

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

February 13, 2007

The Town Council of the Town of Carolina Beach met in regular session on February 13, 2007 at 6:30 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, Bill Clark; Mayor Pro Tem (MPT), Alan Gilbert; Councilwoman, Pat Efid; Councilman, Jerry Johnson; and Councilman Joel Macon. Also present was Town Manager, Tim Owens and Town Clerk, Lynn N. Prusa.

Mayor Clark called the meeting to order.

INVOCATION

Reverend Keith Grogg from the Carolina Presbyterian Church gave the invocation.

PLEDGE OF ALLEGIANCE

Mayor Clark led everyone in the pledge of allegiance.

ADOPT THE AGENDA

Mayor Clark asked for a motion to approve the agenda with the following proposed change:

Item #17 – Appointment to the Planning and Zoning Commission – Application received after the advertised deadline. Council may or may not want to consider applicant Joda Bennett at this time.

**MPT Gilbert made a motion to adopt the agenda with the proposed change.
MOTION CARRIED UNANIMOUSLY**

INTRODUCE NEW EMPLOYEES

Steve Pagley, Director of Operations, introduced Brian Brooks with the water division and Michael Carter with the environmental division.

PUBLIC DISCUSSION (Five minute time limit per person)

Randy Simon stated there is still no relief at Mona Black Marina located at 930 St. Joseph Street. I've been told that some rocks were going to be brought in so we could see the sand coming out of the pipe but this has not been done. Many months ago Town Council directed our town manager to seek out grants. I have repeatedly said I would like to be involved and help, not just complain. Unfortunately the doors remain closed as far as I can see.

We have implemented three burlap bags located at three open grates at the entrance to Mona Black Marina. There are hundreds of these open grates. Three burlap bags and then cutting slits into a larger one when they start to fill up is not the remedy our people deserve on this island.

Our home builders are being required to contain 100% of their stormwater run off yet the Town of Carolina Beach is required at zero. That needs to be rectified. We need to set an example and correct our standards.

Mr. Owens said there is a CAMA permit required and it's in the hands of our engineer right now to do the rip rap portion of it. He also said he met with the Division of Coastal Management yesterday and he has some other leads on possibly finding something that will retain silt within that last outfall. He also said that he believes DOT was doing some things and that Brian Stanberry, the town's stormwater superintendent, may have found something that could contain silt in that last drop inlet.

Councilman Macon requested that Mr. Simon be kept informed of the process.

The next speaker was Charles Eaves who has been an owner of numerous properties in Carolina Beach since 1984. He said he was hired as a consultant for a new project in Brunswick County which has a relationship with Carolina Beach. He gave parking comparisons at the Marriott in Carolina Beach, Blockcade Runner in Wrightsville Beach and Shell Island. He stated that we need year round revenue in Carolina Beach and it's necessary to try it in our master plan. He said, I am speaking as a property owner of Carolina Beach. We've got to do something. He cited the time lost in schools from Washington, DC all the way to New York and said it will be almost the end of June before they get out and they normally go back August 15th so that cuts down on our tourist season which is our revenue base. He asked Council to at least give it a shot on in the master plan for year round revenue.

RECOGNIZE SEAGROVE DEVELOPMENT FOR 2006 STEWARDSHIP DEVELOPMENT AWARD

Mayor Clark recognized Mr. Jim Wallace and two other gentlemen from Seagrove Development. They received the 2006 Stewardship Award at the 2nd Annual Lower Cape Fear Stewardship Development Award Banquet in January. The Town Council

wanted to take this time to give the developer special recognition in receiving the award since they are a part of our community.

CONSENT AGENDA

Mayor Clark read one addition to the consent agenda, Item #8(m):

Item #8(m) – Add – Adopt Proclamation No. 07-890 Proclaiming March 5-11, 2007 as Multiple Sclerosis Awareness Week in the Town of Carolina Beach.

He asked that the following items be moved for separate discussion:

Item #8(f) – Move to New Business Item #26(b) - Adopt a Resolution Declaring the Town’s Support and 25% Shared Cost for a NC Governor’s Crime Control and Public Safety Grant for Personnel.

Item #8(g) – Move to New Business Item #26(b) - Adopt a Resolution in Support of a NC Governor’s Highway Safety Grant for the Purchase of Software

Mayor Pro Tem Gilbert made a motion to approve the items on the consent agenda, as follows including Item #8(m):

Approval of the Minutes

Regular Meeting	December 12, 2006
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Continued	

Consider request for the following budget amendments and transfers:

Human Resources

The Human Resource’s Department is requesting a transfer of \$725 from account 104500.57-Incentive Program into account 104500.59-Longevity Pay Plan to cover a shortfall in the account for budget year 2006/2007.

Planning

The Planning Department is asking for two transfers the first is in the amount of \$1172.50 for an outstanding invoice from May of 2006 for planning services with the Cape Fear Council of Government. The request is to transfer \$1172.50 from account 104910.12-Printing and Publishing and place into account 104910.45-Contract Services.

The second request is for \$2500 for facilitation Services for the Land Use Plan Ad-Hoc Committee. The request is to transfer \$2500 from account 104910.12-Printing and Publishing and place into account 104910.45-Contract Services.

