

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

May 13, 2008

The Town Council of the Town of Carolina Beach met in regular session on May 13, 2008 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, Joel Macon; Mayor Pro Tem (MPT), Dan Wilcox; Councilwoman, Pat Efird; Councilman, Jerry Johnson; and Councilman, Alan Gilbert. Also present were Town Manager, Tim Owens and Town Clerk, Lynn Prusa.

Mayor Macon called the meeting to order.

INVOCATION

Mr. Dennis Barbour opened the meeting in prayer.

PLEDGE OF ALLEGIANCE

Mayor Macon led everyone in the Pledge of Allegiance.

CHANGES TO THE AGENDA

The following were presented as proposed changes to the agenda:

Item #31 - Remove - Request to hold a Memorial Day concert

Item #9(a) - Remove - Minutes for Special Meeting/Budget for April 22, 2008 and Regular Meeting recessed from 4/8/08

Item #19 - Table - Request for a CUP extension for Marina East, LLC for approximately 45,440 square foot structure to include 32 - 2 bedroom residential units at 400, 400A, and 402 North Lake Park Blvd. until June meeting

Item #27 - Move - Discussion concerning request for no parking signage on Spencer Farlow Drive at Island Marina to Item #10(a)

Councilman Gilbert made a motion to adopt the agenda with changes. *MOTION CARRIED UNANIMOUSLY.*

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Macon recognized Ken Foltz, Senior Stormwater Construction Specialist, for 5 years of service; and Al Clyburn, Town Attorney, for 10 years of service. Mayor Macon announced that Mr. Clyburn is resigning and he and other members of Council thanked him for all his hard work. Prior to the meeting a reception was held in recognition of Mr. Clyburn.

INTRODUCE NEW EMPLOYEES

The town manager introduced the new Fire Chief, Jonathan Rorie.

TOWN OF CAROLINA BEACH COMMITTEES' REPORTS

Alan Pacek Chairman of the Business & Economic Development Committee, gave a report (*see Exhibit 1*).

Shawn Underwood, Chairman of the Budget Committee, discussed the following issues: gas/credit cards, budget growth (approximately 15% year), number of employees/vehicles, contracted items, and inefficiencies in services (such as phone contracts).

He also talked about what he referred to as big picture items/revamping process for the following: job description for each employee; tasks town must complete each day/week/month/year; what resources are necessary to perform these tasks; determine income, then work government function within confines of that number; long range plan for upgrades/maintenance of infrastructure, including financial plan, so taxes pay for these items rather than users.

PUBLIC DISCUSSION (Five minute time limit per person)

Dennis Barbour, speaking on behalf of the East Coast "Got 'Em On" Classic King Mackerel Tournament, said the tournament registration will be held on July 11, 2008 with fishing days on July 12th and 13th as a "captain's choice" which means fishermen can choose to fish one of the two days. It is a three day event which involves the entire community and not just the fishermen who sign up. There will be live bands at night and other activities. This is the 29th year for Carolina Beach. He is requesting the same parking lot be designated for the tournament this year from July 10th for the setup through July 13th. The club works hard with the Carolina Beach Fire Department/Kure Beach Fire Department and all of the proceeds are split between three organizations – the Carolina Beach Fire Department, the Kure Beach Fire Department, and the "Got 'Em On" Club. Sponsorship and tournament this year is good and is a good family event.

Last year they exceeded the number of boats expected while other tournaments elsewhere have fallen by the wayside for lack of participation. They are requesting the parking lot and, in addition, the use of the trailer which they usually use and three sets of bleachers for that weekend. The Council and police chief were supportive and agreed with the request.

Ricky Meeks, 3610 Caswell Street, Apt. 308, Wilmington, NC 28403, said he was in a foster home at Carolina Beach in the sixth grade and is thankful for Carolina Beach Elementary School and all the wonderful people at Carolina Beach over the years. Mr. Meeks said he has run for various public offices in the past. He does not drive a car or ride the city bus, but he does a lot of walking and spoke about the cost of transportation by taxi to get to and from the meeting. He talked about some of the various routes of WAVE Transit and the cost of passes: \$20 for a 31 day pass for seniors/Cape Fear Community students or \$40 for others, \$1 per ride or \$.50 for handicapped or school children K thru 12. UNCW students/faculty ride for free due to a contract. He is here to inform Council how much it costs to ride a bus in Wilmington, and said there has been some discussion with WAVE Transit about having a bus come to the island. He said it would be nice to look at the proposal tonight. He understands he will be charging \$5 from Monkey Junction to the island, that it would be nice to have service to Carolina Beach, Kure Beach and Ft. Fisher. Many of the young people of Wilmington have never been to a beach. He said a proposal was before Wrightsville Beach last year and they weren't interested. He thanked Council for all they do and to remember there is a need for public transportation.

ADOPT THE CONSENT AGENDA

Councilman Gilbert made a motion to approve the items on the consent agenda with the exclusion of April 22nd minutes, as recommended by the town clerk.

Approval of the Minutes

Regular Meeting	
Recessed from 2/12/08	February 21, 2008
Special Meeting/MDP	March 10, 2008
Regular Meeting	March 11, 2008
Special Meeting/Budget	March 14, 2008
Regular Meeting	
Recessed from 3/11/08	March 14, 2008
Regular Meeting	April 8, 2008

Requests for the following budget amendments and transfers:

Planning Department

Additional monies are needed in the Printing and Publishing account number 104910.12 in the amount of \$1,500. These funds are needed to cover the costs associated with printing and mailing of flood brochures. The request is to transfer \$1,500 from account 104910.53-Dues and Subscriptions into account 104910.12-Printing and Publishing.

Operations Department

Additional monies are needed in the Water and Sewer Administration account 308000.45-Lockbox in the amount of \$7,947. These funds are needed to cover a current account deficit. The request is to transfer \$7,947 from account 308120.11-Water-Telephone and Postage into account 308000.45-Lockbox.

Additional monies are needed in the Water-Meters account 308120.55 in the amount of \$29,558 for costs associated with the purchase of additional water meters. The request is to transfer \$29,558 from account 308120.76-Water-Well Upgrades into account 308120.55-Water-Meters.

Additional monies are needed in the Wastewater Collection account 308110.20-Maintenance to Lines in the amount of \$1,896 to cover overages due to added expenses for maintenance of sewer lines. The request is to transfer \$1,896 from account 308120.76-Water-Well Upgrades into account 308110.20-Maintenance to Lines.

Additional monies are needed in account 105800.35-Small Tools in the amount of \$66 to cover an overage in the account. The request is to transfer \$66 from account 105800.33-Sanitation Supplies into account 105800.35-Small Tools.

Fire Department

Additional monies are needed in various accounts. The transfers total \$29,400. The request is for a transfer of \$20,000 from account 105300.02-Salaries and \$9,400 from account 105300.10-Volunteer Call pay to be transferred to the following accounts with the following amounts:

- 105300.08-Uniforms - \$1,000 for the purchase of uniforms for new hires
- 105300.12-Printing/Publishing - \$1,000 for new inspection forms
- 105300.14-Travel/Training - \$1,000 for Inspector I classes for Longnecker/Soward
- 105300.16-Main/Repair - \$19,000 for maintenance, rebuild aerial pump, radio repairs and remote radio box
- 105300.17-Vehicle Maintenance - \$1,200 for general maintenance
- 105300.33-Supplies - \$2,500 for storage cabinets for ISO library and replace consumable equipment

105300.45-Contract Services - \$3,200 for testing of ladder and apparatus and hydrant flows

105300.53-Dues and Subscriptions - \$500 for NFPA subscription

Set a public hearing date for June 10, 2008 at 7:30 p.m. or soon thereafter to consider adopting the budget for FY 2008/2009.

Set a public hearing date for June 10, 2008 at 7:30 p.m. or soon thereafter to consider amending the Zoning Ordinance to increase allowances for governmental signs in order to provide more opportunity for the town to advertise activities, events, and charitable causes that will ultimately benefit the well-being of the town.

MOTION CARRIED UNANIMOUSLY

CONSIDER SCHEDULING A TOWN HALL MEETING CONCERNING THE MASTER DEVELOPMENT PLAN

The town manager said that Council had expressed the desire to have a town hall/open house style meeting for the Master Development Plan and for discussion of any other topics of information. He said that staff will accommodate whatever Council decides.

Council suggested June 24th at 6:30 p.m. to be held in a different location for a town hall style meeting to include the Master Development Plan. Mr. Owens suggested notification in the water bills.

