

**MINUTES OF THE SPECIAL MEETING
OF AUGUST 25, 2009 OF THE TOWN COUNCIL
TOWN OF CAROLINA BEACH**

August 25, 2009

The Town Council of the Town of Carolina Beach met in a special session on August 25, 2009 at 5:30 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; MPT Wilcox; Councilman Gilbert; Councilwoman Efirid and Councilman Jerry Johnson. Also present were Town Manager Tim Owens and Town Clerk Lynn Prusa.

Mayor Macon called the meeting to order.

Lynn Prusa, Town Clerk, asked Council to make a couple of adjustments to the agenda. Jeannie Mintz called and said she would be here later tonight and asked if she could be moved to Item No. 10, consider request to purchase 1710 Carolina Beach Avenue North which she will be presenting on behalf of Dee Kirkbride, and would like to present Item No. 1A at the same time. The other change that is needed is Item No. 2, request from Joel May on behalf of Anchor Bay Condominiums for the town to consider participating financially in the dredging of boat slips in front of the condos, item has been withdrawn.

**MPT Wilcox made a motion to adopt the agenda as detailed by the town clerk.
MOTION CARRIED UNANIMOUSLY.**

***REQUEST BY JOEL MAY ON BEHALF OF ANCHOR BAY CONDOMINIUMS
FOR THE TOWN TO CONSIDER PARTICIPATING FINANCIALLY IN THE
DREDGING OF BOAT SLIPS IN FRONT OF THE CONDOS - Withdrawn***

This item was withdrawn by the applicant; therefore, no action was taken.

***CONSIDER THE REAPPOINTMENT/REORGANIZATION OF THE MASTER
DEVELOPMENT IMPLEMENTATION COMMITTEE***

Mr. Owens presented this item. He said they appointed a Master Development Implementation Committee and had a tough time getting things going and they have gone through a process to try to reorganize at a reorganization meeting. People who were interested in participating were contacted to attend. He gave Council a list of the original committee members and whether they would like to continue to serve and including a summary of what meetings they attended and those that did not. He then went through a list of new applicants and listed those who were interested in being reappointed and those who attended the reorganization meeting and those who did not. He has made some recommendations but this is Council's decision to decide who should be on the committee based on some of their attendance/participation throughout. Carolyn Thomas

is not interested in being reappointed and he recommends she be stricken which would leave 10 people Council could appoint or find another person out of the 10 and appoint 11. His recommendation is based on attendance and balance for diversity with different types of interest. Lynn Denne never returned staff's phone call.

Councilman Gilbert made a motion to approve the ten (10) applicants as recommended by the town manager and let them decide if they want to pare it down or up. MOTION CARRIED UNANIMOUSLY.

CONSIDER ADOPTING A RESOLUTION APPROVING FINANCING TERMS WITH BB&T FOR PURCHASE OF (1) 2010 FORD F150 AND (1) 2009 FORD RANGER

Dawn Johnson, Finance Director, said they have obtained 2 bids for the purchase of a 2010 Ford F150 and a 2009 Ford Ranger which were from BB&T and RBC. BB&T was the low bidder at 3.59%. They are financing \$33,411 for a period of 3 years. She is asked Council to consider approving the financing terms with BB&T by adoption of the resolution.

Mayor Macon made a motion to approve Resolution No. 09-985 which is the financing terms with BB&T (Exhibit 1).

Before calling for a vote Mayor Macon asked if anyone had any questions.

Councilman Gilbert said we did approve these through the environmental budget, and he asked if the F150 will be used on the beach since that is the one wearing out. The town manager said yes.

Mayor Macon called for a vote on the motion. **MOTION CARRIED UNANIMOUSLY.**

UPDATE ON CONSTRUCTION OF A DINGY DOCK AT THE END OF SAND PIPER LANE AND CANAL DRIVE, AND TRANSIENT AREA AT THE MUNICIPAL MARINA

Captain Kurt Bartley presented this item. He said the Harbor Commission was originally looking at that street end to put in a dingy dock. Currently there is a gazebo there. They presented it to Mr. Collins, who is a next door neighbor and denied their 15' setback. He then went to the next property owner, Mr. Torrello, and negotiated with him. He doesn't really like the gazebo itself because it is a gathering point for kids so they came up with a new idea and showed drawing. Mr. Torrello is okay with that and gave the town a letter of intent. The plan would move the dingy dock all the way to his line, providing the 15' setback and would not enter into Mr. Collins setback. He is asking for approval of location for the dingy dock as indicated on the site map.

