hurricane and that was shown to him. He stated you can't run both at the same time.

Mr. Lewis asked why did they buy them? He said they were running both pumps at one time.

Mayor Barbour said we have other business to take care of and stated if anyone had any questions to feel free to email Mr. Peck or whoever you would like to. Mayor Barbour stated they have requested the questions to be directed to the Town so an engineering answer can be given.

A gentleman asked about the sewer discharge into the lake. Mr. Pagley stated they reported to the State on Friday and Saturday, as they had surcharges going on throughout the island. There were several going on in the St. Joseph – Lewis Drive area. He stated they asked the State how they would calculate water sewage coming out of a manhole and stated they couldn't give us that answer. Mr. Pagley said they had to give them estimates. He said that as far as surcharging around the lake, there probably were a number of them, especially on 421. He could see one or two there out by Fayetteville and so forth, but the rest of them were underwater. He stated the

manholes that were near the lake were probably taking in the stormwater. The manholes that were a couple of blocks back were surcharging into the stormwater system and probably went to the lake according to the way the drainage system is designed in the area.

Mayor Barbour stated we weren't the only ones who had a sewer discharge from manholes. He asked to take a minute to explain the dynamics of how that works. He explained that when you have lift stations, you pump sewer from lift station to #1 to #2 to #3 because you are continuously going downhill to try to get sewer to naturally flow. So, when you have an event like we had where you have stormwater that basically submerges all of your manholes, between lift stations you have an influx of freshwater going into your manholes. When it gets to the other end under the force main, it has got to relieve somehow when the next pump cannot handle it all. So, that's when it bubbles out of these holes in manholes. And that occurred not only here, but it occurred at Kure Beach and probably in Wilmington too in different areas.

Councilman Macon asked to make a comment. He stated he is not the Mayor and he lets the Mayor runs the meetings and he doesn't say a lot. He said that some people get out of hand at the meetings and he's just about had his fill. He asked that people at least be respectful.

Councilman Lynch stated that it ought to be clear that the sewer spills were properly reported to the authorities. Mayor Barbour stated that they did a press release yesterday also.

PUBLIC DISCUSSION

Mary Jane Lane expressed her appreciation to Council for working on the lake but said you will not be able to settle the lake unless it is dredged out. She has a friend who is an engineer and he says there is no way to deal with it unless it is dredged. She stated she has a great view of the lake and enjoys it. She was concerned that the lake was so high on Wednesday and that we had not had any rain. Councilman Lynch agreed with that concern. Ms. Lane hopes Council will continue with this issue of flooding. She stated she had to have her son come and help her clean her place out yesterday because it was impossible to handle. She stated businesses were also flooded. She wonders why she is paying stormwater runoff on her water bill. She stated the stormwater is in her yard. She hopes Council will not forget the flood and is being sincere in saying that they are going to help us. She thinks it comes up every election and then nothing is done and it is forgotten about. Mayor Barbour stated they had the lady down to help with the grant to dredge the lake and that they took her out on Danny's boat on the lake approximately a month ago. He stated they had already started working on the grant process then. Ms. Lane thinks it is really time to do something about it and with each flood more people are hurt and have property damaged. Councilman Lynch stated they will not forget the flood until something is done about it and stated that's a promise.

June Bell Wynn from Sea Coast Realty at Landfall stated she is a native of Wilmington and she is representing Cindy Dawson, Ralph Dawson and Bob Hopkins. She stated she has listed their homes and they are single family residences. She said that after a few months on the market they realized that really it is not going to add value unless it's zoned duplex. She stated they tried to get permission of the neighbors and get signatures to see if they would agree to that before they

came to the Planning Commission. She said they got neighbors all the way to Dow Road as well as Rocky Mount Avenue. She has the signatures with her. She said they seemed to be very happy with this and she stated there wasn't one person to oppose it that was on the 600 block or Rocky Mount. However, she stated there was one on Rocky Mount and 7th Avenue that they were not able to obtain due to no one ever being home. She hasn't seen anyone actually living in the home. She said there was also a lot for sale and she hasn't been able to contact the owner of that. She said they had also talked about listing and each person has allowed her to be able to go back if this happens to list this so they can rezone it. She is actually hoping to have property that will add value to the community, have great curb appeal and make it look very attractive. Mayor Barbour stated this has to go to Planning and Zoning first, which is scheduled for Thursday night at 7:00 p.m., and it will then come to Council's agenda for November 15th. Ms. Wynn apologized.

Jerry Bigley, Chairman of the Police Advisory Board, introduced Charlie Skipper and Randy Simon, as well as two people from the American Legion – Richard, the Service Officer, and John. Mr. Bigley stated that at their last meeting they unanimously approved to rename Carolina Beach Lake to Veteran's Park. He knows this also has to go to Parks and Recreation. He stated one of the reasons they want to do this is because veterans just don't need to be honored, but need a place to come home to. He's hoping this can be done on November 11 at 11:00. He would appreciate any Council could give so they could have that dedication on Veteran's Day at Carolina Beach Lake. Mr. Bigley thanked the fire department, police department and board for the job they did during the hurricane and the rain storm.

Richard Wyzesky, Service Officer of Post 129, said he read about the dedication renaming in the paper, followed up on things, and attended the meeting a couple of weeks ago. He hopes Council will move on this swiftly so the dedication can coincide with Veteran's Day and they can rename at the Veteran's Day ceremony at the lake. He stated this would be a place for vets to come home to and it would be nice to have this on the same day.

John Kucan, 9th District Commander of the State of North Carolina for the American Legion, stated he was invited down to the American Legion Post 129 to assist in a shrimparoo in which they presented the American Red Cross with a \$3,000 check on September 27th at a ceremony at the post for the victims of Katrina and their fellow veterans. He thanked the citizens of Carolina Beach and the island for supporting the shrimparoo. He stated he represents 18 American Legion Posts and that it would be an honor to be here and have their State Commander come down to this dedication on Veteran's Day and a true honor for all veterans coming home.

