

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

December 14, 2010

The Town Council of the Town of Carolina Beach met in regular session on December 14, 2010 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) Pat Efird; Councilman Dan Wilcox; Councilman Bob Lewis; and Councilman Lonnie Lashley. Also present was the Town Manager Tim Owens, Administrative Assistant to Town Clerk Sara Hartman; Finance Director Dawn Johnson and Town Attorney Steve Coggins.

Mayor Macon called the meeting to order.

INVOCATION

Bill Caster led the invocation.

PLEDGE OF ALLEGIANCE

Mayor Macon led everyone in the Pledge of Allegiance.

ADOPT THE AGENDA

Administrative Assistant to Town Clerk Sara Hartman read the following changes: change Item #12 to Item #12(a) and change Item #28 to Item #12(b).

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

***SPECIAL RECOGNITION OF OUTGOING COUNTY COMMISSIONERS BILL
CASTER AND BOBBY GREER FOR DEDICATED YEARS OF SERVICE AS
ELECTED OFFICIALS REPRESENTING CAROLINA BEACH AND
SURROUNDING AREAS IN NEW HANOVER COUNTY***

Mayor Macon thanked Bill Caster and Bobby Greer (not present due to conflict in schedule) and presented them with gifts for their 39 years of combined service of hard work and dedication as elected officials representing Carolina Beach and surrounding areas in New Hanover County.

PRESENTATION OF 2009/2010 AUDIT FINDINGS BY SHANE FOX OF MARTIN STARNES AND ASSOCIATES

Mr. Shane Fox presented the audit. He said this was the first year for doing the audit for the Town of Carolina Beach and he said it had been a pleasure and thanked Dawn Johnson and her staff for being so cooperative. He said the town's numbers were extremely positive. The firm has seen some very negative numbers across the state of North Carolina, a steady decline. Their audit process is a yearend process and receives information from the town constantly throughout the year in order to keep up-to-date with financial information and issues. General Fund summary shows revenues increased and expenditures decreased in 2010. The Fund Balance is what is left over after you minus the liabilities from the assets. Reserved and Unreserved Fund Balance will no longer be here, this is the last year of it. Next year the state has changed the literature and language. Martin Starnes and Assoc. will send out literature in the spring once the state has finalized the language changes to let the Town know what the changes will be. The numbers won't change but simply the classification of the Fund Balance will change. Total Fund Balance in the General Fund shows a 3 year increase from 2008, 2009 and 2010. The overall Fund Balance shows the reservations, which is mostly your state statute which is a state calculation and Powell Bill gets you down to what is considered Unreserved or Available Fund Balance which is also a steady increase between 2009 and 2010 of about \$170,000 increase. The Available Fund Balance as a percentage of expenditures is at 37%. The state would like to see at least 8% and the town is well above that. Overall property tax revenue was up because the base was up, not the rate. Unrestricted intergovernmental was the only decline, which is sales tax. Sales tax across the state has been in a steady decline for the last 3 years. Carolina Beach was roughly down \$300,000 this year, which is a common percentage overall. Sales and Services, most of this is trash or refuse fees, so this is pretty steady from year to year, and the rest is rents, etc., most of the same services the town has provided year after year. You won't see much of a fluctuation here. General Government expenditures, the Town, the finance administration shows pretty comparative numbers from one year to the next. Public Safety was down in 2010 because of some capital expenditures, fire truck purchases and things that happened in 2009 that didn't happen in 2010. Environmental Protection has a slight increase. Enterprise Funds, especially water and utility funds, have had a hard last few years across North Carolina where most of them aren't producing cash from operations and are showing net losses. The Town shows positive numbers for 2009/2010, positive cash flow in operations, unrestricted net assets or fund balance increasing year after year. Overall you see the Utility Fund and Tourism Fund both having extremely positive cash flows from operations and overall increases from cash flows. Comparison between 2009 and 2010 of the Utility Fund and Tourism Fund you see overall revenues and operating income. In both situations, you will see a decrease in the revenue but an increase in the income because expenditures decreased within that fund so revenues were not where they had been in years past within your Water and Sewer Utility Fund; however, your expenditures had been cut so that it showed a positive increase there. Within the Tourism Fund there were two very positive increases in overall income and overall net income between 2009 and 2010. Financial report change for 2011 - the Town's financial statements for 2011 will reflect an accounting standards

