

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

August 8, 2006

The Town Council of the Town of Carolina Beach met in regular session on August 8, 2006 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, Alan Gilbert; Councilwoman, Pat Efird; 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 BY JOSEF "YOSSI" SHALEV, ASSISTANT PASTOR OF
CHRISTIAN MISSIONARY ALLIANCE CHURCH**

Pastor Shalev gave the invocation this evening.

PLEDGE OF ALLEGIANCE

Mayor Clark led everyone in the pledge of allegiance.

ADOPT THE AGENDA

Tim Owens, Town Manager, reviewed the proposed changes to the agenda:

Item #8(o) – Add – Request for reimbursement and approval to the New Hanover County TDA in the amount of \$42,871.14

Item #8(d) Amend – Set a public hearing date for September 12, 2006 at 7:30 p.m. or soon thereafter to amend the Town Code to address hotel-miniums:

- a. Item 3.8 Permissible Uses Table
- b. 7.1 Off-Street Parking and Loading Requirements
- c. Article 12.2 Development Standards for Particular Uses
- d. Article 23 Definitions

Change the public hearing date for the Ocean Plaza Hotel-minium project to a special called meeting or recessed meeting on Tuesday, September 28, 2006 at 7:30 p.m. or a mutually agreed upon date set by the Town Council

Item #21- Amend - Appointments to Ad-Hoc LUP Steering Committee

Item #15 and Item #17 – Consider switching these two item number on the agenda.

Mayor Clark made a motion to adopt the agenda with the changes as mentioned by Mr. Owens. **MOTION CARRIED UNANIMOUSLY.**

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Gene Gurganious, Utilities Systems Superintendent, was recognized by Mayor Clark for 15 years of service for the Town of Carolina Beach.

Dawn Johnson, Finance Director, was recognized for the accomplishments of her daughter, Callie, who is an excellent swimmer. She recently competed in High Point in the Junior Olympics.

INTRODUCE NEW EMPLOYEES

Steve Pagley, Operations Director, introduced one new employee, Robert Adler who is with Fleet Maintenance.

William Younginer, Chief of Police, introduced two new police officers: Bonnie Williamson and Danny McCullough.

PUBLIC DISCUSSION (Five minute time limit per person)

The first speaker was Randy Simon of Mona Black Marina at 930 St. Joseph Street. Mr. Simon wanted to present pictures showing the mud coming out of the pipe at the marina, but there was a problem with the overhead projector. Mr. Simons said, unfortunately I can't show what has resulted from the immediate area right at the pipe, in reference to putting a boat that is supposed to be sitting in five feet of water at the lowest tide to actually being on dry sand. Mr. Simon said this issue was supposed to be on the agenda for the last two times. He said I've been before you now for over two and a half years, and we have waited patiently. He went on to say that it was about eighteen months before this even went public - trying to remedy the problem at the marina. He said that after a year and a half, as the Planning and Zoning Board members are aware, because we appeared before them each and every time and Mr. Johnson was present, we had spoken before Town Council each and every time we had an opportunity. I understand it has been postponed from tonight to September.

Mr. Simon said, we finally saw an engineer who said to me it is a bad situation. There's too much water coming into that location. Again, the sand blows on the four lane

highway and there are open culverts. The first part of the storm, referring to a thunderstorm, the shoulder is higher than the road, the wind blows, the sand goes on the road, not to mention hydraulics and fuel that leak off trucks and vehicles and what have you. Sand washes in at a rapid rate because of the cloud burst. All these culverts join one pipe which all empties out at the marina. I know you want to hire marine engineers and that doesn't come cheap. We realize that and we don't want money wasted either, but we do need some relief. I was going to bring these pictures, just four of them, which shows exactly what it does in a short period of time. Again, the storm drainage division came out and I don't know what their intentions are but we always hear the cliché we're boater friendly here. Well they came during a seven or eight day period and tapped into the fire hydrants and whatever has been in those pipes for the past years was blasted away with high pressure from the fire hydrants. You can imagine all the sand and slime that's been built up in those pipes. They don't come down to the marina and say be prepared, shut your boats off as far as the air conditioning units that take in sea water. They blast away and fill in more at the marina and damage vessels without ever saying hello, how are you. This should not be the way. I want Town Council to realize what is going on. Besides two and a half years in this, not getting any relief, what's been occurring is not friendly. This is not what I think you all stand for. I know I don't stand for it. There are ways of doing things in storm drainage and it needs to be looked at. He asked, why somebody would come in here and blast away with the highest pressure, knowing what's going to come out? I've heard stories from the survey that there's lot of sand, dead animals, and what have you in the storm drain system.

Mayor Clark said this item is on the agenda. It's Item #11 and our town manager will address it then. If Ms. Black comes in before public discussion is over, we will certainly call her up here. Mr. Simon asked, will we be allowed to be part of that presentation in 30 days or are we going to be told that we can't say anything? Mayor Clark said I would rather wait until Item #11 comes up and there will be a review by our town manager and he will give you the status of where the investigation stands. Mr. Simon said we've waited almost three years and we can't even get an answer and can we be a part of it. I'm the one who requested that it be on the agenda not this time but the time before, and for this time and now it's continued again. He said, we are taking a beating financially and mentally and everything else you can think of, just from the things that I mentioned to you with what's occurring with the administration here. It's not right. I know you're saying to wait for Item #11 to come up. We have been patient and it's getting bad. Mayor Clark said our town manager is working on it now. Mayor Pro Tem Gilbert explained that he would not know what questions to ask until the town manager gives his presentation. He told Mr. Simon that if questions are directed to him then he feels that giving him time to answer is reasonable. Mr. Owens said that's perfectly okay if we want to ask questions. Right now I don't have any presentation other than I want to explain the process.

Ms. Black stood up and said, I don't think I have any more to say at this time. Mr. Simon asked, if the projector comes up can I show these four pictures? Mr. Owens said it may not come up, but I will definitely forward it and make copies of it for the board tomorrow. Mr. Simon said, I realize that but I want to show the people. That's what the

whole essence of it is. Every time we try to do something, something doesn't come out right. Mr. Owens apologized, and said that not having a projector will affect all of our presentations tonight. We did have a lightning strike and that's probably what the problem is. Mr. Simon said with the remaining minutes Ms. Black has can we get some kind of assurance that we can at least be a part of the program this evening under Item #11 as the Mayor mentioned, so we don't have to sit for all this. Mayor Clark said let's let him do a presentation and then we will give him a chance. Mr. Owens said I can sum it up and we can delete #11 to be honest with you. Basically, the only presentation that I had was we thought we were going to be able to present tonight some kind of findings from the engineer that we hired. He wanted to consult with a soil scientist because they understood the particle matter and how it flowed better than he did. We are in the process of doing that. I do believe that we will probably have some kind of outcome in September. I can honestly say I can't make any promises. I hope that we have something in September. We did discuss a time line. He has come out and looked at it. I think Mr. Simon met with him. That's really all I have.

Mr. Simon said Ms. Black and her daughter operate this business. There are 24 slips. She's looking at \$32,000. This is a small business. A small business cannot sustain \$32,000 in damage and still have the same occurring problem. It sounds like it's not even going to be rectified in September, but she needs some relief. She needed relief three years ago. We've been going through every step as we're supposed to politely, respectfully and we've been patient. Mr. Simon said this went on for 18 months of meeting with the town administrators before it even went public. Even going public, it seems like it makes really no difference to anybody. It is not fair to Ms. Black or her daughter, forget me, for her to have a business and be a long time resident of this island and this is what I feel is a clear cut substantial case. What does a poor citizen of Carolina Beach do if it's in kind of a gray area or in the middle of the road? We can't get anywhere and I got pictures taken of what's occurring. I have done everything but bring the mud and put it here.

Mayor Clark asked, is the contractor that's doing the study very well familiar with the Black's property? Mr. Owens said absolutely. They are very familiar with our basin. They are going to give us some kind of recommendation, some kind of outcome, or some kind of finding. I'd recommend to the Council not to make any action until they make those findings and that you have some data before you. Mayor Clark said we want to do it right. It's just taking a long time, a lot longer than we anticipated.

Mr. Simon thanked the Council in anything that they could do for Ms. Black and her daughter. He repeated again that a 24 slip marina cannot sustain \$32,000 of actual money out of their pocket, not mine, their pocket. It's not fair relative to their sex and age. If your mother, daughter or sister ... this is not the way they should be treated by a Town Council that I know has the power and the knowledge and the ability to really step up and help her out in a cause. She's not looking for the whole marina to be dredged, even though damage has been done. Again it's talking about the two slips that have been severely, severely damaged to the point of both tilting because of being high and dry at

low tide. It's just not fair to them and you wouldn't want anybody in your family treated accordingly.

Next to speak was Scott Estrich. Mr. Estrich said that he would like to quickly run down a couple of things about the North End. I went to the North End Committee meeting and it looked like everybody was going to make some good decisions, and then when it came to a vote, they decided to vote not to do anything this year. This is about the camp fires, debris on the beach, camping and things like that. Mr. Mayor if I may give this to you. My wife stepped on this last week and be careful it's open. That's a box cutter. I don't think you would want anybody in your family stepping on it. I've got a young daughter. It's not very pleasant. I just wanted to let you know at those North End Committee meetings, there are a lot of personal vendettas against some of you guys. These guys don't like the new administration, some of them. I wish you could hear some of the things that they say and some of the arguing that goes on. It's pretty funny. Also people on that committee threatened us, told us to go to the south end and that they were going to close the gate. We kept complaining about camp fires and stuff. I told him and I'm telling you. This is the truth. My wife works for one of the largest law firms in the state of North Carolina. She has asked for the attorneys there to get me a meeting with the Governor. We were supposed to have an attorney here tonight who is an environmental attorney. We don't want anything closed on the North End. We don't want anybody to be restricted from doing anything, but they are going to keep putting us off as far as the safety and the welfare of that beach and the people on it; we're going to see what we can do. We are going to ask the Governor for his help and we are going to consider filing a clean water act request because of the camping debris that flows into the ocean. Also just wanted you people to know that I have personally pledged \$10,000 of my own money if you restrict camping and camp fires to a place where you guys can control it. I'll commit \$10,000 of my money to clean that beach. If you can't use the sweeper, I'll hire people, laborers, whatever to get out there and clean the debris that's left there. I only have concern for the cleanliness and safety of the beach. There is room for everybody to do whatever they want within reason. Just make it so it's in an area so it can be controlled. People want to camp, there's ways that they can camp. People want to have fires, there's ways to have fires without leaving it filthy and unsafe for everybody else. You guys said you were going to ride out there and I don't know if you did or if you didn't, but we haven't seen any change and they voted not to do anything this year.