Mr. Owens said they would have to do the permitting first and then come back with a budget for the project. He thinks they have gotten one cost estimate of around \$20,000 and will require a major CAMA permit.

MPT Wilcox asked if the pier could be any shorter and the floater being longer. Captain Bartley said it could be a little shorter but not a lot because of sediment, it also matches Mr. Torello's pier line.

MPT Wilcox said a dingy dock doesn't draw a lot of water.

Tim Owens said councilman is saying 30-40 floating dock and he thinks they probably could.

Captain Bartley said Mr. Torello's main concern is that it not become a gathering spot and they discussed sloping handrails to prevent sitting, an entrance gate and no loitering signage. There are no plans to reuse the gazebo.

Mr. Owens said Mr. Collins wouldn't forgo his 15' waiver and this plan is a compromise between this property owner and whether they want a dingy dock or not.

Captain Bartley said that without Mr. Collins' waiver they would have to go to CAMA with a variance procedure and chances are they would not get it.

MPT Wilcox said the problem with it being all the way over to one property line, you lose the other side of the dock.

Councilman Gilbert said there are not a whole lot of places to get out of the sun on the canal that's on public property and he feels removing the gazebo is counterintuitive.

MPT Wilcox suggested postponing this item to the next regular meeting to have an opportunity to talk to Mr. Collins.

Mayor Macon made a motion to continue this item.

Mr. Owens said that if Mr. Collins does sign off on the 15', they had a pretty good design where they could use the existing gazebo. They have several drawing they can look at.

Councilman Johnson said that Mr. Terello's property is up for sale and if sold before the next meeting they might not get the same offer.

MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING UPGRADES TO SOCCER FIELD AND FUNDING APPROACH

This item was presented by Ted Lashley. He said Chappell Park is 25-30 years old and is pretty worn out. The fields weren't designed nor can they compete with the new fields that New Hanover County is doing, nor can they compete with the number of maintenance employees and equipment the county has to maintain the facilities. Last year there was a lot of talk about renovation of the soccer field and they did get some quotes on that. There are also discussions amongst the Recreation Committee and people at the Recreation Center about making sure we are using the available space at the park as they need to be using it. Regarding renovation of the existing field that is being used for soccer, which was designed to be open space and never meant to be a soccer field, he did get some quotes from Barefoot and Associates for complete renovation of the existing soccer field, including topsoil, grading, crowning the field, killing existing grass/weeds, fertilizing, and sprinkle it with Bermuda grass at \$125,000 for the complete package. If the town provides the topsoil, which we have plenty of, the company will grade it, crown the fields, spray, fertilize and sprinkle with Bermuda grass for \$50,000. If we provide the topsoil, do the grading, crowning and spraying, they will fertilize and sprinkle it with Bermuda grass for \$25,000. He also talked with Landscapes Unlimited, who does the landscaping for the town, and for the topsoil, spraying, grading and installing of Bermuda sod for \$72,000; if we provide the topsoil, they will do the rest for \$56,000. He said there are lots of ideas for renovations including restrooms, ball fields, making more open space and he would like direction from Council on what their ideas are. We are still approaching an area for parking expansion and there are plans for ball fields and soccer fields in that area already. If Sunny Point releases that area to them it will really open it up for the town. That area would extend all the way to Ocean Blvd. The Recreation Committee will be meeting on Monday night where he will ask for their suggestions. The baseball teams are using the fields for practice at the park but playing at Veteran's Park. He would like to do what the majority wants. He showed drawings of the proposals. He has only talked to PISA and suggested either a public workshop or public hearing for input.

Mr. Owens said if they want to go forward with something they need to have a little bit of a formal process in the form of a public hearing, or appoint people to a task force or use the Recreation Committee to do the work. We need some outside help to come to some kind of conclusion. It would be nice to have soccer tournaments here and soccer fields but if you are talking about 4 or 5 fields, there is no room for that unless we expand into Sunny Point's jurisdiction. He submitted a master list of items 2 years ago that we would come back to Sunny Point for but he has not talked to them for a while because of other crucial projects going on.

Mayor Macon recommended going to Sunny Point to find out what our chances are for expanding.

Mr. Lashley said the upgrade at Chappell Park and the expansion are part of the Master Plan.

Councilman Gilbert asked if they could take down the fences to allow for multi-use recreation fields so if they want to practice baseball or softball they could still do that but you could also have a multi-use facility so they could also do lacrosse or soccer - have a big expanse of grass and be flexible.

Council would like to hear from the Parks and Recreation Committee, and any other resources/information he can gather in the process, including talking to Sunny Point.

