

**MINUTES OF THE RECESSED MEETING
OF APRIL 8, 2008 OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

April 22, 2008

The Town Council of the Town of Carolina Beach reconvened on April 22, 2008 at 6:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Joel Macon; Mayor Pro Tem (MPT), Dan Wilcox; Councilwoman, Pat Efirid; Councilman, Jerry Johnson; and Councilman, Alan Gilbert. Also present were Town Manager, Tim Owens; Town Attorney, Al Clyburn; Finance Director, Dawn Johnson; and Town Clerk, Lynn Prusa.

Mayor Macon called the meeting to order.

Mayor Macon made a motion to go into closed session to discuss attorney/client, real estate and personnel matter [NCGS 143-318.11(a)3, 5, and 6. MOTION CARRIED UNANIMOUSLY.

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

No action was taken concerning the closed session.

Mayor Macon made a motion to take a break until 7:30 p.m. MOTION CARRIED UNANIMOUSLY.

Mayor Macon called the meeting back to order.

PUBLIC DISCUSSION (Five minute time limit per person)

Shirley Roth, 413 Carolina Beach Avenue North, said she has a house at this location that she moved there from the property behind her and she is getting it ready to rent it by the summer but she can't rent it to anyone because it doesn't have a stove in the kitchen and nobody wants it. She does have hot plates and they don't want it so it has been very difficult to rent it. She sent an e-mail which was forwarded to the town manager.

Gary Ferguson explained that Ms. Roth received a conditional use permit a couple of years ago which was for an expansion of her small hotel (11 units), The Seagull Motel. He said she was requesting authorization through her CUP to move a duplex, which was located to the west on Canal, onto her property. She received permission to move it. She was then confronted with the zoning determination by the town. Hotel units are not authorized to have kitchens. Ms. Roth was under the impression that she would be allowed from the beginning to continue to operate the duplex as it historically was operated but then she was confronted with the problem that she cannot have a full kitchen in any one of her units within her hotel complex. She asked Mr. Ferguson what options

were available. Mr. Ferguson suggested that she come to the council meeting, during the public discussion, and ask if there is any relief from the ordinance. Mr. Ferguson said they have difficulty with the definition which says you cannot have kitchens with hotel rooms. Ms. Roth said she is in the CB-1 zoning district.

Tim Owens said the intent was for it to be a hotel type rental and that is what they understood originally and what was approved and not a long-term or summer rental per se. Mr. Owens said they need to sit down with Ms. Roth tomorrow or the next day and see if there are some other options. He told her to call him or Gary Ferguson and they will set up a time this week to meet with her. She said all of her units had full kitchens with gas ranges which she changed to electric. Mr. Ferguson said staff originally looked at it as an expansion of the hotel and not any other way. Mr. Owens said they talked about splitting that out and her having it as a duplex but that took away existing parking that was allocated to The Seagull Motel. They changed the definition of how you look at 25,000 sq. ft. to allow her to put those two more units on that site.

CONSIDER AMENDING THE CODE OF ORDINANCES: CHAPTER 9 MOTOR VEHICLES AND TRAFFIC, CHAPTER III BICYCLE REGULATIONS, SECTION 9-87 RIDING ON SIDEWALKS PROHIBITED TO CONSIDER ALLOWANCE FOR A BIKEWAY ON HARPER AND ALONG THE BOARDWALK AND DOWN CAPE FEAR BLVD.; CHAPTER 3 ANIMALS AND FOWL, SECTION 3-9 DOGS AND OTHER COMMONLY ACCEPTED ANIMALS AND FOWL ON PUBLIC RIGHTS OF WAY, PUBLIC LANDS, PROPERTY AND BEACHES, TO CONSIDER ALLOWING DOGS

Mike Kirkbride presented a proposal for an ordinance change allowing bikes on the Boardwalk area. He said the proposed route will begin at the eastern end of Harper, then go east to the oceanfront down Cape Fear Blvd. to the intersection of Lake Park Blvd., creating a loop and allowing connectivity in a temporary way. He said this would help connect this area from the north to the south and might help get ready for the master plan. They want to make the Boardwalk a user friendly destination, one way would be to make it a biking destination. They are proposing a bike rack at the entrance to the beach, maybe all beach accesses. This would also relieve some of the parking problems.