The last thing I want to say is you had a presentation from somebody on that committee last month. There was some discussion about how many people were supposed to be on the committee. The man lied to you. When he got back to the North End or Freeman Park Committee meeting, he said he presented to you guys that he wanted to add the two extra people on that committee who are chartered to be on that committee. That's not what he said to you guys. As a matter of fact, I asked them to pull the minutes. That's not what Bobby said to you last month. He wanted to keep it at seven people. He said it was easier to get a quorum with seven people. So it's said here and you get lies from over there. What goes back there are lies from what is said here. People need some, not you people, but somebody needs to learn how to tell the truth and honestly present what happens. I listen. I'm accurate. I know what's said. You people know what's said. I

know because it's recorded. The conversations you guys have here was to put two more people on that committee like it's supposed to be. That's not what was presented.

That's all the time I'm going to take. I just wanted you to be aware of what's going on. I do want you to be aware that they actually argue back and forth. There are people that sit here on this bench tonight that they don't like. They don't make any bones about it. They think that you're bending to the will of other people. There's no room for people calling people names that sit on the Town Council in a committee that you put together. That's all I've got to say.

Twig Wiggins said I wish I came with good news but the beach continues to be trashed with the camp fires and the debris and we continue to pick up the trash. We'll continue to do it because we consider it our beach. There was a proposal I think that the Council and the Mayor made last time that you were going to ride out on the beach. I was just wondering what each one of you found when you made your ride out on the beach. If you saw the same things that the ones who go down there every day and enjoy the beach do. I was just wondering what you found Mr. Johnson, Ms. Efir, Mayor Clark, Mr. Gilbert, Mr. Macon. I was just wondering. Mayor Clark said we're not going to get into a back and forth, otherwise we will be here a long time. I know Pat was scheduled. I went out there, and I made a list of recommendations to go back to the committee from my tour. Mr. Wiggins said so you did go. Mayor Clark said sure. Mr. Wiggins said okay that is what I was trying to get to the bottom of. Councilman Macon said I'm there every weekend. Mr. Wiggins said I know - I see Joel and I see Alan. We will continue to pick it up. We could use some help though. Mayor Pro Tem Gilbert thanked him for everything that he has done. Mayor Clark thanked Mr. Wiggins.

Next to speak was Leroy Franks of 908 Canal Drive. Mr. Franks said, what I would like to talk about is that the public hearings that we have for your conditional use permits are held under a quasi-judicial situation as specified by our attorney. It has come to my attention that the conditional use permit that was approved for the Harbor View is false because false information was given by the planning department and the applicant. According to North Carolina state law, they're violating the law and I demand that the conditional use permit be returned back to Planning and Zoning promptly or face a forthcoming legal suit.

Robert Ward of 302 Canal Drive said he resides in the Central Business District. He said the reason why I'm here, it seems like there is some rhetoric or conditional use permits coming for a hotel-minium. I'm going to be following this pretty closely because I'm against hotel-miniums. I mean dead flat against them because: a) they skirt the parking requirements of these projects; b) they set a horrible legal precedence; c) I have properties from Destin, Florida all the way up to Virginia Beach, and in each of those towns they have hotel-miniums. Myrtle Beach is an example. Like a lot of coastal towns right now, they have hundreds of them for sale. When they're built, the builder makes money, the realtors make money, everybody makes money and then the homeowners are stuck with the on-site management group that sometimes bill them twice for maintenance. There are some hotel-miniums down in Myrtle Beach where the hotel

on-site management comes in and charges them 40% of the rentals. Then they do all the laundry and everything and they bill the associations. So you are paying associations, you're paying for the clean up, and then they bill you an administrative maintenance fee on top of your homeowners dues plus you pay your own flood insurance. That's how corrupt hotel-miniums can get. Not all are corrupt. Sometimes the first on-site managements that come in are legit. Then they sell the business and it rolls down the line and then before you know it, five or eight years down the road, the homeowner is stuck holding the bag. There's a place down in Myrtle Beach right now and people are trying to dump them. They can't and homeowners are stuck in the hole. Foreclosure rates are really high on those. I think it sets a bad parking precedence too. I'm not sure of all the statutes of what the parking is. I think for hotel-miniums they are trying to make less requirements. I haven't really been paying attention to a lot of things that are going on around here but that is something I am going to follow very closely. I am very, very adamantly against hotel-miniums. Down where the Hotel Astor is or Plaza, if Holiday Inn comes in or something like that, that's fine. I think that if it's plumbed for a kitchen, it should be a condominium. If like Embassy Suites comes in or something like that, they don't sell them. They rent them weekly for couples or families that come in. That's along the lines of hotel. It's just that some of these hotel-miniums I think are a bad deal.

The only other thing I was wondering is, if they're going to have a study on trying to get the quality of water up in this town a little bit somewhere along the line. Mayor Clark said we'll take that into consideration.

Michele Connett from 1321 Cabo Court was the next speaker. She said I just wanted to speak about the enhancement and municipal agreements with the Department of Transportation funding which the Town of Carolina Beach has already executed resolutions of support. There are currently two enhancement agreements: (1) Project No. E4914, the North End Pedestrian and Bike Path, Resolution No. 05-818 dated February 5, 2005 and along with that a supplemental agreement Resolution No. 05-838 dated July 28, 2005, and (2) Another enhancement agreement Project No. E4746 for the Bike Path on Dow Road, Resolution No. 05-810 dated February 8, 2005. There is also a Municipal Agreement Project No. WBS39141, Carl Winner Avenue Right Turn Lanes, Resolution No. 04-801 dated October 20, 2004. So what does this mean? I guess if it's not acted on, Carolina Beach will be missing out on a minimum of approximately \$450,000 of funding already in place. We have real money in place and unless acted on it will be lost to the town and the citizens of Carolina Beach. The current Council has not initiated any Department of Transportation enhancements. These are already in place to be executed. Documentation of all this should be in the town records. However, when I requested these, I was not given all the documents in place. When questioned, I was given a run around for additional information. I subsequently had to go to Raleigh to obtain all the information I asked for. There is a major gap in your system of public information for citizens. I just wonder is this selective information and who is ultimately in charge.

Mayor Clark said just to let you know we do have a meeting with the DOT on these projects in September. Mayor Pro Tem Gilbert said we're recessing tomorrow at 11:30

and I invite anybody in the public to come to that meeting. We will be discussing a lot of these things. Mr. Owens said Dow Road is in the process right now and the other one we will be discussing tomorrow.

David Lawn said, I reside at 1112 Merchant Lane off St. Joseph Street. I'm bounded by wetlands on one side and I very much enjoy having those wetlands there. I'm going to speak about the PUD amendment, under Item 10, Old Business. He said it is his understanding that there's an issue between preventing duplex housing in a residential district. I don't know all the details about that but I do know and have read the Land Use Plan. I know several of you were involved in crafting that Land Use Plan. It was very eloquently stated. There are several paragraphs that I would like to refer to. One is Description of Coastal Wetlands, one is how it became the 404 Wetland Designation at the federal level, and lastly and highlighted is Fresh Water Wetlands. He read: "The town shall avoid undertaking any activity or approving of any activity which would result in the destruction or removal of remaining 404 Wetlands within the town's jurisdiction, whether fresh or salt water." That's a pretty powerful statement. I don't believe that the Amendment to Article 10 takes that adequately into consideration. Again I don't know the details. I would like to say that I'm speaking for the preservation and accountability of our coastal environment. That's an acronym that some of us know and I am surprised that discussion hasn't arisen from that organization. That's all I have to say.

The next speaker was Scott Patton of 917 Carolina Beach Avenue North. He said I want to continue on some of the points that David made on the Planned Unit Development.

Number one, I wanted to point out that the public hearing was held on 11/17. The vote, as I understand it, was continued until tonight because there was not a consistency statement issued by Planning and Zoning and you were required to have that consistency statement before the vote was held. I want to ask not only do you hold back on the vote tonight, because the consistency statement was not issued, but that you open it up to public hearing again because there's new information that's come to light and that's the consistency statement issued by Planning and Zoning. I think that in light of that, the public should have the right in which to comment on that consistency statement and also to review the consistency statement before you as Council vote on this. I think most of you ran on a platform of open public participation. Exclusively that I know of was Councilman Gilbert, Mayor Clark, and Councilman Johnson is to have this public participation. I think the town not having this information you are not listening to the voice that we may have on that information that's come to light in the consistency statement.

Mr. Patton continued, I think that having the PUD, and I think this issue came about from Virginia Avenue ... I think that when you look on one particular project and you make a blanket decision, you are impacting and tying the hands of you as the council members to vote from having another tool in your chest. This is some of the points that they brought up during Virginia. I don't want to focus on that but I do want to focus on the wetlands.