change regarding fund balance reporting. We will review the Town's fund structure in the spring of 2011 and alert management of any reporting changes that will be necessary once the State finalizes the language changes. The State of North Carolina, the LGC, has let them know that the State is in dire straits and in the next couple of years the budget process is going to be a huge undertaking. The last couple of slides are dealing with the State who will have large budget shortfalls and they are letting the Town know that the State will perhaps pass those along to the local governments, counties and municipalities. He directed Council to the financial statements, pages 64 and 65. In the last few years we have changed the way that we do auditing. We used to be able to pass along what we would call management letters, recommendations that they would see and things they would see that they felt like you needed to know from an audit firm, an outside, independent source to the board. Over the last couple years those things have changed and new things have been put into place. Now they give us a listing of criteria of about 30-35 or so bullet points of things that need to be told. You see two things in here which have come along in the last few years that are new, two issues that are simply the same issue. The first issue is dealing with journal entries; the second is dealing with financial statements. When they come in as outside, independent auditors, they take their books on what they call modified accrual, similar cash basis, and adjust those to meet what needs to be in your financial statements from a gap perspective. We take receivables, payables, debt, fixed assets, all the things that you keep, checks in, checks out type throughout the year procedures and transactions and we move them to what they call full accrual. You see those on the books in the very front of your financial statements. Now, if an outside source as ourselves, if we are required to do that, which we are for you guys because it is simply not feasible for the Town of Carolina Beach to go out and hire someone to do that throughout the year and two it is not feasible for the Town to go out and purchase software at several hundred thousand dollars to do that for you. You hire us to do that. So we come in and look at the books, do an internal audit and make any recommendations that we may have, which we don't have, to you and we also then draft your financial statements. In that process we have to make certain entries to get you from the day to day numbers to the final numbers. Those are the two things you will see here. In summary, part of that process requires some adjustments to get to what they call full accrual. Once you do that, if we are required to do that or hired to do that, we are now required to put that in here. This is not unusual and is something that is becoming more common, especially with the current economic conditions. As a whole, everything about the Town of Carolina Beach, financially, is very positive. Internal control-wise, we did a thorough internal control audit of the finance director and the entire staff, utility billing and everything in between and they did not have any recommendations. Everything was very sound and thorough.

Councilman Lashley asked if they did 110 audits, would he say the Town of Carolina Beach would be in the top 10% of those audits.

Mr. Fox said, as a positive, most definitely. They do roughly 75 municipalities and he would say they are by far in the top 10% from a financial standpoint and is by far the most positive of the presentations he has done this year.

Councilman Wilcox said that is good news. Like all towns we have some inefficiency that is an ongoing process that they work with. He praised the staff for what they have done over the last three years with a lot less and he takes his hat off to all the departments.

SPECIAL RECOGNITION OF TESS CASALS FOR ORGANIZATION OF GOLF TOURNAMENT BENEFIT

Mayor Macon recognized Officer Tess Casals who organized a golf tournament benefit for the police department and the NephCure charity almost single handedly and raised over \$15,000 and generated numerous positive comments at the tournament. He thanked her for her hard work. Police Chief Younginer said she has only been here 3 years and he has received a number of comments from people in the town about what a good attitude she has. Ms. Casals thanked everyone for their support and they received such positive feedback and support that they will be doing it again next year.

CAROLINA BEACH COMMITTEE REPORTS

Brett Keeler, 1108 Canal, representing Planning and Zoning Commission said that after the last meeting Councilman Lewis brought up the discrepancy of how the accessory structure and breezeways was presented from P&Z to how the planning director presented it. He is here on behalf of P&Z for the two CUP's and the one ordinance change that is going to come before you tonight. Also, at the workshop meeting for the breezeways back in August, it was brought up through discussion that in the code or how Planning and Zoning interprets it, houses and accessory structures or any structures are not allowed anymore than one 220 volt outlet and there is no more than one kitchen in a household. So, the Planning and Zoning Commission discussed it and wanted to bring it to Council whether or not the ability for secondary suites, also known as mother-in-law suites, and whether or not we should investigate it. But after the way that Planning and Zoning's recommendation had been basically thrown out where it was a 7-0 for the permissive, the Planning and Zoning Commission didn't feel comfortable going ahead without asking Council whether or not we were investing our time correctly so we just wanted to take a straw poll from Council whether or not that is something you thought they should investigate and spend time on. Council all agreed it was something that should be looked into and brought back to them as a recommendation showing the types of things you can use more than one 220 volt lines for, with description, with an eye towards avoiding having a duplex and multiple condos in a unit. Councilman Lashley did share some concern though. He thought a decision had been made but said if four people want to take a look at it, he will be the fifth. He said he is not open to beating around the bush and that is what he sees here. He said they voted that this is single family and they don't want it to be abused and that is what he sees down the road is that it will be abused by keep bringing it up and you want us to change our minds. Mr. Keeler said the accessory structures or secondary suites are already out there and what has always come up is the reactive enforcement and planning staff has already said that is the only way we can do it so the only people who are getting burned in this whole situation are the people who are adhering to current regulations. Mayor Macon said that what Council