Randy Simon, who serves on the Police Advisory Board, said they have been working on this very diligently for about three to four months. He said Jerry Bigley, their President, came to him and spoke to him about it and he made the official acknowledgment of what they are trying to do approximately four months ago. He said rather than rush through it, he decided he wasn't going to make a motion four months ago. He did make the announcement to give it publicity and give people a chance to respond and let him know what their feelings were on the subject. He stated people came forward for two meetings and there was no opposition at all to the naming of Veteran's Park at Carolina Beach. He said there was an amendment which they have dropped in relationship to the highway, but they felt it very important just to go with a single item at

Veteran's Park at Carolina Beach Lake. So, they had an unofficial forum on that giving people over two months to respond. He said this is an honor, that he is a veteran, and that they are trying to do something very positive. He was happy to hear no opposition to what they are trying to do and are presenting to Council tonight.

Mayor Barbour stated Mr. Bigley spoke to him about this issue today and he knew they would be speaking about this tonight. Knowing their commitment to try to have a memorial at the lake by 11/11 at the 11th hour, he started thinking about it. He stated we have a committee of citizens appointed who oversee our parks throughout the Town, which is the Parks and Recreation Committee. Ted Lashley is on the committee and is the Parks and Recreation Director. Mayor Barbour stated he told Mr. Bigley that this needs to be sent to them to look at since they oversee the park. He stated time is a problem in that they don't normally meet until the first Tuesday of each month, which would be November 7th. This is close to the 11th and the next council meeting is not until November 15th. Therefore, Mayor Barbour is requesting the Parks and Recreation Director to call a special meeting of the Parks and Recreation Committee to hear this issue and give Council a recommendation at the normal Council workshop meeting, which will be the 27th of October. Following the Parks and Recreation special meeting, they will send it to Council on the 27th of October and they will act on it, which will be prior to November 11th. Therefore, the timing will work out that way.

Leroy Franks addressed the Council on the issue of DCM denial of the harbormaster project. Mr. Franks stated that Arcadius filed their major development permit for the harbormaster project. It was accompanied by a separate document – a request for declaratorial ruling. The following are Items #19 and #20 from their statement of facts. Item #19: The DCM has determined that the limitations contained in 15(a) and (c) admin code 780209 prevents DCM from approving petitioner's proposed project since the site plan accompanying the petitioner's CAMA permit application shows that the redevelopment structure would extend beyond the drip line of the existing structure on the land side of the property. Item #20: The results of DCM's present interpretation of this provision is that the only permissible redevelopment activity available to the petitioner under the rule is consideration of a one-story building with a depth of no greater than approximately 41 feet, which would preclude any condominiums or contain an insufficient amount of floor space per condominium for the project to be economically viable. Mr. Franks said an attachment to the project is an endorsement of the request for the reinterpretation of the rule from the Mayor - in other words, granting special privileges to developers.

Mayor Barbour said that's true that he did send a letter to the DCM recommending approval of this CAMA permit. Councilman Doetsch said he supported the Mayor's efforts there. Councilman Lynch agreed.

Steve Stanton, of 527 Spencer Farlow Drive, asked Council to consider favorably the reduction of the speed limit on Spencer Farlow Drive. He stated his wife and he bought a house there in the early portion of 2001. Since that time, he said there has not been the construction of another single family residence on Spencer Farlow, but what has taken place is the construction of a good number of condominiums, town homes and duplexes. He said duplexes continue to be constructed on the street. With that type of density, the traffic flow and number of vehicles on

Spencer Farlow has increased significantly. In addition to that, the boat ramp has continued to maintain a steady flow of boats. He stated he doesn't think that the proximity to the street itself was ever intended to carry the traffic flow that it now sees at the current date. Due to those factors, he would like to see Council consider the reduction of the speed limit at the appropriate time.

Next, John Blamey addressed Council concerning the flooding and management. He stated that all the information given prior by statistics, etc. is based on the depth of the lake at any given point in time. He said that in 1998 when he moved here, he could walk over to the lake and he could see a pipe coming out, which happened to be the sewer pipe. Mayor Barbour stated it was a stormwater pipe. Mr. Blamey said he could always see the full pipe. He said today he cannot see that pipe because Carolina Beach has raised the water level 12" to 18". He said the water is about 12" below the road. He said if that's coming back up the sewer and you walk around what he calls the swamp adjacent to the lake, there are some major pipes out there – 18" to 24" pipes – bringing that into the swamp. He stated for the last 18 months when he has walked around there, they have never been dry. They are backed up and filled with water and you can see heavy algae growing on the top. You can also see the start of cell formations for mosquitoes and other insects constantly living in there. He stated he did not see that up until 18 months ago.

Whenever they get 1" of rain on the main highway – Lake Park Boulevard – there's one sewer and it is virtually always flowing at road level. He said it never goes down. He said by raising the level of the lake in order to have sediment, paddle boats and boats, the water table has been raised to 18". He stated they never had a problem when he first moved here and they could pump the water out. Now, when they turn the pumps on for the 500 acres to drain the water into the lake, the pump is overburdened. He said the rain is perpetually flooding that area. He said it is a major issue that no one is looking at. He wants Council to give the engineers all of the facts, what has been done in the past and what is being done now. Mr. Blamey said that the Town reacts after the fact. He said when his wife and he call, the secretaries give a consistent message that we were only expecting one inch of rain. He said that is embarrassing. He said eventually you got auxiliary pumps in there after the fact and you have two of them. He brought to one member of the Council's attention that you have two pumps there and you only hooked one up, which took about 3 ½ hours of 13 people standing around and watching. He said they finally got the second pump running, but there's a big split in that. He said someone had to call 911 at 1:30 in the morning because it was just pouring back over the road. He said the outlet lines were ran onto the beach – halfway between the dunes and the ocean. He stated there were no tie downs and no place for the water to run except straight into the sand, which is soft sand and it eroded. He stated that was brought to someone's attention and it was never corrected. The next day there were two girls sitting around there playing in these holes as they were flapping back and forth and they were trying to dodge them and there are metal heads on those hoses. He stated that is a safety hazard. He said after the fact, someone put some fencing around it about three days later. He said the other thing that was pointed out was when you put these hoses in there, you have to tie them down so they don't run at angles. Many of hoses, many of the times he has walked down there, are at right angles. He said the best use you had out of those pumps some of the time was about 20% because at right angles, the water has to come around and it was solid on one end and just collapsed on the other. He said the other thing pointed out was cavitation of the pumps, where if you allow them to go down they'll do hydraulics and they will suck themselves into the ground. After the cavitation, where they dig themselves a hole and there's enough water