DISCUSSION CONCERNING REQUEST FOR NO PARKING SIGNAGE ON SPENCER FARLOW DRIVE AT ISLAND MARINA

Ed Jones, 114 Green Turtle Lane, spoke on behalf of the Harbour Point HOA. Also in attendance was Bob Schladensky, President of the HOA. Mr. Jones said they are here on a safety issue. He said that Harbour Point is located at the eastern end of Spencer Farlow Drive, there are 90 residences and 102 boat slips which creates a lot of traffic. The only entrance and exit is Island Marina Drive. A temporary sign was placed by the developer at the intersection and replaced by stakes indicating location of a permanent sign. He went to the planning office and requested that the sign be moved further back as he felt it was an obstruction, especially to sedans, and was told the location/sign was in compliance. Landscaping has been added but maintained at a low height. Last summer/fall there were people parking in front of the sign and became very difficult to see around the corner. He came to the town then and inquired about what could be done but no one contacted him about it. After that he went to the Police Advisory Committee in early November and they agreed there was a problem and were going to have it put on

the agenda. Bottom line is they need to have a “no parking sign from here to corner” (demonstrating) erected some distance back from that corner, he recommends 100 feet, 150 feet would be better. There are a lot of elderly people who live there and they find it difficult to see around the corner.

Tim Owens said to put up the sign would require a public hearing which they could advertise for the next meeting and then change the ordinance at that meeting.

Mayor Macon made a motion to set a public hearing for the June 10, 2008 meeting to consider posting the no parking sign as requested and have staff research the request and location of right of way. MOTION CARRIED UNANIMOUSLY.

REQUEST FOR A CUP EXTENSION FOR A PROJECT LOCATED AT 923 BASIN ROAD BY MARSHA AND BILLY TAYLOR FOR A 10 UNIT RESIDENTIAL PLANNED DEVELOPMENT (ONE 4 UNIT STRUCTURE AND ONE 6 UNIT STRUCTURE)

Tim Owens said this is a request for a six month extension for a 10 residential unit development with two structures, one has 6 units and one has 4 units, located at Basin Road. The request is for economic reasons.

Councilman Johnson made a motion to grant a six month extension to expire six months from May 13, 2008. MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING THE PROPOSED OCEAN HAZARD AREA OF ENVIRONMENTAL CONCERN (AEC) SETBACK RULES AS PROPOSED BY THE DIVISION OF COASTAL MANAGEMENT (DCM)

Gary Ferguson stated that the DCM has been proposing some rule changes that will affect oceanfront properties. These rules will impact to some extent Carolina Beach. There are basically three rule changes which are setbacks, cantilevering over the setback, and the third deals with linear infrastructure which he reviewed.

Tim Owens said Council might like to have a meeting with Jeff Warren, DCM staff member, on May 20th to discuss the proposal and how it would affect Carolina Beach. He has some concerns as to how beach fill would apply. The town’s beach fill project is up in 2015.

Council was in general agreement to recess this meeting to May 20th at 11:00 a.m.

REQUEST FROM LAKEVIEW AT CAROLINA BEACH, LLC TO AMEND THE ZONING ORDINANCE TO CONSIDER INCREASING THE ALLOWANCES SUCH AS, BUT NOT LIMITED TO, NUMBER, SIZE, AND TIME LIMIT FOR REAL ESTATE PROMOTIONAL SIGNS

Ed Parvin said the applicant is requesting to increase our allowance for real estate signage. Lakeview at Carolina Beach, LLC is the owner of Waterview Condos at 305 South Lake Park Blvd. and they have their real estate signs up now and have received violations from the town and took the case to the Board of Adjustment. The case was denied by the Board of Adjustment. They did take down their signs and were issued a certificate of occupancy. After receiving the CO the signs went back up and they are being fined weekly which is up to around \$30,000 for the sign violations. The latest one was going out today. Staff drove by this morning and counted the signs, there were 6. This afternoon there was one. He reviewed current allowances, long range planning documents and the three issues staff felt were relevant, and staff's proposed options. Mr. Parvin said it is very difficult to control once the applicant receives the CO. The Planning and Zoning Commission were pretty adamant about keeping the language as is with current allowances.

Mayor Macon asked if we have some allowances for temporary signs for open houses, etc. and Mr. Parvin said yes. Councilman Johnson said P&Z worked on the sign ordinance for a number of years and P&Z was unanimous and what we have is not broken. He said this person blatantly continued to violate the ordinance and didn't try to work with the town. Gary Ferguson agreed. The civil citations amount to \$30,000. The applicant and his attorney are here and should speak to the issue. MPT Wilcox asked how many units there are, Mr. Parvin said 28. Mr. Parvin said they were allowed a 40 square foot construction sign prior to CO but now are allowed a 6 square foot sign for entire development. MPT Wilcox said he is unclear on the items 9 through 12 mentioned in the Land Use Plan. It appears all of these are talking about permanent signs, this doesn't have anything to do with the amount of signage they are asking for, and they don't seem to be applicable. Mr. Parvin said he didn't think any of the policies were directly related to this specific amendment but staff saw those as taking away from potentials for wayfinding signs or marking a public access. So much signage could take away from aesthetics or something more important such as wayfinding signage. MPT Wilcox asked about the option for promotional signs, if the square footage was for one sign or could it be split up? Mr. Parvin said they were considering increasing the allowance and giving some flexibility in how they would be allowed such as attached or freestanding. Mayor Macon asked for the applicant to speak.

Matt Nichols said he is representing the applicant. Mr. Nichols said from the beginning he has tried to work with the town on this and tried to find a middle ground. Since he got involved he has tried to work with Mr. Ferguson to get some of the signs removed. He is the one who came up with the proposal, he recognizes that it is broad but he just wanted to get the ball rolling and get something changed. As he understands the ordinance now, a project of this size or similar size is only allowed a 6 foot sign. It seems like there could be a middle ground there and that is what they are trying to achieve. They are

perfectly fine with what staff has recommended as option 3, they think that will allow some additional signage. Staff points out some positive things in its report on page 3 regarding some of the benefits to the town. Staff concluded also that option 3 would be in compliance with the Land Use Plan. He said most all sign ordinances are confusing and stated some examples. He's not sure if the promotional signs they are envisioning would be allowed under the ordinance but it seems like there should be something allowed for developers and people who are putting a substantial investment in town who want to promote that and advertise that. They are fine with option 3.

Councilman Johnson clarified that option 3 would not allow them additional signage, and Mr. Ferguson agreed. Mr. Owens added for clarification that the ordinance states under permitted signs that unless otherwise specified not more than one specified sign type shall be allowed per lot in each sign type category. He does not think that would not give you the flexibility to do multiple signs.

Mr. Nichols said he misunderstood but it is fine however staff has it. His only suggestion is that the allowance for 90 days that there could be some provision to extend the 90 days by the Town Manager or Planning Director for good cause shown or anything beyond that the applicant would have to come before the Council to ask for additional time.

Councilman Gilbert made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.

There being no one wishing to speak, Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to approve option 1 as recommended by the Planning and Zoning Commission unanimously with no change to the ordinance with a side note that the Planning staff has completed a thorough review of the current ordinance and concludes that it is sufficient. The Town Attorney, Steve Coggins, made a recommendation for a second to be given for a motion. **Councilman Johnson seconded the motion.** MPT Wilcox said he is not in favor of the request from the applicant but he doesn't feel that a 6 foot sign is adequate for a large project and there should be some flexibility. Mr. Owens said he thinks their sign ordinance is sufficient because it allows banners and he thinks the problem was the size of the banners. They could have put banners up but they chose to exceed the size of it. The ordinance is not broken. They just spent thousands of dollars to fix up the CBD to make it more appealing and not detract from it up with big circus banners to try to sell something. **MOTION CARRIED 3-2 WITH MAYOR MACON AND MPT WILCOX VOTING NO.**

CONSIDER THE INCENTIVE POLICY FOR THE HILTON GARDEN INN

Tim Owens said this is a public hearing for a request for the CBD incentive policy for the Hilton Garden Inn. This policy was adopted by Council some years ago. After going through the process and policy, his opinion of the policy is that it should be based on tax

value as opposed to capital investment value. He thinks the people here tonight from the Hilton Garden Inn will say otherwise but it is really a Council policy and you can interpret the policy however. They did look at the different impact fees and gave them credit for what they thought was out there. He would like Council to review those and maybe agree to the numbers. The one number in question was the 500 seats. Basically, what used to be the Ocean Plaza, they did have the owner sign an affidavit that says basically he said the occupancy, he didn't really say seats. Mr. Owens asked whether that meant seats or occupancy, those are two different things. He calculated the figures for credit. They looked at the Hilton Garden Inn in general, subject to change if the building plans change. The total credit came to \$77,550. His recommendation is that they consider the tax value of it. They have never given anyone an incentive. They did allow The Marriott to pay yearly increments on their impact fees that were due which were around \$90,000 but they have never actually implemented the incentive part of this. He feels Council, when they look at this, should really weigh the merit of the request and pay attention to the policy and whether the policy really applies here. There is a performance agreement as well that their attorney submitted, said he modified it somewhat to take into account the county tax appraiser's valuation of the property. If Council chooses to forego the paying of the impact fees for 5 years that could be handled by taking prime rate at the time the agreement is signed and they would pay at the end of 5 years the full amount. Or you could follow the Marriott example and they could pay yearly. It is up to Council if you want to apply the incentive part of it.