Again, the wetlands and the preservation of the wetlands and this coastal environment is a big thing in which you Mayor Pro Tem Gilbert, and you Mayor Clark, and you Councilman Johnson ran on and that was essentially a green ticket promoting the wetlands, promoting the coastal environment, correct me if I'm wrong. I think that by taking the PUD out as

an option for you to review on a conditional use permit basis, project by project, as each project is unique...you can't box any particular project in with all the rest because there are different things such as wetlands and zoning. Again, each project is unique. When you take something out of the ordinance which allows you to have some flexibility as you are reviewing all these individual projects, I think it hinders you and it also hinders us as the public as far as what we believe we should have rights to and that's the wetlands and this coastal environment. I think again you should stand up and fight for what you were elected for and that's the preservation of that.

Mayor Clark asked the town attorney to think about Item 10 and those comments, when that comes up.

The last speaker was Ann Bowman of 923 Coastwalk Lane. Ms. Bowman stated that she also has a business in Carolina Beach. I'm appearing before you this evening as the chairman of the Citizens Operations Committee, the advisory committee. I had been invited by Alan Gilbert to find in writing where the Council had said that they would put \$200,000 toward the storm water fees. I think you will find as you read these minutes that indeed they thought that they did. However, at the very end of these over on Page 12, they adopted Ordinance 03-530 and the motion was carried unanimously. Then you look at the last page, it's everything except what these minutes reflect that they talked about. Now because of the budget this year and I know that it's already a done deal and a settled issue, and I am appearing before you to ask you to reconsider raising the storm water fee from \$5.25 to \$9.00, which was our recommendation on February 11, 2003.

Mayor Pro Tem Gilbert asked the staff to look over this amendment and what those commitments were and come up with some kind of recommendation. Mr. Owens said we'll do that. It looks like storm water was rolled into the general fund at one time. Storm water is being supplemented now, probably about \$200,000 to \$300,000 by our water and sewer fund. That's probably what it entailed. We'll talk about it a little more. Ms. Bowman said it's because when we asked last month to raise it from \$5.25 to \$10.00 we got turned down. So we still have the \$200,000 shortfall. As these minutes reflect, it was clearly the intention of Council at that time to take \$200,000 from the general budget to supplement it so that we could start out at \$4.50, which was half of what we had asked for. We also dropped the residential ERU's.

CONSENT AGENDA

Approval of the Minutes (Item #8a)

Regular Meeting June 13, 2006
Recessed Meeting June 15, 2006
of June 13, 2006

Item #8b - Consider request for the following budget amendment and transfer:

The Police Department collects monies from drug seizures to use within their department. Each year if any monies are left from the preceding year they are introduced into the new year's budget. As of 6/30/06 the balance in the drug seizure account was \$7316.78. Therefore, we need to amend the 2006/2007 budget and appropriate these monies. The request is to decrease the general fund unappropriated fund balance account 103990.00 in the amount of \$7316.78 and increase the drug seizure account 105100.60 in the amount of \$7316.78.

Item #8c - Approve title change and grade from Accounting Technician II Grade 14 to Assistant Finance Director Grade 17.

Item #8e - Set a public hearing date for September 12, 2006 at 7:30 p.m. or soon thereafter to consider a request for a modification of a conditional use permit for an 11-unit multi-family development located at 406, 408, and 410 Canal Drive.

Item #8f - Set a public hearing date for September 12, 2006 at 7:30 p.m. or soon thereafter to consider a request for a conditional use permit for a restaurant at 104 N. Lake Park Blvd.

Item #8g - Set a public hearing date for September 12, 2006 at 7:30 p.m. or soon thereafter to consider a request to amend Article 3.9(b)(6) Allowable Intrusions into Required Yard Setbacks for Residential Development Zones.

Item #8h - Adopt Resolution No. 06-873 (*identified in the minute book as Exhibit 1 herein*) naming the Town Manager, Tim Owens, as applicant's agent for Hurricane Ophelia.

Item #8i - Renew contract FY 7/06-6/07 with UNCW for NC Division of Water Quality Upstream & Downstream Water Quality Monitoring as presented.

Item #8j - Allow the representatives of the Sea Turtle Monitoring Program to use the town gators for the monitoring program each morning during the season.

Item #8k - Accept the donation of remnant parcel of land at Carolina Beach Lake and instruct the town attorney to generate the necessary documents to take possession of the parcel.

Item #8l - Approve request by Plantation Corporation for the installation of 4 street lights on Mackerel and Bonito Lanes.

Item #8m - Adopt Resolution No. 06-872 (*identified in the minute book as Exhibit 2 herein*) authorizing terms with BB&T for the purchase of 5 vehicles and 1 trailer mounted pump.

Item #8n - Approve amendment to the agreement with Harrelson & Stephens allowing Well Site #3 to remain open until 9/30/08.

Mayor Pro Tem Gilbert motioned to approve the regular meeting minutes for June 13, 2006 the recessed meeting on June 15, 2006, approve Consent Agenda items b, c, e-n, excluding d(1) and (2) with respect to asking our Planning and Zoning Commission and our staff to consider the meeting in May 2005 where they discussed hotel-minimums and follow-up on that and also consider Sec. 14.6 Planning and Zoning Commission review that is found in the conditional use permit approval process item (b) pre-application review and joint meeting with Town Council. The reason I say that is we have a memo from Tim Owens saying ... due to the complexity of the project ... and it uses that language and goes into some detail why this is a complex project and why they want to have these meetings and to reaffirm that Item b at the discretion of the Planning and Zoning Commission, and with concurrence with the applicant, the Planning and Zoning Commission may request that a joint pre-application meeting with the Town Council be held to discuss preliminary plans for the proposed use this is a especially encouraged where the conditional use being proposed is large or may involve issues of significant impact in the community or neighborhood. I think we don't need to undermine this project in private meetings, I think we need to be above board with the applicant, with the Planning and Zoning Commission and also to consider this so I would like to – that's my motion.

Councilman Johnson said, let me interject something, you said through "n" don't we have to include that "o". Councilman Gilbert said, yes, including "o":

Item #8(o) –Approve request for reimbursement and approval to the New Hanover County TDA in the amount of \$42,871.14

The town manager said there is also one comment that I would like to make concerning "m" that doesn't really change anything, but we have 2 vehicles under the police dept and they're Expeditions and we're going to take 1 of those and use it for the fire dept. It's a bigger vehicle. The fire chief now has an Explorer and so both of the chiefs would have the Expeditions and we will pass down the smaller Explorers to the other staff members of the police department. Mayor Pro Tem Gilbert asked, do you want me to make that part of the motion? Mr. Owens said, no, I just wanted to make sure that you qualify it. Mayor Pro Tem Gilbert asked, for the record? Mr. Owens said yes.

Mayor Clark asked the town clerk if she understood the motion. The town clerk said the motion is to approve Items #8a-c, e-o and pull d, and have a separate motion on that. Mayor Clark said called for a vote. **MOTION CARRIED UNANIMOUSLY**

DISCUSSION CONCERNING PARKS & RECREATION MASTER PLAN

Mr. Owens said once they received funding from the New Hanover County Parks Bond, they decided to seek a long term plan to guide us on what our growth may want to be, how we want to see our parks and recreation grow, what types of facilities we want to add, and what facilities we have now. The plan will be created by Dr. Herstein at UNCW along with some of his students. Total cost will be roughly \$6,800. His recommendation is to go forward with this 5-year master plan.

Mayor Clark made a motion to go forward with the parks and recreation master plan and approve the \$6,800 cost. **MOTION CARRIED UNANIMOUSLY.**

CONTINUED – CONSIDER AMENDING ARTICLE 16 PLANNED UNIT DEVELOPMENT REGULATIONS AND ARTICLE 3 ZONING DISTRICT REGULATIONS, 3.8 TABLE OF PERMITTED USES (NOTE: PUBLIC HEARING WAS HELD ON 7/11/06)

The Town Attorney, Al Clyburn, opened with comments. He said this is a proposed text amendment. You are sitting as a legislative body when you consider a proposed text amendment. Public opinion is obviously welcomed and encouraged. You did conduct a public hearing and you received public comment on this issue during the July meeting. It is up to Council to decide whether you want to reopen the public hearing. There is nothing that would prohibit you from reopening that public hearing.

Mayor Pro Tem Gilbert made a motion to open the public hearing. Mayor Clark's opinion was they have to re-advertise for the public hearing and Mr. Clyburn agreed. With that said, Mayor Pro Tem Gilbert amended his motion to advertise for a public hearing and re-hear this issue at the September regular Town Council meeting. **MOTION CARRIED UNANIMOUSLY.**

ENGINEER'S REVIEW OF STORMWATER PIPE AT MONA BLACK MARINA AND CAPTAIN'S QUARTERS

Mr. Owens stated he had nothing to add. Mayor Pro Tem Gilbert said he was a little disappointed that the engineering group that we hired didn't have specific knowledge and that we didn't spec it out correctly that had a soil scientist. He had an opportunity to go down to see Mona Black's Marina and thinks there has been some fire hydrant relief and cleaning of the pipes. He questioned what's been going on with that pipe in the interim around July 8th. Has there been any kind of blow out of hydrants, any cleaning, anything associated with the camera? There has been an event down there and changed the geometry of that area. Mayor Pro Tem Gilbert also asked if anyone gave any direction because of the camera activity and if anyone on staff had any comment to make about that. He added that it is unfortunate and he is disappointed that this has gone on so long to find that soil scientist or that professional to do this.

Mr. Owens said he was disappointed too that they didn't have findings. However, he was grateful that the engineer sought outside experience so they will get the right decision. He was more of a physical engineer so he didn't know the sedimentation side of things and that is what he wanted to focus on. The scientist will take a timeline look at these areas to see if there is any sediment, he will look at the permit for the marina as well as the Captain's Quarters and see what the contours were then since there were elevations. Mr. Owens stated with regard to the pipe that

was all in anticipation of putting a camera in that area, which is something our engineers needed to see if sediment was coming in from any of the connections.