Water/Sewer Fund

As discussed at our budget meeting held on January 29, 2007, we are anticipating a shortfall in the water/sewer fund due to building decline. Because of this decline it is necessary for us to adjust our budget. In several of our revenue accounts we had underestimated revenues and therefore are going to increase those line items (\$2000-Stormwater Drainage Fees, \$193,000-Interest, \$36,000-Service Fees, \$30,000-Penalties and \$4000-Reconnection Fees). We are anticipating a shortfall in other revenues accounts and are going to need to decrease those appropriations (\$310,000-Stormwater User Fees, \$180,000-Water Connection Fees, \$160,000-Sewer Connection Fees, \$832,218-Facility Fees). We are also decreasing many expenditure accounts to cover this shortfall. There are two positions which were funded one in WWT and one in WWC which will no longer be funded, this also involves the fringe benefits for these positions (\$28,090- WWT Salaries, \$2,148-FICA, \$3,000- Group Insurance, \$1,348- Retirement, \$22,404-WWC Salaries, \$1,714-FICA, \$3,000-Group Insurance and \$1,075-Retirement). We also had a transfer from the water/sewer fund of \$100,000 into the general fund which we will not be making. We have decreased appropriations in the amount of \$40,000 in the professional services in WWC Department and \$40,000 in the maintenance to mains in the Water Department as well as deleted the appropriation of \$80,000 for the Fuel Farm and \$57,825 in the Drainage Department for grant monies for the lake project. The final adjustment will be to the appropriated fund balance in the amount of \$836,624. I have attached a journal entry sheet showing the transactions involved.

**Budget Amendment
Water/Sewer Fund 2006-2007 Anticipated Shortfall
13-Feb-07**

Account #	Account Name	Debit	Credit
303220.00	Stormwater Drainage Fees	\$2,000.00	
303290.00	Interest	193,000.00	
303300.00	Stormwater User Fees		\$310,000.00
303710.00	Water/Sewer Service Fees	36,000.00	
303710.15	Penalties	30,000.00	
303720.00	Water Connection Fees		180,000.00
303730.00	Sewer Connection Fees		160,000.00
303740.00	Facility Fees		832,218.00
303750.00	Reconnection Fees	4,000.00	
308000.80	T/F to General Fund		100,000.00
308100.02	WWTP-Salaries		28,080.00
308100.05	FICA		2,148.00
308100.06	Group Insurance		3,000.00

308100.07	Retirement		1,348.00
308110.02	WWC-Salaries		22,404.00
308110.05	FICA		1,714.00
308110.06	Group Insurance		3,000.00
308110.07	Retirement		1,075.00
308110.46	Professional Services		40,000.00
308120.20	Maintenance to Mains		40,000.00
308130.74	Fleet Maint.-Capital Project		80,000.00
309000.74	Stormwater-Capital Project		57,825.00
303990.00	Appropriated Fund Balance	836,624.00	

Set a public hearing date for March 13, 2007 at 7:30 p.m. or soon thereafter to receive public input on the upcoming FY 07/08 Budget.

Approve the adoption of Resolution 07-886 (*Exhibit 1*) requesting the NC Division of Coastal Management to provide financial assistance for the repair and improvement of the Cape Fear Blvd. Beach Access Project.

Approve the adoption of Resolution No. 07-889 (*Exhibit 2*) opposing off-shore drilling.

Approve the adoption of Resolution No. 07-887 (*Exhibit 3*) endorsing to have the official commissioning of the USS NC Submarine in the City of Wilmington in 2008.

Approve the adoption of Proclamation No. 07-888 (*Exhibit 5*) proclaiming February as Autism Awareness Month.

Set a public hearing date for March 13, 2007 at 7:30 p.m. or soon thereafter to consider the proposed text amendments to the Zoning Ordinance, Article 18 Non-Conforming Situations.

Approve the request to revise personnel policy language for Article VI/Employee Benefits/Section 2/Retirement.

Set a public hearing date for March 13, 2007 at 7:30 p.m. or soon thereafter to consider repealing ordinances requiring conditional use permit for Non-Conforming Bars/Taverns, Article 18 Non-Conforming Situations and Article 12 Development Standards for Particular Uses.

Approve the adoption of Proclamation No. 07-890 (*Exhibit 5*) proclaiming March 5-11, 2007 as Multiple Sclerosis Awareness Week in the Town of Carolina Beach.

MOTION CARRIED UNANIMOUSLY

DISCUSSION CONCERNING THE MASTER DEVELOPMENT PLAN AND SELECTION PROCESS

Mr. Owens stated staff was seeking guidance on how Council wants to proceed with the selection process for the Master Development Plan.

All the RFP's for the Master Development Plan will be back to Mr. Owens by March 6th and are to be opened on March 19th. After that a selection process has to take place for the actual selection of the firm. Mr. Owens said there is no firm way to do this.

To follow are several options that were presented for the selection process:

Option 1 – Town Council as a Selection Committee

Option 2 – Master Development Plan Steering Committee with Proposed Timeline

Option 3 – Town Staff as Selection Committee to Consist of all Department Heads

Option 4 – Other Options to Be Determined By Town Council

Mr. Owens said the intent is to get public input. The committee is just a selection committee for the most qualified firm. There will be numerous public meetings and charrettes.

It is important to know what our market is in order to do the master plan and the Chamber of Commerce has expressed interest in creating the marketing arm for this project. They are seeking donations from some of their members to do a study. Mr. Owens feels the Chamber should work with the selected firm.

Councilman Macon made a motion to use Option 1, Town Council as a selection committee, with department heads invited to participate in their discussions. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 12.2 DEVELOPMENT STANDARDS FOR PARTICULAR USES AND ARTICLE 23 DEFINITIONS TO ALLOW FOR RECREATIONAL VEHICLE STORAGE (TABLE TO 3/13/07)

Mayor Clark announced that this item is being tabled to Consider amending the Zoning Ordinance, Article 12.2 Development Standards for Particular Uses and Article 23 Definitions to Allow for Recreational Vehicle Storage was been tabled to March 13, 2007 at 7:30 p.m. or soon thereafter.