Mayor Macon asked for the applicant to speak.

Tom Johnson, representing the applicant, said he wanted to make a couple of announcements to show how far they are going with this project and the positive things that are happening. In the last couple of days they have gotten their license from Hilton after paying the necessary \$80,000 license fee and they have signed the contract to start the work on the infrastructure on the project amounting to \$800,000 which will start at the beginning of June. This is in addition to the demolition work that has already taken place. Said he would like to speak to some of the questions that Council has. With regard to the resolution, it refers to the Local Development Act of 1925 GS158-7. That has now been replaced by GS158-7.1 with a subsequent section that has some definitions which he gave copies of to Council. The document just says other purposes, which left it wide open. Further down in section (d) it lists several types of things the city or county may do but it also has an indication that this listing is not intended to limit by implication or otherwise the grant of authority set out in subsection (a) of this section. He thinks there was an attempt in the resolution to follow how the statute was crafted in order to allow the Town of Carolina Beach to encourage development in the CBD. That is why that came forward. It is somewhat of a discretionary thing but you've set out in the resolution something that is very specific and some very specific requirements to him. This project does meet those specific requirements and he wants to go through that and show them how it does. They believe the investment that it's referring to is exactly the type it is referring to and is exactly the type of investment that's intended in the resolution. They are asking for two things, one is the deferral on the impact fees based upon paying the prime rate of interest for a period of 5 years and, secondly, the economic

incentive that is made available. The resolution mentions in no. 1, as an inducement and reward for investment in the area which is what they are trying to do with the Hilton. It involves new or expanded capital investment of more than \$500,000. As mentioned in the draft agreement he prepared, theirs is going to be approximately \$33,000,000 in investment. As a safeguard for the town, any of these incentives that are paid have to wait until the certificate of occupancy is issued. That does a couple of things, one, it makes sure that the applicant follows through with what they say they are going to do and, secondly, it gives you a point in time at which you can determine what that capital investment is for the purposes of awarding the amount under the resolution. Public hearing, which is being held tonight, is another qualification. Councilman Gilbert raised a question about why hotels weren't included. It didn't include a lot of different things but based upon the wording in no. 5, this is not an exclusive list, it says commercial enterprises. In the end it says retail or similar commercial purposes. Obviously a hotel is a similar commercial purpose to those that are listed. It is broad enough that this Council can provide an incentive in this situation. The factors listed in no. 6 for the town is to include, again these mirror some of factors that are mentioned in the statute, and if you look at the amount of the new or expansion capital investment - \$33,000,000 in this case. With regard to the number of Carolina Beach residents who are employed or expected to be employed, they anticipate 40 full-time employees and 25 part-time employees with the preference being given to those residents of Carolina Beach. The type of product or service produced or provided, a hotel is very much in line with the type of service or product you want in Carolina Beach. The location of development is in the CBD which is the area you desire is to redevelop. The past performance of the developer/investor - what Mr. Maynard has done to bring this to the point where it is today demonstrates his integrity and support he has had through the entire process. The community demonstrates that as well. In no. 8 the amount of the incentive is \$1,750 per \$500,000 of investment in the project. It doesn't say tax value. That follows the definition of the development project that's in Section 158-7.3 which is related to the statute referred to earlier. It refers to a development project being a capital project that includes capital expenditures by both private persons and one or more units of local government that increases net employment opportunities for the residents of the development district or within a two mile radius of the project, whichever is larger. It increases those prospects, not only employment but the tax prospects, both property taxes and sales taxes. Those are the things you should look at. The resolution says capital investment and it does not say anything about taxes or tax value. There is no ambiguity to require looking back at intent to determine what Council may or may not have intended at the time. It would have been very easy for Council at that time to have made an amendment to say it is based upon tax value and it wasn't done that way. They can only assume that it wasn't important to Council at that time in making that determination. Where the \$1,750 came from could have been determined based upon some estimates or upon the tax value at the time but when the resolution was enacted, to go forward for a long period of time, obviously tax rates and values were going to change. If this was intended to change with the tax values and tax rates, it would have been included within the resolution. They appreciate the continued support of the town. They are asking for this as an additional incentive in these hard economic times to help them move forward with the project, as a reward for being a project that is going forward in hard, economic times and one that says

they have made a commitment to the town and they are going to follow through with it. They just ask for the town to give them that same commitment to help out in a small way. This is a very small amount of the investment in this project and the risk this project is taking but will help tremendously in terms of offsetting some of the impact fees and some of the upfront expenses by deferring the payment of the impact fees. They appreciate the opportunity to take advantage of this resolution and Council's consideration in looking at this.

MPT Wilcox asked if he had an interpretation based on the town's policy of the 5 years, how that would be paid back. Would it be paid back in increments of 1/5 or due in full at the end of 5 years with interest for the 5 years?

Mr. Johnson said that the way it reads on its face, you can defer it for the entire period of the time. He thinks there is a referral to yearly interest but he thinks that referral is the fact that it is prime rate per annum, compounded per annum which is fine but you can defer it for that period of time and allow them to pay interest on the money. He would like to see and this helps bring the two parts of the incentive program together - the impact fees are due at the front end, if you defer it for the 5 years that allows them to get to the point of certificate of occupancy where they can get the economic incentives and those can match up. In his agreement he did propose that they just take that money, whatever they get, and go ahead and pay the impact fees at that point, plus interest. If it is sufficient to cover that, they could cover it at that point and that's fine. That should be less than 5 years. They would like the deferral up to 5 years but they will commit to paying it back upon certificate of occupancy.

Councilman Gilbert asked the Finance Officer, Dawn Johnson, how the town handled the Marriott and their deferment.

Dawn Johnson said they paid 1/5 each year.

Mr. Johnson said that could be reached by agreement. He is not saying that the way they are interpreting it is an exclusive way - that worked for The Marriott. What they would like to do is match up, have the economic incentive and be able to match it up with the impact fees so that they are not out of pocket during that time but certainly agree to the payment of interest during that time.

MPT Wilcox asked what the construction time is. Mr. Johnson said 18 to 24 months. So you can do the annual but you are not talking about that many payments. Councilman Johnson asked if they have a tentative start date. Mr. Johnson said the infrastructure is going to start on June 1. They have entered into a contract and that is when site work is going to be done, infrastructure is going to be put in. That should take 7 to 8 weeks. They hope to be able to have at that point some kind of formal groundbreaking. Then they will be moving on to installing the pilings and the next steps to complete the project.

Mayor Macon made a motion to open the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

James Golden, 1216B Canal Drive, said he has something to say about the incentive program. He has been here 10 years and he hasn't seen many businesses that stayed 5 years. So what is the town going to do when they can't get this money back because the company is no longer in business. The hotel might be there but it might not be these guys. He likes the town's incentive programs for people to come to Carolina Beach, open businesses and do good things. He said that he heard Mr. Johnson say they were going to pay \$800,000 for infrastructure improvements but yet my utility bill is going up. He doesn't know.

George Connet, 1321 Cabot Court, said he thinks it's time this town looks outside of the box. With all due respect to Tim Owens and the way he figured things and talked to the past manager and said they never give this and they've never done that. Maybe it's time we kind of take a look at maybe economic times and take another look at how we should do it, whether we did it in the past that way or not. He thinks that these people are coming in here to put up this hotel, which he thinks is going to be one huge impact for this town. He lives here and would like to see it go forward because he thinks it is going to be a dynamite thing for the town and will stretch way beyond the shores of Carolina Beach and even North Carolina and will bring a lot of business in here. He thinks that we as a town should get together and help them all they can. They are putting a lot of money in down here. The town is not going to go broke, the town will get its money. As Mr. Golden said if those people aren't here, the hotel will be. There will always be some way to get your money. He thinks the town needs to think outside the box and bring in new ideas.

Mr. Johnson said, in response to one of the comments made, the way this would work is they would defer the impact fees and then if the town offers the incentive then the incentive, if they follow through with what they are going to do and get their certificate of occupancy, they get that and then basically use that to pay the impact fees that are being deferred. That's the way it works, they will follow through with what they said they were going to do.

Tim Owens said his interpretation of the deferment is the same as Mr. Johnson's. You can defer for 5 years, he thinks it was just a separate agreement that was reached with Marriott that they paid individually. If this project doesn't work out, how do you collect your funds? He doesn't know.

MPT Wilcox said it is a condition of the CUP. Mr. Owens said it was not a part of their CUP and it has already been approved. You probably would have to take them to court and enforce the performance agreement.

MPT Wilcox asked Mr. Owens if his only difference was the valuation.

