

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

May 17, 2005

The Town Council of the Town of Carolina Beach met in regular session on May 17, 2005 at 7:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Dennis Barbour; Mayor Pro Tem, Pat Efirid; Councilman, Joel Macon; Councilman, Gary Doetsch and Councilman, Jack Lynch. Also present was Town Manager, Calvin R. Peck, Jr. and Town Clerk, Lynn N. Prusa.

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

ADOPT THE AGENDA

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

Add Item #5(a)

The police chief will introduce a new town employee, Police Officer, Ray Lefler.

Delete from the Consent Agenda

Item #8(d) [this item was continued by P&Z]

Item #8(g) [the owner withdrew]

Item #8(i) [this item hasn't been considered by P&Z]

Amend Item #10 CUP for Bar/Tavern at 1140 N. Lake Park by replacing the cover sheet and May 2, 2005 memorandum from the planning department that includes action taken by Planning and Zoning on April 14, 2005.

Amend Item #13 Amendment to Permissible Use Table 3.9.1 and HB Zone by inserting the proposed Ordinance No. 05-588.

Amend Item #19 Preliminary Assessment Resolution to Pave Streets in Wilmington Beach by replacing the cover sheet and inserting the proposed preliminary assessment Resolution No. 05-823 and proposed Ordinance No. 05-584.

MOTION CARRIED UNANIMOUSLY.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Barbour recognized Richard Bedgood for his 5 years of dedicated service to the Town of Carolina Beach although he was not present at the meeting.

Mayor Barbour also recognized Lt. Grady E. (Buck) Jarman for his 26 years of service to the Town of Carolina Beach Police Department.

RECOGNIZE NEW EMPLOYEES

Billy Younginer, Chief of Police, introduced a new employee with the police department, Police Officer, Ray Lefler.

PRESENTATION OF ANNUAL BUDGET FOR FY 2005/2006

Calvin R. Peck, Jr., Town Manager, announced that he made a presentation of the draft budget to Council at the April 28, 2005 workshop. Since that time, he has received some feedback from Council and reported that there have been a few adjustments. There has been more than 6% growth in the property tax base of real property within Carolina Beach, which we go up to about \$821 million. Therefore, Mr. Peck reported that he is recommending no tax increase to the budget. The sales tax figures are strong for this area, and we have an excess of 50% of the fund balance of about \$3.1 million. However, for our size municipality, Mr. Peck said that it is recommended by the Local Government Commission that we have at least 40%. Fees for development and collection have been strong, and there is a 3.1% increase in trash rates across the board. In the Utility Fund, Mr. Peck also recommends no change to the water and sewer rates. The storm water rate is under review by the Storm Water Committee and will come back to Council with a recommendation to adjust those rates. Water and sewer development fees will increase to counteract the increase costs that we have for pipes, etc. In revenue, Mr. Peck recommends a 3.1% dockage fee at the marina in the Tourism Fund to become effective based on the calendar year. There is no change for parking fees and Carolina Beach residents will receive a free parking decal when purchasing their Vehicle Identification Decal. Also, Mr. Peck said that we are recommending programming the meters to have a 5-minute grace period to the parking meters. Further, Mr. Peck made no changes to Freeman Park and the plan is to review it after the season with the North End Committee for recommendations. In the Capital Improvement Plan, Mr. Peck said that there will be a proposal tonight to purchase the Police Pak Software for \$10,000 this year out of the Technology Fund 2004/2005 and pay the remaining in FY 2005/2006 on July 15th. He recommends funding for radios and turnout gear for the fire department. Also, recommends that we replace the planning department vehicle and that we fund a Harbor Management Plan. Mr. Peck also mentioned the emphasis on sidewalk funding out of the Powell Bill money. In the Utility Fund, Mr. Peck proposed to bring billing back in-house, and it will take another person to do that. Mr. Peck recommends a 100% replacement of all water meters throughout the town. With the radio read meters, Mr. Peck mentioned that the person doing the in-house billing will be able to check when somebody has a question about their bill and their reading while they are on the phone. He also recommends a new backhoe for the water department. He is proposing a 4-wheel drive vehicle for the waste water treatment plant for the capability to get to the sod farm and greenhouse for dune grass management, etc. He recommends adding two vehicles to the storm water division and funding for the ditch repair on Raleigh Avenue. Also, Mr. Peck proposes adding a construction crew, a dump truck and backhoe, for water/sewer taps and lines. Also, he proposes a camera unit, and funding for more engineering work to do other storm water work in the Wilmington Beach area. Mr. Peck further proposes for the Tourism Fund, funding for minor piling repair, decking, etc. at the marina, hazardous materials supplies for the fire department to contain spills, lifeguard stands, contractual

obligation to provide a parking enforcement vehicle, a patrol vehicle for Freeman Park, town restrooms facility at 1700 block of Canal Drive. Mr. Peck also proposes a cost of living adjustment of 3.1% for employees and contracts. We will fully fund merit raises and all employees are eligible for those merit raises. Concerning health insurance, Mr. Peck reported that there is a 9.9% increase in our health insurance premiums and we will absorb the increase to the dependent health care premiums. In the future, we will do a systematic review of all our options as far as health care is concerned next year. For non-profits, Mr. Peck said that everything that we have received since the end of April is fully funded. Mr. Peck also proposes that we continue the MPA fellowship program since it has been successful for us. He also proposes that the long range planner position for Ed Parvin be funded. We will fund a Human Resource Officer position and take that function away from the town clerk. Her assistant will be shared between the two departments. In the police department, we are going to take one position and upgrade it to a Captain, but there will be no additional positions. He recommends we fund 4 tasers and hand-held radars. We will completely outsource mowing without temporaries and transfer those employees. We have added two full-time firefighters. There is a large increase in gasoline expense. Also, Mr. Peck recommended that environmental receives four of the personnel from mowing and they are cleaning Freeman Park on the beach. He further recommended that Parks & Recreation received some badly needed equipment such as treadmills. Mr. Peck proposes a billing clerk position to provide coverage for the receptionist. There are no changes at the waste water treatment plant. As for waste water collection, Mr. Peck proposes that the remaining three employees that left the mowing division will help install, replace and maintain lines as another construction crew. As for the storm water division, Mr. Peck proposes an additional fountain at the lake. For the tourism fund, he proposes that once we complete the rehab of the building at Canal Drive, we move the police substation to that location. As for Freeman Park, he recommends that we fund the two beach patrol officers.

In conclusion, Mr. Peck told Council that they should have the full budget by the end of next week, and we would also schedule a public hearing at the June 14, 2005 Council meeting. Councilman Lynch asked Mr. Peck about the timing for the new water meters and radio read.

Steve Pagley, Operations Director, responded that they plan to wait until after the season, but it would be in this calendar year.

Mayor Barbour announced to the public that this was the second presentation concerning the budget for FY 2005/2006, and there will be a final public hearing on June 14, 2005 for final public comments before Council approves the budget for FY 2005/2006.

PUBLIC DISCUSSION

Mr. Bill Wilson, resident of 302 N. Carolina Avenue, spoke concerning the assessment for roads. Mr. Wilson advised that he is a New Hanover County taxpayer. He lives in Charlotte, but owns a place at 302 N. Carolina Avenue. He understands that those residents are getting ready to be assessed for roads in that area. Mr. Wilson wanted to know why the roads were not paved when the water and sewer was installed. He felt it would have been a good time to do it. Mr. Wilson also asked if there was any money in the town budget to pave roads in Wilmington Beach?

Mayor Barbour informed Mr. Wilson that there is money being proposed in the upcoming budget for repaving, but no new construction. Mr. Wilson asked if anybody in Carolina Beach was assessed for paving new roads? Councilman Doetsch told him that he was assessed for his road in 1992 and he lives on Greenville Avenue.

Mr. Wilson wanted to know how we came up with a figure of \$6,800 per lot?

