

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

February 8, 2005

The Town Council of the Town of Carolina Beach met in regular session on February 8, 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, Councilman Joel Macon; Councilman, Gary Doetsch and Councilman, Jack Lynch. Also present were: Town Manager, Calvin R. Peck, Jr., and Town Clerk, Lynn N. Prusa. Mayor Pro Tem, Pat Efird was not present.

Pastor Paul Christ led everyone in the invocation and pledge of allegiance. Immediately following, Mayor Barbour called the meeting to order.

PRESENT PROCLAMATION TO HUMAN RELATIONS COMMISSION PROCLAIMING FEBRUARY AS "HUMAN RELATONS MONTH"

Ms. Marla Rice-Evans, Chairperson for the Human Relations Commission thanked Council for recognizing "Human Relations Month" for the month of February.

Mayor Barbour read aloud and presented the proclamation to the Human Relations Commission proclaiming February as "Human Relations Month" in recognition of the valuable service that they provide to the community. Mayor Barbour made a motion to adopt Resolution No. 05-809 (Exhibit 1). **MOTION CARRIED UNANIMOUSLY.**

Ms. Rice-Evans informed Council that students from grades K-12 will show case human relations activities based on the theme "United We Stand Making Equality a Reality at the Independence Shopping Mall next Friday from 11-6 p.m. The Human Relations Award Celebration will be held on Saturday, February 26, 2005 at 7:00 p.m. The keynote speaker for the celebration will be Phil Perk, President of North Carolina Citizens for Businesses and Industry.

Mayor Barbour formerly excused Mayor Pro Tem Efird from the motion made and the council meeting. **MOTION CARRIED UNANIMOUSLY.**

ADOPT THE AGENDA

A motion was made by Mayor Barbour to adopt the agenda with the following changes:

ITEM #4 – CHANGES TO THE AGENDA PACKET

Add Item #8(a) – Presentation by Ad-Hoc Inlet Committee

Delete Item #10(b) – Set a public hearing date to consider a request for a Conditional Use Permit at 400 Canal Drive for a triplex.

Delete Item #10(d) – Set a public hearing date to consider a request for a Conditional Use Permit at 105 South Carolina Avenue for a triplex.

Add Item #10(f) – Adopt Resolution No. 05-812 requesting restored funding necessary to maintain the authorized depths for the Atlantic Intracoastal Waterway and the numerous Congressionally-authorized shallow draft navigation project in North Carolina.

Add Item #10(g) – Adopt Resolution No. 05-813 for water and sewer lines modification of a loan, and adopt Resolution No. 05-814 modification of the police station and town hall loan.

Move Item #13 From Public Hearings to New Business #17(a) (does not require a public hearing) – Consider a request for a preliminary plat approval for a subdivision (Hidden Hills) located on the West side of St. Joseph Street and East of Portside Village.

Include for Consideration Under Item #19 – Newly submitted application for consideration of appointment to the Planning and Zoning Commission.

Include for Consideration Under Item #21 – Newly submitted application for consideration of appointment to the Tourism Marketing Committee.

Add Item #22 – Closed session to discuss acquisition of real property [G.S. 143-318.11(3)(5)]

The town clerk recommended that Council consider pulling **Item #10(f)** concerning the shallow draft navigation project in North Carolina off the consent agenda and acting on it separately. Because it is such a long resolution, Mayor Barbour felt we should leave it there and he will explain it with Item #8(a) concerning the presentation by the Inlet Ad-Hoc Committee.

MOTION CARRIED UNANIMOUSLY.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Barbour recognized Scott Chase, Planning and Development Director, and presented him with a Certificate of Achievement for one year of service with the Town of Carolina Beach.

Mayor Barbour recognized Kenny Lewis, Utility Maintenance Worker, for his 20 years of dedicated service to the Town of Carolina Beach.

RECOGNIZE NEW EMPLOYEES

Steve Pagley, Operations Director, introduced the following new employees in the Operations Department:

Sylvester J. McIntyre, General Maintenance Worker
William G. McKeen, General Maintenance Worker

Mr. Keith M. Wise, Plant Maintenance Worker, new employee in the Operations Department was not present.

PRESENTATION OF 2003-2004 AUDIT REPORT

Mr. Clement Goodson, CPA, presented the audit of financial statements for the year ended June 30, 2004. Mr. Goodson said that there have been tremendous changes in the report. He reviewed the report with Council and explained where the town is going. Mr. Clement advised that the financial reporting is now directed toward your net assets (current assets) in addition to our fixed assets lessen any liabilities we have. He also said there are many new statements and it does make a significant change in reporting for the town and it comes from the Local Government Commission. We have known about it for quite some time. Overall the town's fund balances have increased by \$448,000 and aware of all the needs that we have on a daily basis, he wished the Council good luck in fulfilling all of those needs.

Councilman Lynch commented that he is impressed with June 30, 2004 audit that the combined fund balance went up 14% over last year's figure of \$3,683,963. Councilman Lynch felt that was a healthy sign. Mr. Clement agreed.

PRESENTATION BY ED BARNES, PLEASURE ISLAND CHAMBER OF COMMERCE

Mr. Ed Barnes, Chairman of the Pleasure Island Chamber of Commerce, spoke concerning the upcoming Chowder Cook-off. They would like to hold the Chowder Cook-off this year at the lake and utilize the north-east corner for this venue. Mr. Barnes explained that it will be fenced off from 11 a.m. to 5 p.m. We have added people to help set up. The fire, police and parks and recreation departments will help and a portion of the money will go to fireworks. It is scheduled for Saturday, April 16, 2005.

The town manager added that the town staff has been working closely with the Chamber of Commerce and we feel we can support all of their requests.

Council was in favor of this and requested that they let them know if they need any help.

Mr. Barnes thanked Council and the town for their support.

PRESENTATION BY AD-HOC INLET COMMITTEE

Mr. Ray Rothrock made a presentation concerning the work the Inlet Ad-Hoc Committee did in trying to retain funding for the inlet. As a result of the committee's work, Mr. Rothrock said the committee has put together a letter to the President of the United States and other legislators. The request and our immediate need is \$250,000 for dredging to keep the inlet deep enough and keep the Coast Guard from taking the buoys away. In addition, Mr. Rothrock said that from now until October 1, 2005, there is about another \$500,000 - \$750,000 that is needed to maintain it at a depth of about 8 feet. This equates to a little over \$1 million that the Army Corps of Engineers has been spending for maintenance on Carolina Beach inlet for the past number of years. Mr. Rothrock advised that the letter also talks about the impact. The projected economic impact to Carolina/Kure Beach, the first loss of revenue is only \$15 million. For the commercial and fishing boats, the projected loss of revenue is about \$375 million. In addition, Mr. Rothrock said the letter talks about the safety side of the inlet concerning water rescues. We are asking for money now for October 1, 2005 and beyond that.