CONSIDER MODIFYING A CONDITIONAL USE PERMIT FOR MICROTEL HOTEL TO ADD AN OUTDOOR BOAT STORAGE AT 907 N. LAKE PARK BLVD. (TABLE TO 3/13/07)

Consider modifying a conditional use permit for Microtel Hotel to add an outdoor boat storage at 907 N. Lake Park Blvd. was tabled to March 13, 2007 at 7:30 p.m. or soon thereafter.

WATER USE AND HARBOR MANAGEMENT PLAN FOR THE TOWN OF CAROLINA BEACH (TABLE TO 3/13/07)

The public hearing for the Water Use and Harbor Management Plan for the Town of Carolina Beach was been tabled to March 13, 2007 at 7:30 p.m. or soon thereafter.

CONSIDER AMENDING THE ZONING ORDINANCE FOR OPEN AIR BAR, ARTICLE 12 DEVELOPMENT STANDARDS FOR PARTICULAR USES AND ARTICLE 23 DEFINITIONS

Jeremy Hardison, Zoning Administrator, said this item is for proposed language for an open air beach club. A beach club shall meet all requirements for bars/taverns. In addition, a beach club may contain open space and enclosed structures utilized for recreation, bar, restaurant, and/or retail use.

A beach club would have to meet all 11 conditions that a bar would have to meet. In addition for an outside component, additional conditions would have to be addressed:

- 1) noise should be confined to the property and should not exceed the appropriate noise level except by permit that has been issued by the town manager to exceed the limit for the time and place of the activity;
- 2) fencing or barriers shall be in place to promote crowd control, safety, and security of the site;
- 3) the outdoor area shall be safely lighted and be confined to the project property not to shine on adjoining properties.

The districts for this proposed use would be the CBD, HB, MB, T-1, and I-1. Mr. Hardison said, those zoning districts currently allow for bars, and that was the reasoning behind that.

M. Hardison said, before you is the staff land use consistency analysis and the unanimous motion by Planning and Zoning, as follows: Add the beach club definition to Article 23, include beach clubs as part of conditions 1-11 in Article 12 and add the additional conditions 1-3, and the uses of the land – CBD, HB, MB, T-1 and I-1 – all be approved, and it is consistent with the LUP.

Council discussed the concern of the proposed definition of a beach club.

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

Adam Higgins, 303 Hamlet Avenue, said he had a couple clarification questions. One being, can't we just leave this contained in a conditional use process? Whether or not it is a conditional use in a certain zone still has to come before you and be approved so that you can make sure that it meets all the criteria and it is operated correctly.

He continued, the other concern I had was the building code will definitely address a lot of these concerns. Enclosed structures are required. We definitely looked into the possibility of minimal structure being out there and it's actually quite elaborate of the requirements per building code.

Donald Motsinger, 107 Carolina Beach Avenue South, said he is a little confused. You said an open air bar but we discussed a beach club. Mayor Pro Tem Gilbert said we're talking about zoning. Mr. Motsinger said on the agenda, it says under 13 open air bar but what you've been discussing is a beach club. I'll take a couple of my concerns and I think I've heard two or three people say it, it's the noise. I don't want to hear that noise at 1:00 or 3:00 in the morning. The lighting bothers me as to how it's going to be controlled and contained. One of the things that we see where we are on the beach is the litter. We police every time we come down here, our property and the adjacent properties and we're always picking up plenty. The nature of open, people can carry things away - I wonder how we are going to service stuff in the open air. Are we going to have bottles, cans, cups? What type of containers? Is there a requirement for that? Lastly, I don't really think if we're talking about open air bar, I don't know how that equates to the beach club, that we're conducive to the family orientation that we say we want this beach to be. You've got to consider a lot of things.

The next speaker was Leroy Franks of 908 Canal Drive who said I don't approve of an open air bar being classified as a beach club because it is not. I also resent the fact that it would intrude on fellow residents. It's not strictly a commercial enterprise there but the residents live there too. They need some guarantee of peace and quiet according to the laws of the federal government.

Cathy Wayne, 115 Carolina Beach Avenue South, said one of my biggest concerns is the noise. In an open air situation, I don't see how you can contain noise to that specific space. It's going to spread out. One thing you said Mr. Gilbert is the possibility of placement of those types of open air beach clubs or bars. If they were more centrally located in the CBD versus on the fringes where you are then getting into T-1 and abutting up to residential that it might not be as objectionable. I think when you start looking at the placement of those that does need to be something that you consider -- the noise.

Mike Kirkbride, 905 S. Ft. Fisher, said I understand the concerns about the noise. I think with respect to the CBD I see that we pretty much know that we are looking for creating a critical mass of use again like in years pass, in the 50's say, when it was kind of peaking. I hear that we had a go-kart track there. What we are looking to create is something like

what we have at the Tiki Bar at the pier. I see something where we can have a drink and a meal on the beach. We need some of those critical masses. I see particularly with the group that is proposing one of these in their case we're looking at bringing a demographic that we don't have many of. We're looking for the 20 to 30 year olds down on the beach. I think that is another thing this town really needs to bring that back. I understand people that have residences in the T-1 but where we are talking about transition is between T-1 and residential not between CBD and T-1. In this case, I would just favor the CBD as the area for this proposal. I would look forward to having one because I love to frequent the Tiki Bar on the water. I think we really need that type of environment. My experience there is they do have music but I don't see it being overwhelming very far beyond the boundaries. I think knowing what the proposal is even though that is not part of this, I know that they have that same sense of keeping good neighbors.