Mr. Peck, Town Manager, advised that he would make a presentation concerning the assessments for paving the roads in Wilmington Beach.

Mr. Wilson mentioned that there was money in the budget for Snapper Lane to be paved a few years ago and it never happened. He wanted to know if the money was still available for it.

Mayor Barbour recalled that there was a proposal for \$100,000. Mr. Peck added that it is in this year's budget. He explained that once we started looking at the scope of the project, it didn't come close to even doing the drainage on Snapper Lane much less the paving.

Mr. Wilson is willing to pay for his assessment and thinks they need the roads paved; however, he feels that Carolina Beach should accept some of the responsibility to help pave them.

Mayor Barbour suggested that we allow the town manager to make his presentation now instead of waiting until Item #19 on the agenda concerning the preliminary assessments to pave streets in Wilmington Beach.

NEW BUSINESS – PRESENTATION BY TOWN MANAGER CONCERNING CONSIDER ADOPTING A PRELIMINARY ASSESSMENT RESOLUTION NO. 05-823 AND PROPOSED ORDINANCE NO. 05-584 TO PAVE THE FOLLOWING STREETS: CROAKER LANE, NORTH CAROLINA AVENUE, SOUTH CAROLINA AVENUE, SPOT LANE, SEARAY LANE, MACKEREL LANE, BONITO LANE, SWORDFISH LANE, TEXAS AVENUE, SNAPPER LANE, BOWFIN LANE AND TENNESSEE AVENUE

Mr. Peck, Town Manager, opened his presentation by saying that the issue is that many of the roads in Wilmington Beach are unpaved. We looked at paving Snapper Lane and when we finally got the proposal and figures from the engineer, they were so large and expensive that we were going to be unable to do it with the existing funds. Therefore, Mr. Peck said that the proposal is to pave all of them. Mr. Peck showed a diagram of the areas in blue that are currently unpaved. The area in the upper right hand corner is Seagrove Development and has just recently been paved. Mr. Peck recommends that we pave all the roads in Wilmington Beach at one time, borrow the money for the project and pay it back with assessment payments, and assess the property owners for the improvements. Mr. Peck explained that state law 2000-27, which was the law that annexed Wilmington Beach into the Town of Carolina Beach states specifically that the provisions of the general statute do not apply to the Town of Carolina Beach special assessments for street improvements in the area annexed in this section. Mr. Peck explained that this means that no petition is required and the town can assess 100% of the improvements. Mr. Peck pointed out that as of April 26, 2005, the cost for the project that we received from our engineers is about \$3,390,890.00 which includes construction, contingency, bonds, insurance, and construction administration. Also includes sidewalks on one side of the road, curb and gutter, paving and all the drainage work. Mr. Peck said that the proposal is to assess 100% improvements at an equal cost per affected lot. There is approximately 3.4 miles of roads for drainage, curb and gutter, sidewalks, etc. We originally proposed to pay it back over 5 years and assess it for 5 years. In further researching, Mr. Peck stated that because we are borrowing money for improvement to real property, it must go to the Local Government Commission (LGC) for approval of any financing. The reason we are doing 5 years was to avoid the additional time and effort to go to the LGC. Mr. Peck further explained that the only reason to go 5 years is a moot point now so the new proposal is to repay that over 10 years. It is still about \$6,786 a year, but it is about \$700 a year with interest over a 10-year period of time.

Mr. Peck concluded that if Council directs, the proposal is for Council to adopt the preliminary resolution and the process. There is a public hearing after every affected property owner is mailed a notice. After the public hearing, Council would adopt an assessment resolution. Once that is done, we would borrow the money and build the roads. After the final project is complete, they would adopt the final resolution with all costs. At that time, another public hearing will be held to consider if any one who should not have to pay for special reasons and again mail notices and adopt the final assessment roll and turn it over to billing for collection. Mr. Peck asked Council to adopt the preliminary resolution so that we can start the process of mailing notices and setting up a public hearing.

Mayor Barbour mentioned that we would have a public meeting before the public hearing with a plan to allow for informal questions and answers with our engineering firm, council and staff.

Councilman Lynch added that he lives in Wilmington Beach and remembers the costs for sewer and water. We started with a cost of \$2.5 million and ended up with a cost of about \$5.0 million. Councilman Lynch directed a question to Mr. Wilson and asked him if stretching it out over a 10-year period would help? Mr. Wilson replied that it might help some people. Councilman Lynch said that we want to do the right thing. He wants to do what the residents of Wilmington Beach want to do and we do not want to put any hardship on anyone.

Councilman Macon pointed out to Mr. Wilson that when he says the town should pave it, he is referring to him. Councilman Macon feels that he lives over in another part of town and when he bought his house, his street was there, but that Mr. Wilson is asking him to pay for his street and he does not agree with that.

Mr. Wilson asked Councilman Macon what percentage of people in Carolina Beach pay for their roads? Councilman Macon said that anyone who moved on a street that didn't have a road. Mr. Wilson felt that was not very many. Councilman Macon told him that there was more than he thought.

Mr. Wilson mentioned that about 15 years ago, he submitted an application to have the roads paved on N. Carolina Avenue through the state, but there were not enough homeowners on the street. Now, it is not New Hanover County, it is Carolina Beach, but he paid New Hanover County all these years until a few years ago. Mr. Wilson thinks that there is still money to help fund some people living in this area of Wilmington Beach.

Mr. Wilson does not understand why those affected have to pay for the storm drainage and sidewalks, etc. Councilman Macon said that he agrees about that and if we are going to put in the drainage then we should put it in, but he understands about the road.

Mayor Barbour noted that we do not want to argue. We are trying to receive input tonight. As far as the storm water, sidewalk, curb and gutter, etc., Mayor Barbour commented that is an enhancement for the area so that once you put in the storm water, you don't have to dig the road up again. We did not handle the water and sewer at that time because the county did. The area of Wilmington Beach was not annexed by the town and we did not have the storm water retention pond that we have now.

Mr. Bill Strickland, resident of 1307 Swordfish Lane, was also concerned about the paving of the streets in the area of Wilmington Beach. Mr. Strickland does not have a problem with paving the streets, but feels it should be a couple thousand, not seven thousand per lot and that the town should help them in terms of the storm water, sidewalks, etc. Concerning the issue of not wanting to cut the streets up again, Mr. Strickland felt what would be wrong with burying pipes when you pave the road and go back in later with the drainage.

Mayor Barbour responded that to do an effective storm water management plan that has to be an engineered plan that covers the whole area.

Mr. Strickland also mentioned that if it is such a good deal to put in drainage, sidewalks, curb and gutter, why don't we put it in for all of Carolina Beach then we would get a good price?

Mayor Barbour asked that there be no applauding, but we would be glad to let anyone speak, but he wants to conduct an orderly meeting.

Mr. Wayne Hartsell, resident of 303 Tennessee Avenue, thinks that those who have previously spoken have pretty much covered his thoughts too. Mr. Hartsell reiterated that he does not mind paying for the paving because we need it, but would like to see something different done for the rest of the improvements.

Ms. Jan Weissbeck, resident of 118 Georgia Avenue, inquired about some rumors she has heard concerning requests for variances and zoning for Georgia, Virginia and Florida Avenue. Ms. Weissbeck understands that there are developers and homeowners both who want to see rezoning to allow for duplexes and triplexes, but right now this neighborhood is zoned single-family. Ms. Weissbeck mentioned that back in 1996, there was a petition that she signed because that is what they wanted. She feels that this neighborhood cannot tolerate the kind of growth that contractors want now. Ms. Weissbeck does not think this area can tolerate more traffic or speeders and that we need to get a handle on what we've got before we start allowing duplexes and triplexes. Ms. Weissbeck wanted to know who was applying for the variances and who is considering giving it them and when the decision is going to be made so that we will have some input before it is a done deal.