On behalf of the Inlet Ad-Hoc Committee, Mr. Rothrock asked Council to adopt this letter and send it to President Bush and other legislators.

Councilman Doetsch asked if there was any mention about homeland security in the letter. Mr. Rothrock responded, that there is mention of it.

On behalf of the Council and staff, Mayor Barbour thanked the committee for their work. He understands that the fight has just begun. Mayor Barbour thanked the many senators, legislatives, organizations and public for their support as well. Mayor Barbour urged the public to get in touch with their state legislator contacts inside or outside the North Carolina coastal areas. He gave out the website address of www.fryingpantower.com to obtain a list of contacts and sample letter for the public to send to legislative officials also to make this thing happen.

Mayor Barbour reported that the Council will be considering tonight a resolution to send it to the state and Washington requesting that the funding be restored. He advised that the county passed the resolution already and other local beaches will be following up with a resolution too.

Councilman Lynch made a motion to send the letter to Washington. **MOTION CARRIED UNANIMOUSLY**. Following the passing of the motion, Councilman Lynch asked the Island Gazette if they would publish the website address referenced herein.

PUBLIC DISCUSSION

Mr. Leroy Franks, resident of 908 Canal Drive, spoke about his concerns with the Zoning Ordinance and 1997 Land Use Plan. Mr. Franks said that at the last Council meeting, he quoted from the newspaper that the town administration stated that most of the development since 1997 was out of compliance with the current Land Use Plan. Mr. Franks continued that he stated Town Council was charged with the duty to enforce the current Land Use Plan. Why didn't you do your job? The Town of Carolina Beach adopted some time ago on 10/10/2000 and amended 11/10/2004, a Zoning Ordinance with a building height of 50 feet, which is out of

compliance with the 1997 Land Use Plan. Mr. Franks said that it should be noted that General Statute 1138.111 states no local ordinance or other local regulation shall be adopted within an area of environmental concerns, inconsistent with the Land Use Plan or the city of which it is affected therefore the Zoning Ordinance is out of compliance and should be addressed not the Land Use Plan. It is quite obvious that you have willfully violated this statute. Ignorance of the law is not excusable. The Town Council has an attorney to advise them on the issues of this nature. Mr. Franks asked Al Clyburn, Town Attorney, if he addressed them.

Mayor Barbour informed Mr. Franks that this was a public address. This is not public questions for our staff or our attorney. Mr. Franks responded, fine. Because this was a willful attempt to destroy the current Land Use Plan, Mr. Franks called for the resignation of all members of Council that were in office at the time these ordinances were adopted. In conclusion, Mr. Franks said that it took our town manager a year to find a police chief. He was instrumental in eliminating our local dispatchers and spending an extreme amount of money for 800 MZH radios, which do not work in our area. For two years, the safety of the residents and their property is of no concern to the town manager. Therefore, Mr. Franks requested the resignation of Calvin Peck, Town Manager.

For clarification, Scott Chase, Planning & Development Director, commented that the changes to the height occurred on November 12, 2002.

In conclusion of the public discussion, Mayor Barbour addressed the issue of the 800 MHZ radios. Mayor Barbour said that we have been working on this issue for about two years. Our county commissioners recently approved a contract with a company to decide specifically how to address the 800 MHZ issue. We have a commitment from the county for November this year that the 800 MHZ situation will be resolved.

CONSENT AGENDA

Mayor Barbour made a motion to approve the consent agenda as follows:

Approval of the Minutes:

Regular Meeting January 11, 2005

Consider Request for Budget Transfers and Amendments:

General Maintenance-Amendment

The Operations Department has reviewed there budget and discovered that in account 105000.74 there is funding for a payment on a dump truck in the amount of \$10,333. This payment was also placed into the Environmental Department. The payment should come from the Environmental Department and not the General Maintenance; therefore they have an excess of \$10,333 in account 105000.74.

The department is requesting that the additional monies be transferred into account 104930.46 for professional services. As stated above this is an amendment and requires your approval.

Operations-Transfers

The transfers listed below are for funding upsizing of a raw water line to handle increased water productions from wells #12 and 13. Transfer \$10,000 from account 308110.16-WWC Maintenance and Repair of Equipment, transfer \$1000 from account 308110.20-WWC Maintenance to Mains, transfer \$2000 from account 308110.55-WWC Tap Materials, transfer \$2000 from account 308110.60-WWC I&I Removal Program, transfer \$5000 from account 308140.18-Mowing Landscaping and transfer \$8586.13 from account 308140.15-Mowing Maintenance and Repair of Buildings for a total transfer of \$28,586.13 into account 308120.20-Maintenance to Mains.

The second request for a transfer is for funding needed to repair the lake pump #1 and for adding an air filter to pump #2. The request is as follows: transfer \$2000 from account 309000.14-Stormwater Travel and Training, transfer \$2000 from account 309000.12-Stormwater Printing and Publishing for a total amount of \$4000 into account 309000.20-Stormwater Pipe Maintenance.

Set a public hearing date for March 8, 2005 or soon thereafter to consider a request for a Conditional Use Permit at 400 Canal Drive for a triplex.

Set a public hearing date for March 8, 2005 or soon thereafter to consider a request for a Conditional Use Permit at 105 Dow Road, Seaside Chapel Church, for an educational building.

Adopt Resolution 05-812 (Exhibit 2) requesting restored funding necessary to maintain the authorized depths for the Atlantic Intracoastal Waterway and the numerous Congressionally-authorized shallow draft navigation projects in North Carolina.

Adopt Resolution No. 05-813 (Exhibit 3) for water and sewer lines modification of a loan, and adopt Resolution 05-814 (Exhibit 4) modification of the police station and town hall loan.

MOTION CARRIED UNANIMOUSLY.

CLOSED SESSION TO DISCUSS ACQUISITION OF REAL PROPERTY [G.S. 143-318.11(3)(5)]

Councilman Lynch made a motion to go into closed session to discuss real estate acquisition and potential litigation [G.S. 143-318.11(3)(5)]. **MOTION CARRIED UNANIMOUSLY.**

Mayor Barbour made a motion to return back to open session. **MOTION CARRIED UNANIMOUSLY.** He announced that Council took no action for pending litigation.