and it's soft, they go in there and they pull themselves down. That was pointed out and nothing was corrected and it was sitting there in a dead cavity. It was going straight down. Solid hose coming up the cross-over and when you went down, the hose was flat and buried into the ground and yes, the pump was running. So, even though you put these things on there, you have to have someone that knows what they are doing to maintain them because you spent a lot of money for that and basically you probably got less than 50% use of it. He said the pump you're running is just plain sitting there, not pumping anything and not doing anything. He said there is a real issue on how to maintain them. He said if you dredge the lake down and you don't lower the level, you're not accomplishing what you really want to. If you put two pumps in and you don't lower the level of the lake, it can only pump so much before you turn them off. He thinks they can only pump a couple of days and then you have to turn them off because you have actually drained the lake in that course of time, so you don't have any water to pull. Dredging would do something, but you've got to drastically lower it if you want to get out of trouble and back to where you were in the early '90's. You have to take that lake down at least 18" on a regular basis. If you have a 2" rain tonight, you will flood because the ground is so saturated.

Mayor Barbour stated he and Mr. Blamey have talked several times during Ophelia and this last rain storm. He asked Mr. Blamey if he could email his observations to him. Mr. Blamey said he will sit down and talk, but he doesn't email. He said emails are one-way communication. You can't ask questions with them and you can't get any true information. He said he has pictures of everything that he is talking about. His phone number is 458-5110. He said Mayor Barbour can call him at home and they can set up an appointment to talk. He will provide pictures if wanted.

CONSENT AGENDA

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

Approval of the Minutes:

Special Meeting	September 1, 2005
Emergency Meeting	September 12, 2005

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request for a Conditional Use Permit for a Commercial/Residential Mixed Use Located at 401 Marina Street.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request for a Conditional Use Permit for Three Duplexes Located at 301, 303, 305 Carolina Beach Avenue South.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request for a Conditional Use Permit for Two Triplexes Located at 204 & 206 Woody Hewett Avenue.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request for a Conditional Use Permit for a Town Home Planned Unit Development Consisting of 10 Units Located at 923 Basin Road.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request for a Conditional Use Permit for a Triplex Located at 817 Canal Drive.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request to Rezone from HB (Highway Business) & MB (Marina Business) to CBD (Central Business District) at 304, 306, 400, 400A and 402 North Lake Park Blvd.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request to Rezone from R-3 (Single Family) to R-1 (Single Family/Duplex) Property Located at 600, 602, 606, 610, 612, 614 Harper Avenue and 601, 605, 609, 615 Rocky Mount Avenue and 304 7th Street.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Zoning Text Amendment – Article 7, Off-Street Parking and Loading Requirements (d) Off-Street Parking Space Schedule; Amend Appendix A Zoning, Article 3.5 Non-Conformities May Continue; Amend Appendix A Zoning, Article 18.2 Non-Conforming Lots; Amend Chapter 12 Planning & Development, Article 4 Flood Damage Prevention; Amend Appendix A 3.8-1 Table of Permissible Uses.

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider a Request to Rezone Property Located at 1501 Canal Drive from R-1B (Single Family) to R-1 (Single Family/Duplex)

Set a public hearing date for November 15, 2005 at 7:30 p.m. or soon thereafter to Consider an Amendment to the Code of Ordinances, Chapter 11 Parks and Recreation, Section 11-42 Liability of Users by Adding (c) Safety Equipment at city Skate Parks

Adopt Proclamation No. 05-848 (*Exhibit 3*) to Recognize November 1, 1005 as “Medical-Surgical Nurses Day”

Approve Budget Amendments and Notification of Budget Transfers:

The Police Chief is asking that \$2000 allocated for Nextel phones in account 105100.75 be transferred into the drug informant account 105100.58. This is a transfer and requires Council’s notification only.

MOTION CARRIED UNANIMOUSLY.

Mayor Barbour asked for a five minute break, to resume shortly thereafter. He thanked everyone for coming.

Shortly thereafter, Mayor Barbour called the meeting back to order.

PUBLIC HEARING – CONSIDER AMENDMENTS TO APPENDIX A ZONING ORDINANCE, ARTICLE 18 NON-CONFORMING SITUATIONS, SECTION 18.2 NON-CONFORMING LOTS

Ed Parvin, Interim Planning & Development Director, made the presentation.

Recently, several citizens have approached planning staff with a zoning interpretation issue concerning 18.2 c of the Zoning Ordinance Planning Staff has included for your review suggested language in sections 18.2 of the Town’s Zoning Ordinance.

The Carolina Beach “Building Line” is still valid in the Town of Carolina Beach Code of Ordinances and continues to impact building footprint today. With the Zoning Ordinance change in 1984 and 2000 (Current Ordinance) the Carolina Beach “Building Line” and its impact on lots may have been inadvertently removed from the Zoning Ordinance. In zoning districts affected by the Carolina Beach Building Line or Kure Beach's Beach Re-nourishment Easement Line and lots that have lost area due to estuarine and ocean tidal waters or Carolina Beach Erosion Control and Hurricane Wave Protection Projects, a 50% reduction in front yard setbacks would also include all oceanfront lots.

FACTS:

1. The Town of Carolina Beach Zoning Ordinance in 1979 made provisions for a reduction in the front yard setback for the current MF (RA-5A) zone from 10’ to 5’.
2. The Town of Carolina Beach Zoning Ordinance (1979) identified the 1963 “Building Line” as a reason for allowing the reduction in setback.
3. The Town of Carolina Beach Zoning Ordinance (1984) states “Ten (10) feet, provided that the modifications described in Article 300 are applicable to this district.” (Tidal Water Impacts)
4. The 1963 “Building Line” as identified in (Section 117) is still in effect in the Town Code of Ordinances.
5. The determination of actual lot area in these areas can be made by the Zoning Administrator.

The Planning and Zoning Commission reviewed this text amendment change at is September 08, 2005 regularly scheduled meeting and unanimously recommended approval.

18.2 Non-conforming lots. (Amended 07/13/04, Ordinance No. 04-558)

- (c) *Reduction of required lot area when lost to shore erosion.* Where lots abut the estuarine tidal waters, as defined in Article 23, and where lot depth has been lost due to the encroachment of such waters, making such lot area non-conforming to the zoning district requirements, the existing lot area may be considered conforming to meet the minimum lot area requirements of the zoning district in

which located. However, the front and side yards of the zoning district shall apply.

