

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

December 13, 2005

The Town Council of the Town of Carolina Beach met in regular session on December 13, 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 Pro Tem, Pat Efird; Councilman Jack Lynch and Councilman Joel Macon. Also present was Town Manager, Calvin R. Peck, Jr., and Town Clerk, Lynn N. Prusa. Mayor Dennis Barbour and Councilman Gary Doetsch were not present.

Mayor Pro Tem Pat Efird called the meeting to order. Councilman Jack Lynch led everyone in the invocation and pledge of allegiance.

OLD BUSINESS – APPROVAL OF THE MINUTES

Councilman Lynch made a motion for the minutes to be approved for the regular meeting on November 15, 2005. **MOTION CARRIED UNANIMOUSLY.**

RECOGNIZE CITIZEN OF THE QUARTER

Mayor Pro Tem Efird presented Leslie and Darlene Bright with a plaque honoring them as Citizens of the Quarter. She continued by thanking them for being instrumental at the Federal Point History Museum and helping the town gather their history.

RECOGNITION OF COUNCILMAN JACK LYNCH

Mayor Pro Tem Efird presented a plaque to Councilman Lynch. She stated that it has been a great pleasure working with Councilman Lynch and thanked him for all the hard work he has done. Councilman Lynch stated he has enjoyed serving the Town of Carolina Beach and appreciated this opportunity. He proceeded to congratulate the incoming Mayor and the two new Councilmen and offered to help them in any possible way.

Next Town Clerk, Lynn Prusa, asked Mayor Pro Tem Efird to have a motion made to approve Resolution No. 05-845, Recognizing the Citizen of the Quarter, for the record. Mayor Pro Tem Efird made a motion to approve Resolution No. 05-845 (*Exhibit 1*). **MOTION CARRIED UNANIMOUSLY.**

CALL FOR 5 MINUTE RECESS

Mayor Pro Tem Efird called for a 5 minute recess before the swearing in of the Mayor and new Council.

REORGANIZATION OF TOWN COUNCIL – SWEARING IN OF MAYOR AND PRESENTATION OF THE GAVEL

Mayor Bill Clark was sworn in by Magistrate Ralph Ellen to serve a two year term of office.

After being sworn in, Mayor Clark introduced Magistrate Ralph Ellen. Mayor Clark asked his wife to join him, and former Mayor Tony Loretto and his wife Cameille. He asked everyone to visualize with him for just a moment that we have former Mayor Hubert Vincent, who stopped by today and wished he could be a part of this meeting but he had to be in Asheville, Tony Loretto, Ray Rothrock, who is in San Jose today, and Dennis Barbour, who is in New Jersey, so there is the passing of the gavel.

Mr. Loretto congratulated the three men for having won the election against overwhelming financial odds. He said that he wasn't surprised but it was enjoyable to see three honest people win an election and that the citizens of this town respect honesty over money. Mayor Clark stated that all of the mayors he mentioned started out with good intentions. His goal for the next two years is to keep those good things happening at Carolina Beach. He stated we have a lot of good things going for us and we are going to keep those good things going.

SWEARING IN OF COUNCIL MEMBERS

Councilman Alan Gilbert and Councilman Jerry Johnson were sworn in by Magistrate Ellen to serve a four year term.

CONSIDER REAPPOINTMENT OF TOWN MANAGER

Mayor Clark said his first action will be that Council will have to go into a closed session. Personnel items are personal matters and they are not to be discussed in public. Councilman Gilbert made a motion that Council go into closed session to discuss a personnel matter [G.S. 143-318.11(a)(6)]. **MOTION CARRIED UNANIMOUSLY.**

A motion was made by Mayor Clark to return to open session. **MOTION CARRIED UNANIMOUSLY.**

It was stated by Mayor Clark that Council has accepted the resignation of our Town Manager, Calvin Peck. He stated that in 1998, Calvin came to Carolina Beach from Murfreesboro, NC as our Town Manager. In 7 ½ years at Carolina Beach, a lot of good things happened. As Calvin leaves, Mayor Clark wanted everyone to remember all of the good things that happened in those 7 ½ years and to hold onto the good and to remember Calvin and his family for that. He applauds him for his 7 ½ years here.