Dan Wilcox, 614 Monroe Avenue, spoke in favor of this type of venture. I think this is something our town needs. I can understand the concerns in the transitional zones. I think in the CBD zone there are residents there. I think there's some buyer beware now knowledge that needs to be applied there. If you buy a residence in the CBD, you have to understand you're in a business district. Our business has a lot to do with tourists. The other thing I keep hearing a lot about are bringing families to the beach. I think people forget sometimes that families aren't always a 25 year old couple with 3 and 4 year old kids. I know a lot of families that come here with older parents and grown children, all their kids come, and they are 25-30 years old and they all enjoy going out and doing these types of things. I urge you to consider, at a minimum, at least trying something like this in the CBD and see what happens with it.

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

Mayor Pro Tem Gilbert made a motion to send this back to the planning staff for refinement and then to the Planning and Zoning Commissioners for some discussion, and for someone to talk to me about the future of conditional zoning and how this might be a good opportunity for it. MOTION CARRIED 3-2 WITH COUNCILWOMAN EFIRD AND COUNCILMAN MACON VOTING NO.

REQUEST FOR A CONDITIONAL USE PERMIT FOR AN OPEN AIR BAR/TAVERN LOCATED AT 101 CAROLINA BEACH AVENUE SOUTH

Mr. Hardison recommended that this item be tabled until there is specific language to address it.

Mayor Pro Tem Gilbert made a motion to table the request for a conditional use permit for an open air bar/tavern located at 101 Carolina Beach Avenue South pending a recommendation from P&Z.

After some discussion, Councilman Johnson made another motion to table the request for a conditional use permit for an open air bar/tavern located at 101 Carolina Beach Avenue South pending P&Z's review and recommendation with staff. **MOTION CARRIED 3-2 WITH COUNCILWOMAN EFIRD AND COUNCILMAN MACON VOTING NO.**

REQUEST TO MODIFY A CONDITIONAL USE PERMIT TO EXPAND A RESTAURANT (BLACKHORN BAR & KITCHEN) LOCATED AT 15 CAROLINA BEACH AVENUE NORTH

Mr. Parvin said the applicant for this proposal was approved for a Conditional Use Permit for a restaurant and arcade by Council in August of 2005. The parcel is located within the 100-year floodplain which requires any new structures to be elevated. It is also in the CAMA AEC.

Under zoning, there are no proposed changes. The proposed changes would be for the seating. The original conditional use was for 34 seats. At this time, Mr. Parvin realized he needed to be sworn in. He was sworn in by the town clerk and then continued with his presentation. He said they are requesting an increase for 8 seats to expand into the arcade side for a total of 42 seats.

There will be no expansion of the building; they are going to expand the restaurant and decrease the size of the arcade. The restaurant is going from 1,147 square feet to 1,400 sq. ft. and the arcade is going from 2,850 square feet to 2,597 sq. ft.

The applicant received a waiver for the 25 spaces required with the original conditional use. This modification increases it to 27 required, which is 2 more than the original permit, which will be 13 for the arcade and 14 for the restaurant. The applicant is asking that the additional parking as a result of the modifications be waived.

Staff found the application to be consistent with the '97 Land Use Plan. Planning and Zoning heard this at its January 11th meeting and unanimously recommended approval of the modifications for the expansion of the restaurant to create an entryway out of the exit of the building, extend the bar 10 ft into the arcade to accommodate 8 additional seats, waive the additional two parking places based on Article 7.1(c), and accept staff recommendations 1-10, the required findings 1-7, and general conditions 1-4.

Mayor Pro Tem Gilbert asked, is this still the arcade as he pointed to a picture. Mr. Parvin said that would be the arcade and the restaurant is extending into the arcade area. Mayor Pro Tem Gilbert said so this bar will jut out into the arcade and you have arcade games around it. Mr. Parvin said I think the applicant can talk about how he is going to have the arcade games. He is definitely going to rearrange them. I think some of the seating is going to be in the front part. I should let him talk about that but he is going to have some seating in the front and more of the arcade in the back.

Mayor Clark invited the applicant to be sworn in so he can review this and also invited anyone else who wished to speak on this to be sworn in. At this time, Adam Higgins was sworn in.

Adam Higgins, 303 Hamlet Avenue, said the reason for expansion was incorporated in our increasing of the market on the boardwalk. Let me go through the relative picture. This was going to be on the south end of the boardwalk to leverage the synergy between Blackhorn and this location. It would be closing around 11 and pushing everyone off towards Blackhorn our later night establishment. Mayor Pro Tem Gilbert asked, do you have pictures of the interior of the bar that shows how this is going to be situated? That is what I'm looking for is how this bar juts out into the arcade. Mr. Higgins said there was some boardwalk relevant type stuff in there that I was going to show. Basically we're trying to expand into the south side of the Blackhorn into the north side of the arcade. The 3-D rendition was just an extension of the current bar through the wall. Basically moving a few more games toward the rear and increasing the capacity of the restaurant portion of it.

As far as ABC is concerned, they are already aware of the arcade's existence; it's already licensed as an alcohol service area. We just want to put an actual point of sale on that side and the addition of 8 seats to the bar. I apologize because it's a little mute and bittersweet because I don't believe we will need this capacity increase. I would like to answer any of your questions at this time.