- For sound-front lots ~~located within the R-1 and R-1B zoning districts~~, a fifty (50%) percent reduction in the front yard shall apply where appropriate provisions are made for off-street parking.
- *Where the Carolina Beach Building line creates a reduction in lot area that supersedes the CAMA sixty (60) foot setback line a fifty (50) percent reduction in the front yard setback may apply* where appropriate provisions are made for off-street parking.

Lots which have lost area due to estuarine tidal waters or Carolina Beach Erosion Control and Hurricane Wave Protection Projects may be developed in accordance with all applicable permitted uses of the zoning district in which located, provided that the actual lot area above the mean high water level shall be utilized when computing the density for multi family dwellings per lot. The Zoning Administrator shall make the determination of actual lot area. Appeals to the decision of the Zoning Administrator shall be made to the Board of Adjustment in accordance with the provisions of Article 21.

There being no questions from Council, Councilman Lynch made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

There being no comments from the public, Councilman Lynch made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Macon asked to be excused from the voting due to family having property, as well as his construction company which are both affected by the building on this project.

Mayor Barbour made a motion to excuse Councilman Macon due to a conflict of interest. **MOTION CARRIED UNANIMOUSLY.**

Councilman Macon said he would like to clarify that during his nine years as a building inspector for the Town of Carolina Beach, the ordinance had always allowed this reduction setback to take place along the oceanfront where depth of the lot had been lost due to the taking of the property in the 1963 session laws for the dune construction. He stated that when this came to light, he went to P&Z with a copy of the old ordinance as well as some surveys from individuals who have built in the past few years prior to the change where it was left out of the ordinance showing that the setbacks had been reduced and it was a common occurrence in that particular time period.

Mayor Pro Tem Efird made a motion to adopt Ordinance No. 05-603 (*Exhibit 4*). Mayor Barbour stated there is a motion on the floor to adopt Ordinance No. 05-603 and asked for any further discussion. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AMENDMENTS TO APPENDIX A ZONING, ARTICLE 23 SECTION 23.3 DEFINITIONS TO ADD A DEFINITION FOR HIGH-RISE

Ed Parvin, Interim Planning & Development Director, made the following presentation:

Planning and Zoning has asked staff to add “High Rise” as a definition in the zoning ordinance. The Planning & Zoning Commission discussed this at its September 08, 2005 scheduled meeting and unanimously recommended adopting the definition to read:

“A multi-story building over five stories and/or fifty feet”

The below information was not discovered until after the Planning and Zoning Commission meeting. Planning staff would recommend sending this information back to the Planning and Zoning Commission for further review.

NC Building Code Definition

High rise: Buildings having occupied floors located more than 75 feet above the lowest level of fire department vehicle access.

1997 Land Use Plan

Excerpt from 6.2.6 Fire

The department also has one aerial truck (75’ vertical reach*), one hose van and one utility van.

*All “high rise” structures at Carolina Beach, i.e. those structures which cannot be effectively reached by the Town fire fighting equipment, are required to have sprinkler systems.

Language presented to the Planning and Zoning Commission on September 08, 2005.

Construction Dictionary

High Rise: A multi-story building over six (6) stories and/or sixty (60) feet.

Other NC and SC municipalities with high-rise definitions:

Charlotte

High Rise Building. (Those exceeding five (5) stories.)

Chapel Hill

High rise building under the terms of this division shall mean any building over fifty (50) feet in height.

Charleston, S.C.

Special height and area modifications for residential structures in excess of fifty (50) feet (“high rise”)

Greenville, S.C.

High-rise apartment means any building which contains not less than 20 dwelling units and exceeds five stories or 50 feet in height, whichever is greater.

Mr. Parvin stated that what they did not present to Planning & Zoning and what he wanted them to be able to look at was the language that was in the current 1997 Land Use Plan. He thinks that is essential for them to also review that language and also the North Carolina Building Code definition, which were not available to them. Therefore, Mr. Parvin wants to table this item back to Planning & Zoning so they can review that language.

Councilman Doetsch made a motion to table this item, which is a definition for high-rise, to the December meeting. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AMENDMENTS TO APPENDIX A ZONING, ARTICLE 8 SECTION 2 SIDEWALK CURB AND GUTTER

Ed Parvin, Interim Planning & Development Director, made the following presentation:

The Planning and Zoning Commission has requested review of the curb and gutter & sidewalk requirement. After review at the September 08, 2005 regularly scheduled meeting the Planning and Zoning Commission would like to consider another implementation approach. Mr. Parvin said he wanted to give a brief presentation of what we have now and what they are proposing. Over the summer, the Town established the goal to have sidewalks for every gutter to make the Town a safer and more pedestrian oriented community. The problem they had was finding and implementing a plan that will allow the Town to effectively and efficiently create sidewalks through Carolina Beach. Some of the issues behind the problem that they have been discussing at Planning and Zoning is how to pay for the sidewalks, the location – what areas have priority, ensuring proper grade and elevations have been established for the new sidewalks going in, and the impacts on stormwater impervious area created by the sidewalks.

Alternative 1 is what we have in our ordinance now and new development and redevelopment, excluding single family residences and duplexes are required to have curb and gutter and sidewalk. With what we have now, you immediately see the benefits. These new developments will actually have the curb and gutter and sidewalks in place, then the Town can go back and fill in the areas that have not been redeveloped or developed. The problem with this approach is just adding the cost of going back and filling in. That is one of the reasons P&Z wanted to go back and review this.

Alternative 2 is the approach that P&Z had recommended. It would require applicants to have an approved form of surety for the cost of curb, gutter and sidewalks. The benefit is that it would prevent the piecemeal implementation. The problem with this is if they put down the money for it then you have to use that money for their piece, so really you can't go in and do an entire block until the entire block has been developed or redeveloped.

Alternative 3 would be to create a fee for all new development and redevelopment that would go towards implementation. This is something that wasn't discussed. It is kind of a modification of what P&Z said. This would work, but it would create a fee for all new development including single family and duplex homes. The benefit is that all development would contribute. The

problem is that it would be a slow implementation process and those who contribute may not see sidewalks for years.

Mr. Parvin stated their recommended course of action would be 1 or 3. 1 is in place now. The other alternative that was considered at P&Z was something similar to Alternative 3. Mr. Parvin asked for any questions.