Mayor Pro Tem Gilbert said he wanted a third party engineer so he could hear both sides of it before a capital expenditure was made either way.

DISCUSSION ON FREEMAN PARK RECOMMENDATIONS AS PRESENTED AT THE JUNE 2006 MEETING

Mr. Owens stated at the last meeting, Council took some Freeman Park Ad-Hoc Committee recommendations that were made at the June 15, 2006 meeting such as camp fire issues and appointment of committees. One of the things that came out of the last meeting he attended was the need to look at our current Freeman Park Committee Ordinance and add some new regulations or spruce up some existing regulations, which they will try to do at the next Freeman Park Committee meeting. They need to have the county and the town adopt these regulations so they are more binding and either party can enforce them. Of all the issues that have been heard, camp fires are the one that comes to the forefront. The Freeman Park Committee recommended the consideration of moving all camp fires to the fence line and install fire rings. Mr. Owens has some concern about that:

- 1) He is not sure if the Division of Coastal Management would consider the fire rings;
- 2) People take things so he is not sure the fire rings would be around very long;
- 3) There is clean up associated with the rings;
- 4) There will be a number of people competing for those fire rings in general.

Alternatives for this:

- 1) Time limitations on when the fires actually occur – outside of the summer season, out side of the turtle season;
- 2) Require individual owners to bring their own fire pits and clean up after themselves;
- 3) Ban fire pits and bonfires;
- 4) Have gas grills for cooking;
- 5) Limit fires to the very north end of Freeman Park;
- 5) Have any combination of the above.

The next topic is the shelter entryway at Freeman Park. It may have to be moved 20 feet toward the south, since a property owner may be building a home. The entryway could be an aluminum or wooden framed structure which will be open, since the people are our greeters as you go into Freeman Park.

Regarding camping, there is an abundance of camping and it seems to be growing in popularity. Options for camping are:

- 1) Allow camping to continue as practiced.
- 2) Restrict camping to one of the two ends of the park.
- 3) Allow camping along the fence line.
- 4) Restrict camping during certain times of the year.

Trash collection was another subject mentioned. We are working hard. We worked hard on 4th of July and we are going to work hard on Labor Day even if we have to do it three times a day. We are going to try to empty the trash quickly, although there is going to be some trash out there. Unfortunately, people do not dispose of trash like they're supposed to. We have put some additional trash facilities out there.

We talked about the port-a-john facilities. Something we would like you to consider tonight possibly, and we could use our reserve in the tourism fund, is purchasing two trailers. One trailer would stay out there all the times. The other trailer would be moved in during large weekends like 4th of July and Memorial Day. The one not permanently out there we would like to use sporadically for some of the other events we have, such as the Beach Music Festival or fireworks on Thursday nights. The option is to wait until next summer season.

There are some people who talk about dogs and proposed having dogs unleashed during certain times of the year or certain days of the week. After the original discussion about the county ordinance, it appears that the county ordinance is working. There are no other recommendations.

There is a lot of signage out there and it needs to be updated and consolidated. Mr. Owens spoke with the Division of Coastal Management and he thinks they will allow this to be done.

Mr. Owens said we ask that whatever we decide to do with Freeman Park that it be easy to enforce and easy to understand. There is only one police officer there at a time.

Mayor Pro Tem Gilbert made a motion to go through each of the items and discuss it as a board so we can give direction to that committee to help form the ordinances so you can move forward with it. There was agreement to have the discussion.

Mayor Pro Tem Gilbert said he would like to consider on the fire and camping issue that we have no fires and no camping in the first 1,000 feet. People bring their own fire pits, and no open fires. Do not allow camping and fires from the entrance to 911-4 and fires only be allowed in personal fire pits. However, this should be flexible so if there is smoke, debris, and noise disrupting the condominiums, then it will be adjusted.

Mayor Clark asked the committee to look at fees. The fee now is \$10 per day and \$40 annually. Topsail Beach allows driving on the beach and they charge \$25 for residents and \$50 for non-residents. Mayor Clark would like the committee to consider looking at the fees for \$10 per day, \$25 per season for residents and \$50 per season for non-residents.

Regarding the shelter at the entryway to Freeman Park, Mayor Pro Tem Gilbert said in July and August the people working out there are miserable. If you don't do an air

conditioned shelter, he would like to have some device that is going to blow air on those people.

Mayor Pro Tem Gilbert recommended tripling the number of garbage cans on the peak days, such as Memorial Day, 4th of July, etc. Mr. Owens stated that they have talked about emptying the trash more frequently.

Councilman Johnson made a motion to proceed with the purchase of the two trailers for the port-a-johns, one to be used for the Freeman Park area and the other to be used for miscellaneous events that occur in the town. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert recommended for ordinance purposes, that dogs have a dog park in a certain area on the beach during the off season from October to March. He said he would like to see some discussion regarding this. Councilman Johnson suggested that this be run by the North Carolina Wildlife and Fisheries so there will be no conflict with the bird nesting.

Mayor Clark said he knows we were given the okay by the New Hanover County attorney to do whatever we needed with the signs, to take the old New Hanover County sign down and start over. It is a little confusing because there are too many and too much wording. Mr. Owens said once these ordinances play out we are going to try to make a sign where we can take them off and change them out if we have to. We will order new signs and hopefully they will be in time for next season. We would like to have it in effect January 1, because that is when new permits are issued.

Mr. Owens replied I hope to have some clear idea or some firm proposal as to where we're going by December. Mayor Pro Tem Gilbert said he would like to see when the permits go on sale that everybody sign and acknowledge those ordinances.

DISCUSSION CONCERNING HEIGHT OVERLAY DISTRICTS FOR THE CENTRAL BUSINESS DISTRICT AND MAIN SINGLE FAMILY RESIDENTIAL AREA

Mr. Owens reported at the last workshop we wanted to look into a 40' height overlay district in the main residential areas of the town. A proposal has been drafted for Planning and Zoning.

Mr. Harrell, Director of Planning and Development, explained that the map given to Council regarding the overlay district defined the different areas where the height would be no more than 40 feet high. He said the overlay district is shown in red and the district would also include the industrial area along with R3 and R2. Mr. Owens said he talked with the Division of Coastal Management and reported that in our Land Use Plan there are some items that talk about heights. Regarding changes, they felt as long as we weren't going above what was in the Land Use Plan that would be okay and we will work on it with our new Land Use Plan so we are consistent with whatever changes are made.

Mr. Owens told Council they could make a recommendation that Planning and Zoning look at the map and the recommendation of what staff has written. Planning and Zoning will then forward a recommendation back to Council. Mr. Harrell clarified that they needed some direction so Planning and Zoning would not take off and recommend something that Council was not looking for.

Councilman Macon made a motion to send this to Planning and Zoning as it is recommended by staff, and to include the triangular piece in I-1. **MOTION CARRIED UNANIMOUSLY.**

Mr. Owens said the second element to the height study is the Central Business District. We wanted to get the ball rolling and kick around some ideas as to how we want to treat the height in the Central Business District. Mr. Owens said he did talk to the Division of Coastal Management and they were of the consensus that as long as we are not going above what is allowed in the Land Use Plan they were okay with the concept of setting a height limit in the CBD. He continued that he, Mr. Harrell, and Mr. Parvin, Senior Planner, have come up with several scenarios from everything being 50 feet in the CBD to other types of examples. He said you can take a look at those, comment on them, tell them which ones they like, and which ones they don't like.

Regarding the scenarios, Councilman Macon said he thinks they should pick two which represent two sides of the issue. He said he likes Number 3 and Number 7 and he would like to send them to P&Z to hash out. Council was in general agreement with this recommendation.

Mr. Owens said regarding the RFP, it is in the process as we speak. Mr. Harrell said it is under advertisement. Mr. Owens added it is under the AI Website, our website, and in the newspapers.

Mayor Clark made a motion to send Scenario Number 3 and Number 7 (*identified in the minute book as Exhibit 3 herein*) to Planning and Zoning. **MOTION CARRIED UNANIMOUSLY.**

PARKING ON N. LAKE PARK BLVD. WEST SIDE FROM RALEIGH AVENUE INTERSECTION SOUTH TO BB&T BANK DRIVE THRU EXIT

The town manager said they talked to the new bank manager and he is of the opinion that they haven't heard any complaints and he would like to delete this from the agenda. Chief Younginer said we haven't had any accidents in that area. Mayor Clark said parking at BB&T will stay as is.

PUBLIC HEARING - CONSIDER A REQUEST TO AMEND ARTICLE 7.1(d) OFF-STREET PARKING SPACE SCHEDULE

Mr. Parvin said this amendment came when we originally were looking at a project in January for Jubilee Park. For public or private swimming pools, you have to provide one parking space for every 75 square feet of water area. That would apply to any residential development. A single family home or a duplex would have to provide additional parking for their pool.

We are recommending changing that to public indoor or outdoor swimming pools. There would be one parking space for every 75 square feet of water area and one parking space per four spectator seats, whichever would be greater. An addition for swimming pools in conjunction with private clubs is if you have homes that are 300 foot radius away from the pool and club house, you would have to provide some parking for that as well.

Planning and Zoning heard this at its July 13, 2006 meeting. It recommended approval and advised that the amendment is generally consistent with the Land Use Plan and other applicable plans and recommended adopting the staff report which addresses plan consistency and other matters.

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

There being no public comment, Councilwoman Efirid made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Johnson made a motion to adopt the Land Use Plan Consistency Statement as follows:

In accordance with the provisions of NCGS 160A-383, the Town Council does hereby find and determine that the adoption of the ordinance rezoning the following described property is consistent with the adopted comprehensive plan and that the adoption of the ordinance rezoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion to adopt Ordinance No. 06-651 (*identified in the minute book as Exhibit 4 herein*). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING - CONSIDER AN AMENDMENT TO CHAPTER 13 POLICE, SECTION 13-56 DIVISION ESTABLISHED TO INCLUDE AMENDED LANGUAGE IN COMPLIANCE WITH NCGS 160A-282(a) AND (b) CONCERNING AUXILIARY POLICE

Chief Younginer explained that in order for the auxiliary officers to be covered under workman’s compensation, we have to adopt this amendment.