voted on before was different but it was also in the manner of not allowing any of this because of what somebody might do. Councilman Wilcox suggested that they also come up with some criteria by which to measure this, stay away from trying to use the building code or not use the building code to address the zoning issue. He is not suggesting that Council didn't make the right decision regarding the last issue that was before them but he knows that all the information that was available was not provided to them.

Rick Rogge resident of Spartanburg Avenue, spoke on behalf of the Harbor Commission. He said that he would like to provide a yearend report. The commission has two major objectives: (1) improve water quality in the harbor for both residents and visitors and (2) improve water access and use of harbor for residents and visitors. With regard to water quality, great progress has been made. The major source of pollutants has been identified and steps are being taken by the town to improve water quality. Soon new technology involving specially designed sponges will filter the stormwater going into the harbor. This will first be done on a small scale as a test and is being done with the help of grant money. Regarding improvement of water access and use, we would like to improve the access from the ICW and encourage boaters to stop here. The situation is, for the most part, boaters and boating magazines don't speak very well of Carolina Beach. Our harbor has a lot of sediment in it and is not a great place to anchor. The commission has been working for several years on getting a mooring field to go in there. This would enable boats to stay here safely. Other towns that have encouraged boaters to stop along the ICW have reaped great rewards. We have a wonderful, natural advantage over other towns along the ICW in that we have beach access within walking distance. That gives us a unique opportunity to tap into this industry. In pushing forward with a mooring field, Carolina Beach will be the first place in North Carolina to have laws in place permitting us to have a mooring field and the ability to police it. This was done through legislation in Raleigh by our attorney. We are currently working through the permitting process and have also secured some grants. We are starting off with 10 mooring spaces and hope to expand from there if things go well. We also pushed for the docks that are now in place near the head boats making our town more accessible by water. He thanked staff for all their help. Last month Councilman Lewis stated that there was no need for property along Canal Drive and that was in the Harbor Plan which recommends trying to find and purchase property along Canal Drive. In fact, days before the article was written, the Harbor Commission sent an e-mail to each of the Council members asking them to research property along Canal Drive while the prices are down. The access over to the beach is big not only for off boats but for locals to have more access to the water. They are very excited about things that have happened and look forward to implementing some of these things. Mayor Macon asked what the timetable is for the moorings. Ed Parvin said our grant is through March and we are hoping to get the permitting done ahead of that schedule and we can get extensions for that but, right now we are in the permitting, the CAMA permitting stage so it's about a 3 month process. The permit was submitted right before Thanksgiving. Hopefully we will start construction in the spring. They can give us approval ahead of the 3 months but it is not automatically approved. The town attorney said there is a provision that regards a variance request if they didn't act on that but that is not the same situation with an application for a permit. Councilman Lewis said he read the Harbor Plan which says we would prefer to use the right-of-ways

otherwise if we could not find a right-of-way we would then recommend looking for land along Canal Drive. We haven't really pursued all the right-of-way opportunities along Canal. The Harbor Plan clearly points out that there are a number of right-of-ways that might be potential access for boaters and not costing the community a dime, otherwise then they would take a look at recommending the purchase of land. Is that true or not? Mr. Rogge said he didn't believe that is correct. He would be happy to meet with Councilman Lewis. Mayor Macon said he didn't know if they have checked every end of the street ends. The key there is that we have 25' right-of-ways and you have to have a 15' waiver from each property owner so if the adjoining property owners don't agree to allow you to put the dock out there, you can't. Councilman Wilcox said the commission, staff and attorney have done a great job putting this together.