Mayor Macon made a motion to move Item No. 19 to Item No. 16A. MOTION CARRIED UNANIMOUSLY.

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

Sue Bullock, representing the Pruitt's who own the Putt-Putt, stated she feels it is a great plan and provides connectivity for the Boardwalk but sees only one problem in that it goes through an area that the town has closed as a street for the construction of The Fairfield Hotel. Council said that is correct, but it will be temporary. MPT Wilcox said they are looking at this as something conceptual for the season. Ms. Bullock said she

would support it for a longer run than simply being temporary.

MPT Wilcox made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Chief Younginer said it will be extremely difficult to tell someone they can ride on one part but not the other.

Mayor Macon made a motion to reopen the public hearing. MOTION CARRIED UNANIMOUSLY.

Mike Kirkbride said that with respect to the feedback that he got, there wasn't a lot of support for it and it wasn't something he wanted to propose at this time. Council agreed to delete that portion.

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

Councilman Gilbert made a motion not to approve Ordinance 08-736 (Exhibit 1). MOTION CARRIED 3-2 WITH MAYOR MACON AND MPT WILCOX VOTING NO.

CONSIDER AMENDING THE CODE OF ORDINANCES: CHAPTER 8 LICENSES AND BUSINESS REGULATIONS, ARTICLE IX SIDEWALK CAFES TO SPECIFY ALLOWANCE IN THE CENTRAL BUSINESS DISTRICT

Jeremy Hardison said this ordinance was adopted for sidewalk cafes in 2006 and references the CBD overlay area which is described in Article 4. The problem was that the overlay was not transposed to the zoning map when it was re-adopted in October 2000 so the overlay area is now not in existence. Staff proposes removing the reference to the CBD overlay pursuant to article 4 of the town zoning ordinance. He said permits for sidewalk cafes are issued through the town manager's office and he has certain criteria that he looks at.

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

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

Councilwoman Efirm made a motion to adopt Ordinance No. 08-735 (Exhibit 2). MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion that Ordinance No. 08-735 is consistent with the zoning statement with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.

CONSIDER A VARIANCE REQUEST FROM HARRIS BARNEY LTD, LLC TO SECTION 12-106 LOTS (B) ARRANGEMENT AND LAYOUT OF LOTS, AND (C) AREA AND DIMENSION OF THE SUBDIVISION MINIMUM DESIGN STANDARDS IN ORDER TO SUBDIVIDE ONE LOT INTO TWO LOTS WHEREBY ONE LOT WILL FAIL TO MEET THE FRONTAGE REQUIREMENT BY 6.5 FEET AND THE DEPTH REQUIREMENT BY 4.43 FEET FOR THE PROPERTY LOCATED AT 501 RISLEY ROAD (PIN 313118-30-7324)

Gary Ferguson said the applicant Harris Barney LTD, LLC is requesting two variances. He is trying to create a two lot subdivision at the intersection of Risley Road and Moorefield Road. The first variance is 6.5 feet from lot frontage requirement for tract 1 as proposed and variance of 4.43 feet for both lots 1 and 2. Mr. Ferguson showed an overview of area which has a depth of 95.57 feet and front of 73 ½ feet. Both lots as proposed meet the lot area requirements, the corner lot fails to meet the requirements of Section 12-106(b)(3) which states, "Corner lots shall be designed and platted with at least ten (10) feet of extra width over and above the minimum required for the zoning district." This would require an 80 foot frontage for lot 1 instead of 70 feet. The minimum requirement for the R-2 district is 70 feet on frontage with a land area of 7,000 s.f. Both of these lots are in excess of 7,000 s.f. If this were to be considered for approval he would need a variance of 6.5 feet of lot frontage for tract 1 only. Tract 2 frontage is 3 ½ feet in excess of the minimum. The second issue is lot depth which both lots fail to meet the 100 foot minimum. Staff took their proposal to the Planning and Zoning Commission to basically do away with a minimum lot depth requirement. There is an area requirement and frontage requirement in our zoning district. Almost all other towns staff researched had no minimum lot depth requirement. P&Z voted to approve the elimination of a minimum lot depth requirement in subdivisions. Staff is supportive of the applicant's request. All required setbacks will be adhered to for the R-2 zoning district and the ownership of the property will be fee simple. At the March P&Z meeting, the Commission recommended approval but also recommended an additional side yard setback for lot 1 of a 6.5 foot variance to the 12.5 foot requirement making it 19 feet.