Mayor Barbour advised that he is not aware of any applications for variances for Georgia, Virginia and Florida Avenues.

Scott Chase, Planning & Development Director, informed Ms. Weissbeck that they have no applications for any rezoning in that particular section. As far as rezoning, the only one we have is a rezoning request further north for the marina piece that is R1-B, but the request is for MB-1 in the most northern part section.

Concerning selling the public beach in that most northern section, Ms. Weissbeck asked if it is zoned as a beach? Mr. Chase, Planning & Development Director, explained that parcel is up for bid and it is being zoned for marina business. There is only one small parcel being requested for rezoning adjacent to the town property. Mr. Chase advised Ms. Weissbeck that they will announce any requests for variances in the newspaper and mail notices to adjacent property owners. Mr. Chase said that he would be glad to personally contact her too if she would like to leave her address, name and telephone number with him.

Ms. Weissbeck asked if that small piece of parcel is adjacent to the pump station? Mr. Chase told her, yes it is adjacent to the beach access area and the pump station.

Ms. Weissbeck asked if that will be zoned for the 40 condos that she is hearing about? Mr. Chase replied no, and that we do not have a proposal for a development at this time, we only have an application to rezone it to marina business, which is contiguous to already marina business zoning and not against the Land Use Plan or zoning.

Mr. Chase advised Ms. Weissbeck that single-family zoning in her area is not being proposed for rezoning. Ms. Weissbeck asked if that includes Florida Avenue on the water. Councilman Macon said that it includes Florida Avenue up to Delaware for duplexes, but the rest of the interior streets are single family. Ms. Weissbeck wanted to know if there were any intentions of changing that. Mr. Chase replied, no. Ms. Weissbeck asked if there were any intentions of changing that if there were variances? Mr. Chase replied, no.

Mr. Terry Hamm, resident of 111 Virginia Avenue, does not like the housing being built on the backside of Virginia Avenue and feels it is in the marsh area. Mr. Hamm has some concerns about the pier and hopes it is not going to be a private operation. Also, Mr. Hamm is concerned about the sell of town property on Georgia Avenue and asked if the public access area part of the parcel being considered is for sell or not? He wanted to know why the town feels they need to sell property that is the general use of the entire public for private development. He does not feel we need to sell land to developers so they can expand the marina and take over the public access area or build duplexes and triplexes.

Councilman Macon asked Mr. Hamm about his comments about the pier because the north-end pier has always been a commercial pier. Mr. Hamm said that there is a proposed change being considered for private use. Mr. Chase, Planning & Development Director, explained that it is a private pier with a non-conforming bar located in it currently and a restaurant use as an accessory to the pier. Mr. Chase said that the Land Use Plan update that is currently going through, that area was designated as commerce area just to protect the interest of the pier and any associated businesses located within that pier in case we want to fix the pier or rezone it to neighborhood business, etc. in the future. Mr. Chase added that this was the only intent for it.

Ms. Judy Littrell, resident 207 Georgia Avenue, also said that she is hearing rumors of duplexes and triplexes and is not in favor of them and hopes the town is being honest and asked that Council listen to the people.

Mayor Pro Tem Efirid commented that she feels we did listen to the people because we did downsize in 1996. Ms. Littrell said that she appreciates it, but developers are coming in and money talks.

Councilman Doetsch mentioned that three years ago we looked at making a public park at the end of Florida Avenue in the beach access area that is currently up for bid. At that time, there were twice as many people objecting to it when we were trying to make it public.

Ms. Yvonne Johnson, resident of Oceana Subdivision, is concerned about the pump station because that area has half the water pressure now, especially if there are condominiums built with the marina.

Mayor Barbour advised her that if she is having water problems, we can turn it over to our operations director to look into.

Ms. Johnson feels that they have lost water pressure already in their area and does not agree with expanding there until we can do something about the water pressure first.

Mayor Barbour told her that we would have our operations director look into it for her and contact her at her number 458-9615. Mayor Barbour expressed that Council wants to make sure that they have adequate water pressure.

Steve Pagley, Operations Director, advised that they have a contractor checking the water flow of the fire hydrants, etc. in that area now because it is part of the water study.

Ms. Jeannie Mintz, resident of 205 Georgia Avenue, addressed Councilman Macon concerning improving the park back some years ago, but they did have a problem with the traffic. Ms. Mintz thinks that they have problems with traffic, the water and drunks in that area. She said that they like their park and do not have a

problem with it, but they don't need a huge park there because there is no space for it. Ms. Mintz said that they do not want to lose their park. It is one of the few places that children and elderly can go to fish. Ms. Mintz asked that Council talk to the people in that area.

Councilman Lynch commented that we have 50% surplus and we are required to have 40% so we have 10% more than is required of \$310,000. Councilman Lynch feels that we need the commercial buildings to help keep the taxes down on the residential people.

Ms. Mintz asked staff and Council if 100% of that park is being sold to Oceana? Councilman Macon told her that the town right-of-way would still be there.

Mr. Peck, Town Manager, commented that there would still be a 50-foot right-of-way for the road as well as an access for the water line that runs across the waterway. Mr. Peck said that there would still be a 50-foot waterway access down to the water.

Mayor Barbour explained that the property that Council has been asked to consider selling, part of that beach that is migrated is part of that deeded to the Town of Carolina Beach, but not the whole beachfront and there is a 50-foot beach access that will remain there.

Ms. Mintz asked the size of the lot? Mr. Peck replied that the entire lot is 200 x 200 feet to include the well site and offered to make a brief presentation to address Ms. Mintz and her questions.

Mr. Peck made a presentation concerning the town property in question and showed overheads to the public explaining the proposed possibilities of selling the property.

In addition, Mr. Robert Stevenson, with Davis Kane Architects, briefly made a presentation concerning the proposed possibilities of selling the property and what the town could do with the money. Mr. Stevenson examined some ideas for a multi-purpose community center and illustrated the proposal. Mr. Stevenson proposed a building of up to 2,800 sq. ft and that the construction of the building be considered as being in multiple phases with the total cost for the building exceed \$2 million budget. However, the initial phase I construction, seems to be well-suited for the housing of the senior center, library and potentially the help center. All of which we have determined could use some help right now. Mr. Stevenson showed the building plans and described that the first floor would be the senior center with stairs and elevator and help center in the back with a loading area off the existing parking area. The second floor would be the library with stairs and elevator with the future phase II construction on the east side connecting to a central corridor, which could then utilize the stairs that are already built in the center. Mr. Stevenson feels that it is very flexible in accommodating different budget needs if we need to build more in phase I or less in phase I and more in phase II depending on the funding. Other uses Mr. Stevenson indicated were a welcome center, chamber of commerce, a multi-purpose use room and potential kitchen facilities for the senior center.

After Mr. Stevenson's presentation, Councilman Doetsch asked about the proposed square footage for the historical center. Mr. Stevenson responded that we have not gotten to that level of detail. We just examined how much building could be put on the site and who were the immediate users and their needs.

Councilman Lynch mentioned that the public will have a lot of input into that building. Mr. Peck commented that he had a meeting with the New Hanover County library staff and they are certainly interested in seeing an expanded library facility in Carolina Beach.

After Mr. Stevenson concluded his presentation, Mr. Peck continued with his presentation and described the proposed plans for the rest of the money. He explained that part two of the plan is to repave some of our major roads like Harper Avenue and Cape Fear Blvd. as well as erect sidewalks on one side to US Hwy 421 for about \$500,000. Mr. Peck also proposes that we institute a new parking plan that was approved in the traffic circulation study and put bike paths on both those roadways.

In addition, Mr. Brian Cox, town's consulting engineer for the town, made a brief presentation concerning some options for the new parking proposal plan on Cape Fear Blvd. Mr. Cox reviewed with Council the proposed parking plan and showed overheads of the existing layout for Cape Fear Blvd. He proposed a new parking plan and addressed options A and B with Council.