Before proceeding, Mayor Barbour made a motion to add item #10(b) back on to the consent agenda to set a public hearing date for March 8, 2005 at 7:30 p.m. or soon thereafter to consider a request for a Conditional Use Permit at 400 Canal Drive for a triplex. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 1000 N. LAKE PARK BLVD. (JUBILEE PARK) TO CONSTRUCT 10 COMMERCIAL UNITS AND 114 RESIDENTIAL UNITS

Prior to speaking Scott Chase, Planning and Development Director, was sworn in by the town clerk.

Mr. Chase reviewed with Council the following request to consider a Conditional Use Permit to Construct 10 Commercial Units and 114 Residential Units at 1000 N. Lake Park Blvd. (Jubilee Park):

The applicant for the proposed project is The Manning Companies, LLC.

BACKGROUND:

Applicant proposes to construct:

Buildings	Residential Units	Commercial Units	Footprint (sq ft)	
1	5	0	3,600.00	
1	5	0	3,600.00	
1	10	0	6,300.00	
1	6	0	3,780.00	
1	12	0	7,560.00	
1	24	0	15,120.00	
1	16	0	10,080.00	
1	16	0	10,080.00	
1	10	5	7,611.75	
1	10	5	7,611.75	
1	0	0	810.00	
11	114	10	76,153.50	Total

Eleven buildings are proposed consisting of 10 commercial units, 114 residential units and one pool building on a 6.59-acre tract located on the east side of U.S. Highway 421(Lake Park Blvd.) and on the west side of Saint Joseph Street in the HB Zoning District on the existing Jubilee Park site. Planned Unit Development may be allowed as a conditional use in HB zoned properties. The purpose is intended to encourage innovation, flexibility of design, and better land use by allowing deviations from the standard requirements of the town's specific zoning districts. The applicant in this case is not requesting any deviation from the standard requirements and has designed the property with adequate setbacks. The normal density, setbacks, and lot coverage standards for the HB district apply.

ANALYSIS:

Maximum lot coverage is 40% for planned unit developments, which includes footprint of the building, decks, and steps. The property total square footage is 287,151 sq. feet. The applicant's proposed total lot coverage equals 76,153.5 sq. ft. or 27% lot coverage. Density of units allowed under planned unit development in the HB district is determined through maximum allowable lot coverage as per Section 3.9.1 of the Zoning Ordinance and review of a Conditional Use Permit. The applicant's structures will not exceed 50' in height. Setbacks in the HB district are 10' (side), 30' (front), and 20' (rear). The applicant is proposing a 30' setback off of Saint Joseph Street and U.S. 421. The side setbacks are 20' on the north and south side of the property. The applicant is required to provide 312 residential parking spaces (2 per dwelling unit + *0.5 per bedroom over 2, unobstructed) and 75 commercial spaces (5 per 1000 sp. Ft. of gross leasable area). Total required parking is 387 spaces. The applicant is providing 402 parking spaces (See Attached Site Plan). Landscaping will have to be provided on all boundaries of the property, and sidewalks will be required on all public right-of-ways and within the development site. Planned Unit Developments require at least 25% open space. (See attached Site Plan).

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for.

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

General conditions.

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

STAFF RECOMMENDATIONS:

Planned Unit Development proposals are allowed with the approval of a Conditional Use Permit in HB zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. A stormwater plan must be submitted and approved prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit, and signed and sealed by a licensed engineer verifying that the system is properly installed and functioning prior to issuance of a certificate of occupancy.
3. Approval Letter from Division of Water Quality for Stormwater Permit before issuance of Building Permit.
4. Approval Letter from Division of Land Quality for Sedimentation and Erosion Control Permit before issuance of Building Permit.
5. Approval Letter from the Division of Water Quality for construction authorization for public water supply.
6. A driveway permit must be obtained from the NCDOT and Town of Carolina Beach prior to issuance of a building permit.
7. Provide single access along US 421 in alignment with Settlers Lane.
8. Right turn deceleration lane is to be provided with appropriate storage and taper.
9. Correct notes for density on the site plan (allowable = 40%; actual density = 76,153.5 sq. ft. 27% lot coverage).
10. Show loading spaces on site plan.
11. Sign permits must be obtained for any new signs located on the property.
12. Prior to issuance of a building permit lots must be combined to one parcel. Recombination plat must be approved prior to issuance of a building permit.
13. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
14. All structures shall be limited to 50' in height prior to issuance of a certificate of occupancy, certification by an engineer or architect must be submitted and approved.
15. Final project must be designed to provide the required 387 parking spaces and must comply with Article 7 of the Carolina Beach Zoning Ordinance.
16. Sidewalks must be installed on all public right-of-ways of at least 5' in width and 4' wide interior sidewalks.
17. All structures must provide for at least 15' in structure separation.
18. Dwelling must be constructed to meet minimum fire code to include 13-R sprinkler system, knock box, alarm system and must be approved by the fire marshal.
19. Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.
20. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
21. Landscaping must be provided on all borders of the property. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.

22. Refuse collection agency that will be used must be included on final site plan. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
23. Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit/mixed use development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
24. Dedicated open space must always remain as open space and be maintained as provided in number 15 above.
25. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
26. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
27. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
28. Major changes to approved plans and conditions of development may be authorized only by the Town Council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

The Planning and Zoning Commission heard this proposal at its January 13, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 1. Provide for fence or other alternative around retention pond for safety concerns.**
- 2. Provide for 5' wide sidewalk on St. Joseph.**
- 3. Provisions should be made for no structures and no landscaping within the sight triangle.**

Mr. Chase also commented that the only change that has taken place at this point is we have additional comments from the Department of Transportation (DOT), but it has not changed the complexity of the project.

Councilman Doetsch asked if there is any intent to move the stop light down further? Mr. Chase said that they have not received any comments from DOT about that, but Rob Balland, is the engineer for the site and he is here tonight.

Concerning the fencing around the retention pond, Mayor Barbour directed a question to the operations director and he asked him if we have had problems in the past being able to access retention ponds for cleanout. Steve Pagley, Operations Director, replied, no.

After review of the proposed request for a Conditional Use Permit, Mayor Barbour made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

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

A motion was made by Councilman Lynch to approve the request for a Conditional Use Permit to construct 10 commercial units and 114 residential units on the 6.59- acre tract (Jubilee Park) subject to the required findings 1-7, general conditions 1-4, staff recommendations 1-28, and Planning and Zoning Commission's recommendations 1-3 as described herein. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 608 S. LAKE PARK BLVD. TO EXPAND SEAGULL BAIT & TACKLE TO INCLUDE A TAKE-OUT SEAFOOD RESTAURANT

Prior to speaking, Scott Chase, Planning and Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the following request to consider a Conditional Use Permit at 608 S. Lake Park Blvd. to expand Seagull Bait & Tackle to include a take-out seafood restaurant:

The applicant for the proposed project is Steve Labanec.