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

Keith Barnhardt with Harris, Barnhardt LTD said he had nothing to add but would be happy to answer any questions.

Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

MPT Wilcox made a motion to approve the variance as requested.

MPT Wilcox said he would like to amend his motion to approve the variance request based on staff conclusion and required findings and initial conditions and recommendations made by the Planning and Zoning Commission. MPT Wilcox then withdrew this motion.

MPT Wilcox made a motion to approve the variance request based on staff conclusion and required findings and initial conditions and not include the condition by Planning and Zoning Commission.

Required Finding #1 - Granting a variation will not be detrimental to the public health and safety welfare: Mayor Wilcox said he did not see any detriment to the area or for the 12 ½ foot setback. MPT Wilcox said the additional 10 feet on corner lots in the subdivision ordinance is traditionally to set a subdivision back from the street to create a buffer between the highway and the subdivision. Those conditions don't exist here.

Required Finding #2 - The conditions upon which the request for a variation is based are unique to the property for which the variation is sought and are not applicable generally to other property: Council had no problem.

Required Finding #3 - Because of peculiar physical surrounding shape or topographical conditions of the specific property involved, a particular hardship, as distinguished from a mere inconvenience to the owner, will result if the strict letter of this article is carried out: Council had no problem.

Required Finding #4 - The purpose of the variation is not based exclusively upon a desire to make more money out of the property: Council had no problem.

MOTION CARRIED UNANIMOUSLY.

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

Chief Younginer said the speed limit in some places is marked 25 and other places 35 and a lot of the east to west roads are not even marked and according to state law they are 35 unless otherwise posted. He feels that 25 mph is appropriate in most of the places in town and would like to change the speed limit to 25 mph on all town maintained streets. State maintained streets would remain the same. Also, Cape Fear Blvd. from 4th to Dow Road would remain 35 mph and make it 25 mph the rest of the way down. They could put up a sign at the entrances to the town that the speed limit will be 25 mph unless otherwise posted. They will take down some 35 mph signs in some places.

Mayor Macon made a motion to continue the item to the May 13th meeting. Tim Owens said staff can rewrite the ordinance and readvertise it. **MOTION CARRIED UNANIMOUSLY.**

CONSIDER AMENDING CHAPTER 16 UTILITIES, ARTICLE 1 IN GENERAL, SECTION 16-10 TERMINATION OF UTILITY SERVICE, ELIMINATING FINAL NOTICES TO UTILITY BILL CUSTOMERS

Paul Parker said this is a request to discontinue printing and mailing final notices to delinquent utility bill customers. The change would be not sending out the final notices and the disconnection date would be on the bill and would give the customer 25 days in which to pay. This change would have a potential savings of over \$10,000. Councilman Gilbert brought some editorial changes to the attention of Mr. Parker - under item (1), (1) should not be crossed out and should read, "The date on which termination will occur, which must be at least ten (10) days after due date of the water bill."

Mayor Macon made a motion to open for public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion to approve Ordinance 08-738 (Exhibit 3) and on the final disconnection bill it should be in very bold lettering. Mayor Macon said customers should be notified that this change is being made in an effort to be more efficient and save money. Councilman Gilbert suggested looking into automated notification/e-bills to residents. **MOTION CARRIED UNANIMOUSLY.**

CONSIDER ADOPTING A MASTER DEVELOPMENT PLAN FOR THE TOWN OF CAROLINA BEACH

Tim Owens said there would be a public hearing tonight but he would like for Council to consider holding another public hearing in May. Staff looked at the plan and came up with some things that needed to be changed. They don't necessarily have a final document either, Council may have some changes they would like to recommend.