After Mr. Cox's presentation, Mr. Peck continued his presentation by addressing part three of the plan. He said that it deals with water. The proposal is to take wells 3 & 11 out and replace them with new wells as well as two test wells in the buffer zone. Also, we have permission for a new well site located in the State Park. Mr. Peck reviewed the gallons of water currently and what the gallon of water a day would be after the new wells are installed. Mr. Peck felt that by the beginning of August, we will be in much better shape with water as a whole. According to the town's engineers as far as water pressure is concerned, Mr. Peck said that it does not matter necessarily where the water comes from.

To conclude his presentation, Mr. Peck said that the town accepted an offer a half million dollars more than the appraisal. The site was appraised in March 21, 2005 for \$2.7 million and the town received an offer for \$2.7 million and did not accept it. However, the town accepted an offer a half million dollars more than what was offered initially. Mr. Peck explained that we are in the upset bid process right now. We have hired an architect to begin the design process and an engineer who is starting to develop construction plans for the roads and we are working to get test wells installed.

Ms. Melinda Berg, resident of 211 Georgia Avenue, thought that this proposed plan was just an idea so she hopes Council will listen to the citizens and their concerns about how to spend the money from the sell of town property. She also mentioned that some senior citizens are concerned because they can walk to the facility where it is located now, but might have difficulty as far as transportation is concerned in future.

Mr. Leroy Franks, resident of 908 Canal Drive, mentioned that the town authorized a bus service survey in the last water bill. Mr. Franks felt that this survey was not required. However, he wanted to know why the town did not ask or take a survey for high rises. Mr. Franks reminded Council that over 600 people signed a petition because they do not approve of high rise projects. He asked that Council talk to the residents, not the developers.

CONSENT AGENDA

Councilman Doetsch made a motion to approve the consent agenda as follows excluding items d, g and i:

Approval of the Minutes:

Special Meeting/Workshop	April 5, 2005
Regular Meeting	April 12, 2005
Special Meeting/Workshop	April 28, 2005

Set a public hearing date for June 14, 2005 at 7:30 p.m. or soon thereafter to consider adoption of the Budget for FY 2005/2006.

Approve of the budget amendments:

Operations-Transfers

Floater are needed at the marina with a cost of \$2600. Operations Director, Steve Pagley, is requesting that \$1600 be transferred from account 255500.10-Marina Leo into account 255500.15 to cover the purchase.

The next transfers listed are in anticipation of expenses through June 30, 2005. Transfer \$4150 from account 308100.78-WWT Permit Fees into account 308100.32-WWT Chemical and Lab Fees. Transfer \$400 from account 308100.53-WWT Dues and Subscription into account 308100.33-WWT Supplies and transfer \$500 from account 308100.15-WWT Maintenance and Repair of Building into account 308100.33-WWT Supplies.

Mr. Pagley is also requesting that \$2100 be transferred from account 308100.75-WWT Capital Projects less than \$10,000 to be administered as follows: \$850 for the purchase of a copier, this money will remain in the .75 account however, will be redesignated, the balance in the amount of \$1250 will be placed into account 308100.32-WWT Chemicals and Lab Fees.

The Operations Department is in need of additional monies in several overtime accounts as well as in their WWC Tap Materials account and in their Water Meter accounts. The listing below is to transfer monies into these accounts. Transfer \$19,000 from account 308110.02-WWC Salaries into account 308110.03-WWC Overtime, transfer \$6000 from account 308110.02-WWC Salaries into account 308110.55-WWC Tap Materials, transfer \$3500 from account 308120.02-Water Salaries into account 308120.03-Water Overtime, transfer \$9000 from account 308120.02-Water Salaries into account 308120.55-Water Meters.

Temporary employees have been used in the Environmental Department therefore we need to transfer monies from account 105800.02-Environmental Salaries into account 105800.57-Environmental Temporary in the amount of \$1920. There are also monies needed in the Environmental Overtime account 105800.03 in the amount of \$900, these monies are being transferred from the General Maintenance account 105000.18-Landscaping.

Overtime expenses have occurred in the W&S Administration Department in the amount of \$625; therefore a transfer has been requested from account 308100.03-WWT Overtime into account 308000.03.

Police-Amendment

The Police Department has had to replace two pistols in their department due to two Police Officer's retirement, they have monies available in their account 105100.74-Capital Projects to replace these guns, therefore they are requesting that \$868 that is now in their account 105100.74 be transferred into account 105100.75-Capital Projects Under \$10,000 for the purchase of two new guns.

Water-Budget Amendment

Scott Jones has requested that the Town install water and sewer lines in the 700 block of Magnolia Avenue, the cost for this will be approximately \$40,260.79, which Mr. Jones has paid the Town. We need to appropriate these monies into the budget so that the project can be done; therefore, we need to increase revenue account

303850.00-W&S Miscellaneous and increase expenditure account 308120.73-Magnolia Avenue Project in the amount of \$40,260.79.

Operations-Transfer

The Operations Department is requesting that \$1100 be transferred from account 308110.14-WWC Travel and Training into account 308110.55-WWC Tap Materials and that \$1500 be transferred from account 308120.15-Water Maintenance & Repair to account 308120.55 for additional monies needed for water service supplies.

Planning-Transfer

The Planning Department needs additional monies for the purchase of Kelly Permitting Software in the amount of \$500, they are requesting that the monies be transferred from account 104910.14-Travel and Training into account 104910.75.

Set a public hearing date for June 14, 2005 or soon thereafter to consider a request for a Conditional Use Permit for Level 5 Development, LLC for a Planned Unit Development located at 216 Spartanburg Avenue.

Set a public hearing date for June 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a mixed use redevelopment located at 15 Carolina Beach Avenue North.

Set a public hearing date for June 14, 2005 at 7:30 p.m. or soon thereafter to consider a request to rezone from R-1 (Residential) to NB (Neighborhood Business) for property located at 1800 Carolina Beach Avenue North to include a text amendment for 3.8 Table of Permissible Uses to include Fishing Pier (public or private) in the NB Zoning District.

Set a public hearing date for June 14, 2005 at 7:30 p.m. or soon thereafter to consider a request for a text amendment to Section 3.8 Permissible Use Table for Hotelminium/Motelminium as defined in the Carolina Beach Zoning Ordinance and Section 7.1 Off Street parking and Loading Requirements.

Set a public hearing date for June 14, 2005 at 7:30 p.m. or soon thereafter to consider amendments to Article 3, Zoning District Regulations, Section 3.9 Dimensional Standards for the Various Zoning Districts, (b)(6) Allowable Intrusions into Required Yard Setbacks for Residential Zones; Amend Article 16 Planned Unit Development and Subsequent Sections of the Zoning Ordinance; Amend Article 11 Sign and Handbill Regulations.

MOTION CARRIED UNANIMOUSLY.

Before moving to Item #9 on the agenda, Mayor Barbour called for a 5-minute recess. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR A TAKE-OUT RESTAURANT LOCATED AT 304 N. LAKE PARK BLVD.

Prior to making a presentation, Scott Chase, Planning & Development Director, was sworn in by the town clerk. Mr. Chase reviewed the request for a Conditional Use Permit for applicant Dan Denston to consider a take-out

restaurant located at 304 N. Lake Park Blvd. as follows:

BACKGROUND:

The applicant wishes to expand the existing coffee and ice cream shop and operate as a restaurant in the existing Generations location. The proposed restaurant hours will be:

- ❖ In-season Monday through Saturday 6 am to 10 pm, Sunday 8 am to 9 pm
- ❖ Off-season Monday through Saturday 7 am to 2 pm, Sunday 8 am to 2 pm

The operation will consist of 3 to 5 employees. No alcohol will be served at the site. The property is located in the Central Business District. Restaurants are allowed by conditional use permit in the Central Business District. The applicant will maintain 18 seats and will be required to have 6 parking spaces (See attached floor plan and site plan).