Councilman Johnson asked, are you adding restaurant seats to the south side? Mr. Higgins said only the 8 located at the bar itself. He continued we would add tables at a further date when we expand the kitchen. The kitchen at the moment is pretty much just built for the seats that are on the current Blackhorn side.

Mayor Pro Tem Gilbert said, Adam I like the definition of arcade/restaurant/bar. I don't know if I'm comfortable with taking the bar and jutting it out in the middle. I know it's your business. I like the kids playing over there and adults being over on the other side, I like to sit on the other side while the kids are playing over there, it just seems like we're losing the spirit of what we're doing here. If we need 8 seats, just from a patron's standpoint with little kids, I'd like to see you contain those 8 seats somehow on the same side of it and maybe change that entrance. I'm just concerned that you've got 8 bar seats jutting out in the middle of your arcade. Mr. Higgins said it won't be jutting out in the middle of the arcade. That whole portion will be aesthetically and functionally - switched over to restaurant. The front half of the building is restaurant and the back half is the arcade. Mayor Pro Tem Gilbert said so the arcade entrance will be in the back. Mr. Higgins replied right, we're going to switch that around to be a front entrance so people who desire only access to the games can enter in that direction. We were going to bring more public parking on line, namely the Astor and the old town parking lot. I doubt that will be required but we were hoping to have a lot of traffic coming from those parking lots. Mayor Pro Tem Gilbert said so the entry into this from the boardwalk proper ... Mr. Higgins said will still be there. The issue is just being that the boardwalk is hurting as a viable traffic area, so we need to put another point of entrance that's

visible from the street, the more heavily traffic area and just from a purely financial standpoint having a 2,500 square foot arcade and 700 square foot restaurant doesn't work especially as a year round business. The kids disappear and go back to school. There's isn't enough money coming in from that side to necessitate that much square footage earmarked for the use. We are looking to scale it back, sell off a few games, locate them elsewhere and hopefully finance this expansion of the more profitable side of the restaurant.

Councilman Johnson said did I understand you right that you're saying that the front half towards the boardwalk would be restaurant now and Mr. Higgins' reply was mainly, yes. It will mimic Blackhorn; it will mirror the Blackhorn and its function will be mainly...Councilman Johnson said the location from the sketch that we were given and where the bar area itself is jutting out, if the front half there is going to be mainly restaurant where is your seating for your patrons. Mr. Higgins said that space will actually be most viable only between the hours of 10 and 2. The reasoning behind it is that during those hours actually some people do come out on the boardwalk and that's the only time that our capacity is an issue. Pretty much it will be dead space for the rest of the time but this will capture 4 hours of revenue. Councilman Johnson said there won't be any tables, chairs, seats and it's going to be a restaurant. Mr. Higgins said it's just an issue of if I sat someone at that table and they expected timely food service they would not get it because the kitchen is so small it can't handle that added sit down dining. That is why we want to steer away from that and focus more on...the live music would be switched to that side and that's where a lot more people congregated, if anyone has ever been in there, they know there is a bottleneck on that side when live music is going on. We have a service area of 4 stools long and it's tough. You spend hundreds of dollars to get a band there and you can barely make that back because you can only serve so many drinks an hour. Councilman Macon said this is going to be open space for people to be standing and listening to music or dancing. Mayor Pro Tem Gilbert said you have 5 tables you can switch over to there and if you want your band on the other side it gives you flexibility. Mr. Higgins said it gives us more versatility and more ability to capture revenue during the 4 hours that we are going to be packed. Councilman Johnson said are you talking about moving the existing tables over to that side? Mr. Higgins said if the actual function necessitated that. We just want to have an area that can be closed off from the sound, retreat from the music, and also an area where you are right in the thick of it and it's more important to have open space and people being served as quickly as possible. There are other sketches that include dining but that is further down the road when we can expand the kitchen. If I put tables there, the health department would have an issue saying that I didn't have the capacity to serve them. That's the concern. Councilman Johnson said is it going to be open or is it going to have these swinging doors that you're showing. Mr. Higgins said connecting the Blackhorn and the arcade currently there is a double swing I believe 48 inch door and that's probably what will remain.

Mayor Pro Tem Gilbert made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.

Mayor Clark asked if anybody would like to speak in favor of this project. No one came forward at this time. Mayor Clark then asked if anybody would like to speak against this project. Again, no one came forward.

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

Councilman Macon made a motion to approve the conditional use permit for these changes and the findings in the Zoning Ordinance as follows: required findings 1-7, general conditions 1-4, TRC comments, staff recommendations 1-10, and includes the waiver of the two extra parking spaces with parking requirements waived based on Article 7.1(c).