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

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

Councilwoman Efirm made a motion to adopt Ordinance No. 06-649 (*identified in the minute book as Exhibit 5 herein*) . **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING - CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT FOR SOUND VIEW LOCATED AT 712 AND 716 ST. JOSEPH STREET

The town’s Senior Planner, Ed Parvin, was sworn in before making his presentation. He stated that the applicant is requesting a Conditional Use Permit to construct one (1) approximately 20,480 sq. ft. structure to include twelve (12) two (2) bedroom residential units. The on-site single family residence will be demolished. The parcels are located within the 100-year floodplain and will be required to have elevated living space. The property is also located within a CAMA Area of Environmental Concern.

The building site property total square footage is approximately 22,151 square feet or .509 acres. There are no density requirements in the Marina Business District. Lot coverage is limited to 40%. The 5,120’ footprint results in 23% lot coverage. The proposed structure will be 56 feet in height. According to the 1997 Land Use Plan for each additional 1 foot in height there shall be a 1 foot increase in front yard setbacks and ½ foot taken from each side.

Zoning Setbacks	Front	Rear	South Side	North Side
MB required	30’	10’	10’	10
provided	102’	35’	13’	13’

For parking, he is providing the 24 required spaces.

For landscaping, he is providing 37%. Type B 10 foot landscape buffer is required on all sides of the property. The determination of required curb, gutter and sidewalks shall be made by Town Council upon review and recommendation by Planning and Zoning. It is based on:

- a. reasonable evidence that the sidewalk would be essential for pedestrian access to community facilities
- b. that such is necessary to provide safe pedestrian movement outside the street or street rights-of-way area;

- c. that such an extension could reasonably become an extension of existing sidewalks and/or other pedestrian ways.

He said that this was reviewed at TRC and Planning and Zoning and it was recommended to include the curb, gutter, and sidewalk. We had quite a bit of discussion about that. A lot of it was related to the manager's concerns under TRC about traffic from the Checkered Church. There are three parking places on your site plan that are where Burriss Drive existed that will be allocated to Checkered Church. Those you will have to pull in and back out, which is pretty much how it works right now. It would not be consistent with our ordinance. With our ordinance for commercial for a new project, we would require them to exit in a forward motion. Because the Checkered Church is a non-conforming building and there's limited space for parking on the site that's really the only way you can configure parking without having a new building on that site.

For infrastructure, the applicant plans to maintain all storm water on-site. Water and sewer lines have been reviewed by the operations department and determined to be adequate. Water lines off of St Joseph Street are 8". There is an 8" existing sewer main the project will tie into located on Rogue Cove Drive.

This proposal is in general consistency with the town Land Use Plan. The policy emphasis for this area (9.4.8 The Marina Area) focuses on establishing a long-term vision and management plan for this area that focuses on increasing public access to the sound and address traffic concerns associated with landside development.

The proposal as presented has not received any negative comments from storm water and operations, fire and inspections.

The Planning and Zoning Commission heard this proposal at its July 13, 2006 regularly scheduled meeting and unanimously recommended approval based on sidewalk condition "c", specific standards 1-7, general conditions 1-4, TRC conditions, operations conditions, planning conditions, manager's concerns regarding parking, staff recommendations 1-29, and that the project is generally consistent with the Land Use Plan with the inclusion of the following conditions:

1. Include sidewalk, curb, and gutter
2. The portion of parking designated for the Checkered Church be solid paving out to the right-of-way. That was added to give the people exiting their vehicles after parking adequate space to walk around their vehicle to get to the Checked Church.
3. Recommendation that the landscape buffer extending the depth of that parking that's going to be allocated to Checkered Church be removed.

Councilwoman Efird asked, is this part of where the old trailers were located? Mr. Parvin said this site is just to the north of the Checkered Church. You have Burriss Drive that we closed a couple of meetings ago, then there is a single family residence, and then on the other side of it you have Carolina Bay.

Councilman Johnson said this is on the south side of the Checkered Church. Mr. Parvin said I'm sorry, the south side.

Mayor Pro Tem Gilbert remarked it says they plan to maintain all storm water on site. The plans that we have don't show that. Is there any discussion on that or can you help me out? I asked Councilman Macon to point it out to me and we couldn't find it. Mr. Parvin replied, it is my understanding they are going to maintain all the storm water on site. If not, they would have to pay fees in lieu of. You are welcome to ask the applicant that question as well. Councilman Macon said they don't have to have it designed yet. Mayor Pro Tem Gilbert said oh, I got you. I mean the problem would be if they can't engineer it, then they are probably going to dump it out into the canal, right. Councilman Macon said no, they wouldn't be able to get a permit. Mayor Pro Tem Gilbert said they wouldn't get a permit for that, so it would have to go into some system that would dump into the canal or where would it go. Mr. Parvin said they would have to go into the town's system if they couldn't engineer it 100%. Mayor Pro Tem Gilbert asked, if it goes into the town's system at that point, then where does it go? Mr. Parvin said that's an operations question. Mr. Pagley said it goes down to Carolina Bay. Mayor Clark said I guess we have to swear you in, so we will have to hold that question.

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

Mayor Clark said anyone wishing to speak on this item will need to be sworn in. The following people were sworn in: Leroy Franks, Bill Wells, Tim Owens, Steve Pagley, and Steve Harrell.

Mayor Clark said I would first like to hear from the applicant, Mr. Wells. Mr. Wells said as far as the storm water, it will be engineered under the parking lot. That's not an issue. Mayor Pro Tem Gilbert said my big concern is if it couldn't be. Mr. Wells said the parking lot is plenty the size for it. We've run it past our engineers, but I just don't want to spend the money until Council's approval. Mayor Pro Tem Gilbert said I got you, excellent. Councilman Macon said elevation shouldn't be an issue either. They have plenty of elevation.

Mayor Pro Tem Gilbert said just a quick question. The six foot over 50 foot, any particular reason. Mr. Wells responded yeah, five stories, nine feet per story, probably 18 inches between each floor, and a little (inaudible word) roof around the top. Air handlers will be on the roof and I didn't want the air handlers exceeding the height. Mr. Wells said the outward appearance of the building will be well less than that. He said, I don't think you will see the air handlers. Mayor Clark asked are there any other questions for Mr. Wells. Since there were no more questions, Mayor Clark thanked Mr. Wells for his presentation.

Mr. Clyburn said Mr. Mayor you need to invite those who are speaking in support of the project first. Mayor Clark said anyone else to speak in support of the project.

Mrs. Teresa Clontz was sworn in, and introduced herself as a realtor with Blue Water Realty in Carolina Beach. She said, I have had the opportunity to work with Mr. Wells on this project. I just want to say that everybody in the whole community that's surrounding this immediate project is very excited about the improvement to the community. I'm talking about the Checkered Church parking now. Currently they have no parking and I mean it's a mess. We studied this one afternoon. We just sat and watched the cars pull in and pull out and it was just park where you can and hope you don't get hit. By Bill developing this project, he is going to allow Checkered Church to have set parking with signage and a nice fence and landscaping. Kathy at the Checkered Church is very excited over that. All and all I just want to say that it's a nice project and everybody is real excited. Thank you.

Mayor Clark asked if anyone else would like to speak in favor of the project. Since there was no response, Mayor Clark then asked for persons opposing granting of the application to please come forward.

Leroy Franks, 908 Canal Drive, said it is a farce when any developer on this island tells you that he can retain 100% storm water run off. He cannot do it. I'll tell you what will happen. The project will be built but it will drain into the existing drain systems, storm water systems we've got now and what that's going to do is multiply the problems at Ms. Mona Black's marina down the street. The more projects that are approved the more run off is going to go through there and the worse that condition is going to go. Yes, Mr. Macon there are limits and it would be advisable to stop before you destroy the whole island. Thank you.

Mayor Clark asked if anyone else would like to speak in opposition of this project. There being no further comment, Mayor Clark made a motion to close the public hearing. Mr. Clyburn interjected, Mr. Mayor you need to ask the applicant if he wants to offer any rebuttal or cross examine Mr. Franks. Mayor Clark asked Mr. Wells if he would like to make any further comments. There being no further comment, Mayor Clark made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Mayor Pro Tem Gilbert said I wonder if Steve could qualify the definition of retaining 100% storm water. Mr. Pagley answered by stating that Mr. Wells' engineer will design it to maintain 100% all post development construction on site. He can if the elevation underground water...he hasn't designed it yet because like he said he was waiting for approval from Council. It probably costs about \$8,000 to \$10,000 to get it designed. We changed our ordinance, and if he retains 90% we are going to give... Mayor Pro Tem Gilbert said but right now the way the ordinance is written is that's he'll retain all of it. There'll be no run off. Mr. Pagley said there should be no run off. Mayor Pro Tem Gilbert said even at some kind of deluge. Mr. Pagley answered well if there is it would be right there at the apron on the town's right-of-way. I think it runs south from there anyway down to Carolina Bay. Councilman Johnson asked, where does it go from there? Mr. Pagley replied, I think it runs south to Carolina Bay. Councilman Johnson said I know but from there ... Mr. Pagley's response was there's a storm inlet that goes into the

marina. Mayor Pro Tem Gilbert said so the potential is that if it can't be engineered on site that it would go into the marina at some point. Mr. Pagley answered, yes. He continued where Carolina Bay has their parking for their yachts, their storm water dumps right into that, right there at the marina. Mayor Clark asked, so with the elevation it would not go north to Ms. Black's? Mr. Pagley said, yes. Mayor Pro Tem Gilbert said I had just one more question. Does this go through Lift Station #1? Mr. Pagley said yes; and during the TRC, I told Mr. Wells that he may have to pay for some of that. Mayor Pro Tem Gilbert said I think we need a bigger discussion because there are so many people developing where it goes to that. Have some kind of district where you have the taxes or you have some consideration. Is anybody talking about that? Mr. Pagley said we're talking about that with ... Mayor Pro Tem Gilbert added, to make it more equitable ... the engineer right now. We're going to set a dollar amount for the amount of flow that comes from each building that gets built. We'll use the state standards for discharge. I've worked with Bill for years. Mr. Pagley explained that he has worked with Mr. Wells before and they have butted heads, but he does do good projects. Mayor Pro Tem Gilbert said we just want to make sure with all the building though it's spread out between all the developers and not focused on just individual developers carrying a bigger load. The ones that have the bigger projects in the impact will carry the majority of the load but we want to make sure that there's discussion where the smaller projects are still carrying. Mr. Pagley said there's going to be a dollar amount set for that. Mayor Pro Tem Gilbert said on the flow and Mr. Pagley responded on the flow. Mayor Clark said one other question - do you see the completion of this project and the completion of Lift Station #1 upgrade to be ahead ... Mr. Pagley said I think he'll be finished ahead of the upgrade. It may not be able to handle it by then. Mayor Pro Tem Gilbert said there could be issues. Mayor Clark reiterated the same.