ANALYSIS:

The site is currently being used as a coffee and ice cream shop in the existing 1,428 sq ft building. The applicant wishes to expand the menu to include breakfast sandwiches, hamburgers, hotdogs, and French fries and thus requires a conditional use permit. As indicated on the floor plan the only structural change would be removing a non-load bearing partition wall inside the building. The applicant will maintain 18 outdoor seats (See Attached Floor Plan). Parking is calculated as one (1) parking space per three (3) seats. The applicant would have to provide a total of 6 spaces. Generations is proposing to utilize their existing eight (8) parking spaces to meet this requirement. (See Attached Site Plan)

REQUIRED FINDINGS:

Specific standards. Applicant must make provisions for:

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

General conditions.

- (1) That the use will not materially endanger the public health or safety if located where proposed and developed according to the plan as submitted and approved by the issuance of the C.U.P.;
- (2) That the use meets all required conditions and specifications;
- (3) That the use will not substantially injure the value of adjoining or abutting property, or that the use is a public necessity; and

- (4) That the location and character of the use if developed according to the plan as submitted and approved will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and Policies.

STAFF RECOMMENDATIONS:

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

- 1) Seating shall be limited to 18 outdoor seats.
- 2) No sale of alcoholic beverages will be permitted for this site.
- 3) A sign permit must be obtained for any change in signage or any new signs proposed on the property.
- 4) All permits required by Federal, State, and Local Agencies including the Health Department must be submitted prior to Certificate of Occupancy.
- 5) Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.

The Planning and Zoning Commission heard this proposal at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and the following additional conditions:

- 6) 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.

After Mr. Chase reviewed the proposed Conditional Use Permit with Council, Mayor Pro Tem Efird 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.**

With no further discussion concerning the proposed Conditional Use Permit, Councilman Lynch made a motion to approve the request for a Conditional Use Permit for Generations at 304 N. Lake Park Blvd. subject to specific standards 1-7; general conditions 1-4; staff recommendations 1-5 and the Planning & Zoning recommendation #6 as described herein. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR A BAR/TAVERN (PRIVATE CLUB) LOCATED AT 1140 N. LAKE PARK BLVD. (LAKE PARK LANDING, UNIT F)

Prior to speaking, Scott Chase, Planning & Development Director, was sworn in by the town clerk. Scott Chase, Planning & Development Director, reviewed the request for a Conditional Use Permit for the applicant Ty Cobb for a bar/tavern (private club) located at 1140 N. Lake Park Blvd. (Lake Park Landing, Unit F) as follows:

BACKGROUND

This proposal is for a “members only” Private club with full ABC services located in the highway business district (HB), at 1140 N. Lake Park Blvd at Lake Park Landing. Cobb’s Corner Lounge is an existing business within the town formally at 217 Carolina Beach Ave N. Bars/Taverns are allowed by Conditional Use Permit in the HB.

ANALYSIS

Parking requirements according to Article 7, Section 7.1 (d) of the Zoning Ordinance, are based on 1 space per 4 seats or 50 sq feet (whichever is greater) in the nightclub. There are currently 72 marked spaces on site and an additional 11 spaces proposed in the rear of the property. For the multi-uses for the site the parking is:

<u>Uses</u>	<u>Required Spaces</u>	<u>Provided</u>	Multi Use Facility	
			5 per 1,000 sq ft	
			<u>Required spaces</u>	
Bridge Barrier	119 seats = 40	40	4,350 sq ft	22
Animal Hospital	1 per 300 = 7	7	2,000 sq ft	10
H&R Block	1 per 300 = 3	3	1,000 sq ft	5
Tan Ya Hide	1 per 200 = 10	10	2,025 sq ft	10
Cobb’s Corner (proposed)	50/1000 = 20	23	1,000 sq ft	5
4,000 sq ft of Vacant Space	5 per 1,000 = 20	none	4,025 sq ft	20
Total	108 spaces	83 spaces	72 spaces	
		<i>(11 additional proposed)</i>		

The building for the proposed use is 1,000 sq ft which would require 20 parking spaces, which the applicant could meet parking. An additional 8 spaces will be required for a future 20’ x 20’ deck that will have a table and chairs on it located in the back of the building that would leave the applicant 5 spaces short. Most of the businesses that are located in this community close their offices at 5 p.m. The Barrier Restaurant is the only establishment that would be open during Cobb’s hours, leaving adequate parking. The applicant is proposing 11 additional parking spaces behind building units b, c, d and e. There is currently a one way drive around the building for access to the proposed parking spaces. The proposed deck and parking spaces encroaches over the property line. If the proposal passes, the properties would have to be combined into one parcel which is both owned by the same individual. The police department has no issues with this proposal.

“Bars and taverns, as defined in Section 8-68 of the town code of ordinances, which because of their nature may have serious objectionable operational characteristics, particularly when they are in congested areas, require special regulations so that any such adverse effect will not contribute to the downgrading of the surrounding neighborhood or area; therefore, the town council of the Town of Carolina Beach, in order to prevent an over-concentration of such places of business and the creation of de facto downgrading of surrounding neighborhoods or areas, and to ensure the health, safety, and well-being of the citizens of Carolina Beach, as well as that of the tourists and visitors to the town, does hereby amend the Code of the Town of Carolina Beach by adding hereto the following regulations.”

Conditions to be addressed by applicants:

- (1) Must have a person-in-charge on duty at all times and clearly display the name of the person-in-charge in a prominent place.
- (2) Must be sufficiently staffed to control unruly patrons and maintain order on the premises, and when necessary, must swear out arrest warrants on patrons engaging in violent, disorderly or illegal acts.

- (3) Must keep interior and exterior of structure in good repair, clean and well maintained.
- (4) Must comply with noise restrictions.
- (5) Must meet fire codes and limit occupancy to the maximum number allowed for the facility.
- (6) Permit may be revoked:
 - a. Upon a preponderance of evidence that the establishment's patrons display a pattern of disorderly, violent, indecent or unlawful conduct;
 - b. If the application contains any misrepresentation, misstatement or omission, intentional or inadvertent, concerning information required to be provided.
 - c. If permittee loses its ABC license it's conditional use permit shall be revoked. If the permittee is a restaurant, the permittee shall continue to be allowed to operate as a restaurant as herein defined, however, said permittee shall not be permitted to sell alcohol without first obtaining a new conditional use permit as provided under this Section 12.2. For the purposes of this article, a restaurant shall be defined as 'an establishment substantially engaged in the business of preparing and serving meals.'
 - d. If permittee is found guilty by the ABC Commission of three or more significant violations within any 12 month period.
- (7) No new bars/taverns shall be permitted within 200 feet of an established church or school nor within 200 feet of any residential district nor within 200 feet of another bar/tavern. A "new bar/tavern as used herein shall be defined as a bar or tavern that did not exist on May 13, 2003.
- (8) When considering an application for outdoor seating, consider:
 - a. Whether the request will cause damage, hazard, nuisance or other detriment to persons or property;
 - b. Whether outdoor lighting will create additional nuisance impacts to existing or planned adjacent uses;
 - c. Whether outdoor entertainment will create additional nuisance impacts, including, but not limited to noise, on existing or planned adjacent land uses;
 - d. Whether it is necessary to restrict the hours of operation for the outdoor seating; and
- (9) Bars/taverns must comply with all provisions of the NC Alcoholic Beverage Commission
- (10) Conditional use permits are subject to review for continued compliance.
- (11) The town shall issue a conditional use permit to any applicant which demonstrates compliance with the conditions of Sections 8-68, 12.2 and 18.8.