Mr. Owens said yes and he wasn't here. He did talk to the former manager and he said that the incentive part of this was to reimburse for 1 year's worth of ad valorem tax. The tax rate has changed, if they go forward with this whether they use capital investment or

tax value, they would be reimbursed for two years worth of taxes at this point because the tax rate is half of what it was back then. The incentive is pretty good, in his opinion. Whatever way Council wants to go, it's their policy.

Councilman Gilbert said the difference between Mr. Owens' calculation and their's is around \$37,000.

Mr. Owens said probably. The Marriott's current tax valuation is \$14.5 million. He says they would be every bit of \$20 million probably when they are done. The water and sewer impact fee vs., if you used tax value, would be almost a wash. He's saying \$70,000. If they go with the current estimate on fees and what was there and credited, their payment would be \$77,000+.

MPT Wilcox asked if the town manager or the Town Attorney, Steve Coggins, have any feeling for the statutes and information regarding evaluation that Mr. Johnson presented.

Mr. Coggins said that the only impression he had is that basing a payment using any form of ad valorem tax rates runs counter to the general prohibition that you can't provide incentives by forgiving property taxes. He knows that its indirect, it just strikes him as an incongruent approach to the overall policy behind it that you don't do incentives through forgiving paying property taxes. To compute it based on a sort of an ad valorem tax rate, while it may be legal, it strikes him as incongruent.

MPT Wilcox said maybe that is why they did it at \$1,750.

Mr. Owens said he thinks that was part of it because the tax rate was at \$.35 back then. Plus when it was adopted \$500,000 was a sizeable sum, it still is. He doesn't think anyone fathomed that it would be a \$30 million investment.

MPT Wilcox asked if there was any opinion on the valuation, whether it should be tax assessment or capital investment based on anything heard.

Mr. Coggins said it is a title capital investment. Again, he finds phraseology of capital investment in context with the statutes being written the way that you can't do incentives through forgiveness of property taxes and yet using property taxes as a way of computing the capital investment is incongruent.

Mayor Macon said he understands that he spoke with the previous manager but it doesn't say anything about taxes, it talks about investment in the project.

MPT Wilcox said he thought what Mr. Coggins is saying is that to base the value of the property on the tax assessment when it is not supposed to be related to taxes is inconsistent.

Mr. Owens said it is and he thinks that when they wrote this they were careful not to use the word tax but he is calling it is what it is. He believes that part of it was based on \$.35 tax rate at the time.

Mayor Macon said that is his interpretation.

Councilman Gilbert asked if anyone negotiate the town's position on this performance agreement.

Mr. Owens said no that it was given to the town by the applicant. Staff has read over it but the Town Attorney has not seen it but staff recommended that he do so.

Councilman Gilbert said if we are going to enter into a performance agreement, he would like to see someone on the taxpayer's side be able to negotiate with respect to the citizens who are going to be footing this bill.

MPT Wilcox asked if they are trying to decide on this in principle and then let the attorney parse through the document, what is the order.

Councilman Gilbert made a motion to close the public hearing. Mayor Macon called for a second. Mr. Coggins said Council does have an inquiry to ask of the applicant; however, very briefly, Council is aware the Statute GS158-7.3, he is not clear as to when it was passed in relationship to the original resolution that they have before them. The resolution is dated February of 2000 and he is not even clear if GS158-7.3 was in effect when the resolution was passed.

Mr. Johnson said that what happened is apparently, at some point, GS158-7 was repealed and in its place was the new GS158-7.1 was passed.

Mr. Johnson said he was trying to draw some analogies. It was enacted in 1925 originally and subsequently re-enacted because it is still entitled and thinks to some degree was recodified because it's still entitled Local Development Act of 1925. He thinks there was just some recodification and amendments to the language. That is his impression of that. He has no problem working with Mr. Coggins on the specific wording of the agreement. What he did was to take the agreement with The Marriott and looked at the statute and worked in tandem to try to make sure that it protected them and the Council in terms of setting forth the reasons for offering the incentive so that it was legally defensible. And that is focusing on increase in property and sales taxes and employment and that is woven into the agreement as well as the incentives which is the deferral with the payment of prime rate and the dates upon which the impact fees are due and the date upon which the incentives would be paid. The impact fees due upon building permit, the certificate of occupancy being the time that the incentives are due. He thinks the basics are there but if there is any particular wording that is of concern he thinks there are some safeguards specific to the resolution that help anyway.

Mr. Owens said the only thing he doesn't see in the agreement, is how things are resolved if this isn't paid in 5 years.

Mr. Johnson said if you want to put it as a lien on the property if it is not paid, obviously it is not their intent not to.

Councilman Gilbert said he has read over some performance agreements and when they come to the table, they come together on this and it's a performance. If you don't perform there is some type of restitution or something. When he looks at a performance agreement it's somebody looking out for the interest of the town, you come together on it and make sure everybody is covered on it. Reading over this it looks like a one way contract. What he would really like to see is that they have an 8 year old incentive that has never functionally been applied, nobody really knows how to apply it, nobody really remembers where it came from. Certainly in the long term, maybe not in this case, they probably need to rethink about getting an incentive program going forward that is digestible and everyone can get behind. This is too loosely written.

Mr. Owens said that the performance things that he has seen are CBD programs and they do specify the number of employees, the salaries, they don't necessarily get into whether they are Carolina Beach employees but ours is pretty vague. It's whether you meet the capital investment or tax value, however you want to interpret it, or not.

Mr. Johnson said that is why it's delayed until certificate of occupancy because it does two things - one, they don't get a certificate of occupancy if the incentive payment is not made and, two, you are at the point at which you can prove the basis upon which you make the computation of the amount due because you can very easily, at that point, prove your capital investment. So that goes away. You're paying interest on the deferral on the impact fees. Really, if the project does not go forward, you're not going to have impact fees anyway because you're likely not to have water and sewer that is going to impact your system. To the degree that something still goes forward and those are due, they are willing, as security for the town, just to say it can become a lien on the property that if there is anything owed that they don't pay. If you really think through it, there are no impact fees if the project fails, there's no water and sewer impact for which the fees should really be paid.

Councilman Gilbert said they are getting ready to spend \$1 plus million on a lift station upgrade that is going to service that future development so the town is making a capital investment and going forward with that and if we get in the middle of that and can't realize because 1, 2, 3 hotel or condominium projects aren't going to happen that they are budgeting. He remembers Steve sitting there saying this is all the money were going to get from all these projects and it is going to fund our lift station. We have a lift station that can't service what you guys are putting in - you have Arcadius, Park Place, and two hotels, so you have some huge structures and we're sitting here trying to figure out how to service the carrying capacity. We have no revenue coming in here to do this so we are banking on some level of faith that these projects come to fruition. We have nothing in

the bank other than we're going to do a lift station and have projects that may or may not happen. The taxpayer is going to hold that burden until all those hotels and condominiums get built.

Mr. Johnson said he understands that and that is why he is willing to say that they would let there be a lien on the property to be executed upon in the event that they don't pay some of those fees that need to be paid. They have demonstrated their good faith every step of the way and will continue to do so. They are asking for good faith from Council that they are on board with them, as they have so many times before, so they can go forward. You will realize much, much more than they are asking for here.

MPT Wilcox seconded the motion. MOTION CARRIED UNANIMOUSLY.

MPT Wilcox made a motion to approve the applicant's request to defer the impact fees in the amount of \$77,550 plus prime interest for 5 years and that valuation be based on capital investment, not tax assessment, that all impact fees due to be at the time any incentives are paid, to provide for a lien on the property for the amount of the deferment plus interest and that the town attorney will work out the details of the agreement with the applicant. Councilwoman Efirid seconded the motion.