Mayor Clark asked Mr. Wells, do you have an estimated time table of when you are looking at completion of this project? Mr. Wells responded, by July 2007. He continued, but if they don't sell there would be no impact on Lift Station #1. I hope that's not the case. Councilman Johnson asked, what's the time frame on Lift Station #1? Mr. Pagley said (referring to tonight's agenda) Item #26 is to approve Engineering Services to go into engineering for Lift Station #1. We won't be starting until '07-08 because they'll have to do the engineering and put it out to bid. Mr. Owens stated, you could be as much as two years away from probably getting that on line. Mayor Clark said you discussed the problems with Lift Station #1 with our recommendation from Engineering Services Group. Mayor Clark said it's a problem here. Mayor Clark asked if anyone had any comments. Mayor Pro Tem Gilbert said that he is definitely concerned that we might be exceeding our infrastructure. It looks like a pretty good project but that's concerning. Mayor Clark agreed. Councilman Macon said its 12 units. Mayor Pro Tem Gilbert said, and how long are they going to be habitable. Are they going to be year round? Mayor Clark said, have you looked at the impact on Lift Station #1 with 12 units coming in there? Councilman Macon asked, how long have we known that Lift Station #1 was a problem? Mr. Pagley said Lift Station #1 has run beyond 48 hours but that's certain times of the year. Like you said 12 units, they might not all be living there all year round. Mayor Pro Tem Gilbert said some of those places next door, I think its Carolina Bay, it doesn't look like there's a big year round community there. July would be peak but you

may not be getting peak out of those units. Mr. Pagley said that's right. Councilman Macon said again, how long have we known Lift Station #1 was a problem - years and years and years and years. Mayor Pro Tem Gilbert answered Lift Station #1 has been an issue for a long time. Councilman Macon said that's really our problem. Mr. Pagley said yes, it is. He continued, I think we can handle those 12 units. Mayor Clark said you feel confident with 12 units added to this. Mr. Pagley said yes.

Mayor Pro Tem Gilbert said there's a Land Use Plan language that's needed for this right. Mr. Harrell said not on a CUP only on text changes and map changes.

Councilman Macon made a motion to approve the conditional use permit based on they are consistent with the 4 findings of the Zoning Ordinance, the staff recommendations, sidewalk condition "c", specific standards 1-7, general conditions 1-4, TRC conditions, operations conditions, planning conditions, manager's concerns regarding parking, staff recommendations 1-29 and that the project is consistent with the Land Use Plan with the inclusion of the following conditions: 1) include sidewalk, curb and gutter; 2) the portion of parking designated for the Checkered Church be solid paving out to the right-of-way; and 3) recommendation that the landscape buffer extending the depth of that parking be eliminated. The conditions are as follows:

Four findings of the Zoning Ordinance (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 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 policies.

Sidewalk condition "c":

that such an extension could reasonably become an extension of existing sidewalks and/or other pedestrian ways.

Specific standards. Applicant must make provisions for:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;
- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;
- (4) Utilities, with reference to locations, availability, and compatibility;

- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;
- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

The TRC recommended the project to be submitted to the Planning and Zoning Commission with the following comment:

Fire:

Need sprinkler for the trash chute.

Speak with Waste Management about the dumpster and get a letter of approval for dumpster placement.

Operations:

Provide utility drawings of water and sewer.

Need decorative gate that gives access to the utility easement.

Need 6-inch water line on North side of property. Sod over it.

Send utility drawings to Steve Pagley.

Operations recommends 5' sidewalks.

Planning:

Need landscape plant list.

Need copy of agreements with Federal Point Yacht Club and Checkered Church regarding road closure.

The wall shall be stepped back to allow for vision while exiting.

Label existing and proposed brick wall on site plan. Brick wall shall be 1' from the property line on the front.

Designate property lines on map clearly showing what you own.

Variance for landscape buffer around Checkered Church

Designate 10' utility easement

Manager:

Traffic concerns regarding parking for Checkered Church (address parking history for Checkered Church in your narrative)

STAFF RECOMMENDATIONS:

1. The storm water plan must be submitted prior to issuance of a building permit. The storm water system must be installed according to approved plans and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.
2. Drainage plan must be submitted and approved prior to issuance of a building permit. The drainage system must be installed according to approved plans

and a letter signed and sealed by a licensed engineer must be provided verifying that the system is properly installed and functioning prior to issuance of certificate of occupancy.

3. A driveway permit and construction authorization permit from the Town of Carolina Beach will be required before issuance of Building Permit.
4. Approval from the Division of Coastal Management Quality for a CAMA Permit.
5. Approval Letter from Division of Water Quality from the Public Water Supply Section for a construction authorization permit.
6. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint.
7. Flood Certification must be presented prior to issuance of certificate of occupancy.
8. Prior to Certificate of Occupancy, an architect or engineer must confirm the structure's height is consistent with the conditional use permit.
9. Final project must be designed to provide required number of parking spaces as provided in Article 7 of the Town's Zoning Ordinance. Final project must be designed to provide the required 24 parking spaces.
10. Final site plan must include cross-section of paving detail and indicate on plan areas to be paved.
11. The number and types of vegetation must be included on the final plan. A certificate of occupancy shall not be issued until landscaping is planted according to approved final site plan.
12. Refuse collection agency that will be used must be included on final site plan. Before the issuance of a building permit, a letter of approval from the refuse collection agency stating the waste removal plan is adequate for this site
13. All structures must be designed to meet NFPA approved Fire Sprinkler systems and meet minimum NC Fire Prevention Code. Approval letter must be submitted prior to Certificate of Occupancy.
14. All permits and approval letters required by all Federal, State, and Local Agencies must be submitted prior to Certificate of Occupancy.
15. A sign permit must be obtained for any new signs located on the property.
16. Maintenance of permanent open space parking, streets, drainage systems, utilities, and other such facilities-
All common facilities shall be maintained for their intended purpose as expressed in the approved final site plan. The method of providing for such maintenance shall be submitted prior to Certificate of Occupancy by one (1) or more of the following:
 - a. Public dedication to the Town, subject to the Town's formal acceptance of such facilities in its sole discretion.
 - b. Establishments of an association or nonprofit corporation of all individuals or corporations owning property within the mixed use development for the purpose of ensuring maintenance of common facilities.
 - c. Retention of ownership, control, and maintenance of common facilities by the developer or Home Owner's Association.
17. Certification shall be provided that all improvements, including but not limited to

paving, drainage, storm water, 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.

18. Prior to issuance of building permit a plan that includes a grading schedule, and construction schedule shall be approved by the Technical Review Committee.
19. 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/Storm water/Public Works and Fire.
20. 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 Article 14 of the zoning ordinance.
21. Prior to issuance of a building permit, a plan that includes a grading schedule and construction schedule shall be approved by the TRC.
22. Water meters must be relocated in the right-of-way and run 12 lines to the units.
23. A scaled site plan must be submitted prior to issuance of a building permit. All drawings shall be prepared at a scale of 1" equals 50' or larger showing the site and all land within 150' of the site.
24. All lots utilized for the project shall be combined before issuance of a Certificate of Occupancy.
25. Sidewalks curb and gutter shall be installed in accordance with Article 8 of the zoning ordinance and be ADA compliant.
26. Exterior lighting should be shielded on the building.
27. The building layout shall be adjusted to have 13' on each side setback.
28. Provide the road closure agreement with properties adjacent to Burris Drive
29. Provide a letter from Waste Industries stating the waste disposal plan is adequate for trash pick-up.

MOTION CARRIED UNANIMOUSLY.

Mayor Clark made a motion for a ten minute break. **MOTION CARRIED UNANIMOUSLY.**

The meeting resumed with Mayor Clark announcing that he would like to remind the audience that tonight's meeting will be recessed to 11:30 a.m. tomorrow morning, August 9, 2006 in the training room.

PUBLIC HEARING – CONSIDER A REQUEST TO AMEND NOTICE REQUIREMENTS IN ARTICLE 14 CONDITIONAL USE APPROVAL PROCESS, ARTICLE 21 BOARD RESPONSIBILITIES AND ADMINISTRATION MECHANISMS AND ARTICLE 22 ZONING ORDINANCE TEXT AND MAP AMENDMENTS

Mr. Harrell began by saying this is a text change and it is for a public hearing tonight. He said the ordinances in front of you are to make the notice requirements consistent across the entire Zoning Ordinance and we are quoting state statutes that would require the public notice in the newspaper, posting of the property, proper notice to adjacent property owners, proper notice to the military, and those requirements would be both for the P&Z and the Council. P&Z has reviewed these notice requirements and recommend this amendment move forward to Council. In this particular one, it requires a motion for approval or denial with regard to land use consistency by Council before you vote on it and the Planning and Zoning Commission finds it to be consistent because we are just dealing with notice requirements.