The conditions are as follows:

REQUIRED FINDINGS:

- (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**

TRC COMMENTS:

1. Narrative

**Remove the request for building expansion and propane tank
Update total square footage of the arcade and restaurant**

2. Site Plan (to scale at least 1"=50')

Current building footprint with setbacks labeled

- 3. Floor Plan (to scale at least 1"=50')**
Restaurant extension into the south side of the building
Seating plan

STAFF RECOMMENDATIONS:

- 1. All modifications must meet the Carolina Beach flood damage prevention ordinance.**
- 2. Final project shall be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. "Where properties are located within the CBD, parking requirements may be waived if public parking spaces adequate to meet the requirement are located within 500 feet of the use." If parking requirements are waived the applicant shall sign a parking waiver stating the Town is not liable for any deficiency of public parking spaces.**
- 3. Solid waste is handled collectively by the boardwalk area businesses. The owner will be required to continue to participate in this program.**
- 4. A sign permit shall be obtained for any new signs located on the property.**
- 5. Seating for the restaurant shall be limited to 42 seats.**
- 6. The restaurant shall not convert to a private club.**
- 7. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.**
- 8. 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.**
- 9. 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.**
- 10. 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.**

Neighborhood Contact

Town Notifications	Planning Commission	Town Council
Signs Posted	December 27, 2006	December 27, 2006
Adjacent letters	December 29, 2006	January 22, 2007
Advertisement Date	December 27th, 2006 & January 3rd, 2007	January 24, 2007 & January 31, 2007

MOTION CARRIED UNANIMOUSLY.

Mayor Clark called for a ten minute break.

After a short recess, Mayor Clark called the meeting back to order.

CONSIDER AMENDING THE CODE OF ORDINANCES TO ALLOW FOR PRIVATE BUS SERVICE, CHAPTER 8 LICENSE AND BUSINESS REGULATIONS

Mr. Parvin said the applicant is proposing the town allow private bus service to help alleviate traffic problems by providing a means of mass transit. The statement from the 2005 Land Use Plan says opportunities exist for alternate modes of transportation such as pedestrian and bicycle circulation or mass transit such as the trolley.

The staff recommended language would allow for private bus service to begin operation after successful compliance with the regulations. In your ordinance, it would be a review process to Town Council, a \$150 application fee, and the review criteria under Section 8-196 application for a bus service permit.

Planning and Zoning heard this on January 11th and unanimously recommended approval for a private bus service and that staff add language for signage for bus stops. We put that under Section 8-196, which this was actually renumbered because of another adopted ordinance. My memo had 187 but it should be 196(f). Number 196(f) reads site plan for each bus stop with details of any proposed signs, structures, and benches. The last condition on there allows you to add anything else you want to see such as other information as Town Council may require. Any proposal would be coming before you with this ordinance.

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

The applicant Vaughn King, 401 Marina Street, said they are looking to sit down with the town probably tomorrow to try to coordinate schedules, stops, and that sort of thing. Mayor Clark asked would you be able to take people to Monkey Junction or is it only on the island? Mr. King replied we are going to try to just keep it right on the island. Mayor Pro Tem Gilbert said we have a lot of events down here that are held at Ft. Fisher. Would this be something where they could park here and you could shuttle them to the aquarium back and forth? Is it going to be Kure Beach, Ft. Fisher, and Carolina Beach? You don't have to answer that. It's just an idea. My question is how would this interface with our attractions and would the operating times go from early to late? Mr. King said we are going to work with the town on all that and do as many stops as we can for everybody on the island and help all the businesses. We might not have to stop at the boardwalk now but we'll see how that goes. Mayor Pro Tem Gilbert said we go to the boardwalk a lot and we would certainly take a trolley down the boardwalk. I don't think you need to write off the boardwalk on one project. My personal preference is I would like to see something that operates early and then you'll see the transition that it operates

late to make sure we can get people home from wherever they are celebrating. Mr. Vaughn said that's a good idea. Councilwoman Efird said sometimes somebody might want to rent it for a night if there is a party going on. Mr. Vaughn said sure, absolutely. We are going to work with all the business owners on the island and keep everybody happy and do the best we can. Councilwoman Efird said it sounds like a good idea to me.

Mayor Clark asked if anybody would like to speak on this. Ann Bowman, owner of Coastwalk Association Management Firm said the reason I'd like to speak on behalf of this project is because number one, I came from Burlington, Vermont and they did have the trolley running through the town. As I remember on the 4th of July when they had their fireworks display at Lake Champlaign, they had the runs that were going constantly all day long because like us we have our festivals and our street things going. I'd also like to see them have the ability to leave the island and perhaps make arrangements with Masonboro Commons, Walmart, or somebody up there at Monkey Junction for a park and come on down to the beach type of situation. I want to speak very definitely on behalf of this.

Mark Miller, 702 Seafarer, said I think this is a good idea. I remember when it was here before and it was really nice. I hope it is a viable project because the guy is going to put a lot of bucks in it. If we had some more stuff on the boardwalk, if you guys would open up the boardwalk for some of these people to put businesses in, it would be more viable.

Leroy Franks, 908 Canal Drive, said what I would caution with respect to the Council is when you allow this make sure that the city does not have to endure expenses for this operator like it has been on several conditional use permits and the other things. Please respect our money and then maybe we can respect you.

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

Councilwoman Efird made a motion to approve Ordinance No. 07-675 (Exhibit 6) Amending the Code of Ordinances, Chapter 8 License and Business Regulations to Allow for Private Bus Service. MOTION CARRIED UNANIMOUSLY.

Mayor Clark made a motion to amend the agenda to move Item #26, request to extend Conditional Use Permit for Arcadius Development, to the first item of new business, Item 16(a). MOTION CARRIED UNANIMOUSLY.

REQUEST TO EXTEND CONDITIONAL USE PERMIT FOR ARCADIUS DEVELOPMENT

Mr. Owens said some of the applicants are here from Arcadius and I would like to turn this over to them.