DISCUSSION REGARDING THE HILTON'S (SEAVIEW PROPERTIES) LETTER OF CREDIT FOR ROAD CONSTRUCTION AND SEWER/WATER IMPROVEMENTS WHICH IS SET TO EXPIRE ON SEPTEMBER 18, 2009

Mr. Owens said the original letter of credit was set to expire in September in the amount of \$296,000 which was to cover water/sewer improvements, stormwater and relocation of Carolina Beach Avenue North. The water and sewer has been completed, most of the storm water has been completed and we are looking at ½ of CBAN, the connection there. That doesn't really need to happen until after construction is finished. Mr. Maynard did provide another letter of credit and they are asking Council to consider reducing the letter of credit from \$296,000 to \$74,000 which should cover the remaining infrastructure that needs to be put in. The new expiration date would be August 11, 2010 at which time it would have to be extended if everything isn't completed.

Councilman Johnson asked if the \$59,000+ estimate from Secof to complete site work includes CBAN.

Mr. Owens said it was meant to do that. He asked for some updated cost estimates and he thinks it does include that. It's only ½ of a roadway, some curb and gutter and sidewalks and feels confident that \$74,000 is enough.

Mayor Macon made a motion to approve the letter of credit reducing it to \$74,000 with an expiration date of August 11, 2010. MOTION CARRIED UNANIMOUSLY.

CONSIDER ADDING AN ADDITIONAL SIGN TO THE TOWN LIMITS SIGN TO ACKNOWLEDGE "HOME OF THE 2009 SCHWEPPE'S GREAT CHOWDER COOK OFF - 1ST PLACE SEAFOOD CHOWDER CHAMPION"

Mr. Owens said this is something Mayor Macon mentioned to him as to whether it could be allowed. He spoke with DOT and they will allow up to two signs stating "home of" so it is up to Council if they would like to complete something like this. He gave some recommended language that could be used and would go under the existing Seafood Blues and Jazz sign that is there. He said there has been some discussion in possibly moving the Seafood Blues and Chowder Cook Off to Kure Beach, they have shown some interest. We could replace it with something else like the Beach Music Festival.

Council agreed to the sign and recommended “Home of the 2009 Schweppes Great Seafood Chowder Champion”.

Mr. Owens said he would move forward on it.

CONSIDER SETTING A WORKSHOP IN EARLY OCTOBER TO DISCUSS THE STATUS OF NEW PROGRAMS AT THE FIRE DEPARTMENT, VIEW NEW IMPROVEMENTS TO THE STATION, AND CONSIDER ALTERNATIVES TO EXPANDING THE FIRE STATION

Mr. Owens said the fire chief couldn't be here tonight due to sickness and he presented this item on his behalf. He said they would like to have a meeting to talk about possible expansion of the fire department and talk a little more in depth about some of the programs that they are undertaking in the fire department. Some of the other things discussed were maybe having a meeting to talk about lifeguards/lifeguard program, parking/parking policies and implementation of some other programs. They could combine all of those together and would take about 3 hours. They already have one meeting scheduled for September 22nd for beach nourishment with a panel discussion as well as a meeting on October 13th with Engineering Services to talk about Wilmington Beach. The town manager recommended waiting until the October Council meeting and scheduling it then.

PURCHASE OF KIRKBRIDE PROPERTY AT 1710 CAROLINA BEACH AVENUE NORTH

Justin Donaton spoke on this item representing the Kirkbride's. He said the oceanfront parcel is 50' x 125' piece of dirt with a rock wall to the east. It could be used for green space, park space, hub for lifeguards, handicap access to the beach - there are a lot of different potential uses for the property. The Kirkbride's decided to offer it to the town. In the last week or so he has received a lot of e-mails/phone calls forwarded to him from various people who think, in principal, it is a good idea.

Mary Dogan, 1707 Carolina Beach Avenue North, is in favor of the Kirkbride's proposal and feels it is a responsible, ecological and sensible use for the property. She represents 12 homeowners on the north end. They abandoned their lawsuit about the time when the Kirkbrides gave up their plans to build and haven't done anything since then. They encourage the town to look at protecting this property from real estate development. It is land that would be in a very hazardous position in bad weather and would be a liability for anyone who bought it because they will have problems getting insurance and when storms come through. Also, it is her understanding that the property at 1704 has gone back to the bank and may be a good time to look at both of those properties. She would like to see a gazebo with an info kiosk about turtles, birds, north end, Freeman Park, how to walk your dog responsibly, etc., and maybe have a fresh water shower in the summer. Curbside parking would be nice as well. She has also noticed a constant loop of tire

marks going through the sea oats to the rocks and coming back. Hurricane Bill moved sand over the whole length of the rocks this week.