Councilman Gilbert asked the town manager's help on the credits. Mr. Owens said there were a bunch of existing structures there that either paid impact fees or didn't pay them but what they do during redevelopment is to give people credit for that. They can only go on what previous owners have told them. He didn't question the 500 seats at the Ocean Plaza, 150 seats at the Hula Grille, the 10 hotel rooms. Some of this they know about, some they don't. So, after the credits they owe \$77,550 at the time the building permit is issued unless they forgive them for 5 years. MPT Wilcox asked if staff had any concerns about that figure and Mr. Owens said no. He has never been in the Ocean Plaza and has no way of knowing. Mayor Macon suggested to him to have the owner give the town something in writing, certified, which he did but it said occupancy. Mr. Owens talked to Mr. Price about it and he said that it meant seats. Councilman Johnson said the 500 seats is the Ocean Plaza and the bar that was downstairs that faced Carolina Beach Avenue N. Mr. Owens said he is saying the whole building. Russ Maynard said in the Ocean Plaza building there was the Club Tropics upstairs, there was a bar that faced the street on the ground level and behind it was a bar called the Watering Hole. There were 3 different businesses in that one Ocean Plaza building. He did go to the former Fire Chief Bob Weeks when he was here 6 or 8 weeks ago and ask him to try to confirm that. The town had no records. He was kind enough to call the county and they couldn't confirm it but he did say verbally that he thought the occupancy on that building Ocean Plaza alone was right at 500. Councilman Johnson said occupancy might have been but not seating. Mr. Maynard said right but it's an issue that has never been clarified what the occupancy vs. seating was. He thinks the Fire Department, if he's not mistaken, looks at occupancy not seating. Councilman Gilbert asked the Town Manager if there are any physical receipts that justify these credits, that show that somebody paid the difference between \$267,800 and \$77,550? Is there any show of any transaction over that period that somebody paid that money. Mr. Owens said there is not. He said the impact is there. You're paying

through your fees or rates or paying through whatever. Councilman Gilbert said he has heard people like at Old Salty's, she has a record of what she paid impact wise. Mr. Owens said they do keep that now but some of the older structures they would not have kept. Councilman Johnson asked where the 3,000 square feet of retail was. Mr. Maynard said it was King's Beachwear. Mayor Macon said based on what he recalls he would have to say that the portion of the building dedicated to the Ocean Plaza and the bar downstairs is probably 60/40 so he would say that the Hula Grille was 40% of that structure and probably 60%, his best guess, would have been the size of the other building. He is saying that the seating would have been a lot more substantial than the Hula Grille just based on size alone and what was done with the building in the kitchen and the other areas, they have a large bar in there, so they didn't have as much room for seating based on his recall. He also would state that, based on his experience with the town, there has always been credit given since the early 80's and maybe even before then as far as when the impact fees were adopted you got credit for existing. Mayor Macon called for a vote. **MOTION CARRIED UNANIMOUSLY.**

CONSIDER A REQUEST BY JAMES GOLDEN FOR BUS SERVICE

James Golden presented his request for bus service and said the only way the service would work and be profitable at all is that the advertising be able to be utilized on the side of the bus. He said he thought everyone has seen his LED sign that was on the other truck which staff didn't like either. He doesn't want to argue with the town or staff. If there is a problem with the sign, just forget it. The bus will not make money. Councilman Gilbert said there has been discussion with WAVE to figure out how to finance a bus service here. He also said he was very clear up front about his flashing sign. He doesn't have a problem with fixed signs. Mr. Golden says he feels there are two different attitudes between staff and Council. Mr. Owens has never liked his sign. He talked about the history of his truck with the sign that he parked at different places around town and eventually zoning had issues with it. They didn't have an issue with it rolling, only staying in one spot because it was off premise advertising. He went to staff about making it mobile. The first meeting staff told him he didn't think he could do anything about it and, for the sake of argument, he trashed the plan. He discussed the county ordinance which allows advertising on the side of a bus as long as the primary business was to be a bus and the advertising is secondary. He said Mr. Owens feels that the advertising will be primary and the bus secondary and he is right because without the revenue for the sign the bus won't work. The sign will have to be on the side of the bus. He has no problem with static ads, stationary and not flashing. There are a lot of animated signs on the beach right now that are breaking the sign ordinance. He feels the businesses would like to have the extra revenue from the people he can bring from Wilmington. He reviewed the bus route. The charge would be \$5.00 each way. It will also alleviate some of the parking issues. Mr. Golden said that the town manager is requesting Council require \$2 million in insurance. He said the insurance company does not provide that. The state requires \$1.5 million - that's doable. He was told by the building inspector that as long as his vehicles have a legal tag and a legal registration, he can park it anywhere he wants to. He said the town manager is also requiring him to get

a taxi permit from the Police Department and that is not in the ordinance and does not know what that requires. Neither the city nor the county requires that for a bus service. Mr. Owens said they could scale back on the insurance and, if his request is approved, he can look through the ordinances and help the applicant on the requirements. Mr. Golden asked why the town couldn't come up with some place to park his bus based on other incentives that have been given away. He stated that his LED sign is 4' x 10' and the bus is probably 20 feet long. He said he would consider putting a second sign on if it proves profitable.

Councilwoman Efirid made a motion to open the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to close the public hearing. Motion seconded by Councilwoman Efirid. MOTION CARRIED UNANIMOUSLY.

The town attorney asked if what was being applied for is a bus service pursuant to our bus ordinance, and that makes no reference to signage within it. Then you have an operation of bus service - how it's conducted may or may not violate some other provision within our ordinances and at that time the issue would be right for decision.

MPT Wilcox made a motion to approve the applicant's request to operate a bus service to Carolina Beach. Motion seconded by Councilwoman Efirid. MPT Wilcox amended his motion that Council approve the applicant's request to operate a bus service to Carolina Beach pursuant to Article IX, Chapter 8-184 through 8-195 as stated. Motion seconded by Councilwoman Efirid. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion for a 5 minute recess. MOTION CARRIED UNANIMOUSLY.

Mayor Macon called the meeting back to order.

CONSIDER AMENDING THE ZONING ORDINANCE TO ALLOW ANY TOWN FACILITY OR UTILITY IMPROVEMENT IN ANY ZONE AS A PERMITTED USE AND NOT A CONDITIONAL USE

Ed Parvin presented the town's request to amend the ordinance. Alternative #1 would keep the ordinance as is. Alternative #2 would allow these facilities in all zones. He stated that it would probably be the Town Manager who would make the determination if there is a need for a public hearing. The Planning and Zoning Commission recommended town facilities and utilities be permitted in all zones except residential which staff tended to agree with and reviewed which zones it would be allowed in and the amendment to proposed Ordinance No. 08-741.

Councilwoman Efirm made a motion to open the public hearing. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

Councilwoman Efirm made a motion to close the public hearing. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

Councilwoman Efirm made a motion to adopt Ordinance No. 08-741 (Exhibit 2). The town manager asked Council to consider adding all town facilities including but not limited to, and the town attorney concurred. Mayor Macon asked if there was a second to that. Councilman Johnson said in the last line we need to add in all zones except residential where a CUP will be required by Town Council and that it is consistent with the Land Use Plan. Mayor Macon asked if he would like to amend Councilman Efirm's motion. Councilman Johnson said he would like to amend the motion to approve Ordinance No. 08-741 to read "All town utilities but not limited to ...", and to add "... in all zones except residential where a CUP will be required by Town Council" and that it is consistent with the Land Use Plan. The motion was seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

CAMA PUBLIC ACCESS GRANT FOR CAPE FEAR BLVD.

Gary Ferguson said that the town has been approved to enter the second round submittal for a CAMA beach access for Cape Fear Blvd. This might be the impetus behind the town moving forward with the Master Development Plan if the board so chooses. It is a \$200,000 grant which would improve the east side of Cape Fear Blvd. only as only this portion was considered by DCM. He said there are 31 parking spaces currently on the east side of Cape Fear, 19 spaces will be added along with additional landscaping and lighting. The application is due June 2nd. The Town Manager suggested additional items to be considered were not part of the original grant request but, if the board chooses they may want to expand this. It would be somewhat of a demonstration project for the Master Development Plan that Peter J. Smith did for the town and could be a model to follow throughout the town and CBD.

Councilwoman Efirm made a motion to open the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

Councilwoman Efirm made a motion to close the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion to direct staff to proceed accordingly. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

REQUEST BY THE TOWN FOR A CONDITIONAL USE PERMIT FOR PUMP STATION #1 LOCATED AT 101 CANAL DRIVE (PIN 313011-55-4114-000) AND 103 RALEIGH AVENUE (PIN 313011-55-3178-000 AND PIN 313011-55-3165-000) TO EXPAND THE PUMPING CAPACITY FROM 1,500 GALLONS PER MINUTE TO 2,500 GALLONS PER MINUTE, AND TO DEMOLISH THE CURRENT BUILDING AND CONSTRUCT A NEW BUILDING TO HOUSE THE NEW FACILITY

Gary Ferguson said that because the Council just adopted the amendment it is not necessary to hear this proposal because it is in the CBD. Council was in agreement.

CONSIDER AMENDING THE CODE OF ORDINANCES, SECTION 12-106 SUBDIVISION REGULATIONS/LOTS TO ELIMINATE THE MINIMUM DEPTH REQUIREMENT ON LOTS IN ALL ZONES

Gary Ferguson presented amendment request and said that currently in the ordinance there are three standards - minimum area requirement, lot frontage requirement and lot depth requirement with the lot depth requirement minimum being 100 feet in all zones except the CBD. The staff's opinion is that a minimum lot depth requirement serves no useful purpose as long as lot area and lot frontage requirements are established and recommends eliminating the 100 foot minimum lot depth standard. The Planning and Zoning Commission recommended removal of the 100 foot lot depth standard as well.

Mayor Macon made a motion to open the public hearing. Motion seconded by Councilwoman Efir. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to close the public hearing. Motion seconded by Councilwoman Efir. MOTION CARRIED UNANIMOUSLY.