PUBLIC DISCUSSION

Jeanne Mintz, 205 Georgia Avenue, thanked everyone for helping with the Salty Paws Festival. It went fantastic, much bigger than they ever expected. They made \$16,000 and cleared \$10,000 this year. Next year they should be able to clear a little bit more. She said moving the fence over by the playground so everyone could just drive through and drive out was a great idea and made it so much easier. Everyone was thrilled with the decorations and Adirondack chairs. She said if there is any way to widen the bridge across the lake a little, it would make things easier and make the festivals look like they are joined. Next year they hope to have it on the 15th and 16th if Council agrees. Mayor Macon said to check with the town manager. Regarding the money allotted to them by the Town to deal with the feral cat problem on the island, in 7 years they have probably saved themselves about 160,000 kittens. She asked what month she should come back to make the request for next year. Mayor Macon suggested she attend the workshops; maybe get with the town manager for a specific one where they could make a presentation. The town manager said they are doing that in February, where all non-profits can request funds, then they take a look at it throughout the budget process. Ms. Mintz said she thinks there were over 2,500 people in attendance.

Terry Hamm, 104 Virginia Avenue, said he had a couple of comments and a question about the publication of the agenda. He doesn't keep up with when these meetings occur but he does try to watch in the paper the notice with the things that are going to be on the agenda tonight. After he sees that, he goes to the town's website but it's the timing of when they put the information out there that he has a question about. Last Wednesday he went to the website and there was no agenda there for tonight's meeting although it might have been Tuesday. By chance, he happened to look tonight at 6:00 and there is an item on the agenda that is of concern to him but if he hadn't looked at the website, he wouldn't have known anything about it nor would anyone else in his neighborhood. His question, is there a timetable when you are supposed to publish an agenda prior to a meeting so people will know what is going to be discussed at the meeting? Mayor Macon said he doesn't know and doesn't know if the assistant clerk knows. The town manager said only if it is a public hearing. He said it is his understanding that the item Mr. Hamm is interested in, he thinks Mr. Ferguson mentioned to him, doesn't know if they miscommunicated or he didn't tell him when the date was...Mr. Hamm said he has not

heard anything about this, period. Mayor Macon said there are certain people who receive the agenda by e-mail every month and he could get on that list. Council only gets it four days before. The town manager said there is nothing that requires you to publish that agenda.

DISCUSSION AND DIRECTION REGARDING A FAILED STORMWATER PIPE AT OTTER CREEK:

(A) OTTER CREEK LANDING HOMEOWNERS ASSOCIATION

(B) OTTER CREEK LANDING YACHT CLUB

The town manager presented this item. He said this item was heard at the last meeting and at that time there was no decision made by our League of Municipalities insurance carrier. They have since made a decision and he will go over some of the details of it and request that both the Otter Creek Landing Homeowners Association and Otter Creek Landing Yacht Club have for the Town. The issue is a 24" metal stormwater pipe that comes out behind Otter Creek Landing and particularly one building off Lewis Drive. That pipe failed, it's a metal pipe that has been in a saltwater environment since about 1983 and collapsed. When that happened it created the problems for the bulkhead for the yacht club as well. There was some sediment that went out into the boat basin as well. There were a lot of things that happened and the pipe finally failed during that 24" rainfall. Within the past two years or so the Town did go out and looked at the pipe. It was discussed at several occasions that we did not believe that was our pipe. It does go under one of the buildings at Otter Creek Landing. He said that because there was a failing pipe within Lewis Drive, it was a metal pipe also, we did replace that pipe. It was in our right-of-way and we thought that was our pipe and our responsibility. We did require that the Otter Creek Landing HOA give us a construction easement to do that work. We had to hook into an existing catch basin on their property in order to replace that pipe that went across Lewis Drive. That pipe was put in before 1982 as shown on the annexation plat underneath Lewis Drive. He is not sure who put the pipe in or when but that area was not in town; it was probably done by the original developer. Actions taken by the town include going out to look at that pipe on several occasions to help diagnose what the problem may be. He has been involved with it probably three times. In March they did discuss with the HOA that we didn't believe that the pipe was ours or our responsibility. Sometime in the summer we further mentioned that again to the HOA management firm and then the pipe failed sometime in September. We have gone out there and taken a look at it and tried to diagnose the problem. We have done numerous things to look at it and could not diagnose the problem. The time that it failed, we sat down with the HOA management company and said we are going to cover this back up, couldn't determine what the problem was but there is always some kind of problem there, a continuance of sink holes there over about three years. Whose responsibility is the pipe? It is his opinion that the stormwater outfall pipe that exists under the building and into Otter Creek is the responsibility of the Otter Creek Landing Homeowners Association. The owner/developer and future assigns accepted the future maintenance of that pipe when they built the building over the pipe. Basically this stems from, there are no easements, in his opinion no written agreements, nothing, just the pipe under a