There being no questions from Council, Councilman Lynch made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Ed Jones, a resident of 114 Green Turtle Lane, is in favor of Alternative 1 and opposes Alternative 2 and 3. He stated if this would have been implemented 3 about ten years ago, maybe it would have worked but the cost of living and fuel that goes into sidewalks, curb and gutter has gotten out of hand. He stated it might make the Town look a little bit better, but it will just be one more nail in the coffin making this Myrtle Beach, North Carolina. He thinks Council should consider that there are an awful lot of people who will be negatively affected by either Alternative 2 or Alternative 3 in the interest of improving pedestrian traffic. He asked how many people do you see out walking around? He stated everyone needs to get out and walk around, but he doesn't see that many. He doesn't think sidewalks will make people get out and walk more. He thinks it is a false impression that this will improve pedestrian traffic.

There being no further public comment, Councilman Doetsch motioned to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour asked Mr. Parvin to review for Council Alternative 1. Mr. Parvin stated Alternative 1 is what we have in place now. It is essentially that all Conditional Use Permits, commercial projects, multi-family developments are required to put in curb and gutter and sidewalks. That is the plan in place and several discussions have been held at Planning & Zoning, which are included in Council's packets. P&Z's concerns were the connectivity of going back and connecting the piecemeal parts that are going to be in place and how well they would match up. That is why they were looking at Alternative 2, so they could all be put in at one time. He stated Alternative 1 is what they passed over the summer and that is something they have already started implementing and have projects going through with curb, gutter and sidewalks.

Mr. Peck asked Mr. Parvin to show Alternative 2 again. Mr. Peck stated that one of the issues with Alternative 2, which is Ordinance No. 05-606 that you have, is if a bond is posted for that specific property it can only be used for that particular piece of property. So, you couldn't take bonds from a number of different properties, put them together and do a block. You would only have it for that particular piece. Councilman Lynch said he didn't know how they would keep up with the bonds. Mr. Peck said he would have to ask the Finance Director. The Finance Director, Dawn Johnson, said she cannot foresee doing it. Councilman Lynch said you would have to have them pay the money into an account – separate accounts. Mr. Peck said for each one? Councilman Lynch said yes. Mr. Peck said or either hold a check for each project. Councilman Lynch said they couldn't hold a check – that they might stop payment on it. Mr. Peck said you

can do a bond and a bond can last for a long period of time, but you would have potentially many until you're ready to pave in a particular area or put gutter, curb and sidewalk in a particular area.

Mr. Peck asked Mr. Parvin to show Alternative 3. Mr. Peck said he would have to check, but he doesn't know that the Town has legislative authority to enact a development fee of this type. You have to have specific authority from the General Assembly for impact fees. He doesn't know if this would be considered that. It may not be because it is going towards a specific project rather than development in general, but he doesn't know at this time if that qualifies or not.

Mayor Barbour asked if Alternative 1 is what we have in effect at this time and Mr. Parvin stated yes. Mayor Barbour said it is recommended that they approve Ordinance No. 05-606, which is Alternative 3? Mr. Parvin said Alternative 2 is what Planning and Zoning would recommend denial of. Mr. Peck stated that Ordinance No. 05-606 is, in fact, Alternative 2, which is in front of Council.

Councilman Macon stated he wasn't here for the meeting where the sidewalk ordinance was adopted. He stated he would have not voted for it. He is concerned about how to make it all work in small areas and then tying it all together, such as a project at Canal Drive. He said there is one triplex, four town homes across the street, and then the rest is single family or duplex, so you would have those two spots that had sidewalk. He stated the subdivision that Mr. Rogge had where you just had a minimum amount of lots that went into a cul-de-sac and we required a sidewalk and increasing the impervious surface – he doesn't see how you could make it all work. He stated the ordinance is there and that the alternatives do not look too good. He doesn't know how you would even put a sidewalk in.

Councilman Lynch said there's also a question as to how do you really tie them in and will they be standing when you try to tie them in.

Councilman Doetsch asked isn't there a basic plan for sidewalks that you go by for doing sidewalks? If that's the case and everyone has to build to that plan, then at least the tie in is there. If everyone is building the standard required sidewalk, he can see where you can tie them in then. It's just a matter of requiring everybody to have the same designed sidewalks.

Mr. Peck said the Town has adopted design standards for sidewalk, curb and gutter, etc. Councilman Macon said that was a while back and one thing that's happened is you've boxed yourself in where you don't even have the option of requiring them or not requiring them based on the type of development that it is.

Councilman Lynch said if we pass Ordinance No. 05-606, we would have the option of deferring it based on the approved form of surety. He likes an approved form of cash. You can put it in the bank and spend it on that project. He asked would you interpret this - an approved form of surety to be payment instead of a bond? He stated he does not like bonds. He said it is difficult to collect the bonds sometimes.

Dawn Johnson, Finance Director, stated it was hard for her to fathom the whole process and how it would work. She wanted to know if they were talking about waiting until each street is ready to connect it together and how do you know the cash they pose is going to be enough to cover their property? She stated we don't. Councilman Lynch stated it wouldn't be enough because prices are going to go up. Ms. Johnson agreed.

Councilman Doetsch stated if you are required to put them in when you do the projects, then the only parcels of land that you haven't tied in would be the single family dwellings and hopefully at some point in time those people would maybe petition us to put sidewalks in there. Then you would have the tie in. He said we might ever see it in our lifetime, but somewhere down the road... Councilman Lynch agreed we need to start.

Mayor Barbour said currently the way the zoning ordinance is written, we don't have a choice. We have to do sidewalks. But it seems that during certain situations, we have wanted to waive the sidewalk requirement because of a certain circumstance such as a development, lot development or subdivision development, etc. He asked can we reword #4 and take out the part pertaining to having the applicant post an approved form of surety? Councilman Lynch suggested they say post an approved form of surety, or cash, for the cost... Mayor Barbour said that was what they were just talking about. Councilman Lynch asked didn't he think they could do that? Mayor said he didn't think we could do that and if you changed this, it at least gives us the opportunity to defer the sidewalk requirement.