Councilwoman Efir made a motion to adopt Ordinance No. 08-742 (Exhibit 3). Motion seconded MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING CHAPTER 9 MOTOR VEHICLES AND TRAFFIC; ARTICLE VI SCHEDULES, SCHEDULE A SPEED LIMITS, TO REDUCE THE SPEED LIMIT FROM 35 MPH TO 25 MPH THROUGHOUT THE TOWN LIMITS UNLESS POSTED OTHERWISE

Chief Younginer presented request with the recommendation to replace the current ordinance due to complaints of vehicles speeding inside the town limits and staff feels it is appropriate for the safety of the citizens. He said as they made the changes they would put up signs saying the speed is 25 MPH unless otherwise posted. He also suggest that they use the trailer on as many of these streets as possible throughout the summer saying that the speed limit is 25 MPH and not write any tickets on it while educating drivers.

Councilwoman Efird made a motion to open the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

Councilwoman Efird made a motion to close the public hearing. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to adopt Ordinance No. 08-737 (Exhibit 4). Motion seconded by Councilwoman Efird. MOTION CARRIED UNANIMOUSLY.

AWARD BID FOR ANNUAL LANDSCAPING AND GROUNDS MAINTENANCE CONTRACT EFFECTIVE JULY 1, 2008 THRU JUNE 30, 2010

Tim Owens said they had a good response on the bidding of the contract. The winning bid was Landscapes Unlimited for \$139,114.07 which is less than what they paid this current year from Paradise. One thing different which is a plus is that they will be doing street right-of-ways seven months out of the year, monthly. Overall they were the most qualified and the best bidder and all references checked out very well.

Councilman Johnson made a motion to award the bid to Landscapes Unlimited in the amount of \$139,114.07. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

TIF FINANCING AND CBD INCENTIVE MEETING UPDATE

Ed Parvin presented. He said the town is exploring the route of using tax increment financing (TIF) of which New Hanover County is very supportive. There will be a meeting on May 28th at 10:00 a.m. at which a representative from the School of Government to talk about the ins and outs of TIF; BB&T; with regard to economic incentives, Bob Murphrey will talk about what the Division of Community Assistance can offer the town; and John Hinnant will talk about what kind of incentive projects Wilmington has.

The Town Clerk suggested calling a special meeting if 3 Council members or more plan to participate in that process. Council agreed to call a special meeting for May 28th at 10:00 a.m.

ITRE STREET UPDATE

Tim Owens presented a proposal to review and rate the condition of the town streets. He said the project would identify maintenance needs and costs estimation for mitigation, calculated pavement conditions and summary tables and priority listings. It would be a good tool to start prioritizing some of the town's roadwork. He does not propose to do it

this year, he proposes using funds next year to do it if Council agrees to it.

Councilman Gilbert said he felt \$7,900 seems light and wanted to know if they are doing some kind of extrapolation or some kind of sampling.

Mayor Macon suggested getting those answers and if it is still a good deal, to move forward. Staff agreed.

CONSIDER APPROVING VENDING LICENSE FOR RICK'S BEACH BITES

Jeremy Hardison presented request, said the vending activity is for one food cart to serve hot dogs, drinks, crab cakes, and sandwiches. The town manager said it fits within the confines of the ordinance.

Mayor Macon made a motion to approve Rick's Beach Bites for one (1) year subject to the town manager's approval in conjunction with what is allowed in the ordinance.

Duke Hagestrom said that when you speak of a special event and the events that they hold and have vendors come to these events, usually they set it up in such a fashion where they are charging that vendor to come to that event. Using the movie example, part of the reason they get the pricing they do from the vendor, is he actually gets to do the concessions at the movies and in exchange for that he gives them a break on the price they are paying. So if you now have a vendor who isn't a part of that program and can just show up and sell, they may lose some of their incentive or discount from that particular vendor. Usually when they do a special event like the Boardwalk Makeover celebration or other activities, chamber events, there is a fee that the vendors have to pay. So the special events part gives him a little bit of heartburn because you have a special situation where everybody else gets signed up through the special event license, the Health Dept. has to come out and then you have someone who is a separate entity running his vending. That is one concern. The other thing that came to mind, this Council decided to go ahead and sunset vending over the next three years. The message it sent to people vending was that we really don't want to have vending, we're going to start in three years time, three seasons time, unless we decide to change our ordinances or our approach to vending, we've decided as a Council to sunset vending. He is not in favor of that. He is working on a model ordinance.

Mayor Macon called for a vote. **MOTION CARRIED UNANIMOUSLY.**

APPOINTMENTS TO YOUTH SERVICES COMMITTEE

Councilwoman Efird made a motion to appoint Jasmine McKee and Jana Benson to the Youth Services Committee. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

APPOINTMENT TO POLICE ADVISORY COMMITTEE

Councilman Johnson motioned to appoint Nick Nolan to the Police Advisory Committee. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

INSTALLATION OF ADDITIONAL SPEED HUMPS AT THE NORTH END

Tim Owens presented this request and recommended one speed hump coming out of the southernmost entrance to the Breaker's. He agreed with the HOA that something else needed to be put there. The cost is \$600.

Councilman Gilbert made a motion to direct staff to put another speed hump in where they desire. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

VENDOR BOXES

Tim Owens presented request from Duke Hagestrom and Sean Cook to be allowed to place vending boxes and some of their inventory on the beach. If Council wishes to proceed, he recommends setting a public hearing date for June 10, 2008 at 7:30 p.m. or soon thereafter to consider changing the prohibition on storage of inventory overnight as specified in Chapter 8, Article III.

Councilman Gilbert made a motion that this go forward for a text amendment but also include dates and times when the boxes will be removed in the off season. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING FUND BALANCE POLICY

Tim Owens said that Council requested staff to look at this policy. The current policy is 60% for the General Fund, 60% for the Water and Sewer Fund and 50% for the Tourism Fund. He does have a concern on two of the funds with recommending that amount. He thinks they can reach the 50% of the Tourism Fund. The bad thing with the Tourism Fund is that there are very little revenue sources that are constant and can be increased. Freeman Park is the only one and tends to increase a lot and is getting close to being maxed out. He feels that 50% would be more palatable for the General Fund. If you use 60%, you are looking at a \$1,721,000 shortfall and would take 6 years with a \$.01 tax increase to make that shortfall up. It would be easier to reach 50% and would be about \$850,000 still short. He has no problem with 60% for the Water and Sewer Fund and 50% for the Tourism Fund. If Council is in favor of that they can adopt resolution establishing those benchmarks for fund balances.

Councilman Gilbert made a motion to approve Resolution No. 08-919 (Exhibit 5) with 50% for the General Fund, 60% for the Water and Sewer Fund and 50% for the Tourism Fund. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

PLEASURE ISLAND SURF FISHING CHALLENGE

Tim Owens said the event is for October 24-26, 2008. In the past he has given them a card for the north end that they can put in their vehicle and it went well.

Councilman Gilbert made a motion to give staff direction to go forward with the Fisherman's Post event. Motion seconded by Mayor Macon. MOTION CARRIED UNANIMOUSLY.

DIRECTION OF PRE-PLANNING OF PROJECTS

Tim Owens said there are a number of projects that Council wanted to see the town proceed forward on that were identified at the Goal Setting Workshop. He reviewed the cost estimates of the projects. Mr. Owens said that the total estimated cost is closer to \$45,000 because of some additional information received today and can be split up or totally taken out of the General Fund.

Mayor Macon made a motion to take it out of reserve funds to complete the projects. Motion seconded by MPT Wilcox. MOTION CARRIED UNANIMOUSLY.

CONSIDER CHANGING DATE OF REGULARLY SCHEDULED COUNCIL MEETING IN JULY DUE TO CONFLICT WITH JULY 8, 2008 COASTAL RESOURCES COMMISSION MEETING

Tim Owens said he spoke with Jim Gregson about holding a public hearing for the oceanfront setback rules here and it will be held in the Town Hall on July 8th, the same night as the regularly scheduled meeting and will need to reschedule. Also, Council started talking about filming in the July meeting and proposes pushing the first filming date back if your are still going to film in August. Mr. Owens recommended July 7 for Council meeting.

Mayor Macon made a motion to move the regularly scheduled Council meeting from July 8, 2008 to July 7, 2008. Motion seconded by Councilwoman Efird. MOTION CARRIED UNANIMOUSLY.