Ron Mariello, representing the Arcadius project, said he is here this evening to ask for an extension of one year. The reason for this is, as of a month ago when we were here we presented to Council our plans for a rejuvenated CBD and was quite happy that Council responded by igniting a new force for a master plan. Since that time, we have sat with staff on several occasions to consider how we would incorporate our project into the upcoming master plan. We have all agreed staff as most recent as 4:00 this afternoon that a one year extension is warranted by the circumstances. We would appreciate your vote and consideration. After some comments from Mayor Pro Tem Gilbert and Councilman Johnson, Mr. Mariello said we would appreciate any extension. We didn't try to propose a year with the idea of bargaining. Today we soul searched ourselves with staff and we all agreed that a year would be most appropriate. If you would consider that, it seems to be the thing that would aid the project the best. Naturally any consideration would be appreciated.

Councilman Johnson made a motion to approve the request for a six month extension from April 12, 2007 to October 12, 2007. MOTION CARRIED 4-1 WITH COUNCILWOMAN EFIRD VOTING NO.

Councilwoman Efird said she thought they should have been given 12 months.

APPOINTMENT TO THE PLANNING AND ZONING COMMISSION

Mayor Clark said this is to fill one three year term which will expire in 2008.

Councilman Macon made a motion to appoint Shawn Underwood. MOTION FAILED (VOTE 3-2 WITH MAYOR CLARK, MAYOR PRO TEM GILBERT AND COUNCILMAN JOHNSON VOTING NO).

Councilman Macon made a motion to appoint Justin Donaton. MOTION FAILED (VOTE 3-2 WITH MAYOR CLARK, MAYOR PRO TEM GILBERT AND COUNCILMAN JOHNSON VOTING NO).

Councilman Johnson made a motion to appoint William M. Parker. MOTION CARRIED (VOTE 3-2 WITH COUNCILWOMAN EFIRD AND COUNCILMAN MACON VOTING NO).

APPOINTMENT TO THE POLICE ADVISORY COMMITTEE

Mayor Clark announced that the chairman of the police advisory committee has asked to postpone this appointment until the March Council meeting.

Mayor Pro Tem Gilbert made a motion to postpone this appointment until March 13, 2007. MOTION CARRIED UNANIMOUSLY.

APPOINTMENT TO THE NEW HANOVER COUNTY BICYCLE COMMITTEE

Since there were no applications, Council decided to advertise for this position.

APPROVE THE REVISED MEMORANDUM OF UNDERSTANDING FOR A COOPERATIVE, COMPREHENSIVE AND CONTINUING TRANSPORTATION PLANNING AS PRESENTED BY THE WILMINGTON PTO

Mayor Pro Tem Gilbert said this memorandum of understanding goes out to all of the members of the Metropolitan Planning Organization. It is a list of initiatives and policies and it talks about the TAC and TCC, which we have members on both. All the communities that are members of the MPO in Brunswick, Pender, and New Hanover Counties and all the municipalities participate.

Mayor Pro Tem Gilbert made a motion to approve the Memorandum of Understanding for a Cooperative, Comprehensive and Continuing Transportation Planning. MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING POSSIBLY REPEALING IN ITS ENTIRETY CAROLINA BEACH TOWN CODE, SECTION 4-21.2 APPEARANCE STANDARDS

Mr. Owens said this was amended in May 2006. There are some issues regarding clarification of when the 6/12 roof pitch actually applies. Some would say it would apply to the use itself in residential construction, some would say it would be based on the building code and what part of the building code it comes out of. We are asking that you repeal this ordinance. Staff in general have had some difficulty in enforcing the 6/12 roof pitch as well as the 15" eaves. The section under foundations was, in my understanding, meant for manufactured housing. That is covered in our actual Zoning Ordinance. We require permanent foundations as well as a minimum roof pitch of 2 1/2 by 12 feet as far as manufactured housing goes. That is still covered under our zoning ordinance. We are also asking that you give more guidance to P&Z regarding roof pitch.

Councilman Macon made a motion to repeal by ordinance Town Code Section 4-21.2 (Exhibit 7). MOTION CARRIED (VOTE 4-1 WITH MAYOR PRO TEM GILBERT VOTING NO).

DISCUSS THE 2005 LAND USE PLAN TIMELINE

Mr. Harrell said there is a proposal to get the 2005 Land Use Plan to CRC for their July 26th and 27th meeting. CRC needs to have the request 30 days prior to a meeting to be able to consider it at one of their meetings. Although there is a May meeting, Mr. Harrell thinks it is unrealistic to try and set the public hearings and get it to that May meeting. It

still has to be sent to the DCM staff for final review. After that, it has to come back to Council so they can see what the DCM staff has recommended before it is sent to CRC. P&Z set a public hearing on it for their March 8th meeting. Council can set a public hearing for the March 13th but it may not give you the opportunity to digest what P&Z does at their March 8th meeting.

After some discussion, it was decided the Land Use Plan draft as adopted on April 25, 2005 by Planning & Zoning and the additional conditions that the ad hoc committee put on there will be sent to DCM before P&Z and Council hold their public hearings.

Mayor Pro Tem Gilbert made a motion that the Land Use Plan timeline include a goal of having the CRC review by July 26th and 27th, have March and April as targets to get our public hearings at the latest date May, and in the interim DCM will be reviewing this. MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING POLICE AND FIRE RADIOS

Mr. Owens stated this is a request for fire and police to complete the purchase of all the 800 megahertz radios. Some money will come from the Tourism Fund. Dawn Johnson, Finance Director, continued there will be transfers from monies that were appropriated in the fire department account for a boat water pump into the police capital projects and equipment account.