Mr. Peck stated that if Council is interested in having options, then tell them what you want and they will bring it back to Council at the next meeting some language that attempts to accomplish that. Mayor Barbour said basically we don't have a choice now. They want a choice to be able to require sidewalks on both sides, sidewalks on one side or no sidewalks. Councilman Lynch added, but to have the developer put some form of payment in their hands that they can do it when they want to. Mayor Barbour asked how can we do that? Councilman Lynch said a form of surety. Mr. Peck said he will check and see if we have legislative authority to require that. He said you can certainly require a bond for future improvements. You can clearly do that, but only on that particular property. But in order to collect money to be used for the general good, he doesn't know that we have legislative authority. Councilman Lynch said it has to be for that particular project. He is concerned about how long a bond would be for. He said the insurance companies aren't going to write a bond indefinitely. Mr. Peck said if you have a delay in executing a certain part of the project, then sometimes they will bond it for a period of six months in order for them to complete something else and if it's not done, the Town uses the bond in order to complete the project. However, he thinks an unknown time on a project that's out there and given the pace of development, how many bonds do we end up holding for how long is a concern. When we talk about a bond or a surety, there's a problem there. If Council is interested in looking at the possibility of collecting a payment to a general sidewalk, curb and gutter thing – into a general piece that is not specifically tied to a project, etc. – if you're interested in that, then we can see if there is legislative authority to do that. Councilman Lynch thinks it ought to be tied to a particular project. He doesn't know if it is legal, but if the developer pays that money for that project, he thinks the Town ought to hold it until we're going to do that particular project and put that money towards it. Mr. Peck doesn't know that we have the capability of doing that on a large scale over a long period of time.

Councilman Doetsch thinks we have a process in place and if you do it and you have a set of design standards for sidewalks – he doesn't think they should make this any more complicated than it seems to already be. If there is not a sidewalk there and we anticipate putting one there, then we'll do it to those same design standards and hook it together. Councilman Lynch asked if he was going back to Alternative 1 and Councilman Doetsch stated yes. Councilman Doetsch stated that if we go with something else other than this, whoever is on Council 20 years from now will not understand it and the person trying to keep up with the finances will not have a clue as to where they're at with it.

Mayor Barbour made a motion to deny proposed Ordinance No. 05-606 with the request that Council be given options to look at in the future. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AMENDMENTS TO THE CODE OF ORDINANCES, CHAPTER 12 PLANNING & DEVELOPMENT, SECTION 12-130 SIDEWALKS

Mr. Parvin made the presentation. He stated that when they were amending the landscape ordinance, that this was a subsequent section of the subdivision ordinance that was not amended.

This language has been recommended by the Planning and Zoning Commission at its September 08, 2005 regularly scheduled meeting. The purpose of this change is to maintain consistency between Chapter 12 Planning and Development of the Town Code and the zoning ordinance Article 8 Landscape and Development Specification Standards. What it did say and now says is as below:

SUBDIVISION

ARTICLE III. SUBDIVISION REGULATIONS*

***Cross references:** Streets and sidewalks, Ch. 15; utilities, Ch. 16.

State law references: Subdivision regulation, G.S. § 160A-371 et seq.

Sec. 12-130. Sidewalks.

~~The planning and zoning commission may require~~ The sub-divider, applicant or developer shall be required to construct a concrete sidewalk(s) on one (1) side of all frontage streets and on one (1) or both sides of all other streets within the subdivision. The construction of all sidewalks shall be in accordance with plans and standard specifications approved by the planning and zoning commission.

(Code 1977, § 9-3086)

Mr. Parvin said basically it doesn't specify one or both sides for subdivisions. It just says that they are required. Councilman Doetsch stated he thinks we will run into the same problem we ran a couple months ago with Rick Rogge. To him, something like the sub-divider, applicant or developer will be required to have sidewalks included in his plan that shall be in accordance with the current design plans and standard specifications in the Town's code should be put in there

and that pretty well says it and makes it fairly simple. It's got to be there. Then we don't leave it up to somebody's interpretation down the road that keeps jumping a sidewalk from one side of the street to the other and really frustrating the whole situation.

Councilman Macon motioned to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Leroy Franks, a resident of 908 Canal Drive, wanted to add a comment concerning what Councilman Macon said. Mr. Franks stated that along Canal Drive the water and sewer lines are run in the right-of-ways. If you put in sidewalks and gutters, your maintenance costs are not going to just double or triple, but they're going to go up six times because of the amount of concrete you'll have to remove and replace over and over and over again. This will be continuous. It has always been a rule by the beach that the right-of-way should be kept clear so the city can get to the pipes to take care of the water pipes, the sewer pipes and that's on both sides of the street – not just one side – but both sides. So, if you're putting in sidewalks, you are shooting yourself in the foot with a super high maintenance figure. He would like Council to consider that.

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

Councilman Macon stated this is an opportunity to change this ordinance to allow when people are coming for CUP's to require them or not require them. In certain places they are ridiculous and in certain places they create impervious surface. And as Mr. Franks said, in certain places you're just adding to your cost when you have to fix something. He said we don't even maintain the ones we have. He thinks there are areas and projects such as over by Food Lion that required sidewalks and that made sense, but you've got a subdivision where it is a cul-de-sac and you're requiring sidewalks, you're adding to the impervious surface and there is not a need for it. This is going to require sidewalks around the whole project. He just thinks it is a bad ordinance.

Mayor Barbour asked if Mr. Parvin wanted to offer an amendment to the wording or would he like for Council to make a motion? Mr. Parvin said he thinks this wording allows either one or both sides. It doesn't specify. It just says you have to have them. So, for a new subdivision you still have that flexibility where if you want to just do one side, you can do one side. Councilman Macon said to give an example, take Pleasure Cay, how would sidewalks help that subdivision? How would sidewalks help Carolina Sands? Mayor Pro Tem Efird stated she loves sidewalks. Councilman Macon said he does too, but there is a place for them and then there's not. Councilman Lynch agreed there are certain places we don't need them.

Mayor Barbour asked if this is the regulation pertaining specifically to subdivision development? Mr. Parvin stated yes. Mayor Barbour if this gives us the flexibility to require sidewalks on both sides, one side or no sidewalks? Mr. Parvin stated it gives you flexibility for both or one. Councilman Doetsch stated it has to be one or the other and Mr. Parvin agreed. Mayor Pro Tem Efird said that in some subdivisions like the one on 7th Street, if you want to walk you have to walk in the middle of the road because there is no place to walk. She doesn't think that looks good and she doesn't think it's good for the people who live there to have to walk in the middle

of the road. She also thinks that sidewalks should be required in subdivisions. She thinks it would be ridiculous to go back and spend that money digging up everything on Canal Drive and in fact, there is no room for it – not if we have the bike lanes and all those things. She stated it is not feasible. But in subdivisions, she thinks we made a mistake in not requiring it in this one back here. Councilman Lynch stated Council said we were going to require sidewalks and this gives us the option to require one or two sidewalks in a new development.