NON-AGENDA ITEMS

Councilman Johnson said regarding the project on Canal Drive, around the 400 block where the columns they poured and it has been vacated - there is about 3 foot high grass and a big pile of concrete that the neighbors are complaining about. Summer is coming on and there are a lot of rentals around that area. We need to get the lot cleaned up, would like for the building inspector to look at it. He would also like for him to look at the plywood lying over the elevator shaft there, check it out and make sure it is secured and well supported so someone doesn't fall through. He then mentioned to the town manager the growth at Henniker's Ditch and he is concerned about the flow. He said that someone needs to look at it about cleaning it out and look at the maintenance of it cost-wise instead of letting it go so long and costing a lot more. Mayor Macon said, in support of the problem on Canal Drive, at this particular time of the year we should concentrate on some of that cleanup in the area as a whole.

Tim Owens said there are a bunch of meetings coming up, he and Lynn Prusa will get together and try to send out an e-mail and copy Pat about when those meetings are.

The town clerk said that Wrightsville Beach and Kure Beach will not attend Town Hall Day this year; however, the City of Wilmington will be there. They will be leaving Wednesday night and not staying because they have a council meeting the next day and they have asked if Carolina Beach will host the dinner earlier than the 7:30 - 8:00 p.m. time frame. If Council is in agreement, she will make arrangements for 6:00 or 6:30 p.m. There is a reception from 5:00 to 6:00 p.m. Council agreed to change it to 6:30 p.m.

Councilman Gilbert said that since they are a 5 member board he doesn't think they need to have seconds to the motions. He referred everyone to the David Lawrence handbook and recommend that it as a good guideline for adopting a policy to address these matters. Tim Owens said they could probably create a policy and refer to this handbook.

MPT Wilcox said they have talked about the incentive plan a couple of times and how poorly it was written and, at some point in time, they need to get on with rewriting it. If nothing else maybe they could have someone review it and give them some guidelines to go with it and some intent. Mayor Macon suggested sending it to the new Business Committee as something for them to look at.

REQUEST FOR CLOSED SESSION TO DISCUSS PERSONNEL, REAL ESTATE (NCGS 143-318.11(A)5)

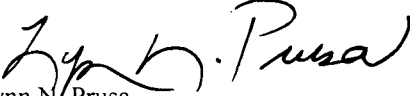
Mayor Macon made a motion to go into closed session to discuss personnel and real estate according to NCGS 143-318.11(a)5. MOTION CARRIED UNANIMOUSLY.

No action was taken.

RECESS

There being no further a motion was made by Councilwoman Ebird to recess this meeting to May 20, 2008 at 11:00 a.m. **MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,


Lynn N. Prusa
Town Clerk

Approved: 6-10-08

Carolina Beach
Business & Economic Development Committee
Report to Council at 5/13/2008 Meeting

On May 9, 2008, the Business and Economic Development Committee's welcomed Avril Pinder, CPA, Director of Finance for New Hanover County, to it's regular meeting, to review with her the committee's work for a Proposed TIF District for Carolina Beach, and to gain insight about the County's perspective on Tax Increment Financing. An Aerial and Street Map were used to provide an area analysis, and copies of the recently completed Master Plan had been provided in advance to give context to our discussion.

The meeting included a broad representation from other island organizations also exploring the benefits of TIF. Joining Carolina Beach officials, were the town manager and a councilman from Kure Beach, and board members from both the Pleasure Island Chamber of Commerce and the Pleasure Island Foundation for a Sustainable Community; and the publishers of Snow's Cut Monthly magazine.

One of the charges of this committee is to find the ways and means to implement changes guided by the vision of the Master Plan. Project Development Financing is a new economic development tool recently authorized in North Carolina. Known as tax increment financing (TIF), in many other states, it is a means for local government to stimulate private investment by building public improvements within a targeted area. Too often, Master Plan studies end up collecting dust, rather than being acted upon to construct parking decks, bury overhead utility wires, build meeting and conference space, widen sidewalks to encourage outdoor cafes' with street energy, and and plant trees along side bike lanes to shade and green our environment. These are some of the improvements envisioned in the most recent Master Plan, as well as many of the older plans none of which happened.

Joining Avril Pinder from New Hanover County's finance department was Shelia Boyd, a Financial Analyst with the Tourism Development Authority (TDA). Avril was impressed by by the committee's broad-based support through it's outreach to other organizations and neighboring communities, it's diligence in exploring and understanding this new to NC tool, and how the committee is integrating a TIF district within the context of Carolina Beach's Master Plan recommendations. Avril suggested that we enact a TIF overlay district before the end of this year, whether or not we use it, and that it be as large as legally permissible, equal to 5% of CB land mass or approximately 103 acres.

The central business district of Carolina Beach, including the Boardwalk, is a text book example of an area that would benefit from a TIF district. As the committee continues to refine the TIF concept to best apply it to Carolina Beach, the commitment that Avril made to us was the perfect outcome at the conclusion of this meeting, that either she or Shelia will attend future meetings. One or both of them will be in attendance at the CB workshop being held on May 28th.



ORDINANCE NO. 08-741

***An Ordinance Amending Appendix A Zoning,
Article 12 Development Standards for Particular Uses,
Section 12.2***

The Town Council of the Town of Carolina Beach hereby amends Appendix A Zoning, Article 12 Development Standards for Particular Uses, Section 12.2, as follows:

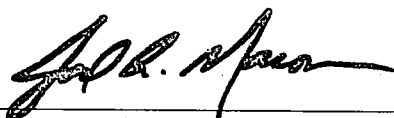
Town Facilities/Utilities

All Town facilities/utilities including but not limited to: parks, playgrounds, recreation centers, fire stations, emergency services and public buildings shall be permitted by right.

All Town utilities including: transmission lines, telephone repeater stations, relay stations, water supply reservoirs, wells, filter beds, sewage treatment plants, pumping stations, electric power and gas substations, service or storage yards shall be permitted by right in all zones except residential where a conditional use permit will be required by the Town Council.

Adopted this 13th day of May 2008.





Joel Macoff, Mayor

Attest: 
Melinda N. Prusa, Town Clerk



ORDINANCE NO. 08-742

*An Ordinance Amending the Code of Ordinances,
Chapter 12 Subdivision Regulations,
Section 12-106 Lots (c) Area and dimensions*

The Town Council of the Town of Carolina Beach hereby amends the Code of Ordinances, Chapter 12, Subdivision Regulations, Section 12-106 Lots (c) Area and Dimensions, as follows:

Sec. 12-106. Lots. (c) *Area and dimensions:*

(1) Area and dimensions of all lots shall conform to the requirements of the zoning ordinance (Appendix A) when applicable and those building sites not served by a public sanitary sewer system or other approved system shall be sufficient to permit the use of an on-site soil absorption sewage disposal system designed in accordance with county board of health and state commission for health services standards (see section 12-52(c)). The width and area of all lots served by on-site sewage disposal systems and individual wells shall not be less than one hundred (100) feet in width and twenty thousand (20,000) square feet in area.

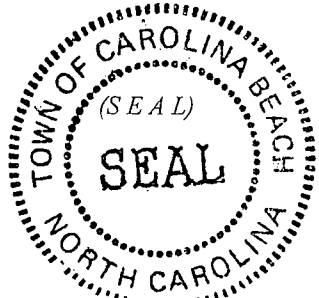
~~(2) Lots shall have a minimum average depth of one hundred (100) feet. Excessive depth in relation to width shall be avoided and a proportion of two (2) to one (1) shall be considered a desirable ratio under normal conditions.~~

(3) Width of lots shall conform to the requirements of the zoning ordinance (Appendix A) when applicable, and in no case shall a lot be less than fifty (50) feet in width at the building setback line.

(4) Depth and width of lots or parcels reserved or laid out for business, commercial, or industrial use shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions, when applicable, for such use.

(d) *Lots with frontal dunes.* Notwithstanding the provisions of this article, all lots of a proposed subdivision shall be so designed and/or laid out in a fashion so that adequate space is provided for the placement of structures and/or other improvements on the subject lot or lots without altering or otherwise disturbing the frontal dunes, as defined by section 12-37. If this provision is held to be in conflict with any other regulation of this article or other requirement, the more restrictive of the conflicting requirements shall be adhered to. This provision is not to be construed as limiting other requirements of this article, such as building setback lines or other requirements when conflicts arise. All necessary provisions of this article shall be complied with unless approval for a variance from such requirements is given by the appropriate jurisdictional agency or agencies.

Adopted on May 13, 2008.



Joel Macon
Joel Macon, Mayor

Attest:

Melinda N. Prusa
Melinda N. Prusa, Town Clerk



ORDINANCE NO. 08-737

*An Ordinance Amending the Code of Ordinances;
Chapter 9 Motor Vehicles & Traffic;
Article VI Schedules, Schedule A Speed Limits*

The Town Council of the Town of Carolina Beach hereby amends the Code of Ordinances, Chapter 9 Motor Vehicles & Traffic; Article VI Schedules, Schedule A Speed Limits.

Delete the Current Schedule A Speed Limits, that reads as follows:

Article VI SCHEDULES: Speed Limits

The following schedule in conjunction with the attached official speed limit map, after undertaking an engineering traffic study, shall establish the speed limits throughout the corporate limits of the Town of Carolina Beach, North Carolina.