Chief Younginer said last year the fire and police department purchased many radios to make the change to digital after everything is in place. Right now we are working from one tower at Seabreeze on the analog system. When we change to digital, we will be able to work off of all four towers. This means when we leave the island, we will be able to continue to use the radios. Right now, we lose contact after some distance off the island. We thought we would have another two years to finish. We put Kure Beach on our system and they are going to change their system this year to digital before the next budget comes out. We need 33 radios to change to the digital system, which is a total of a little over \$82,000.

Mayor Pro Tem Gilbert made a motion to give direction to the police and fire departments to go forward with purchasing the radios outright through a combination of reallocated General Fund money and Tourism Fund. MOTION CARRIED UNANIMOUSLY.

PRESENTATION AND DISCUSSION CONCERNING THE PROPOSED WATER CONSERVATION PROGRAM FLYERS

Mr. Pagley showed flyers that will be included in the monthly water bills. They will include water conservation and storm water pollution. The waste water plant came up with some fats, oils, and grease flyers that they would like to have included in the

monthly water bills. Right now there are six flyers and with Council's approval they want to start rotating them in the monthly water bills.

Mayor Pro Tem Gilbert suggested the flyer regarding water leaks should include a dollar sign to let residents know how much a leak is going to cost them. Councilman Macon agreed with this and also suggested telling residents how much it is going to cost them if they don't conserve water.

With this direction from Council, Mr. Pagley said he will work on the water leak flyers and bring them back next month.

DISCUSSION CONCERNING UPCOMING 2007 NCBIWA COASTAL LOCAL GOVERNMENTS WINTER MEETING

Mayor Clark reminded Council that on February 22nd and 23rd the North Carolina Coastal Local Governments Winter Meeting will be at Pine Knoll Shores.

ADOPT A RESOLUTION DECLARING THE TOWN'S SUPPORT AND INTENT TO APPROPRIATE 25% SHARED COST FOR A NC GOVERNOR'S CRIME CONTROL AND PUBLIC SAFETY GRANT FOR PERSONNEL AND ADOPT A RESOLUTION IN SUPPORT OF A NC GOVERNOR'S HIGHWAY SAFETY GRANT FOR THE PURCHASE OF SOFTWARE

Chief Younginer brought forth two grants that they are working on. When they talked about their 5 year plan goals one of the items was adding some officers. One reason is their lifeguard officer is gone all summer; and at some point, he should be a full time person.

There is a grant available where we can add two officers. This grant includes the officer's equipment, car, pistol, uniforms, camera, radar, and everything that goes in the car. The only thing we have to do is match the equipment part of it for the first year. There is a second equipment grant that is \$17,000 that is associated with that with no match. It's a 3 year grant. The first year is a 25% match of the equipment. Year 2 would be a 25% match of the salaries and fringes, year 3 would be a 50% match, and year 4 we would pick up the total cost of the officers. Remember, we would already have the equipment associated with that.

Our winter months have not slowed. In January, we made 64 arrests. Most of the time when we make an arrest, they are transported 30 miles to the jail. We made 13 drug arrests and 17 DWI arrests. The DWI arrests are a longer term arrest. Therefore we have another officer off the road that whole time. When that occurs in the summer, it is really hard for us because one of the officers is gone. If he needs assistance from a second officer, then we end up with one officer. Then we put in a lot of overtime. This will put another officer on each side of our four squads.

Chief Younginer said there are two resolutions and they go hand-in-hand. The second one is an equipment grant. There is no match on that; they are paying 100% of that. That is for a trailer, cones, and lights to set up any kind of accident scene or check point.

Councilwoman Efird made a motion to adopt Resolution No. 07-884 (Exhibit 8) and Resolution No. 07-885 (Exhibit 9). MOTION CARRIED UNANIMOUSLY.

NON-AGENDA ITEMS

Councilman Johnson wanted to make sure that P&Z is going to have the item concerning roof pitch on their March agenda and it will also be on Council's March 13th agenda. Mr. Owens suggestion was to do this in a timely manner but not rush it so all issues can be covered.

Mayor Clark reminded Council that on Thursday night there is a Council of Government meeting at the Marriott. Senator Byrd will be attending.

Mayor Clark announced that Saturday is the Polar Plunge for the Special Olympics at 3:00 p.m. off the boardwalk.

At the end of this month, Mayor Clark said he is going to Washington with the Beach, Inlet, and Waterway Commission to ask for money for our inlet and for the inlet shoaling problem we've had. Mayor Clark asked for \$1,000 for the Port, Waterway, and Beach Commission to help support this trip. We need \$600,000 to keep our inlet open so this is what we are going after.

Mayor Pro Tem Gilbert made a motion to provide \$1,000 to the Port, Waterway, and Beach Commission. MOTION CARRIED UNANIMOUSLY.

REQUEST FOR CLOSED SESSION TO DISCUSS ATTORNEY/CLIENT PRIVILEGED INFORMATION [NCGS 143-318.11(a)(3)]

Councilwoman Efird made a motion to go into closed session pursuant to NCGS 143-318.11(a)(3). MOTION CARRIED UNANIMOUSLY.

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

Mayor Clark made a motion to pay the legal fees as outlined from Shanklin & Nichols' invoice #19893 and to transfer those funds from the General Fund to cover the fees. MOTION CARRIED UNANIMOUSLY.

CONSIDER RECESSING MEETING TO MARCH 12, 2007 AT 6:00 P.M. TO SET GOALS FOR BUDGET FY 2007/2008

Councilwoman Efirm made a motion to recess the meeting to March 12, 2007 at 6:00 P.M. to set goals for budget FY 2007/2008. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

APPROVED: _____