According to North Carolina statutes, the Council shall appoint an Interim Town Manager. Mayor Clark stated that Bob Nichols is from Dunn, North Carolina and was Interim Town Manager for Carolina Beach at one time. He has held 12 Interim Town Managers positions since he retired, some lasted one month and some lasted 3 ½ years. Mayor Clark proposed that he would like Council to entertain a motion that Bob Nichols be our Interim Town Manager with his effective work day being Thursday, December 15th. Mayor Pro Tem Efird stated that the Town has worked with Mr. Nichols in the past and he is very efficient and he knows a lot about Carolina Beach. She made the motion that Mr. Nichols be appointed Interim Town Manager for Carolina Beach with a start date of December 15, 2005. **MOTION CARRIED UNANIMOUSLY.**

APPOINTMENT OF MAYOR PRO TEM

Mayor Pro Tem Efird made a motion that Councilman Macon be Mayor Pro Tem. Councilman Macon refused this position. Councilman Johnson made a motion to nominate Councilman Gilbert for Mayor Pro Tem. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC DISCUSSION

Mayor Clark stated that someone signed in prior to the meeting but then that person's name was marked through. Mayor Pro Tem Gilbert said he thinks it is Mr. Mullen's name and his item is on the agenda. Mr. Mullen agreed with this statement.

PUBLIC HEARING TO CONSIDER AN AMENDMENT TO APPENDIX A ZONING, ARTICLE 18 NON-CONFORMING SITUTATIONS, SECTION 18.2 NON-CONFORMING LOTS

A motion was made by Councilwoman Efird to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

The Town Planner, Ed Parvin, presented the proposed amendments by referring Council to the town's goals for the R-3 Zoning District. Our current 1997 Land Use Plan and our Land Use Plan Update both want to maintain the integrity of this area as a 12,000 sq. ft. lot minimum. He explained that the problem we are now facing is in 2004 the language

that required the recombination of lots was removed with the intent of relieving some hardship situations and those originally platted lots are being allowed to go back and be replatted by the county to be built upon. To solve that problem Planning and Zoning has been working on different language for the last few months such as:

- Alternative 1 (keep the existing language) 1,179 lots
- Alternative 2 (P&Z recommendation) 235 lots under 9,375 sq. ft. with additional allowances under section d and e and any additional nonconforming lots receiving separate tax ID numbers before adoption.
- Alternative 3 (reinstate language removed in July 2004 with the effective date being December 13, 2005) 235 additional lots – common ownership (tax ID not considered) with exceptions for lots sold out of common ownership by December 13, 2005.

With the use of the overhead projector, he then projected some diagrams and explained various scenarios of what the new language would allow based on 50 x 125 sq. ft. lots, which is how the majority of the R-3 area is zoned.

Councilman Johnson stated for clarification, in the situation where there is an existing home on 2 50' wide lots the person would be able to build as of this date, if this were adopted, on the 50' wide lot, but also under the plan that was approved at Planning and Zoning if they wanted to remove this home, tear it down or sale they could subdivide the 3 lots into 2 that would make a better situation vs. having a 50' wide lot. Mr. Parvin said that is correct – if they wanted to remove that home they could as long as each lot had 9,000 sq. ft. it would be buildable under the new ordinance.

Councilman Johnson also wanted to confirm that in another scenario that Mr. Parvin explained that the person would have 4- 12,000 sq. ft. lots and would still have a buildable 50' wide lot but at the same time the same thing could be done if that person chose to do 3- 12,000 sq. ft. lots – those last 3 lots they could subdivide to make wider lots instead of ending up with a 50' wide lot, and Mr. Parvin agreed.