Dow Road, from the southerly corporate limits, at a point 0.22 miles southwest of Masonboro (State Park) to US 421 (Lake Park Blvd.) . . . 45 MPH

* Dow Road from intersection with U.S. Hwy 421 (N. Lake Park Blvd.), south to extraterritorial limits . . . 55 MPH

***Note:** Under the control of North Carolina Department of Transportation.

US 421 from Atlanta Avenue at a point 1.23 miles north of the southerly Carolina Beach/northerly Kure Beach corporate limit, northward for a distance of 0.45 miles to St. Joseph Street . . . 25 MPH

US 421 from a point 0.35 miles south of the north intersection with SR 1573 (Dow Road), northerly to the Carolina Beach northern corporate limit at the south bank of Snow's Cut, a point 0.52 miles north of the northern intersection with SR 1573 . . . 45 MPH

*U.S. Hwy 421 (Lake Park Blvd.) from south end of Snow's Cut Bridge North . . . 55 MPH

*U.S. Hwy 421 (Lake Park Blvd.) from south end of Snow's Cut Bridge to Town Hall . . . 45 MPH

- *U.S. Hwy 421 (Lake Park Blvd.) from Town Hall to Lumberton Avenue intersection . . . 35 MPH
- *U.S. Hwy 421 (Lake Park Blvd.) from Lumberton Avenue intersection to south end of Lake at Pump House . . . 25 MPH
- *U.S. Hwy 421 (Lake Park Blvd.) from south end of Lake at Pump House to Alabama Avenue . . . 35 MPH
- Harper Avenue from Dow Road East to US Hwy 421 (N. Lake Park Blvd.) . . . 35 MPH
- Harper Avenue from US Hwy 421 (N. Lake Park Blvd.) east to Canal Drive intersection . . . 25 MPH
- Cape Fear Blvd. from Dow Road east to 4th Street intersection . . . 35 MPH
- Cape Fear Blvd. from 4th Street intersection east to Woody Hewett Avenue . . . 25 MPH
- Spartanburg Avenue from Dow Road east to S. Lake Park Blvd. intersection . . . 35 MPH
- Bridge Barrier Road from Dow Road intersection north to Spencer Farlow Drive intersection . . . 35 MPH
- Spencer Farlow Drive from Bridge Barrier Road intersection east to termination at Risso Lane . . . 25 MPH
- St. Joseph Street from N. Lake Park Blvd. intersection north to Lewis Road intersection . . . 35 MPH
- Lewis Road from US Hwy 421 (Lake Park Blvd.) east to St. Joseph Street intersection . . . 35 MPH
- Woody Hewett Avenue from South Lake Park Blvd. north to Harper Avenue intersection . . . 25 MPH
- Carolina Beach Avenue south from Hamlet Avenue intersection south to S. Lake Park Blvd. . . . 25 MPH
- Raleigh Avenue from N. Lake Park Blvd. intersection east to Woody Hewett Avenue intersection . . . 25 MPH
- Myrtle Avenue from Harper Avenue intersection north to Carl Winner Avenue intersection . . . 25 MPH
- Carl Winner Avenue from N. Lake Park Blvd. intersection east to Canal Drive intersection . . . 25 MPH
- Canal Drive from Harper Avenue intersection north to termination . . . 25 MPH
- Carolina Beach Avenue north from Canal Drive intersection north to Salt Water Lane (16th St.) intersection . . . 25 MPH
- Salt Water Lane from Carolina Beach Avenue North Intersection to Canal Drive intersection . . . 25 MPH
- 7th Street North . . . 25 MPH
- Old Dow Road from State Park Road to Bridge Barrier Road be designated at . . . 35 MPH
- Special Safety Zone (School):
- Atlanta Avenue from 6th Street intersection east to 3rd Street intersection . . . 25 MPH
- Clarendon Avenue from 6th Street intersection east to 4th Street intersection . . . 25 MPH
- 5th Street from Columbia Avenue intersection north to Fayetteville Avenue intersection . . . 25 MPH
- 4th Street from Columbia Avenue intersection north to Fayetteville Avenue intersection . . . 25 MPH

Special safety or hazard areas as may be established and signs erected denoting said appropriate speed limits.

All other streets within the corporate limits of the town . . . 30 MPH

To declare that the following speed limits be rescinded as follows:

Lake Park Blvd. (US 421) from First Avenue (US 421) to King Street (SR 1536) . . . 25 MPH

All streets in the area known as Wilmington Beach be specified at a speed limit of 25 MPH. Those being all of Tennessee Avenue, North Carolina Avenue, South Carolina Avenue, Texas Avenue, Alabama Avenue, Bowfin Lane, Snapper Lane, Swordfish Lane, Bonito Lane, Mackerel Lane, Pinfish Lane, Searay Lane, Spot Lane, and Croaker Lane. (Ord. No. 97-403, 8-12-97; Ord. No. 98-416, 1-13-98; Ord. No. 98-432, 9-8-98; Ord. No. 02-519, 9-17-02; Ord. No. 02-498, 3-12-02; Ord. No. 02-502, 5-14-02; Ord. No. 06-624, 2-14-06)

Replace the current ordinance with the following:

Article VI. SCHEDULES

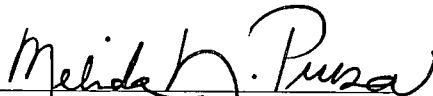
SCHEDULES A. SPEED LIMITS

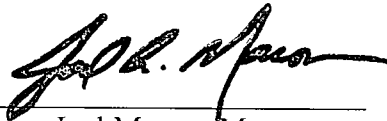
The Town of Carolina Beach shall set the following speed limit as a city wide speed of 25 MPH. With the exception of the following streets being set at 35MPH, Cape Fear Blvd. between 3rd Street and Dow Road, Harper Ave. between Lake Park and Dow Road, Ocean Blvd. from Lake Park Blvd. to Croaker Lane, and any street that is controlled by the North Carolina Department of Transportation Department, and marked with the States designated speed limit sign.

Adopted this 13th day of May 2008.



Attest:


Melinda N. Prusa, Town Clerk



Joel Macon, Mayor

RESOLUTION 08-919

**A RESOLUTION ESTABLISHING AN UNDESIGNATED AVAILABLE FUND
BALANCE POLICY FOR THE TOWN OF CAROLINA BEACH**

WHEREAS, for the purpose of improving and maintaining fiscal responsibility as required under the Local Government Budget and Fiscal Control Act, NC General Statute Chapter 159 it is prudent to establish a clear policy defining the level of undesignated available fund balance to be held in reserve by Town; and

WHEREAS, the NC Local Government Commission is charged with overseeing the fiscal health of cities and counties and recommends a minimum undesignated available fund balance reserve (General Fund) of no less than 8% of prior year's expenditures; and

WHEREAS, the NC Local Government Commission does not require a fund balance for the Town's Tourism Fund or Water/Sewer Fund but the Town believes that there is merit in maintaining a healthy reserve in these funds for unanticipated situations; and

WHEREAS, it is necessary to maintain undesignated available fund balance reserves to provide appropriate cash flow for operation of Town services, to address emergencies and unexpected opportunities, to increase the potential for investment income and to enhance the Town's credit rating to provide the Town the ability to borrow at the lowest possible interest rate.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CAROLINA BEACH, NORTH CAROLINA THAT:

Section 1. All revenues in excess of expenditures realized at the end of any given fiscal year are credited to undesignated available fund balance until a minimum goal of 50 % (General Fund), 60 % (Water/Sewer/Stormwater Fund), and 50 % (Tourism Fund) are realized. It is further resolved that the Town will adjust this minimum as appropriate based upon recommendations from the NC Local Government Commission and the changing financial outlook.

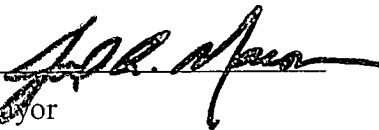
Section 2. Once the goal for each fund is realized, all revenue in excess of expenditures realized at the end of any given fiscal year be credited to capital reserve funds heretofore recommended by the Town Manager and established by formal resolution of the Town Council.

Section 3. The Town Manager is charged to annually monitor and report to the Town Council during the preparation of the annual operating budget regarding the status of available fund balance, the fund balance amount for each fund as it relates to the goals as set forth in this resolution and the Town's compliance with the LGC 8% recommendation for the General Fund.

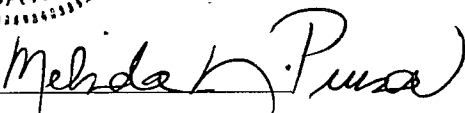
Section 4. This Resolution shall become effective upon its adoption and approval.

Adopted and Approved this date of May 13, 2008.





Mayor



Town Clerk