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

There being no public comment, a motion was made by Councilwoman Efird to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Macon made a motion to adopt the consistency statement that it is consistent with the Land Use Plan by Town Council, as follows:

In accordance with the provisions of NCGS 160A-383, the Town Council does hereby find and determine that the adoption of the ordinance rezoning the following described property is consistent with the adopted comprehensive plan and the adoption of the ordinance rezoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

MOTION CARRIED UNANIMOUSLY.

Councilman Macon made a motion to adopt Ordinance No. 06-652 (*identified in the minute book as Exhibit 6 herein*) . **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST TO AMEND BAR/TAVERN DEFINITION IN CHAPTER 8 LICENSES AND BUSINESS REGULATIONS OF THE CODE OF ORDINANCES AND ADD SAID DEFINITION TO ARTICLE 23 DEFINITIONS OF THE ZONING ORDINANCE

Mr. Harrell said this is also a text change for consideration. Currently, the Code of Ordinances under Section 8.68, Cabaret/Bars and Taverns, defines that any establishment that is selling alcohol would be considered a bar or tavern. That creates difficulties for us with regard to approving restaurants and eating establishments that would be selling alcohol. This would provide a definition that only says that for the purposes of this article, "bars and taverns" shall be defined as establishments primarily engaged in the sale

and service of alcoholic beverages for on-premises consumption during any period of the day as permitted by law. The incidental sale or provision of food or snacks shall not entitle such a use to be considered a restaurant under other provisions of this code. The hours of operation of these types of establishments may exceed the normal operating hours of a restaurant or similar establishment. Synonyms: tavern, saloon, bar room, inn, pub, watering hole, drinking hole, gin mill, tap room. The same definition would be in the zoning ordinance as well.

The recommendation from Planning and Zoning is to adopt this definition for bar and tavern. This would require Council to adopt a Land Use Consistency statement and the Planning and Zoning found it consistent with the Land Use Plan.

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

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

Councilwoman Efird made a motion to adopt the consistency statement relating to Zoning Ordinance Section 23-3, as follows:

In accordance with the provisions of NCGS 160A-383, the Town Council does hereby find and determine that the adoption of the ordinance rezoning the following described property is consistent with the adopted comprehensive plan and that the adoption of the ordinance rezoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

MOTION CARRIED UNANIMOUSLY.

Councilwoman Efird made a motion to adopt Ordinance No. 06-653 (*identified in the minute book as Exhibit 7 herein*). **MOTION CARRIED UNANIMOUSLY.**

PUBLIC HEARING – CONSIDER A REQUEST TO AMEND APPLICATIONS REQUIREMENTS IN ARTICLE 22 ZONING ORDINANCE TEXT AND MAP AMENDMENTS

Mr. Harrell said in Section 22.2 when you petition the town for a map or text change it says the application has to be done in a certain amount of time and filed with the Planning Department prior to a Planning and Zoning Commission meeting. It does not specifically exempt the town from being able to initiate a text or map amendment and that would apply to Council as well. What we have done under exemptions subsections 2, 3, and 4 (3 and 4 were already exemptions), is exempt the town, council and planning staff from being able to bring forth a text amendment without having to do the 28 day

notice. We feel that is essential for the town to be able to act on its own ordinances. Planning and Zoning has recommended it for approval and finds the text amendment consistent with the Land Use Plan.

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

Robert Ward, 302 Canal Drive, said he had one question. If we eliminate the time frames on the application process for city council or anybody in government what would basically... if I'm hearing this correct is that it eliminates a time frame or makes the town or Planning and Zoning exempt. Mr. Harrell said all it means is that if, for example, we wanted to consider a text amendment for the next P&Z meeting and we were 22 days out we wouldn't be able to do that under the current ordinance. By amending this, we could still do that and we still have to meet all our advertisement requirements and all the public hearings. It doesn't eliminate anything like that. It just allows us to start the application process in terms of initiating writing an amendment and composing sooner than 28 days. Mr. Ward asked, if it was sooner than 28 days would it be on that next P&Z agenda meeting? Mr. Harrell responded it's a possibility, yes sir. Mr. Ward said okay because I'm just wondering I think those articles and so forth were drawn up so that each and every text amendment, each body of government would be on a fair and uniform ... I'm trying to understand this... it would be like you wouldn't have to go through the formal process and they would waive the 28 days or whatever. Mr. Harrell said no sir. Basically what the current ordinance says is that if someone comes in and says I want to initiate a text change they can't do so if they are any closer than 28 working days to the next P&Z meeting. Mr. Ward said right. Mr. Harrell continued, what we're doing is we're exempting the town from having to wait that 28 working days. Mr. Ward said I see, okay. Mr. Harrell said other than that all the other requirements are there. Mr. Ward said, so they're still the same.

Mayor Clark asked if anyone else would like to speak. Since there wasn't a response from anyone, Mayor Clark made a motion to close the public hearing. **MOTION CARRIED UNANIMOUSLY.**

Councilman Johnson made a motion to approve the Land Use Plan consistency statement in accordance with the provisions of North Carolina General Statute 160A-383, as follows:

In accordance with the provisions of NCGS 160A-383, the Town Council does hereby find and determine that the adoption of the ordinance rezoning the following described property is consistent with the adopted ordinance plan and that the adoption of the ordinance rezoning the following described property is reasonable and in the public interest due to its consistency with the comprehensive plan and, as a result, its furtherance of the goals and objectives of the comprehensive plan.

MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion to adopt Ordinance No. 06-654 (*identified in the minute book as Exhibit 8 herein*). **MOTION CARRIED UNANIMOUSLY.**

APPOINTMENTS TO THE FOLLOWING COMMITTEES: PLANNING AND ZONING COMMISSION, BOARD OF ADJUSTMENT, FREEMAN PARK COMMITTEE (AD-HOC), STEERING COMMITTEE FOR LAND USE PLANNING (AD-HOC)

Mayor Pro Tem Gilbert made a motion to appoint Greg Reynolds to the Board of Adjustment. **MOTION CARRIED UNANIMOUSLY**

Councilman Johnson made a motion to appoint Charles Bailey, Diane Murphy, Michael Kirkbride, Jerry Haire, Greg Reynolds, Rich Lehrer, Tammy Hanson, and Donald Motsinger to the Steering Committee for Land Use Planning (Ad-Hoc). **MOTION CARRIED UNANIMOUSLY**

Councilman Macon made a motion to appoint Shawn Underwood to the Planning and Zoning Commission. **MOTION DENIED (VOTE: 2-3 WITH MAYOR PRO TEM GILBERT, MAYOR CLARK, AND COUNCILMAN JOHNSON VOTING NO)**

Mayor Pro Tem Gilbert made a motion to appoint James Rees to the Planning and Zoning Commission. **MOTION CARRIED (VOTE: 4-1 WITH COUNCILMAN MACON VOTING NO)**

Mayor Pro Tem Gilbert made a motion to expand the Freeman Park Committee (Ad-Hoc) to 10 members, and appoint Gina Benton, Twig Williams, and Kevin Byrd to the Freeman Park Committee (Ad-Hoc). **MOTION CARRIED UNANIMOUSLY.**

CONSIDER WATER BILL REDUCTION FOR HOTEL ASTOR

Dawn Johnson, Finance Director, said for some time now we have been trying to collect an overdue water/sewer/refuse/storm water bill from the Hotel Astor. The balance on the account as of June 27, 2006 is \$26,341.00. The building burned down in June 2005 and since that time the account has continued to accrue approximately \$850 a month in penalties. The meter has been removed. These are just penalties on the amounts that are due. On June 29, 2006, Mr. Jacob Tzfanya, who represents the Hotel Astor, met with the Town Manager and myself and wants to get the account settled.

Before the fire, we had not received a payment on the account since March 24, 2004. At the time of the fire, the total amount due on the account including late fees was \$14,654.89. After meeting with Mr. Tzfanya, the manager and I are proposing that the

total due including late fees of \$14,654.89 be paid and that we forgive any amounts after the date of the fire. Mr. Tzfanya agreed to this settlement. The difference is \$11,686.88 which is mostly late fees. This would require Council's approval to write this off.

Councilman Macon made a motion to accept the \$14,654.89 and forgive the \$11,686.88. Mr. Clyburn suggested Council approve this request on the condition that it is paid within 30 days. Councilman Macon amended his motion to include that it be paid within 30 days. **MOTION CARRIED UNANIMOUSLY.**

DISCUSSION CONCERNING ALLOCATION OF FUNDS RECEIVED FROM NHC ABC BOARD

Mayor Clark said he received a letter in June 2006 and it said if you'll come to the ABC Board we'll give you a check for \$71,150.00. Mayor Clark, Councilman Johnson, Mr. Owens, and Valita Quattlebaum, Public Information Officer, met with the ABC Board Chairman. The chairman said this was profit they received over the amount they anticipated so they were distributing money to the counties and the municipalities.

The question is where to use the money. There was a budget request this year to fund two policemen and two firemen but that was cut in half. Mayor Clark made a motion that the money be used toward hiring one policeman and one fireman. **MOTION CARRIED UNANIMOUSLY.**

TAXI CAB APPLICATIONS

Mr. Owens said the town currently has an ordinance under Section 8 that requires any new taxi cab companies that come into town be approved by the Town Council. It's called a certificate of necessity for public convenience and necessity. We got into the privilege license in part of the year and some folks came in and applied for a privilege license. They had yet to receive this certificate of necessity and convenience.