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

Sue Bullock, 102 Tanbridge Road, Wilmington, representing the Pruitt's and Putt-Putt and herself. Said she is very pleased and proud and hopeful that Council will tweak this master plan and bring it forward. It is in that spirit that the Pruitt's want to make a comment and include their approval and their positive view in what they have seen in their proposed master plan. The goal of bringing more tourists and residents to the Boardwalk area she thinks has been a goal of the town, Council and the people for a decade that she has been involved with. Their concern is that some of the steps you may take in the process such as the CUP that was given to The Fairfield Hotel may in fact jeopardize some of the potential that you might have in the master plan. The closing of Cape Fear Blvd. for that one block section to enable The Fairfield to have their pool, etc.,

may well work against you as you come up and make presentations to larger developers who would look at that whole section from where The Hilton Hotel is on the north to where The Fairfield Hotel is on the south and it is to that where they are concerned. They will be filing, if they haven't already filed, and she believes that their attorney has notified the town attorney. Up until last week, Baldwin and the law firm that is now going to be part of future staff or representing them and they have done a switch in that. You will have a note from Charles Baldwin, their former attorney, making comments and sent them to the town manager or the town attorney to be passed out when this comes up again with regard to the master plan. There are comments in terms of both cheering them forward but also saying that they believe that the steps taken in the closing of the street and the CUP may be detrimental to this master plan and are detrimental to the viability of the Pruitt property and they will be taking legal action to attempt to protect their rights. At the same time, they would like to participate in the future, in the development of this master plan. She feels they have done a fabulous job. MPT Wilcox asked if the Putt-Putt is going to open this year and Ms. Bullock said yes, land is being surveyed. They plan to spruce it up and operate through a lease agreement.

Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

MPT Wilcox made a motion to table this item to May and talk about it and advertise it for June and decide at that time if they want a town hall type meeting. MPT Wilcox amended his motion to not approve the master plan at this time and to schedule an additional open house type hearing in June. MOTION CARRIED UNANIMOUSLY.

PRESENTATION BY THE ISLAND WOMEN REGARDING BEAUTIFICATION GRANT MONEY THAT THEY REQUESTED AND GUIDANCE SOUGHT FROM THE TOWN COUNCIL ON PROJECTS

Tim Owens said this item was deleted from the agenda. He said they met with DOT and some of the Island Women and they came up with some good places and will still probably move forward. They will pull together plans to bring back and get a final okay from Council. The focus is on the south end of town from the lake to Fayetteville. Councilman Gilbert said southern Alabama, an entryway sign coming north and then, as you come on to Dow Road, across from Seventh, do something nice there.

AWARD BID FOR PAVING MAINTENANCE CONTRACT EFFECTIVE JULY 1, 2008 THRU JUNE 30, 2010

Paul Parker said this is the annual contract for asphalt patching and concrete patching. Barry Johnson rewrote the contract, it was reviewed by staff, and sent it out to 15 companies of which 10 said they were interested.

Councilman Johnson made a motion to award the bid to Surface Max, Inc. as proposed. MOTION CARRIED UNANIMOUSLY.

Mayor Macon said the season is approaching and they need to have the area at Clarendon and 8th patched.

CONSIDER SCHEDULING A SERIES OF BUDGET PUBLIC WORKSHOPS TO REVIEW DRAFT BUDGET FY '08/09

Tim Owens said a workshop date has already been set for May 2nd at 9:00 a.m.

CONSIDER APPROVING REQUEST TO PURCHASE AFIS (AUTOMATED FINGERPRINTING IDENTIFICATION SYSTEM) AND BUDGET AMENDMENT

Chief Younginer said this is something that was not put in the budget this year but was put forward as a grant which was denied. They put it back together as a grant and resubmitted and then told they would not get it but they offered a \$13,000 discount through Motorola to buy the system. The total discounted price would be \$26,115. They have some money in the drug account and would like to contribute \$8,000 of that money towards the system. Kure Beach has pledged \$5,000 which would leave a total price of \$13,115. The Motorola offer is only good until June 30, 2008. He stated that the lost manpower time was over \$8,000 last year

Mayor Macon made a motion to approve the purchase of the AFIS system. MOTION CARRIED 4-1 WITH COUNCILMAN GILBERT VOTING NO.