BACKGROUND:

The applicant has already obtained a building permit to expand the existing Seagull Bait & Tackle located at 608 South Lake Park Blvd. The applicant is requesting a conditional use permit to provide steamed seafood on a take-out only basis. There will be no seating inside or outside of the restaurant for the consumption of food. No alcoholic beverages will be sold. The property is zoned Highway Business (HB).

ANALYSIS:

The maximum lot coverage within the Highway Business District is 60%. With the expansion, the building footprint will be approximately 1,715sf. The size of the lot is approximately 8,437sf and the lot coverage will be approximately 20%. The parking required for the multi-use facility is 1 space per 200 sf. resulting in 9 required spaces. The applicant proposes 11 parking spaces with 1 van-accessible HC space. The applicant proposes to install new curb & gutter along Lake Drive and to limit the access to the site to one entrance on Lake Park Blvd. and one exit onto Lake Drive. Landscaping will be provided according to Article 8 of the Town's Zoning Ordinance.

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for.

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

General conditions.

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

STAFF RECOMMENDATIONS:

The proposal as presented has not received any negative comments from Stormwater and Operations, Fire and Inspection. Staff recommends the following conditions if the proposal is to be recommended for approval:

1. The following items must be shown on the site plan prior to issuance of certificate of occupancy:
 - a. Show vicinity sketch, north arrow and bar graph scale.
 - b. Show the names of adjoining recorded owner(s) and use of adjoining property.
 - c. Show existing topography and proposed finished topography in relation to mean sea level with a maximum of two-foot contour intervals.
 - d. Show sanitary sewer systems and water mains.
 - e. Show finished floor elevations.
 - f. Show storm drainage systems including natural and man made.
 - g. Include percentage of lot coverage for the site.
 - h. Include a cross-section of paving detail and indicate on plan areas to be paved.
 - i. Include the number and types of vegetation.
 - j. Include the refuse collection agency that will be used.

2. A driveway permit from the NCDOT will be required before issuance of the Certificate of Occupancy.
3. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
4. The number and types of vegetation must be included on the final plan. A certificate of occupancy will not be issued until landscaping is planted according to approved final site plan.
5. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
6. All permits required by federal, state and local agencies including the health department must be obtained prior to issuance of a certificate of occupancy.
7. No sale of alcoholic beverages will be permitted for this site.
8. A sign permit must be obtained for any new signs located on the property.
9. Certification shall be provided that all improvements shall be constructed and maintained according to the site plan (approved by the Director of Planning or his designee) prior to issuance of certificate of occupancy.
10. Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require a new application for conditional use permit.

The Planning and Zoning Commission heard this proposal at its January 13, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 1. Applicant must provide for 5' wide sidewalk along Lake Park Blvd. and to be installed by May 1, 2005.**

After review of the proposed request for a Conditional Use Permit, Mayor Barbour motioned to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

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

A motion was made by Councilman Doetsch to approve the Conditional Use Permit to expand Seagull Bait & Tackle to include take-out seafood subject to the required findings 1-7, general conditions 1-4, staff recommendations 1-10 and Planning and Zoning Commission's (1) condition as described herein. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 608 CAROLINA BEACH AVENUE SOUTH IN THE T-1 ZONE TO CONSTRUCT 4 RESIDENTIAL UNITS UNDER MULTI-FAMILY DEVELOPMENT (AQUA VIEW)

Prior to speaking, Scott Chase, Planning and Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the following request to consider a Conditional Use Permit at 608 Carolina Beach Avenue South in the T-1 Zone to construct 4 residential units under multi-family development (Aqua View):

The applicant for the proposed project is Russ Maynard.

BACKGROUND:

Applicant proposes to build (2) 4-bedroom residential units and (2) 2-bedroom residential units on a 50' x 125' lot located at 608 Carolina Beach Ave S. in the T-1 Zoning District under Multi-family. The lot is currently vacant. Multi-family development may be allowed as a Conditional Use in T-1 zoned properties. Normal density, setbacks, and lot coverage standards for the district apply. The lot is located within the 100-year floodplain (A9 zone) and will be required to have elevated living space and is located within a CAMA Area of Environmental Concern.

ANALYSIS:

Maximum lot coverage of 40%, which includes footprint of the building, decks and steps are of the total allowable square footage of 2,500 sq. ft. The applicant is proposing a 2,499 sq. ft. footprint. Density of units allowed under Multi-family is 29 units per acre in the T-1 Zoning District and the applicant is allowed in this case 4.16 units for the site. The applicant is proposing the height of the structure at 50 feet. Setbacks in the T-1 District are 10' (side), 20' (front), and 10' (rear). The lot is considered a double frontage lot and will require 20' on both Lake Park Blvd S. and Carolina Beach Ave. S. The applicant is proposing 10' setbacks on the side and a front setback of just under 21' on Lake Park Blvd S and Carolina Beach Ave. S. which is one way going south. The applicant is required to provide 10 parking spaces based on 2 per dwelling unit + 0.5 per bedroom over 2. The site plan shows 5 parking spaces on each side of the building. The applicant's parking plan is showing 4 parking spaces for the (two) 2-bedroom units and 6 parking spaces for the (two) 4-bedroom units. (See attached site plan). The applicant will provide for landscaping on all borders of the property and sidewalks on Carolina Beach Ave. S. and Lake Park Blvd. S. The applicant will also install curb and gutter and plans to handle the stormwater on site.

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for.

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

General conditions.

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

STAFF RECOMMENDATIONS:

Staff has not received any negative comments from the following agencies: Operations (Stormwater), Fire, and Inspections. A 4-unit dwelling is allowed under Multi-family with the approval of a Conditional Use Permit in T-1 zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. Prior to issuance of a building permit, an engineered stormwater plan must be submitted and approved. The stormwater system shall be installed according to approved plans and a letter signed and sealed by a licensed engineer shall be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Prior to issuance of a building permit a drainage plan must be submitted and approved. Drainage system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
3. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
4. CAMA Minor Permit must be secured prior to Issuance of Building Permit.
5. Indicate on plan refuse collection and agency to be used. Refuse collection site must be enclosed on all four sides. Site must be closed and secured during inactivity.
6. The structure shall be limited to 50' in height. A sealed set of plans from an engineer must accompany the building permit showing that the structure does not exceed 50'. Prior to Certificate of Occupancy, an architect or engineer must certify structure does not exceed 50 feet in height.
7. Flood certification must be presented prior to issuance of certificate of occupancy.
8. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 10 parking spaces.
9. Final site plan must include cross-section of paving detail and areas to be paved.
10. Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.