Mr. Parvin then presented the new language as described in the proposed ordinance, as follows:

- (a) Use by right when all setbacks can be met. Where the owner of a lot of record identified as non-conforming by the New Hanover County Tax Parcel Identification numbers as they exist on December 13, 2005 does not own sufficient land to enable the owner to conform to the dimensional requirements established by this zoning ordinance, such lot may be developed as a single-family residence, provided the lot can be used in conformance with all of the regulations (other than the area or width requirements) applicable to the district in which the lot is located, such use may be made as of right. Nonconforming lots created by transfer on or after December 14, 2005 shall not be developed.
- (b) Recombination of lots required when possible. Whenever this ordinance creates a non-conforming lot, and the owner of the non-conforming lot also owns land having continuous frontage to it, and a portion of this other land can be combined

with the non-conforming lot to create a conforming lot (without thereby creating other nonconformities), the owner of the non-conforming lot, or his successor in interest, shall combine the lots in accordance with the Town's subdivision ordinance to create one or more conforming lots prior to developing the property.

- (c) Subsection (b) does not apply to those parcels identified as nonconforming lots of record as of July 14, 2004 and any subsequent nonconforming lots of record created between July 14, 2004 and December 14, 2005.
- (d) Odd lots groupings. Where lots of record having the same street front have been combined in odd-numbered contiguous groups (3,5,7, etc.) existing conformities within the group (i.e. a minimum of two adjoining lots) shall be maintained and the remaining single lot may be developed as a nonconforming lot as provided in subsection (a) above.
- (e) Where original platted lots in common ownership create an area over the minimum lot size, but will not meet the lot size or frontage requirements when subdivided, then the owner may subdivide the platted lots in accordance with the Town's subdivision ordinance to create lots that are no more than 25% less than the minimum lot size for that district.

Mr. Parvin concluded his presentation and asked for questions.

Councilman Johnson inquired about the diagram that was discussed during Planning and Zoning where we have back to back lots fronting two different streets. Mr. Parvin said in a scenario that you don't have common frontage you would not have to combine the lots with the new language, and in the old language if you don't have common ownership they would have to be combined no matter what the lot configuration was and it wouldn't make sense to combine this type of situation so that exception does exist if you have this type of lot or if there is one back to back.

There being no further questions from Council, the Mayor reminded those in the audience that the public hearing is opening for anyone who would like to speak.

Lynne Denne of 100 N. 7th Street said she had more of a question than anything. She said when we started out with this originally we had 36 lots of record before some of the language was changed and she asked to be corrected if she is not correct. Councilman Johnson responded by stating, 37. She went on to say that we have a situation on Magnolia Avenue where cleanouts and meters have been put in every 50' and when she inquired about this she was told that this individual parcel had not been subdivided on the tax record but it is an old parcel of land that has been held in a family and transferred during death and there is a house that sits on the Harper side that they also own, and they own all of this land. She restated that the meters and cleanouts have already been put in place. She said if you pull up an old map it shows 50' dividing lines there and she asked would this person be required to combine those lots to meet 12,000 sq. ft. or are we going to be increasing density on this road allowing houses every 50' on 19 lots there. She said that she wants her single family neighborhood protected and she doesn't want 19 houses

or duplexes stuck in her neighborhood and she wants Council to do whatever they can do to protect the neighborhood from that.

Councilman Macon responded by stating that he thinks this addresses that and he referred to the plat and said they would have to combine the lots for 12,000. The Planning and Development Director, Steve Harrell, explained that as it is adopted tonight if it is not a separate tax parcel and it is just the dotted lines then they would have to make them 12,000 sq. ft. lots in order to build, but if they are lots of record with tax parcel i.d. numbers and they are in place then they would be able to build on those. He said it depends on what the situation is on that street.

Jack Lynch of 1515 S. Lake Park Blvd., said he is the trustee for the First Baptist Church and he is speaking tonight as a representative of the church. He said their church owns a 50 x 125 lot on 8th Street, Lot 3, Block 134 in the R-3 area. The church used to own 2 contiguous lots but in November 2002 the church sold and deeded the property to the pastor and we do have a separate tax i.d. number for the lot we have left and we are marketing that lot for sale and he wants to make sure that it is buildable. The lot is vacant. Councilman Macon said if he is not mistaken it is one of the original 27. Mr. Harrell said if it has a separate tax number than it is buildable if this language is adopted.