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

MPT Wilcox made a motion to table item to the June meeting for discussion. MOTION CARRIED UNANIMOUSLY.

DISCUSS UPCOMING TOWN HALL DAY TO BE HELD IN RALEIGH, JUNE 4, 2008

The town clerk said she sent Council an e-mail on Monday with information about this year's Town Hall Day. Traditionally Council goes up the day before on June 3rd and has an informal dinner. Appointments are usually scheduled on the morning of June 4th with our legislators. Instead of the luncheon there will be a reception sponsored by the League at 5:00 p.m. Generally there is a joint dinner hosted by the NHC municipalities and it is Carolina Beach's turn this year to make the arrangements. That would be on Wednesday evening. She has reserved 7 rooms at The Clarion.

Councilman Gilbert said he would pay for his room at The Clarion. Council recommended Sullivan's for the dinner at 7:30 p.m. to 8:00 p.m. on Wednesday. 42nd Street Oyster Bar was selected for the Tuesday night dinner. Councilman Johnson will let Ms. Prusa know if he will be attending, everyone else can attend.

NON-AGENDA ITEMS

Councilman Johnson spoke to operations director about 7th Street. He said there needs to be a yellow striped from the stop sign because he has seen people leaving the Recreation Center, turn right and come down 7th and around the corner and nearly have a head-on collision. Mr. Parker said they got a work order to put a white stripe down the middle, around the curve to Dow Road. It is in progress.

Councilman Johnson said he talked to Ms. Connie regarding Sandpiper and Canal Drive, at the corner on the side where the parking lot and retention pond is, there is a storm grate. There has been water for the last week coming out of the sidewall on the ocean side of that basin. She said she would send someone to look at it.

Tim Owens said he is drafting a letter to seek state appropriation for two stormwater ponds in the Sunny Point buffer and the lake which will go to Senator Boseman and state representatives and he encouraged Council to put a plug in for those projects that include the lake dredging. He will give everyone copies of those letters. The appropriation is very important and totals about \$1.1 million. That money would be an earmark in the upcoming budget if approved. We need a little political influence and help. Kure Beach agreed to write a letter for the town in support. Mayor Macon suggested Council members to send Mr. Owens any ideas they have or anything that needs to be brought up for discussion when they meet with the state representatives.

Councilman Gilbert said some months ago he was at a Police Advisory meeting and they had requested that they try to get larger 45 mph signs over across the bridge with some orange flags. They tried the bureaucratic process; Mr. Owens wrote a letter. He said that every transition that he saw in his traveling, had oversized 45 mph with orange placards top and bottom. If it pleased Council, he would make a couple of phone calls and see if he could get them. Council agreed. He also said that the intersection at River Road has been distinguished to get a traffic signal but there is no funding for it. He thinks there is probably some discretionary funds around. No one at the county is asking for it. He could get some support from the county commissioners, maybe Bill Kopp and Nancy Pritchard to help ask for it. He asked Council if they thought it would serve the citizens to have a light there, said there are some dangerous situations there. Council agreed. Councilmember Gilbert suggested the Town Manager put together a letter, with respect to Council. He feels with some pushing they may be able to get it, but doesn't want to do it unless Council agrees. Council agreed. Tim Owens said he would draft a letter.

MPT Wilcox said the Boardwalk Makeover is seeking a \$5,000 grant to do some additional planting there and they would like him to draft a letter on Council letterhead stating their support of the Boardwalk Makeover cause and wants to make sure it is appropriate and okay with Council. Council agreed. Next, he talked to Paul Parker about cleaning the Boardwalk on the weekends in the morning. He said it is dirty, trash can full, etc. and it needs to be clean on Saturday and Sunday morning. They might need to divert some hours on Monday and Tuesday or something like that if it isn't an issue. Mr. Owens said it is not an issue, but historically they haven't done it until closer to summer. Mr. Owens said we can accommodate it. Councilman Gilbert said it should be standard maintenance even in the winter.

ADJOURNMENT

There being no further business, **Councilwoman Efirid made a motion to adjourn.**
MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____