11. Dwelling must be constructed to meet minimum fire code to include 13-R sprinkler system, knock box, alarm system and must be approved by the fire marshal.
12. Water meters must be relocated in the right-of-way and run 4 lines to the units.
13. Landscaping must be provided on all borders of the property. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
14. Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the multi-family development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
15. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
16. A driveway permit from NCDOT for Lake Park Blvd and construction authorization for CBA S. from the Town of Carolina Beach will be required before issuance of Building Permit.
17. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
18. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
19. Major changes to approved plans and conditions of development may be authorized only by the town council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.

The Planning and Zoning Commission heard this proposal at its January 13, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- 1. Sidewalks that are provided on all public right-of-way must be 5' wide.**
- 2. Revised landscaping provided on Lake Park Blvd and Carolina Beach Ave. S. to provide for a turnaround before entry into traffic on either street.**

After Mr. Chase reviewed the proposed Conditional Use Permit, Councilman Doetsch asked how the stormwater is going to be retained? Mr. Chase advised that it will be retained onsite.

A motion was made by Mayor Barbour to open the public hearing to consider a request for a Conditional Use Permit to construct 4 residential units under multi-family in the T-1 zone under multi-family development (Aqua View) at 608 Carolina Beach Avenue South. **MOTION CARRIED UNANIMOUSLY.**

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

Councilman Doetsch made a motion to approve the Conditional Use Permit subject to the required findings 1-7, general conditions 1-4, staff recommendations 1-19 and the (2) Planning and Zoning Commission's recommendations as described herein. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT AT 305 LAKE PARK BLVD. SOUTH FOR (1) 20-UNIT FOUR-STORY RESIDENTIAL STRUCTURE AND (1) 10-UNIT RESIDENTIAL STRUCTURE UNDER PLANNED UNIT DEVELOPMENT (LAKE VIEW)

Prior to speaking, Scott Chase, Planning and Development Director, was sworn in by the town clerk. Mr. Chase reviewed with Council the proposed Conditional Use Permit request at 305 Lake Park Blvd. South for (1) 20-unit four-story residential structure and (1) 10-unit residential structure under planned unit development (Lake View) as follows:

BACKGROUND:

The applicant proposes to construct one (1) 20-unit four-story residential structure and one (1) 10-unit residential structure for a total of 30 units on a 1.42-acre tract located north of Carolina Beach Lake and east of U.S. Highway 421 in the MX and T-1 Zoning District under Planned Unit Development. Planned Unit Development may be allowed as a conditional use in MX and T-1 zoned properties. The purpose is intended to encourage innovation, flexibility of design, and better land use by allowing deviations from the standard requirements of the town's specific zoning districts. The applicant in this case is not requesting any deviation from the standard requirements and has designed the property with added setbacks. The most restrictive density, setbacks, and lot coverage standards for the MX and T-1 districts apply.

ANALYSIS:

Maximum lot coverage is 40%, which includes footprint of the building, decks, and steps. The total square footage of the property is 61,890 sq feet. The applicant's proposed total lot coverage equals 19,185 sq. ft. or 31% lot coverage. Density of units allowed under planned unit development in the MX district is 17 units per acre X 1.25 as stated in Article 16 of the Carolina Beach Zoning Ordinance. The applicant's structures will not exceed 50' in height. The applicant is requesting one portion of the one of the structures (an architectural feature) at 60' in height. The applicant has provided adequate setback to offset this feature. Setbacks in the T-1 district are 10' (side), 20' (front), and 10' (rear). The applicant is proposing a 25' setback off of Woody Hewitt, 20' off Fayetteville Avenue, 57' setback off of Atlanta Avenue, and 79' setback off of Lake Park Blvd S. The applicant is required to provide 86 parking spaces based on 2 per dwelling unit + *0.5 per bedroom over 2 (unobstructed). The applicant

is providing 86 parking spaces (See Attached Site Plan). Landscaping will have to be provided on all boundaries of the property, and sidewalks will be required on all public right-of-ways. Planned Unit Developments require at least 25% open space. (See attached Site Plan). The site is in the A-9 Flood Zone (elevation 11ft) and is located within a CAMA AEC.

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for.

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

General conditions.

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

STAFF RECOMMENDATIONS:

Planned Unit Development proposals are allowed with the approval of a Conditional Use Permit in T-1 and MX zoned properties. Staff recommends approval of the Conditional Use Permit subject to required findings above and the following conditions:

1. A stormwater plan must be submitted and approved prior to issuance of a building permit. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit, and signed and sealed by a licensed engineer verifying that the system is properly installed and functioning prior to issuance of a certificate of occupancy.
3. Approval Letter from Division of Water Quality for Stormwater Permit before issuance of Building Permit.

4. Approval Letter from Division of Land Quality for Sedimentation and Erosion Control Permit before issuance of Building Permit.
5. Approval Letter from the Division of Water Quality for construction authorization for public water supply.
6. Approval from the Division of Coastal Management for a CAMA Permit.
7. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
8. All structures shall be limited to 50' in height.
9. Final project must be designed to provide the required 86 parking spaces.
10. Sidewalks must be installed on all public right-of-ways of at least 5' in width and be ADA compliance.
11. All structures must provide for at least 15' in structure separation.
12. Dwelling must be constructed to meet minimum fire code to include 13-R sprinkler system, knock box, alarm system and must be approved by the fire marshal.
13. Dwelling must be designed and constructed so that it will not impair any adequate supply of light and air to adjacent properties.
14. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
15. Landscaping must be provided on all borders of the property. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
16. Refuse collection agency that will be used must be included on final site plan. The refuse collection site must be enclosed on all four sides and remain closed and secured during inactivity.
17. Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the planned unit development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
18. Dedicated open space must always remain as open space and be maintained as provided in number 15 above.
19. Show all existing structures on site plan that are to be removed.
20. Show on site plan distance between structures.
21. Relocate parking space on Fayetteville that is adjacent to the building.
22. Certification shall be provided that all improvements, including but not limited to paving, drainage, stormwater, landscaping shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee prior to Certificate of Occupancy.
23. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
24. Prior to issuance of building permit, all approval letters and final site plan shall be submitted, and items mentioned above shall be submitted and approved by the

- Town of Carolina Beach Technical Review Committee that includes the Town Manager, Planning and Development, Building Inspections, Operations/Stormwater/Public Works and Fire.
25. Major changes to approved plans and conditions of development may be authorized only by the Town Council after review and recommendation by the planning and zoning commission in the same manner as outlined in this article for original submission.
 26. A driveway permit from the town will be required before issuance of a building permit and authorization from NCDOT for the removal of the existing driveway located along Lake Park Blvd S.