building that was put there when the developer did the development. He feels like they accepted the responsibility of that pipe at that time. Generally what the Town would require the developer to do is reroute around the pipe if they knew the pipe was there. Generally we would require that that pipe, at their expense, be rerouted around or something else worked out between the two parties. The Town has a number of outfalls in town that do similar things. There are some pipes located through Town that go from the lake underneath buildings to the marina basin so this is not the only pipe that is under a building in town which concerns him with this instance and what could happen in the future. As a result of the recent failure and past issues there have been some concerns between the HOA and the yacht club. The yacht club does not have the proper easements around either. The HOA required them to have a license agreement to go on the property to fix that so there are some issues that stemmed out of that. That, once again, shows the sloppy record keeping and bookkeeping on the development that this person did they didn't really think about those easements that were needed. The Town has submitted the claim to the Town's insurance carrier, which was denied. The HOA and the yacht club are both in the process of completing repairs to the storm drain and other property damaged following the collapse of the stormwater pipe. At this point there are two separate requests, the HOA portion of this, their issue that they resolved was roughly going to be about \$45,000. They haven't really gotten him an itemized list yet of what those entail but there are several things, including attorney fees and engineer fees and replacing that pipe. The Otter Creek HOA has done a good job of giving him an itemized list, not a final list, but, what they are claiming is that it cost them \$40,775 to repair what happened outside of the bulkhead and what happened to the bulkhead when that pipe failed. That is basically the extent of it. I guess it boils down to ownership and he doesn't believe that pipe is ours. He thinks Steve has been involved with this and can probably help you guys if you have any questions.

Councilman Lewis asked if and when did we advise the HOA? Did we dig anything up? Did we fill any of those sinkholes back in?

The town manager said we did on three separate occasions; we did do that.

Councilman Wilcox asked if we just filled in the holes or did we replace part of the pipe? He knows we replaced the pipe at the right-of-way out front but, at the marina end, did we replace pipe?

The town manager said no, we did not. When the yacht club fixed the bulkhead in early 2000, they inserted a plastic piece but that metal pipe stayed. Brian can probably talk better about what we've done but he knows we have tried to fix some of the joints that we thought might be problems with the concrete. We also used ABC stone but mostly dirt but no replacement of that pipe in that area. For the most part, what we understand and based on the people that did the work, which was SECOF, from them they say the pipe under the building is concrete which is a better situation than the metal pipe. What happens is that pipe comes underneath that building, takes a jog, hits two catch basins and then comes out. That last 30' or so is where the pipe failed.

Councilman Wilcox said he does have some questions and some observations but is hesitant to talk about it too much because we discussed this in closed session last time because of some legal ramifications. He thinks they are still waiting to hear from the attorney on some issues and he still has some questions that probably fall under that legal category. Is this something they are planning to take up in closed session?

The town manager said he was going to make that recommendation if there are some legal issues that need to be resolved.

Councilman Wilcox said the 2002 agreement that is in the package here, that was for which portion of the work?

The town manager said that was for the replacement of the pipe that runs under Lewis Drive, in the right-of-way, in order to connect into that junction box we had to go onto their property. The existing box was there. He showed pictures of the annexation map from 1982 which shows Lewis Drive and the pipe going under the roadway and then you can see what used to be an existing ditch. The upper part of that ditch looks like it was bulkheaded at one time. He showed the plat that was used for a CAMA permit and you can see that pipe took a jog and there were two separate buildings next to Lewis Drive. The buildings up around the top were never developed, there's a parking lot and some single-family on the road up above or next to Lewis Drive.

Councilman Wilcox said, based on the timeline as best he can see it, the permit activity began before the annexation so this is probably permitted under New Hanover County, correct?

The town manager said that is his guess. This shows the area that is hatched over on the right-hand side next to Lewis Drive, that was the area that was filled, the other part was excavated and that is now part of the marina area. The bulkhead was built all the way around Otter Creek.

Councilman Wilcox said, if we are going to take this up in closed session, he wonders if it might be wise to ask Mr. Stanberry to join us.