There are three companies who currently have this certificate. They are Lett's Taxi Service, Pleasure Island Taxi, and Beach Buggy Taxi. Beach Buggy Taxi does not want to be considered for the certificate. Pleasure Island Taxi has a new owner and wishes to come forward with four taxies. Lett's Taxi Service wants to cut their 10 taxies to 6 taxies operating in the town. There are three other companies that wish to be considered. One is Kat's Taxi Service and they are based out of Wilmington. They would like to operate 10 cabs on the island. B&K Taxi would like to operate 1 taxi in Carolina Beach. Mr. Taxi would like to operate 1 taxi on the beach. It is up to the board to determine how many taxies they wish to have operating on our beach. This is generally for pick up.

During the privilege license time, we have been looking at the cabs. The police department does a wonderful job of inspecting the cabs. We also have an application process they go through and we will continue with that. We also check for insurance requirements. The thing we got caught in is the new cabs that came in. I'm not sure our staff knew there was this type of ordinance. We caught it in time and hopefully avoided any major problems. The total request is for 22 cabs.

Marino Ranj the owner of Mr. Taxi spoke on his own behalf regarding the request he made for an increase from 1 taxi cab in Carolina Beach to 2 taxi cabs.

The next to speak was Shukil Rahimbux from Kat's Taxi. He presented his position for wanting 10 taxi cabs on Carolina Beach.

Mayor Pro Tem Gilbert made a motion to approve the following number of taxis: Pleasure Island Taxi – 4; Lett's Taxi Service - 6; Kat's Taxi Service - 3, B&K Taxi Service – 1; and Mr. Taxi – 2. **MOTION CARRIED UNANIMOUSLY.**

There was some discussion regarding there being only 1 taxi cab space in front of the Boardwalk. Mr. Owens suggested the taxi cab companies call him and they can talk about this situation.

Mr. Owens said the second part of this was to advertise for a public hearing regarding an ordinance that will allow the Town of Carolina Beach to do DCI [Division of Criminal Investigation] checks. This will be for both taxi cabs and when we are doing a criminal background on employees. He requested that the public hearing be set at the next meeting. Mayor Clark made a motion to set a public hearing date on September 12, 2005 for an ordinance to allow the Town of Carolina Beach to do DCI checks. **MOTION CARRIED UNANIMOUSLY.**

REQUEST FOR A REDUCTION IN FEES FOR THE NEW CONSTRUCTION OF A WAREHOUSE PROJECT ON 100 DOW ROAD

Mr. Owen stated this is a request from 100 Dow Road which is a project of Mr. Conlin's. He would like Council to consider amending their fee schedule for his project. His particular concern was the office portion of it. Currently the office portion of it requires a charge for both the actual toilet facility as well as the office space. His request is to charge for the actual toilets or the office space but not both. Mr. Owens recommendation is to continue the fee schedule as it was budgeted. If there is a reduction in fees, the budget should be taken into consideration and the fact that we have charged other office spaces similar to this for both toilet facilities as well as the office space.

Jimmy Fentress spoke and said he is representing Jim Conlin. He explained that they made an application for a building permit and spoke about the impact fee and how it was calculated. They understand the way it was calculated but still thinks the impact fee seems excessive. He feels there was one gray area in the calculation and that was the

dual use; there is an office and a warehouse and the impact fee is based on both uses. He would like them to look at the office use as opposed to the warehouse use.

Councilman Macon made a motion to delay the decision until September 12, 2006 and have staff take a look at the fee schedule, which is based on use. **MOTION CARRIED UNANIMOUSLY.**

CONSIDER ENTERING AN ENGINEERING AGREEMENT WITH ENGINEERING SERVICES FOR LIFT STATION #1 AND A LIST OF WATER RELATED ITEMS THAT ES IS WORKING ON

Mr. Owens presented an agreement with Engineering Services. He said they have a tier system of how they charge. It will cost approximately \$120,000 which will include up to the final inspection. Mr. Owens is seeking approval to move forward with Engineering Services and to have the agreement signed.

Councilman Macon made a motion to approve the contract with Engineering Services. Although Mayor Pro Tem Gilbert said he agreed with the motion, he would like to hear at the next meeting a discussion on how the cost will be shared for Lift Station #1. **MOTION CARRIED UNANIMOUSLY.**

PARKING IN TEXAS AVENUE RIGHT-OF-WAY

In Mr. Owens's update, he said it was discovered that there was no identifiable parking on Texas Avenue. Although the adjacent developer will be putting a roadway in off of Texas Avenue to access their property, staff would like to do something temporary. There is a CAMA permit in the works and they would like to add 4 parking spaces there, minimal gravel, some landscaping timbers to delineate the parking spaces, and add parking meters in this area along with new signage. He also mentioned the new 3 hour parking has been under effect since the third week of July. He requested that they proceed forward with this.

Mayor Pro Tem Gilbert made a motion for the town manager to proceed forward with his request. **MOTION CARRIED UNANIMOUSLY.**

NEW EMPLOYEE POSITIONS AS ALLOCATED IN BUDGET 06-07 REQUESTS

Mr. Owens stated this is a carryover from our budget discussions. There are a lot of positions that were fully funded in this budget but he wanted to go back and explore them.

There has been an advertisement for 1 firefighter position and 1 firefighter position has been authorized as of tonight. That brings our total staff in the fire department to 4 and a chief, so there will be 5 full time positions shortly.

In the police department, we have funded the two Freeman Park positions. Another police officer position can be added with the ABC revenue. This will be a total of 3 police officers.

Another position talked about was a recreation position that is funded in the budget. Mr. Owens would like to use some of that lag money and hire that person closer to summer to help out with the summer rush and keep that person on full time as an additional person. They have 6 positions now and that will bring the total to 7.

In operations, they advertised and hired the beach maintenance worker. This is the person to help out with Freeman Park and similar areas.

In Water and Sewer, he would like to consider hiring those employees. The target date is March or April. There will be 1 person for water and 1 person for sewer. This will be a camera crew mainly and also to supplement our existing water and sewer operations' employees.

A budget was also done this year for a part-time employee to a full-time employee in the Planning Department. That part-time employee is already on staff and they would like to implement that full-time position as soon as possible.

Mr. Owens said this can be approved as a package. Councilwoman Efird made a motion to approve the new positions within the FY 06-07 budget. **MOTION CARRIED UNANIMOUSLY.**

NON-AGENDA ITEMS OF TOWN COUNCIL, TOWN MANAGER AND/OR DEPARTMENT HEADS, TOWN CLERK, FINANCE OFFICER & TOWN ATTORNEY

Request for Closed Session

Mr. Clyburn stated he will need a three minute meeting in closed session to discuss a real estate issue in compliance with NCGS 143-318.11(a)(5).

Discussion Concerning Minutes

Ms. Prusa said our minutes have grown tremendously. They're not verbatim but they are pretty close to it. A big reason for that is we have had a lot of conditional use permit hearings over the past several months. These have to be pretty close to verbatim so they take a lot of time. Our last set of minutes was about 80 pages with the regular meeting that recessed and continued. It is taking a lot of time to complete our minutes; and before

we know it, it is time for our next meeting. I am asking Council to consider letting us try action minutes. The minutes will show what the request is and the motion that is made. She explained that all of the discussion in between will not be in the minutes with the exception of the conditional use permit hearings. Ms. Prusa said I'd like for you to act on this tonight so the next set will be our first example. If you don't like it, we can go back and redo it.

Mayor Pro Tem Gilbert made a motion to go forward with Ms. Prusa's recommendation of action minutes and to make the recordings available on line within a period of six months. **MOTION CARRIED UNANIMOUSLY.**

Harbor View CUP

Mayor Pro Tem Gilbert said there has been a letter circulated about some errors on a conditional use permit that was issued with respect to Harbor View. Before that conditional use permit is actually typed or written, I would like to see those errors addressed and presented to Planning and Zoning and get a re-recommendation from them. The changes in that need to be entered into the document and corrected if there were errors and let the Planning and Zoning Commission deliberate on where to go with that. Mayor Pro Tem Gilbert said I really can't attest to the errors.

After some discussion, Mr. Owens said if you want us to address it at a public meeting, we could. Mayor Pro Tem Gilbert said he would like to see the errors addressed at a public meeting and then have a board discussion about that. Mayor Clark asked if they would be ready by the September meeting and Mr. Owens and Mr. Harrell said yes.

Councilman Johnson said on our applications for a conditional use permit at the bottom there is a line for the applicant's signature. He would like to see added to that where the applicant prints and signs. Also on the last line where it says signature of owner "if not the applicant", he would like to see "if not the applicant" struck out and that owner has to sign it even though it may be the same person. He said he knows there has been some conflict where there was question of who the actual owner was. He would like for this to be done as soon as possible.

Mr. Owens said I think we can do that. He asked if that was alright with the rest of the board. The board was in agreement of this request.

Mayor Clark reported that they are working with the Corps of Engineers with our beach re-nourishment project. There is some money from the federal, state, and local government but they don't know if that will be enough. The bids will be on the 29th of August. He said we are meeting tomorrow with the Beach and Waterway Commission to see if there is any money available there. We don't know the amount of money we need but we don't want to go back to the taxpayers for money.

Mayor Clark made a motion to go into closed session to discuss a real estate issue [G.S. 143-318.11(5)]. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark made a motion to return to open session. **MOTION CARRIED UNANIMOUSLY.**

Mayor Clark reported that no action was taken during the closed session.

RECESS MEETING TO AUGUST 9, 2006 AT 11:30 A.M. TO DISCUSS THE CAROLINA BEACH BICYCLE AND PEDESTRIAN PLAN WORKSHOP WITH WILBUR AND SMITH (THE MEETING WILL BE HELD IN THE TRAINING ROOM)

Mayor Clark made a motion to recess the meeting until tomorrow, August 9th at 11:30 a.m. **MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____