The Planning and Zoning Commission heard this proposal at its January 13, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- a. **Provide for fence or other alternative around retention pond for safety concerns.**

After review of the proposed Conditional Use Permit, Councilman Doetsch asked if there were any mention of the pipe leading from the lake to the yacht basin and refurbishment of it while it is in an uncovered state while construction is going on. Mr. Chase replied that the engineer for this project, Rob Balland, is present, and they are relocating that pipe.

Mayor Barbour motioned to open the public hearing to consider a request for a Conditional Use Permit for (1) 20-unit four-story residential structure and (1) 10-unit residential structure under planned unit development (Lake View) at 305 Lake Park Blvd. **MOTION CARRIED UNANIMOUSLY.**

Prior to speaking, Robert Balland, Engineer for this project, was sworn in by the town clerk. Mr. Balland explained that they are going to relocate that pipe and keep it on the boundaries of their property where it is maintainable. Mr. Balland pointed out to Council that they would be relocating the line for the pipe near the right-of-way.

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

A motion was made by Councilman Doetsch to approve the Conditional Use Permit including general conditions 1-4, required findings 1-7, staff recommendations 1-26 and the Planning and Zoning Commission's requirement (a) and to include the rerouting of the pipe running from the lake to the marina through that property described as C-41. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST TO AMEND THE OPERATING BUDGET FOR FY 2004-2005, RATES AND FEES; AND 2004-2005 TOURISM FUND, FOR THE ESTABLISHMENT OF FREEMAN PARK (NORTH END BEACH)

Calvin R. Peck, Jr., Town Manager, reviewed with Council the proposed amendments for Council to consider to the 2004/2005 budget.

Mr. Peck requested that Council consider adopting the proposed Ordinances No. 05-575 and 05-576 separately.

After Mr. Peck reviewed the explanation for the budget amendment (Exhibit 5), Mayor Barbour made a motion to open the public hearing concerning proposed Ordinance No. 05-575.

MOTION CARRIED UNANIMOUSLY.

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

A motion was made by Councilman Doetsch to adopt Ordinance No. 05-575 (Exhibit 6).

MOTION CARRIED UNANIMOUSLY.

Councilman Doetsch made a motion to open the public hearing for proposed Ordinance No. 05-576. **MOTION CARRIED UNANIMOUSLY.**

Mr. Peck, Town Manager, advised that proposed Ordinance No. 05-576 amends Appendix C – Rates and Fees of the Operating Budget specifically the Page C 23 – Parks & Recreation to include an entrance permit fee for Freeman Park: \$10 per day, \$40 per Calendar Year and a find for entry without a permit: \$50 within 72 hrs./\$75 after 72 hrs. if it is not paid within the 72 hrs. He said that the penalty is non-transferable and any penalty for violating will be determined by the beach manager to include but not limited to expulsion from the park, revocation of entrance permit without refund, and/or being banned from the park for a set period of time. Mr. Peck stated that this gives us flexibility to be able to deal with problems.

Councilman Lynch had some concerns about the time to be able to enter Freeman Park. Mr. Peck explained that it is going to be manned for 16 hours a day. The Central Parking personnel plans to finish around midnight and will come in at 8:00 a.m. The first thing that they will do is go out and check that someone has paid their fee.

A woman in the audience, Sarah Wagner, asked what the rationale was for making the permit for vehicle specific instead occupancy specific. She also inquired if we could use a town decal. Mayor Barbour explained to her that the question was raised to the North-End Committee that if you are a Carolina Beach resident could you use your vehicle decal. However, it is actually county jurisdiction and not Carolina Beach Park, but a county park. Therefore, Mayor Barbour said it would not be fair to allow Carolina Beach residents on free with their VID sticker and charge county residents. It was the committee's recommendation that everyone pay a fee per vehicle.

Councilman Macon commented that the county citizens are not contributing to the operation of the North-End. It is the tax payer's dollars of Carolina Beach that is funding this situation until it is funded on its own. Therefore, Councilman Macon feels that Carolina Beach citizens

should be able to go out there with their sticker. Mr. Peck added that the reason for not allowing families' vehicles to pass the permit around from one vehicle to another is because of the education component as well as the enforcement piece. First, Mr. Peck said that when a permit is issued that person will sign saying that they received the information. The permit is tied to a vehicle license plate so we can track the permits if there are problems. Second, Mr. Peck explained that the committee determined that we had to have enough money to run the program and it was not going to happen unless town vehicles paid also.

Councilman Macon understands this is coming from the committee, but it is our tax payer dollars. We are already paying, but the county is not. Councilman Macon explained that a county resident is not paying for the police officer, trash pickup and lifeguard to operate that area.

Ms. Wagner said that she does not mind paying the fee for the day, but she suggested that if a vehicle already has a Carolina Beach sticker there should be a more fair way. Councilman Lynch felt that it really comes down to the enforcement.

Councilman Doetsch asked Bill Clark, Chairman of Freeman Park Committee, if it was discussed with the county to allow beach residents on there free? Mr. Clark informed him that we had a county representative, David Weaver, County Assistant Manager, discuss this within our group. Mr. Clark said that Mr. Weaver reminded us that this property does not belong to Carolina Beach, but to the county residents. Mr. Clark explained that Mr. Weaver felt like if we do anything for the city of Carolina Beach then we had to do it for the whole county. Councilman Doetsch asked if he understood at that time that we are using our tax payer dollars and he was not spending any county tax dollars to maintain it? Mr. Clark said that the recurring expenses is about \$200,000, but the money taken in for Freeman Park to him is going to exceed that \$200,000 per year. The committee measured cars coming in and out. If we get half of the cars that came in this past year, that \$200,000 will be met. Councilman Doetsch said that he does not mind leaving it the way it is now, but he would like to revisit the issue of the town paying for services to maintain the North-End, etc. next year. Since we have excused the county from their services, he would like to meet with county representatives so that they understand that we are paying for it and we think our residents ought to have special consideration.

Mayor Barbour mentioned that we also had some of the private property owners on the North-End Committee who endorsed the recommendations that were presented by the North-End Committee. Mr. Clark said that this first year is going to be a huge learning curve, but we will be making changes probably for the next 10 years.

Councilman Doetsch recommended that the committee keep in mind this issue and look at it next year.