Councilman Doetsch said suppose we have a new development coming in that is going to tie one area to another area and we have sidewalks on both sides and then this new development that's coming in decided that it didn't want them or for some reason wasn't going to put them in there – for that reason he thinks it is important to maybe require sidewalks so that we have a continuous sidewalk plan there. So, the requirement for one or two should be there. But on the other hand, if it is a stand alone project that is out in the middle of nowhere and connects to nothing and never will connect to anything, it seems kind of crazy for us to require them to put them in when all you're going to do is tie the first house to the last house. That doesn't make sense either. To him, if a sub-divider, applicant or developer desires to have sidewalks included in his plan that shall be in accordance with the current design and plan standards and specifications covered in the Town's codes, that's the way he would word it there. Then he would put the clause in – however, if there is a need for safety reasons, the Town may require it. That gives the Town the final say so that if we see somewhere down the road that the development may be connected to another development, then we could at that point require them to have them there. It would give us much more latitude in the whole situation than what is currently stated. He asked if he should make that a motion.

Mayor Barbour recommended either approval or denial of proposed Ordinance No. 05-607 and if there is a majority vote for denial, then we will send it back to Planning and Zoning based on the minutes of tonight's meeting for an alternative. Councilman Doetsch stated he makes that motion then. Mr. Parvin stated the reason they were amending this was to make it consistent with Article 8 and Article 8 does require sidewalks and it doesn't specify either, but Article 8 requires sidewalks for subdivisions. So, if we want to amend this language, we would have to go back and amend Article 8 also.

Councilman Doetsch made a motion to deny proposed Ordinance No. 05-607 and we put in the right wording in Article 8 and this ordinance so they are in alignment with each other and so we do get as much latitude in new development as we can get. Mayor Barbour stated there is a motion to deny Ordinance No. 05-607 with the recommendation to get alternatives for both Article 8 and Section 12-130 for sidewalks. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AMENDMENTS TO THE CODE OF ORDINANCES, CHAPTER 9 MOTOR VEHICLES & TRAFFIC, ARTICLE VI SCHEDULES TO REDUCE SPEED LIMIT ON SPENCER FARLOW DRIVE FROM 35 MPH TO 25 MPH

The Police Advisory heard several complaints at its August meeting regarding the speed limit of Spencer Farlow being reduced from 35 MHP to 25 MHP. The Police Chief has also received several emails requesting the same due to the large increase in new development in addition to

traffic created from the state boat ramp. The Police Advisory Committee unanimously recommends reducing the speed from 35 to 25mph on Spencer-Farlow.

There was concern from Planning and Zoning that inadequate information was provided to make a determination on changing the speed limit. Based on the Police Advisory Board's recommendation Planning and Zoning unanimously recommended approval at its September 08, 2005 regularly scheduled meeting. Planning staff would recommend sending this item back to Planning and Zoning until more traffic data is available to make this decision.

The Planning and Zoning Commission also requested further review be conducted by the Police Advisory Board as to adding additional speed limit signs potentially located at:

- 1. The beginning of Spencer-Farlow and Old Bridge Barrier Road,**
- 2. Intersection of the access road and Spencer-Farlow**
- 3. Approximately half way down and at the end Spencer-Farlow coming in both directions.**

Planning Staff would recommend that before approval there be a traffic analysis be done by the Police Department.

Mayor Barbour stated the recommendation is to table this item. Since this was a scheduled public hearing, he asked aren't we required to have a public hearing? Ms. Prusa, Town Clerk, said you can open it if you like and see if anyone present would like to speak at this time.

Mayor Barbour motioned to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Ed Jones, of 114 Green Turtle Lane, said that when he found out this was a proposal he came to Town Hall to find out who was behind it and the lady at the reception desk, after making three telephone calls, wasn't able to help him. So, he drove to the *Island Gazette* and they gave him a copy of the paperwork. He stated he then came back here and finally someone was able to answer his questions. He is opposed to it and would like it referred back to the Police Advisory Council.

D.A. Lewis of 604 Clarendon Boulevard, stated he is for it. He said that road is not wide enough or long enough for a 35 mile per hour speed limit. He said the road is only a mile long.

Councilman Macon said this would be one area that would be good for sidewalks.

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

Mayor Barbour made a motion to table this until the December Council meeting to give enough time for a traffic flow study and to also schedule another public hearing at that time. **MOTION CARRIED UNANIMOUSLY.**

***PUBLIC HEARING – CONSIDER AMENDMENTS TO THE CODE OF ORDINANCES,
CHAPTER 14 SOLID WASTE, SECTION 14-6 DUMPSTERS***

Mr. Ed Parvin made the presentation. He stated this is another change to make our landscape ordinance consistent with Town code and is changing the language from requiring enclosure on three sides to four sides of dumpsters.

On July 12, 2005 Town Council adopted changes to our landscaping ordinance including a requirement for all dumpster enclosures to be four (4) sided. The proposed language will make all sections of the ordinance consistent with the newly adopted landscape ordinance.

The Planning and Zoning Commission unanimously recommended approval of the proposed change to make Chapter 14 (Solid Waste) consistent with Section 14-6 (Dumpsters).

Chapter 14

SOLID WASTE

ARTICLE I. IN GENERAL

Sec. 14-6. Dumpsters.

(c) ~~Three (3)~~ **Four (4)** sides of the container shall be enclosed and remain closed and secured during inactivity in an enclosure as per specifications obtained from the ~~public works~~ Operations Department and approved by the ~~Operations~~ Director.

Councilman Doetsch asked if the dumpster adjoins or abuts up against a building – could a person just use three sides to cover it in and use the building as the fourth as a buffer? Could they have a gate and two sides or are we going to require them to have all four sides?