(Ord. No. 03-536, 5-13-03)

Planning Staff has also included for your review a copy of a report done by the Carolina Beach Police Department (See attached)

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 RECOMMENDATION:

The applicant is requesting with this application that a 20' x 20' deck be included. If the deck is to be included, the applicant's required parking for the use is not met. Parking for the multi-use facilities (Lake Park Landing), 72 spaces is adequate per zoning and designed in effect to handle different uses and at different times. Planning Staff would recommend approval for the use if parking is determined as adequate for this site. The following conditions are recommended if the proposal is to be approved:**

1. Must adhere to the Town of Carolina Beach Noise Ordinance.
2. The location and dimensions of refuse collection container and a statement identifying the method and frequency of refuse collection and agency to be used must be included on site plan. The container shall be enclosed on all four sides and remain closed during inactivity.
3. All permits required by Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
4. Approval Notice or Letter must be submitted by applicant from Fire Marshall for the proposed club.
5. Hours of Operation shall be limited to 2:00 p.m. to 2:00 a.m.
6. A sign permit must be obtained for any new signs located on the property.
7. Strict adherence to all provisions of NC ABC license
8. Certification shall be provided that all improvements, shall be constructed and maintained according to the site plan approved by the Director of Planning or his designee) prior to Certificate of Occupancy.
9. Proposal must adhere to Section 8-68. Permits may be revoked as outlined in Section 8-68 Town Code of Ordinances if determined this section is violated.
10. Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.
11. If the deck is to be located in the setback or over the property line then the two lots would have to be combined.
12. The additional parking spaces proposed by the applicant must be marked.
13. Parking for the establishment must be met prior to issuance of Certificate of Occupancy.

**** CONDITIONS SUBJECT TO CHANGE UPON FURTHER REVIEW**

The Planning and Zoning Commission heard this proposal at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request subject to the required findings and staff recommendations above.

After Mr. Chase made his presentation, Mayor Pro Tem Efird made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

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

A motion was made by Mayor Pro Tem Efird to approve the Conditional Use Permit subject to specific standards 1-7; general conditions 1-4; and 1-13 of staff as recommended by the Planning & Zoning Commission. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST TO CONSIDER A MODIFICATION OF A CONDITIONAL USE PERMIT TO ADD A PEDESTRIAN BRIDGE FOR THE ARCADIUS PROJECT LOCATED AT 3 PELICAN LANE; 218, 222, 224, 237, 239 CANAL DRIVE AND 234, 236, 300, 309, 310 CAROLINA BEACH AVENUE NORTH

Scott Chase, Planning & Development Director, announced that the request to modify the Arcadius Conditional Use Permit has not been heard by the Planning and Zoning Commission to date. The applicant has requested this item be tabled or continued until further notice.

PUBLIC HEARING – TO CORRECT AN ADMINISTRATIVE ERROR FOR ZONING FROM R-1B TO MX AT 1102 S. LAKE PARK BLVD.

Scott Chase, Planning & Development Director, reviewed with Council a request to rezone a property at 1102 S. Lake Park Blvd as follows:

The applicant is WB Holdings, LCC (Carey Avent)

BACKGROUND:

The applicant desires to construct a multi-unit dwelling located at 1102 S Lake Park Blvd. An existing single-family dwelling (to be removed) is located on the property and a small portion of the property is zoned R-1B Residential. According to the Table of Permissible Uses, multi-family dwellings are not permitted in the R-1B district and are allowed as a conditional use in the MX (Mixed Use District). The applicant is requesting for the entire lot to be in one zone. There was an error made by the New Hanover County tax department when they drew the lot lines on the parcel tax map. The mistake is currently being corrected (See attached map). The mistake was a 1,600 sq ft triangle that was shown as part of the Carolina Sands common area as shown on the attached map by New Hanover County. The MX/R-1B zoning line followed the mistaken property line when it was rezoned in 2000.

SURROUNDING LAND USES:

The property is adjacent to the Carolina Sands common area to the north zoned R-1B and a single-family home is to the south zoned MX. Across the street is the Sand Pebbles condo's zoned MF. To the rear of

the lot is vacant and zoned MX. Multi-family dwellings are allowed under multi-family in MX zoned properties by conditional use. No objections have been raised by the adjacent property owners.

STAFF POSITION:

The current zoning seems to follow a mistaken property line. The only R-1B zoning in this area is the Carolina Sands neighborhood. It is staff recommendation to correct the zoning line so that it runs with Carolina Sands property boundary and the applicant's property line.

The Planning and Zoning Commission heard this proposal at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the request to rezone property from R-1B (Residential) to MX (Mixed-Use).

After Mr. Chase made his presentation, Mayor Pro Tem Efird 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.**

There being no further discussion, Councilman Doetsch made a motion to adopt proposed Ordinance No. 05-587 (Exhibit 1). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AN AMENDMENT TO PERMISSIBLE USE TABLE 3.9.1 TO REMOVE PERFORMANCE RESIDENTIAL (ARTICLE 15) FROM R-1 AND R-2 ZONING DISTRICTS AND SUBSEQUENT SECTIONS OF THE ZONING ORDINANCE TO ALLOW ACCESSORY STRUCTURES IN THE HB ZONING DISTRICT

Scott Chase, Planning & Development Director, opened by saying that this is a request from the planning staff to amend the Zoning Ordinance concerning performance residential. At the Planning & Zoning Commission meeting in March, the Planning and Zoning Commission motioned to advertise for public hearing, changes to the Zoning Ordinance concerning Performance Residential and Planned Unit Development. Planning Staff has attached for your review changes to the Permissible Use Table that includes a strikethrough of Performance Residential from the Table and the addition of accessory structures to be allowed in the Highway Business District. We have also included changes to the Dimensional Table that includes language for accessory structures in the HB District.

The goal of this change is a desire for a consolidated section of the ordinance related to multi-family and planned-unit development. With performance residential and planned unit development, there are provisions in each that are similar enough to be one. Often, a development plan was chosen from the two that would be less restrictive. Future zoning proposals will include modifications to the planned-unit section that will assist developers and planning staff with clear guidelines and consistent site development.

The Planning and Zoning Commission are currently reviewing changes to the Planned Unit Development Section (Article 16). Planning Staff will provide those changes after recommendations are made from the Planning and Zoning Commission.

The Planning and Zoning Commission heard these zoning amendments at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the attached amendments as presented.

After Mr. Chase made his presentation and read aloud the above memorandum provided to Council, Mayor Pro Tem Efird made a motion to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Ms. Birdie Clark, resident of 233 Florida Avenue, spoke in favor of the above proposed amendment since it particularly affects part of Florida Avenue.

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

A motion was made by Councilman Lynch to adopt Ordinance No. 05-588 (Exhibit 2). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AN AMENDMENT TO ARTICLE 8 LANDSCAPING AND BUFFERING AND RENAME SECTION AS LANDSCAPING AND DEVELOPMENT SPECIFICATION STANDARDS AND TO ADD SPECIFICATIONS FOR SIDEWALKS, CURB AND GUTTER REFUSE COLLECTION SITE ENCLOSURES, AND GENERAL LOT CLEARING SPECIFICATIONS FOR SIDEWALKS, CURB AND GUTTER REFUSE COLLECTION SITE ENCLOSURES, AND GENERAL LOT CLEARING SPECIFICATIONS

Scott Chase, Planning & Development Director, reviewed the proposed changes to the Landscape Ordinance as follows:

1. New name to Article 8: Landscaping and Development Specification Standards.
2. Definition for “Development”
3. Sidewalk and curb & gutter are made a requirement for new development and redevelopment in Carolina Beach as specified in 8.9 Section 2 Design Specification Standards.
4. Require a “Type B” buffer on all sides of subdivisions not adjacent to a street.
5. Create provisions for tree preservation on residential lots.
6. A separate document includes the specifications for sidewalks and curb & gutter.
7. Dumpster Enclosures

In an overview of the proposed changes, Councilman Lynch asked Mr. Chase if every new duplex will be required to put in a sidewalk on the property. For sidewalks, Mr. Chase explained that we classify single family homes and duplexes as the same so not necessarily and we can make that clearer. He said that the Planning & Zoning Commission recommends that we exclude single family duplexes.