For clarification, a gentleman asked if it was possible for someone to purchase (2) one-day passes at the same time. Mr. Peck, Town Manager, responded, no. The gentleman asked if someone stays overnight and at 8:01 a.m. the next morning, would they be in violation unless they buy a ticket before 8:00 a.m. without a grace period? Mr. Peck replied, technically, but it is going to take an hour for Central Parking to drive up and get to everybody to tell folks their permit has expired and they need to buy another one. Mr. Peck explained that if you have a

pass from the day before and plan on staying another day then you will need to get another pass.

Mr. Will Killough, with the Island Gazette, asked if fishermen who go out before 8:00 a.m., are going to be able to buy a permit? Mr. Peck said that the pay station will be in operation 24-hours a day regardless whether there is someone physically located at the pay station to assist or not. Mr. Peck remarked that the permit expires at 8:00 a.m. the day following the issuance of the permit.

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

A motion was made by Councilman Doetsch to adopt Ordinance No. 05-576 (Exhibit 7) with the provision that we revisit and address next year to give local residents using the North-End at a reduced rate. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AMENDMENTS TO CHAPTER 12 PLANNING AND DEVELOPMENT, ARTICLE VIII DRAINAGE ADVISORY COMMITTEE, CHAPTER 16 UTILITIES, ARTICLE V, SECTION 16-236 MEETINGS

Steve Pagley, Operations Director, advised that the Operations Advisory Committee would like to change its meeting time back to 8:30 a.m. instead of 5:30 p.m. in order to better accommodate them if they had questions for staff.

After Mr. Pagley's presentation, a motion was made by Mayor Barbour to the open the public hearing to change the meeting times for the Operations Committee to 8:30 a.m. from 5:30 p.m. **MOTION CARRIED UNANIMOUSLY.**

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

Councilman Macon feels that we should not be specific on the dates and times so we do not have to keep amending this. The town clerk advised that if it is not a standing committee or a set time or day of the month to meet, we have to notice it as a special meeting. If it is already in the code book with a certain time and day of the month, for the committee to meet, then we do not have to notice it every time.

After brief discussion concerning time and dates of standing committees, Councilman Lynch made a motion to adopt Ordinance No. 05-577 (Exhibit 8). **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER A REQUEST FOR A PRELIMINARY PLAT APPROVAL FOR A SUBDIVISION (HIDDEN HILLS) LOCATED ON THE WEST SIDE OF ST. JOSEPH STREET AND EAST OF PORTSIDE VILLAGE

Scott Chase, Planning & Development Director, reviewed with Council the request for a preliminary plat for a subdivision (Hidden Hills) located on the west side of St. Joseph Street and east of Portside Village as follows:

The applicant is Ralph Freeman, Jr.

BACKGROUND:

The applicant is requesting preliminary plat approval for Hidden Hills Subdivision located on the west side of St. Joseph Street, and east of Portside Village. Hidden Hills has a total area of approximately 13.13 acres and will consist of 10 lots. Access to the subdivision will be provided by St. Joseph Street and will consist of a 42' private right-of-way. The portion of the property is located in the A-9 flood zone. The plan as presented has been issued several conditions by the Technical Review Board consisting of the Town Manager, Operations, Police, Fire and Inspections.

ANALYSIS:

Single-family dwellings are permitted by right in the R-2 zoning district. The minimum lot size is 7,000 square feet and setbacks for structures in this district are 25 feet from the front, 10 feet off the rear, and 7.5 feet from the side yard except on corner lots where 12.5 feet will be required. Maximum height for unsprinklered structures is 50 feet for this district. The maximum lot coverage per lot will not exceed 40% and is within the allowable density for the R-2 zone. The proposed roads (Hidden Hills Drive and Oak Outlook Way) will be 22 feet of pavement (including curb and gutter and 42 feet of right-of-way). The proposal will be required to provide a 6-foot wide streetyard with street trees every 50' on each street including St. Joseph Street. Existing vegetation can be used and is encouraged. Street lighting, street trees, sewage disposal facilities, stormwater drainage facilities and other utilities shall be constructed that meet the minimum requirements of the Town of Carolina Beach Subdivision Regulations.

STAFF RECOMMENDATION:

Planning Staff recommends approval of this preliminary plat subject to the following conditions. Final plat may not be submitted for approval until all conditions, revisions, changes and submissions are made. The conditions, revisions, changes and submissions to be made are as follows:

1. A stormwater plan must be submitted and approved prior to approval of the preliminary plat. The stormwater system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to recordation of the final plat.
2. Approval letter from the Division of Land Quality for Sedimentation and Erosion Control.
3. Approval letter from the Division of Water Quality-Public Water Supply Section.

4. Fill permit and approval letter from the Army Corps of Engineers.
5. Street trees shall be installed according to preliminary plat submittal. Existing vegetation can be used for this requirement.
6. A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered surveyor or engineer. The plan shall provide for a drainage system for these areas that will accommodate a storm event without flooding or substantial ponding of water in the areas included in the plan. The plan must also accommodate any discharge from properties in upland portions of the drainage basin that flows through the property for the same storm event for the type development for which that property is zoned. The boundary of any drainage area on a portion of the site and/or upland from the site shall be shown on a map. The location, size and/or capacity of all structures included in the drainage system shall be shown on the plan and calculations used in designing the drainage system shall be submitted in a legible format. This plan may be included in the street and drainage plan, storm water management plan or on the preliminary plat, as long as the design professional certifies that the specific drainage plan submitted complies with these requirements and the information required is shown or submitted as noted.
7. Section 12-130 (The Planning and Zoning Commission may require the subdivider to construct a concrete sidewalk 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. **TRC recommended that a minimum of a 4' wide sidewalk be installed within the subdivision and a 5' wide sidewalk be installed on St. Joseph St.**
8. Lot coverage for any lot located within the subdivision shall not exceed 40% maximum lot coverage.
9. Road names must be in compliance with the New Hanover County listing of road names.
10. Designate ownership of all open space. Include note on preliminary and final plat that all infrastructure that is not dedicated to the Town shall be owned and maintained by a Home Owner's Association or other approved method-
Maintenance of permanent open space, parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the subdivision for the purpose of ensuring maintenance of common facilities.
 - b. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
11. No plantings, structures and fencing shall be placed within any easements located within the subdivision.
12. Grading, surfacing, curb and gutters, sidewalks, street lighting, street trees, sewage disposal facilities, stormwater drainage facilities, and other utilities shall be installed and certified by a surveyor and/or engineer or Performance Guarantee provided prior to recordation of the final plat.