Chuck Mullen of 315 Harper Avenue said it would be nice if they could have seen R-3 on the map and he asked if everyone could see it on the map tonight.

Mayor Pro Tem Gilbert asked Mr. Parvin how many nonconforming lots does he estimate with this language, and Mr. Parvin stated 235 and it will depend on how many people have actually gotten tax id numbers since we updated the map so it could be estimated probably 70 more.

Councilman Johnson explained that if there were 300 that doesn't mean 300 separate homes because the owner could elect to subdivide and make two (2) 9,000+ lots and Mr. Parvin said that is right because we have a little more variety of lot sizes.

Mayor Clark asked Mr. Mullen if he had a direct question about R-3 and Mr. Mullen said he would just like for the public to be able to take a look at the map.

Councilwoman Efird made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert thanked the planning staff and the Planning and Zoning Commission for the long nights they spent putting this together. He said that the Planning and Zoning's new chairman, Dan Wilcox, must have spent many sleepless nights trying to come up with some of this language. The language is intended to protect the R-3 and to maintain the low density; and in the spirit of this, they were trying to make sure that everybody was served in that area. He thinks there will be different situations but it won't compromise the integrity of the R-3. He went on to say that in the situation mentioned earlier by Lynne Denne, he feels that is a site specific case and he would have

to ask planning staff if anybody has looked at the deeds over there, at the lots that she described and be a little more specific about can they or can't they.

Mr. Parvin said they will have to look into this after the language is adopted and we will create a map identifying all of those lots whether they have a tax i.d. number or whether they don't. It will depend on what the property owner has done on that specific situation.

Ms. Denne responded by stating that she checked into that and up until a month ago he was paying it as one parcel and one tax bill and not divided as individual separate lots unless that has changed but also at that time double meters and cleanouts were put in and that is her concern.

Mayor Pro Tem Gilbert said that he really can't speak to the double meters and cleanouts although he heard a reasonable explanation for this and he doesn't think that we have to be afraid that something is going on behind closed doors. He asked if what she just said is accurate, wouldn't they have to subdivide it to 12,000 sq. ft. lots. Mr. Parvin said that is right if it still exist as she is describing. Mr. Gilbert said he thinks the people that put in the double meters and double cleanouts just didn't know and they were trying to save some folks some money by not having to double cut and they were just being good stewards of the taxpayer's money.

Councilman Johnson also stated that if we do not adopt this language tonight that come December 31, 2005 you will have increased density so it is very important that we adopt this language and we cannot catch every scenario but we can prevent.

Councilwoman Efirm made a motion that we adopt the amendments to Appendix A Zoning, Article 18, Ordinance No. 05-617 (*Exhibit 2*). The motion was seconded by Councilman Johnson. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark also recognized the new Chairman of the Planning and Zoning Commission, Dan Wilcox. He said that Mr. Wilcox was responsible for simplifying the language in this ordinance. Someone also noted that the town attorney was also helpful.

NEW BUSINESS – APPOINTMENT TO THE BOARD OF ADJUSTMENT

Mayor Clark said he would like to table this item to the next regular meeting in January since this committee will hold their meeting later this month. Councilman Johnson made a motion to table an appointment to the Board of Adjustment until the January 2006 regular meeting.

ITEMS NOT ON THE AGENDA

Ms. Johnson asked the Mayor and Council members to meet with her after the meeting so they can sign new signature cards for the bank accounts.

Steve Pagley asked the Mayor and new Council members to see him after the meeting because he has a key and they can start changing the codes.

Mayor Clark announced that everyone is invited to a reception. He mentioned that Valita Quattlebaum, Public Information Officer, and Iris Salke, Administrative Assistant to the Town Manager, have done a super job for the reception area where the Christmas tree is located. He said there is a cake by Judy who cooks better than Annie Annie's.

ADJOURNMENT

There being no further business, Mayor Clark made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.** The meeting adjourned at 8:24 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____