Councilman Lynch inquired about the inconsistencies in sidewalks and it matching up. Mr. Chase said that there has been some discussion among Council that sidewalk, curb and gutter was a goal. He does not know if this is projected for single family or duplex development included with that or not.

Mr. Peck said that the intent was to those developments, but not single family duplex so that someone cannot just go and put something in that they think might meet the standards. If Council adopts this as well as the standards, we will get that consistency and we will be able to match up on both ends so it is not an issue.

Councilman Macon asked who would be the person that we see for this to get that sidewalk at the proper elevation for that block.

Mr. Chase said that we would require an engineer elevation for that sidewalk being installed.

Mr. Peck added that the site plan would require an engineered plan with elevations so we can make sure that it would work for the street.

Councilman Macon likes the concept, but has some concerns about the process of making it work.

Councilman Macon felt that the town is adding more to the workload because we are going to have to do the approvals to make this work out in the end. Mr. Chase stated that their intent when they get a site plan is to look at the elevation and grade, etc. In the past, we have not looked well at it and although it will be a little added work, it will be worth it. Councilman Macon asked if we are going with the building code definition of multi-family versus single-family because town homes are technically looked at as single family dwellings. He feels we need to clarify what we are defining for single-family dwelling and duplex. Mr. Chase said that we would require a town home as a planned unit development by those standards.

There being no further discussion among Council, a motion was made by Mayor Barbour to open the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mr. George Connett, resident of 1321 Cabo Court in Portside Development, does not like to see clear cutting. Mr. Connett suggested that we check with Mt. Pleasant, SC concerning the clear cutting because they are not allowed to do it there, otherwise they are fined and have to replace the trees. Mr. Connett suggested that we revisit this and add language that you can't clear cut with a penalty if they do, or have certain size trees that they can't take out. Mr. Chase added that there is not any language at all in the Zoning Ordinance now that prevents that from happening. He feels that this was a good start to requiring it and it is better than what we have now, which is not anything.

Councilman Lynch asked if we could not require it? Mr. Chase said that it could be a recommendation from Council, and we would be happy to relook at it.

Ms. Jan Weissbeck, resident of 118 Georgia Avenue, spoke in concern about the drainage problem if we take out the trees. She doesn't understand why we are cementing this whole island over when we already have a drainage problem.

Ms. Birdie Clark, resident of 233 Florida Avenue, is also not in favor of clear cutting and supports Mr. Connett's previous comments. She would like to see an ordinance with some teeth into it. She inquired about the American Legion project on Spencer Farlow. She heard they were having difficulty and have been told now that they have to put some things in after their renovations. Ms. Birdie asked if they want to make some renovations now and expand, do they have to put in curb, gutter and sidewalks? Councilman Macon commented that it would have to be more than 50% of the value of the structure.

Ms. Jeanne Mintz, resident of 205 Georgia Avenue, addressed her concerns about the wildlife if we take down all the trees as well as the drainage.

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

Councilman Doetsch wants to see live oaks preserved and is not in favor of clear cutting trees.

A motion was made by Councilman Doetsch to send this item back to the Planning & Zoning Commission to put more teeth in the ordinance and to research how other cities control clear cutting such as: Mt. Pleasant, SC, Cary, NC and Chapel Hill, NC, and to include defining the single family duplex. **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AN AMENDMENT TO ARTICLE 11 SIGN AND HANDBILL REGULATIONS

Scott Chase, Planning & Development Director, informed Council that the planning staff has included for your review a proposal to allow A-Frame signs within the Central Business District. A-Frames or simply sandwich or “specials” boards are appropriate for pedestrian oriented commerce areas such as the Central Business District.

The Planning and Zoning Commission heard these zoning amendments at its April 14, 2005 regularly Scheduled Meeting. The Planning and Zoning Commission unanimously recommends approval of the attached amendments as presented.

Mr. Chase read aloud the proposed changes to the amendments.

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

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

Councilman Macon asked if this was advertised just for the Central Business District (CBD)? Mr. Chase told him that it was advertised as the entire Sign Ordinance so we could make any change in it. He explained that we used the City of Wilmington as an example for A-frame signage and they are usually used where there is pedestrian commerce. Mr. Chase also mentioned that we usually allow A-frame signage when we don't allow free standing signs.

Mayor Barbour felt that we could go back later and look at other areas, but this is primarily for the CBD. Mr. Chase commented that since we are already looking at the Sign Ordinance now, they could talk about additional A-frame signage in other districts. Councilman Macon felt that we should be open to the idea of other districts.

A motion was made by Mayor Pro Tem Efird to adopt Ordinance No. 05-590 (Exhibit 3). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER AN AMENDMENT TO CHAPTER 15 STREETS AND SIDEWALKS, CURBS AND GUTTERS

Steve Pagley, Operations Director, requested that Council consider an amendment to Chapter 15 Streets, and Sidewalks, Curbs and Gutters to include a diagram of the written standards and specifications for sidewalks, curb and gutters with detailed drawings so there is a standard for developers to follow.

Council thanked Mr. Pagley for his work on this.

In addition, Councilman Macon inquired about the status of requirement for paved driveways versus something else. Mr. Pagley informed him that the storm water superintendent has been meeting with the Operations Advisory Committee, and they are in favor of the apron to the right-of-way and it being contained by concrete border, but we are still working on it.

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

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

A motion was made by Councilman Lynch to adopt Ordinance No. 05-591 (Exhibit 4). **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER ACCEPTING THE OFFER AND SELL OF PUBLIC PROPERTY LOCATED AT 313 GEORGIA AVENUE

Calvin R. Peck, Jr., Town Manager, advised Council that we have covered most of this item, but when it was published on Thursday, there was not an upset offer. Because of this, Mr. Peck said that we are requesting that Council accept the offer to sale the public land at 313 Georgia Avenue and make the sale that was received Friday. There were two actions: 1) sell the property and 2) adopt proposed Capital Project Ordinance 05-585. Mr. Peck explained that the problem is that we need to cover the unbudgeted costs contingent on the sell of property for the architect, engineer, etc. that have started working on the project.

Also, Mr. Peck requested Council consider accepting the offer and sell of public property located at 313 Georgia Avenue from the successful bidder in the amount of \$3,250,000.00. The terms of the sell to include a 90-day due diligence period during which the buyer will pay the town's expenses up to \$50,000.00, closing 30 days after that. The town will maintain a utility easement for water line and water access and existing well to be abandoned by the purchaser at NCDENR requirements. Mr. Peck suggested that the best thing to do is to adopt the proposed project Ordinance No. 05-585 as is and set our own cap limit of \$50,000 for expenses. Once we get a final sale price and Council agrees to it, we can come back and amend the ordinance with the correct figures. Lastly, Mr. Peck said that we gave the bidder a copy of all the conditions and had them sign it, and they gave the clerk a \$175,000 bank check to deposit.

Councilman Lynch asked that the town manager talk with the person who made the offer on this land to see if there is any possibility of us picking up a few more feet along the waterway. Mr. Peck said that he would mention it.

There being no further discussion, Councilman Doetsch made a motion to adopt a Capital Project Ordinance No. 05-585 (Exhibit 5). **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER APPROVAL OF ANNUAL CONTRACTS FOR VEGETATION AND C&D DEBRIS, SAND DEBRIS AND PAVING/PATCHING (ASPHALT & CONCRETE)

Harry Oakes, Assistant Operations Director, advised that he and Barry Johnson, town's Environmental Consultant, have reviewed the attached contracts and are recommending that an award be made to the lowest

responsible bidders for the listed contracts for FY 2005/2006 and in the amounts indicated below:

Phase II – Vegetation and C&D Debris Removal

Secof Construction, LLC

\$6.00/cu yd for C&D Removal

\$6.00/cu yd for Vegetation Debris Removal

Phase II – Sand Debris Removal, Sifting and Berm Replacement

Natco, Inc.