The Planning and Zoning Commission heard this proposal at its January 13, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff conditions above and the following additional conditions or changes:

- a. The subdivision must provide for street lights as required by the Town's Subdivision Ordinance, to include the placing of (3) street lights at the intersection of Hidden Hills Drive and St. Joseph, intersection of Hidden Hills and Oak Outlook Way and at the end of the cul-de-sac on Oak Outlook Way.
- b. Variance shall be given to the applicant to develop project without sidewalks.

After Mr. Chase's presentation, Councilman Lynch made a motion to approve the preliminary plat for Hidden Hills Subdivision subject to staff recommendations 1-12 and Planning and Zoning Commission's recommendations (a) and (b) as described herein. **MOTION CARRIED UNANIMOUSLY.**

CONSIDER APPROVAL OF BUDGET AMENDMENT FOR NC DEPARTMENT OF TRANSPORTATION ENHANCEMENT GRANT PROJECTS

Calvin R. Peck, Jr., Town Manager, reviewed with Council the explanation for budget amendment for the NC Department of Transportation Enhancement Grant Projects. (Exhibit 9)

After review of the budget amendment request, Mr. Peck first asked Council to consider approving proposed Resolution No. 05-810 to replace the original resolution that was adopted in 2003 and approve the agreement, identified as Project #4746 for off-road bike/multi-use trail. Second, Mr. Peck asked Council to approve the proposed Resolution No. 05-811 and agreement identifying Project #E-4914 for the North-End Peninsula Pedestrian and Bicycle Project. Third, Mr. Peck asked Council to approve the proposed Ordinance No. 05-578 amending the 2004-2005 General Fund Budget to account for NCDOT reimbursements and town match for these funds.

Councilman Doetsch made a motion to approve proposed Resolution No. 05-810 (Exhibit 10) and agreement, Project #4746 for off-road bike/multi-use trail. **MOTION CARRIED UNANIMOUSLY.**

Councilman Doetsch made a motion to approve proposed Resolution No. 05-811 (Exhibit 11) and agreement, Project #E4914 for North-End peninsula pedestrian and bicycle project. **MOTION CARRIED: Mayor Barbour, Councilman Lynch and Councilman Doetsch voted yes. Councilman Macon voted no.** The motion passed 3-1 vote.

Councilman Doetsch made a motion to adopt proposed Ordinance No. 05-578 (Exhibit 12). **MOTION CARRIED UNANIMOUSLY.**

Concerning Resolution No. 05-811, Councilman Macon announced that he voted no because he is not in favor of making Carolina Beach Avenue North one way.

NEW BUSINESS – APPOINTMENTS TO THE PLANNING AND ZONING COMMISSION

Council considered any applications submitted to fill the positions temporarily being filled by Lank Lancaster and John Keith.

A motion was made by Councilman Lynch to appoint Lank Lancaster and John Keith to serve 3 year terms of office on the Planning and Zoning Commission. **MOTION CARRIED: Mayor Barbour, Councilman Doetsch, Councilman Lynch voted yes. Councilman Macon voted no.** The motion passed with a 3-1 vote.

NEW BUSINESS – CONSIDER ANY APPLICATIONS SUBMITTED TO FILL THE ENGINEER POSITION ON THE OPERATIONS ADVISORY COMMITTEE

Mayor Barbour announced that the town did not receive any applications to fill the engineer position for the Operations Advisory Committee, but we would re-advertise for applicants one more time.

NEW BUSINESS – APPOINTMENTS TO THE TOURISM MARKETING COMMITTEE

Councilman Lynch made a motion to appoint James Clark to the Tourism Marketing Committee to replace Mr. Larry Huhn. **MOTION CARRIED UNANIMOUSLY.**

ITEMS NOT ON THE AGENDA

Mr. Peck reminded Council that on February 24, 2005 there is a council workshop and it will also be a joint meeting with the Planning and Zoning Commission to discuss a number of issues. He also reminded Council that the Budget Retreat will be Saturday, February 26, 2005 in the training room at Town Hall at 8:15 a.m. and Council should be getting an agenda soon.

In addition, Mr. Peck said he has been nominated for the second vice president of North Carolina City-County Manager Association at the summer conference in Carolina Beach in June 2005. Further, there is an international city-county manager association southeastern regional meeting in Savannah, Georgia on March 3rd and 4th so he plans on attending it.

Councilman Doetsch congratulated Mr. Peck on being nominated.

Concerning the joint meeting with the Planning and Zoning Commission, Mr. Chase, Planning & Development Director, said that we will be discussing driveway surfaces, paving surfaces, stormwater issues, land use issues and lighting ordinance.

Councilman Macon announced that he will not be here on February 24, 2005 for the workshop meeting and he will be in Raleigh, NC. Concerning the driveway issues, Councilman Macon said that we require paved driveways yet we do not like impervious surfaces and that is a conflict for him. Council noted his comment about the driveway issues.

Ted Lashley, Parks & Recreation Director, said that Mack Overby Construction is working on the gazebos. They should be finished in a week. He understands that they are doing a good job. In addition, Mr. Lashley said that there were about 30 people who participated in the public meeting concerning the proposed skate park design. There were a lot of positive comments and he plans to hold another public meeting in about a month. Mr. Peck added that we notified the adjacent property owners about this project so there would not be any surprises and we received no negative feedback.

Councilman Macon understands we have received some calls concerning a different type of skate park that is not concrete. He suggests that we should at least look at that option too. Mr. Lashley said that we would.

Councilman Doetsch said that he has a conflict on the February 24, 2005 workshop meeting because he also has a Transportation Advisory Council (TAC) meeting, but he will try to get here as soon as possible. Councilman Doetsch feels that he needs to go to the TAC meeting because it is time to start giving input concerning the Transportation Improvement Plan (TIP). The TIP is where the state funds all the projects and part of their TAC meeting will be putting together a TIP and submitting it to Raleigh.

In conclusion of the meeting, Mayor Barbour announced that he will be in Washington on March 2, 2005 and will return March 3, 2005 for the Water Resources Congress meeting to discuss primarily the shallow draft inlet maintenance and lack of funding. He will be attending the Tuesday, March 8, 2005 council meeting and then will be traveling back to Washington on Wednesday, March 9, 2005 for the American Shore & Beach Preservation Association. When he is there he will be speaking with the Mayor from Avalon, New Jersey concerning the importance of having a partner with the United States government for funding for our beach renourishment and water resources projects.

ADJOURNMENT

There being no further business, Mayor Barbour made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY.** The meeting adjourned at 9:59 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____