Jeannie Mintz said she talked to Dee Kirkbride and she asked her to come speak about this. She has spoken to several of the neighbors and they are in favor of it. It is a great place for a gazebo or park type area. She would also like to encourage the town to look at the end of the street on Florida for parking.

MPT Wilcox said he would like for them to take a serious look at it for a number of reasons, especially the price. It would provide access to the ocean.

Councilman Gilbert said he would like to see some numbers for parking, the revenue numbers. There was a structure on this that was destroyed by Fran in 1996 and some of the residents who spoke a while back had concerns about putting anything on there such as a gazebo. He would also like to see the tax revenues since Fran.

Councilwoman Efird said she would like to see a feasibility study for what could go there and find out what it would cost us to fix that property up.

The town manager said the revenue would be minimal for parking.

Mayor Macon said using it for handicap access would be good for the town.

MPT Wilcox said he is not sure the money is an issue when they can provide environmental features. It is his understanding that they still have a permit to build on this and are prepared to build on it and this is an alternative available to the town. He would also like to see some kind of feasibility for the potential uses of it and how it would benefit the town.

Councilman Johnson said he would also like to request, in those possible uses of that property, what the long term cost might be to maintain that property depending on types of uses that we look at.

MPT Wilcox asked if this could potentially fall into the grant money for parks.

The town manager said he would assume yes. If they wanted to use \$200,000 for it, he assumes they could.

Mayor Macon recommended staff look into it.

***REQUEST BY JEANNIE MINTZ FOR APPROVAL OF THE SALTY PAWS
FESTIVAL AND PARKING NEEDS***

Jeannie Mintz said the festival is snowballing and there is a lot to get done in a short amount of time. They are asking if they can have free parking that day in the public

parking lots in front of The Grind and the Marriott and anywhere else in that area. They contacted the people at Federal Point and they do not want anyone running trolleys out of there anymore. They do have a trolley that will take people back and forth and asked if they can use the parking spaces behind the Recreation Center as well. The festival is set for October 17th with a rain date being the 18th.

The town manager said he didn't think having the trolley on site would be an issue as long as they have insurance as they are closed on Saturdays which Ms. Mintz said they had.

Mayor Macon made a motion to waive the parking for the Salty Paws Festival.

MOTION CARRIED UNANIMOUSLY.

Ms. Mintz also asked who she should talk to about parking around the school and was told NHC Board of Education.

Mayor Macon said the street parking is the town's and, unless they are parking on the school's property, that would not be an issue.

The town manager recommended talking to the school principal, Ms. Wartell, and he would help her get a number.

Mayor Macon said he would go with Ms. Mintz to talk to her.

NON-AGENDA ITEMS

Councilwoman Efird asked if anything is being done on Winner Avenue. She said there is a new palm tree there and everyone is hitting that curb. The town manager said they are still waiting for Crescent Bank to sign their form. He has not seen the tree but will check it out.

Councilman Johnson asked the town manager about the enhancement at Old Dow Road where you turn to go to the post office and whether there is any chance that DOT would put in curbing around there so we don't destroy the sod and plants. The town manager said that is going to be an issue and feels sure they will say we have to put it in out of pocket and not use the grant. They may have to readdress that.

Steve Coggins, Town Attorney, said the CRC meets this Thursday and the town will be presenting a formal petition for static vegetation line exception status which will render conforming buildings greater than 5,000 sq. ft. on the oceanfront contrary to the implication of the article on the pier in a recent publication. They received a favorable staff recommendation for their petition from the Division of Coastal Management. Also, they are sending out a series of collection letters about significant accounts payable owed to the town for water, sewer and refuse. They are first sending demands out to those who owe the most. That is something they are doing on a contingency basis with the town.

The town manager said they are all dead accounts. Mr. Coggins said they still own the property and that is a reason why it is worthwhile to pursue it for potential lien purposes. Some are also out-of-state and that changes the equation as well. The town manager said, for the most part, there are three or four main folks who have run up a lot of interest over the years. The actual sewer and water bill is not that high but the interest and penalties are starting to accumulate. Some of these folks, he doesn't know where they are, that is the majority of it. MPT Wilcox said he is curious to know if you cut it off for non-payment but they are required to have it, are we still accumulating monthly expenses for them since there is a requirement? Mr. Owens said yes, penalties and interest. MPT Wilcox asked what about the costs of the service they are supposed to be required to have. Mr. Owens said minimum penalties and interest. Mr. Coggins said he would provide a copy of the breakout for Council to see but, right now, the idea is to spend their first energies where the low hanging fruit is and to get the most benefit out of the collection effort. He said, with the new statute, they need to be very careful about threatening to turn off service for a customer on the basis of past due bill owed by a previous customer at the same location. Staff said we don't do that.