Mayor Barbour said the way it's worded it just says it's enclosed. If one side happens to be a building then it is enclosed. Councilman Doetsch said you could use that as a side so a person is not required to have a fence? Mr. Parvin stated there are standards for what the enclosure would have to be. You have to have enough space on each side for them to get in there and pick the dumpster up. Councilman Doetsch doesn't want us to start requiring people to put a fence on the back side of a dumpster that abuts into a building. That wouldn't make sense.

There being no further questions from Council, Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Jerry Bigley of 211 Waterview Place asked why do they have to have four sides? He stated some of his stores have only one person working. You're going to have to have a lock on it and put a gate there. When the truck comes, the employee would have to go outside and unlock it and it would be too much labor involved. He doesn't see where it is helping anything. He said where you need to crack down is on the places that have four and five trash cans and they should have a dumpster instead. He thinks it is a waste of money.

Mayor Barbour said that the way the wording is, it must be enclosed and remain closed and secure during an activity. He doesn't necessarily think that means that it must be locked. Secured, from what he's seen, the one installed at the school, which was required to have four sides, has an open swing gate with just a pin lever that goes in the ground that you pick up and swing the gate open. So, in those cases the company that picks up the dumpsters could physically open the gate themselves.

Mr. Bigley said he understood that but if you take the dumpster behind his convenience store – that's a public dumpster. If you put a gate there, they're going to come by there and leave it open and swing and bang and he's going to have to go out there and fix it. He thinks it is a waste of money. To give an example, he spends \$420 or \$430 a month for a dumpster behind his Carolina Beach store. He has a store in Kure Beach that he pays \$800 a year for trash cans. So, we need to look into this trash situation.

Mayor Barbour said they can look at the fee structure. Right now they are just looking at the requirements for gates. Mr. Bigley doesn't think they need the four gates. He opposes it. He thinks it is a waste of money.

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

Councilman Macon asked if the current trash haulers are opening the dumpsters themselves? Mayor Barbour stated they do at the school. Councilman Macon wanted to know what the policy is on that and if anyone knows. Mr. Peck stated theirs are enclosed and they open theirs and they open the ones at the school. He doesn't know if we've necessarily discussed that with them. Councilman Macon said if Jerry has someone that works in the store, they can go out there and prepare the gate, but if we gate all of them and you've got a condominium that doesn't have a physical person there, is the company prepared to do that? Is it going to increase the fees? Do we have that answer? Councilman Lynch said he doesn't think they can be locked. They have to be unlocked. Councilman Macon said he wasn't talking about them being locked. He's talking about is the driver going to get out and open the gate and more importantly, is he going to close it? He would like to know some of those answers. He thinks it is a great idea but he wants to know how it is going to work. Councilman Doetsch wants to know also if it is going to cost us any more money for that driver to have to do that. Councilman Macon said it's one thing for them to do ours and do the schools, but when you've got a lot of dumpsters, you're increasing their labor and their time that it takes to do that run.

Mayor Barbour said the four side enclosure is required in the new landscaping ordinance and this is simply to make this ordinance consistent with the landscaping ordinance. If you want more information, we can obtain more information, but keep in mind that if we do not adopt this change, then we need to go back and look at the requirements in the landscaping ordinance. Councilman Macon pointed out that he didn't vote for the landscaping ordinance either.

Councilman Lynch motioned that we defer this until the next meeting and ask the Town Manager to go to the waste removal company and inquire if there is going to be an additional charge for the driver to open the gate and come back to us at the next meeting. Mayor Barbour

asked if he was referring to the October meeting? Councilman Lynch asked how much time they needed. Mr. Peck said he could have an answer by the workshop meeting in October.

Mayor Barbour stated there is a motion on the floor to table this proposed Ordinance No. 05-609 to the October 27 pre-agenda workshop meeting. He asked if Council wished to continue the public hearing or not? Councilman Lynch said he didn't see any reason to continue. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – APPOINTMENTS TO THE BOARD OF ADJUSTMENT

Mayor Pro Tem Efird made a motion to appoint Fred Grady to serve a three-year term as Mr. Ed Neidens has resigned.

Councilman Doetsch asked to be excused from this issue, as it is his cousin. Mayor Barbour said he would have to refer to our attorney but he thinks the reasons for excusing votes on Council have to be that there is direct financial gain. The Town Attorney agreed. He said is not necessary. Councilman Doetsch said okay.

Mayor Barbour said they only had one application and it is not easy to get people to serve on the Board of Adjustments. They had one application from Fredrick W. Grady at 608 Cape Fear Boulevard, Carolina Beach. He is retired. He is in the Historic Society and the Got Em On Club. He lists as his reason he wishes to serve is to have input on the growth and to serve the town.

There being no further discussion, Mayor Barbour made a motion to appoint Mr. Grady to the board of Adjustments. **MOTION CARRIED UNANIMOUSLY.**

ITEMS NOT ON THE AGENDA

Al Clyburn, Town Attorney, has two closed session items involving real estate and litigation.

Chief Younginer announced the Bike Rodeo to be held this Saturday at 10:00 a.m.

Valita Quattlebaum, Public Information Officer, said the grand opening of the bathhouse parking lot on the north end of Carolina Beach is Thursday and the public is invited.

Lynn Prusa, Town Clerk, said Council's conference packages should either be in their boxes or at their tables. If they have any questions, please let her know.

Councilman Doetsch said we were approved by the DOT for some additional funding for the Lake Park Boulevard traffic flow and enhancement plan that we just approved approximately a year or year and a half ago. In discussion with the Town Manager, we have found that with that additional \$75,000 we can stripe Lake Park Boulevard in the configuration that the plan depicts it being to see how well it works in reality. It will also extend the bike path from Atlanta Avenue

to Carolina Sands, which will interconnect our entire bike path system now so that we have a connection all the way to Ft. Fisher. He said that was approved and thanked Calvin Peck and Alan Pope for getting together and getting a plan for implementing that in the near future. Mayor Barbour stated that is not a matching grant. Councilman Doetsch said it is 100% and they gave us the \$75,000 to do the project. Council thanked Councilman Doetsch for his work on this issue.

Valita Quattlebaum, Public Information Officer, added that they are going to have a cook out on Friday at noon for the hurricane volunteers and staff at 12:00.

Mayor Barbour made a motion to go into closed session to discuss real estate and pending litigation with the town attorney [NCGS 143-318.11(a)(5 and (a)(3)]. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour made a motion to go back into open session. **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 10:41 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____