The town manager said that would be great.

Councilman Lashley said there was an earlier slide that indicated that you had submitted an insurance claim. Educate me on that, why did we do that if we are not responsible for this?

The town manager said that typically when there is damage to property we generally submit it to the insurance carrier. It may or may not be covered under the insurance. The town attorney might be able to better explain that.

The town attorney said he would give a simple analogy, if you were to have a fender-bender, you may not be at fault or think you are but someone has made a claim against

you. When someone makes a claim against you, whether at fault or not, you are obligated to notify your carrier, your insurance company, and that is what we did in this case. We have a liability insurance policy, somebody made a claim, therefore, we performed our duty under the policy and notified them of the claim.

The town manager said he thinks what the premise was if this turns into a legal issue, that's not covered under the league's policy nor is the damage that was submitted.

The town attorney said the claim was denied and, the way it works, they assume everything that is said in the claim is true. They take that claim and say, under the terms of the policy, it's not covered. In this particular case they determined that it wasn't an event that is covered by the policy at all let alone the exclusions of the policy.

Mayor Macon said he would like for the HOA to be able to speak before we go into closed session.

Sue Berwald, President and Commodore of the Otter Creek Landing Yacht Club, pointed out an error on the slide where the expenses were listed. She said right here, number 2, this is Otter Creek Landing Homeowners Association, that ought to be Otter Creek Landing Yacht Club. Mr. Owens agreed with her. She said she was present at the last Council meeting on November 8th at which she talked about the presentation of our yacht club position paper, which they should have there, and also the lawyer's position and since that was already covered at the last meeting she won't take time to go over that again. But, there are two new papers that were added to the packet that the town manager gave you. One is the new cover letter from the yacht club and the other is an update of the financial obligation page. She just wants them to be aware that the yacht club is trying to keep the costs related to the damage down, however, the costs have increased due to legal and license agreement fees and due to additional procedures that are necessary for the proper installation of the concrete, deadman tieback system. If you would refer to your 10(b) page for the yacht club, which is request for Town Council action that was by Tim Owens, if you look halfway down the page, number 1, and this is request from Otter Creek Yacht Club. Number 1 is correct, the yacht club is requesting that the Town pays for the repairs to the existing bulkhead and for the dredging of the material. Both attributed to the failure of the stormwater pipe and that the projected cost is \$40,775. We are in agreement with that. However, number 2, that is listed right underneath that, was never requested by the yacht club. We are just asking to be reimbursed for the expenses involved with the repairs to the yacht club. She just wanted to update to where they are with those repairs, from the yacht club's standpoint, the two concrete deadman that were damaged have been removed, two new 5'x4'x3' forms have been constructed, concrete has been poured into those forms and is now curing. Dredging of sinkhole materials that washed into the marina has started but it needs to be completed then the dredged soil will need to drain and dry. When both the soil and concrete are ready, the soil will be compacted back into the sinkhole to support the deadman so they can do their job holding the bulkhead wall in place then the concrete deadman tieback system will be tested. In conclusion, the yacht club is an innocent victim of damage caused by the collapsed stormwater pipe at outfall #28. We feel that

someone is responsible for this pipe, its maintenance and repair and it is not the yacht club. The yacht club has sustained a huge financial burden as a result of the sinkhole problem, we do not have insurance that will cover this incident and it would be difficult for the members to take on an assessment on top of our two current loans. All we want is for the cost involved with the repairs to be paid for. We are hopeful that the Town will reimburse us due to the uniqueness of this whole situation. We are asking for your help, we need your help and would appreciate your thoughtful consideration of our request.

The town attorney said he wants to make sure he understands what is being requested by the HOA vs. the yacht club. He understands your point the yacht club isn't asking for this, is the HOA requesting this?

Ms. Berwald said she can't answer that for them.

Mayor Macon said that what the attorney is holding in his hand looking at that she is representing is what the yacht club portion.

The town attorney said he understands that and he knows no one from the HOA is here but he is just asking perhaps if she knows.

Mayor Macon said she doesn't feel comfortable speaking to that issue.

Ms. Berwald said the yacht club is talking about future damage to the bulkhead, future dredging and things like that, we did not ask for that. We're just looking to being reimbursed for what happened.