\$4.00/cu yd for Unit Price No. 1

\$2.01/cu yd for Unit Price No. 2

\$2.35/cu yd for Unit Price No. 3

Annual Paving

Surface Mac, Inc.

\$31.05/sq yd for Unit Price No. 1

\$33.35/sq yd for Unit Price No. 2

\$54.00/sq yd for Unit Price No. 3

\$46.00/sq yd for Unit Price No. 4

After Council reviewed the bids, Councilman Doetsch made a motion to award the bid to Secof Construction, LLC in the amount of 6.00/cu yd for C&D Removal and \$6.00/cu yd for Vegetation Debris Removal.

MOTION CARRIED UNANIMOUSLY.

Councilman Lynch made a motion to award the bid to Natco, Inc. for sand debris removal, sifting and berm replacement in the amount of \$4.00/cu yd for Unit Price No. 1, \$2.01/cu yd for Unit Price No. 2, and \$2.35/cu yd for Unit Price No. 3. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Efird made a motion to award bid to Surface Max, Inc. for annual paving contract in the amount of \$31.05/sq rd for Unit Price No. 1, \$33.35/sq yd for Unit Price No. 2, and \$54.00/sq yd for Unit Price No. 3, and \$46.00/sq yd for Unit Price No. 4. **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – PRESENTATION BY TOWN MANAGER TO CONSIDER ADOPTING A PRELIMINARY ASSESSMENT RESOLUTION NO. 05-823 AND PROPOSED ORDINANCE NO. 05-584 TO PAVE THE FOLLOWING STREETS: CROAKER LANE, NORTH CAROLINA AVENUE, SOUTH CAROLINA AVENUE, SPOT LANE, SEARAY LANE, MACKEREL LANE, BONITO LANE, SWORDFISH LANE, TEXAS AVENUE, SNAPPER LANE, BOWFIN LANE AND TENNESSEE AVENUE

Since Mr. Peck, Town Manager, had already made an earlier presentation this evening concerning this issue, he requested that Council consider adopting the proposed Preliminary Assessment Resolution No. 05-823 and adopt proposed Ordinance No. 05-584, creating a capital project ordinance for the construction, paving and drainage of certain roads in the Wilmington Beach area. This way, Mr. Peck said that staff could have some informational meetings with engineers, public, etc. and conduct an official mailing. However, Mr. Peck

cautioned Council about telling developers when they put streets in that they also have to put curb, gutter and sidewalks in too because they are not meeting the same standards.

Councilman Lynch said that even if they adopt the resolution, we can still come up with a number of options. Councilman Doetsch also mentioned that he would like the public information officer to get involved so residents are kept informed and educated about this.

Councilman Lynch suggested having an informal open house up there so we can put some charts and information of where their tax money is going. Mr. Peck said that we can do that before there is a public hearing.

The town clerk suggested that Council have their open house and see how that goes first. Then, we can bring this preliminary resolution back to Council for consideration and by then we might have a better idea of when to hold the public hearing.

The town manager said that if Council sets the public hearing for a certain date and we are not ready, we can extend it if necessary.

There being no further discussion, Councilman Lynch made motion to approve Resolution No. 05-823 changing 5 years to 10 years and schedule a public hearing on September 13, 2005 (Exhibit 6). **MOTION CARRIED UNANIMOUSLY.**

In addition, Councilman Lynch made a motion to approve Ordinance No. 05-584 (Exhibit 7). **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER AWARD A BID FOR CAROLINA SANDS STORM DRAINAGE PROJECT

Calvin R. Peck, Jr., Town Manager, opened his presentation by explaining that on May 3, 2005, the Town of Carolina Beach had a second bid opening for the Carolina Sands Storm Drainage Project because the first bid opening we did not have 3 qualified bidders. After the town's engineering consultant, Brian G. Cox, P.E. carefully reviewed all bids, there was one contractor, Industrial Turnaround Corporation identified as the lowest bidder, but was non-responsive bidder and not properly licensed. Because of this, Mr. Peck recommended Council consider awarding the bid to T.A. Loving Company for the base bid total of \$2,029,900 and direct the finance officer to seek financing for the project.

With no further discussion among Council, Councilman Lynch made a motion acknowledging the non-responsive bid that was submitted by Industrial Turnaround Corporation. **MOTION CARRIED UNANIMOUSLY.**

In addition, Mayor Barbour made a motion to award the bid for the Carolina Sands Drainage Project to T.A. Loving Company for \$2,029,900 and direct the finance officer to finance the project. **MOTION CARRIED UNANIMOUSLY.**

Dawn Johnson, Finance Director, informed Council that it will have to go before the Local Government Commission (LGC) because it is an improvement to real property. She explained that our intent is to combine both projects into one package and send it to the LGC so we get financing for both projects under one agreement. She advised that it would take 90 days to get approval for this from the LGC and financing.

Next, Councilman Doetsch made a motion to adopt project Ordinance No. 05-586 (Exhibit 8). **MOTION CARRIED UNANIMOUSLY.**

NEW BUSINESS – CONSIDER APPROVAL OF CONTRACT WITH SOUTHERN SOFTWARE, INC. FOR POLICE PAK SOFTWARE, TRAINING AND SUPPORT

Billy Younginer, Chief of Police, requested that Council approve a contract with Southern Software, Inc. for Police Pak Software, training and support for entering and maintaining police records in the amount of about \$36,000. He said that the company they have now is not very responsive to our needs.

There being no further comments from Council, Mayor Barbour made a motion to approve the contract with Southern Software, Inc. in the amount of \$34,895.00 for the purchase of Police Pak Software, training, installation and support. **MOTION CARRIED UNANIMOUSLY.**

ITEMS NOT ON THE AGENDA

In opening discussion of items not on the agenda, Al Clyburn, Town Attorney, reported the status of two lawsuits. The town and each individual councilmember's identified as respondents in challenges concerning two conditional use permits that were issued by this Council last fall involving Park Place and Arcadius projects. Those petitions were dismissed recently in favor of the respondents.

Mr. Peck, Town Manager, announced that the Chamber of Commerce is having a free concert at the Carolina Beach Lake from 6:00 p.m. – 8:00 p.m. Mayor Barbour diverted this event to Mayor Pro Tem Efird because will be out of town. In addition, Mr. Peck announced that June 4, 2005 is the Beach Music Festival in front of the Boardwalk on the oceanfront and the public information officer has tickets for Council.

Ted Lashley, Parks & Recreation Director, reminded Council that the Youth Fishing Tournament at Kure Beach Fishing Pier is on June 4, 2005 at 6:00 a.m.

Steve Pagley, Operations Director, informed Council that the contractor has started the sidewalk project.

Councilman Macon distributed a request to Council referencing the supplies for kids. Mr. Peck said that it is not in the recommended budget because he did not have it, but we can amend the budget.

To conclude, Mayor Barbour addressed a letter he received from Rex Creech and Ann Bennett. He advised that there is a track of land off of Virginia Avenue behind their houses in the marsh. There has been a house built on the corner that is right next to the marsh and also rumors that this track is intended to try to be developed. Mayor Barbour reported that it is not subdivided, but it is one large track that runs along the backside to Canal Drive. Mayor Barbour recommended that we send this to the Planning & Zoning Commission to zone it conservation because he is not in favor of filling that area. There are many times when permits are given without the town's approval through CAMA. Council agreed.

Councilman Macon wanted to know how the two houses received permits. Mr. Chase said that they received a Corps of Engineer's permit and CAMA permit. Mr. Chase also mentioned that there are some access issues too. Councilman Macon also suggested that the town attorney look into this issue.

ADJOURNMENT

There being no further business, Mayor Pro Tem Efirm made a motion to adjourn. **MOTION CARRIED UNANIMOUSLY**. The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____