Mr. Owens said they are going out for bids for the beach nourishment project but it has been cut in half. The nourishment that was going to happen was to be from the north end to the lake, along the beach, and that has been cut back to right around Sailfish, around the middle of the north end. They lost over a mile of beach nourishment. The south end of the project, which is part Kure Beach's project, has stayed intact. And, all of it, we were going to get a bigger slope and a lot more sand, all that was cut back too so the beach profile was cut back as well. It all has to do with funding. There is some discussion to see if we could have a one time payment through the feds. The feds will not allow the town to put money in the pot and that is being explored - a one time exception or exemption to make that a whole project but, at this point, that is what they are going out for bids with for. The reason is not enough funding, the original estimate they thought they could do this bigger project for was compared with some recent bids they had and those bids came in high from what the Corps estimated them at. A lot of that has to do with competition. There are only supposedly two companies that do this type of thing and some of the stimulus projects for channel deepening, etc., is creating some competition that is driving prices up. That is what he heard from discussions with the Corps. They did meet with Senator Hagan the other day and that was one of their topics, trying to get federally authorized for funding. They need to decide whether or not they want to start trying to do their own permits. He doesn't know what that timeline would be to do a parallel path with regard to your own permits and continuing to seek federal reauthorization. The timeline is coming up, it just takes a while to get all the studies done.

Councilman Gilbert said he had requested to put a task group together for Freeman Park issues and the other beach issues. Did any letters go out to that accord? Chief Younginer said they had some people who want to be appointed to it. Councilman Gilbert suggested a date of October 2nd in the evening, perhaps, for a meeting with the chairmen of Planning and Zoning Commission, Freeman Park, Harbor Commission or Rick Rogge, to hammer out those issues for what they need to do. He suggested 6:30 p.m. at Harbor

Master's. The purpose would be to put an action list together to address some of the complaints that are coming from visitors of Freeman Park. He and Chief Younginer have been getting a lot. Mayor Macon said he is getting a lot of complaints as well and they definitely need to identify the problems and come up with some solutions. They need to discuss options and bring it back to Council.

Mayor Macon said he and the town manager met with Waste Industries and there are some concerns. He knows they voted to do an RFP on this but he doesn't think they are going to. He feels they will shoot themselves in the foot and cost the taxpayers thousands more per year. The town manager said he doesn't disagree. He hasn't done a whole lot of research to see what other folks are doing. They have started on a RFP and can continue down that track but if Council wants to continue with Waste Industries, we can do that but, at a minimum we need to extend our contract to sometime in the wintertime. Mayor Macon said the range in pricing for residential pickup, are in the \$11.24 range. We're at \$10.64 a month. Our recycling is \$2.50 and they range from \$2.58 to \$3.65. The town manager said these are all Brunswick County towns and he thinks Waste Industries has the contract with the county to provide municipalities with service so this is what they are charging those municipalities. His concern is if they go out for bids they will go up because we don't have a surcharge on fuel, we're locked in to a recycling contract cost and now folks have to pay to get rid of recycling where they used to pay you to get rid of recycling. They will extend the contract for 5 years with no adjustments other than COLA. The immediate savings would be 6% off the annual bill effective September 1st which would save us \$73,000 this coming year. The fuel charge in itself would be about a \$50,000-\$60,000 a year savings because they are going to put the fuel charge in their new contract, so you are talking about \$130,000 with a savings of over \$350,000 for 5 years. They haven't had any problems. There aren't many competitors out there. Councilman Gilbert feels it would be prudent to go through a bid process every few years.

Councilwoman Efird made a motion to extend the contract with Waste Industries for five years. MOTION CARRIED 4-1 WITH COUNCILMAN GILBERT VOTING NO.

REQUEST FOR CLOSED SESSION TO DISCUSS REAL ESTATE AND ATTORNEY/CLIENT MATTERS IN COMPLIANCE WITH NCGS 143-318.11 (a) 3 AND 5

Mayor Macon made a motion to go into closed session to discuss real estate and attorney/client matters in compliance with NCGS 143-318.11 (a) 3 and 5. MOTION CARRIED UNANIMOUSLY.

Council returned to open session at which time Mayor Macon said no action is needed as a result of the closed session.

ADJOURNMENT

**Councilwoman Efird made a motion to adjourn. MOTION CARRIED
UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____