The town attorney asked if there is an agreement between the yacht club and the HOA at all regarding the failures as to how this comes out, one way or another, regardless of who reimburses you? Is there an agreement that has been reached between the yacht club and the HOA about who is responsible for what?

Ms. Berwald said no. She said she joined the yacht club in 2001 when they bought their house and the slip came with the house. In 2005 they moved down here and she came on the board in 2008 and was elected Commodore last.

Mayor Macon made a motion to go into closed session to discuss attorney/client matters in compliance with NCGS 143-318.11a (1) and (3). MOTION CARRIED UNANIMOUSLY.

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

He said that based on the recommendation by the town attorney we will have to deny the claim.

Councilman Wilcox said that generally speaking he doesn't think there is anybody up there who wouldn't want to help a resident when they have an emergency situation. Without getting into all the information we've looked at, you submitted us some information to support your side, there's other information we had to consider and he thinks the Town acted responsibly when they went out and tried to mitigate what could be a public safety issue for the Town had something not been done. He thinks there is enough information here that supports our decision and it's unfortunate that we're here. He thinks probably one of the reasons we're here is because the Town actually did go out. Ms. Berwald asked if they would be getting something in writing concerning Council's decision and the reason for it.

The town manager said yes.

DISCUSSION REGARDING RENOVATION IMPROVEMENTS TO THE KATIE B. HINES SENIOR CENTER

Dee Barnes, representing the Katie B. Hines Senior Center, said she is here about the roof on the center which needs to be replaced. They have been notified by FEMA and the Better Business Bureau that they do not qualify for low income loans because we have no permanent funds coming into our building. Everybody in their building is a volunteer and we need your help. You have helped us over the years but we need your help again. When you have a leaky roof you can't function very well. Council has the three quotes that they sent for cost of repairs. They are in desperate need of help. The roof currently has a temporary patch on it. The last time it rained, the big storm we had where we got all the inches, it was coming down in our kitchen through the lights so we had to dismantle that.

Councilman Wilcox asked what the status is on the ownership of that building.

Ms. Barnes said they own the building, you guys own the land.

The town manager said we have a lease with them. He said he has done a little research too and would like to share at some point some things he has looked up with the Cape Fear Council of Governments. It's not that promising but maybe it might be some leads for them to explore, that might be able to help out with some maintenance. We lease the property to them. The building was constructed in the early 80's.

Ms. Barnes said the roof was replaced she thinks when Hurricane Diane came through. That's the only replacement they've ever had on the roof. They can't get a loan and don't know where else to turn.

Councilman Wilcox asked the town manager if they have any options to help secure some financing.

The town manager said he came up with some options that he gave Council which would be to consider during our upcoming budget process, would be one option. You could appropriate a portion of the General Fund Fund Balance to assist with some of the repairs. We gave them \$7,000 this year and over the past three other years we gave them \$4,000 each year. Provide next year's potential funding, we could say we're going to up front \$7,000 and then reconsider next year's budget appropriation, maybe give them some more money or not. We could encourage representatives from the Katie B. Hines Senior Center to approach New Hanover County for funding. He did talk to the Cape Fear Council of Governments about potential sources of grants but they weren't that promising. We could provide some in-kind Town labor to assist with some of the repairs as time permits. Those are about the only options he had. She did give you some quotes, the 30 year standard shingle is around \$10,000; multi-ribbed metal roof was \$12,000; and the standing seam metal roof was \$20,000+.

Ms. Barnes said the metal roof was only \$2,000 more than the standard shingle and feels it would be a smarter deal.

Councilman Wilcox said that was the recommendation he was going to make to her but she doesn't really have three apples to apples bids so once they decide which roof they want to go with they should have all three people give them a bid for the same product. He asked the town manager if they can help them secure any financing instead of this coming out of the budget lump sum or out of their funding lump sum, something that could be stretched out a little bit.

The town manager said that on something this small he doesn't know that he would recommend that. There are some other options that he hasn't really explored, whether they could deed the building over to us and become a Town building and they lease it back from us; that could be maybe one way to handle it.

Councilman Wilcox asked what happens at the end of the lease with the building.

The town manager said he doesn't know.

Ms. Barnes said they tried once to get the building insured through the Town and this would help them; we have the money that you do provide us and it is used to pay our insurance and our electricity bills.

The town manager said they could deed the building to the Town and they would then have to provide maintenance and other things unless we had a lease agreement with you guys where some of that stuff was negotiated.

Councilman Wilcox asked if the town manager could look into some of those options.

Mayor Macon said he does think they need to fix the building. It does reference the new senior center and county complex that is part of the Master Plan and the roof wouldn't last that long. We definitely need to replace the roof before that happens.

Councilman Lashley said we have over \$4 million dollars in our General Reserve Fund. We're talking about \$11,000 here to help these people. These are our seniors. Why don't we just transfer \$11,000 out of that Reserve Fund and put a roof on this senior center and keep these people warm and dry?

Councilman Wilcox said he thinks they need to clean up these bids before they do anything. He asked how much they pay for insurance and Ms. Barnes said around \$7,000. Councilman Wilcox said his point is that every year we are giving them money and they are paying that money out to an insurance company. If the town manager could come up with something more creative to where we had some type of possession of the building where we could provide insurance for it, that's \$7,000 a year which will continue to go up so there may be some other options we can look at that will help pay for that over a very short period of time. He doesn't have a problem with the funds. We should probably look at that arrangement, find out what happens to that building at the end of the lease, and figure out a better way to make it suitable. He would think they could drag it into our insurance policy without it costing near as much as it is costing them.

Councilman Lashley asked if he is hearing that they will take care of this roof.

Mayor Macon said that what he doesn't want to do is make a motion tonight that we are going to pay for that because she has to go back out for three bids and he doesn't want the contractors knowing that the Town is paying for it.

Councilman Lashley said one of the bids is a local contractor, shouldn't we consider a local contractor over two other contractors?

Councilman Wilcox said this is not a good bid. There's no tear off or removal of existing shingles in here and there are some other conditions he thinks that need a better scope.

MPT Efird asked if the ladies are dealing with these contractors themselves. Ms. Barnes said yes.

The town manager said they can get the building inspector to help out.

Councilman Lewis said he agrees with Councilman Wilcox. He thinks the great way of doing this if there is a potential way of the Town helping with that community building by pursuing the opportunity that it deeds over to us or how that would work out and you lease it back to make it so that we're covered under the insurance that will save us some money and at the same time be able to handle the maintenance on the property.

Councilman Wilcox said that the town manager will get with Ms. Barnes with something to give to the contractors to give the bid on.

The town manager said he would also explore the other option too regarding deeding the building over and that type of thing.

DISCUSSION AND APPROVAL REGARDING THE REFINANCING OF THE CBP3, INC. LOANS TO AN INTEREST ONLY 2 YEAR LOAN

The town manager presented. He said the first part of this is asking for Council's permission and endorsement of this resolution he put on their desk. We're looking as we talked in the budget process to renegotiate the terms of our loan to an interest only loan for a minimum of two years. What they are going to look at doing is as of 12/21/2012 we will have completed two years of interest only payments with the first interest payment coming due shortly there will be another interest only payments of two full years of interest only. At 12/21/2012 there will be principal and interest of \$428,000 due; 12/21/2013 there will be \$428,000 due, principal and interest; and then the loan comes due on 11/21/2014. At that time, after talking with the local government commission, they would want the Town to come through some kind of process and tell them what we are doing because it's over a five year commitment. He is asking for approval of this resolution approving terms of modifications. There will be a meeting with CBP3 on Friday and we'll take care of a lot of the details. This approval would allow us to implement that process.

The town attorney said technically you're talking about asking Council to issue a resolution in support of CBP3's proposed resolution.

Councilman Lewis made a motion that we have a resolution (Exhibit 1) to support the recommendations of the CPB3, Inc. to refinance this for an interest only loan with BB&T.

Councilman Wilcox asked if he and Councilman Lashley can vote on this as they are both on the CBP3 board.

The town attorney said there is no harm in their abstaining in this particular instance. If they wish to move to recuse themselves because they sit on the board of CBP3, that is certainly defensible. He thinks it is a good idea.

Councilman Wilcox and Councilman Lashley asked to be excused.

Mayor Macon made a motion to excuse Councilman Wilcox and Councilman Lashley from voting on this matter. MOTION CARRIED UNANIMOUSLY.

Mayor Macon called for a vote on the motion made by Councilman Lewis. **MOTION CARRIED UNANIMOUSLY.**

DISCUSSION AND DIRECTION REGARDING TAXES DUE ON PROPERTY OWNED BY CBP3, INC.

The town manager made this presentation. He said the Town was sent tax bills for the CBP3 properties, including 309, which is actually owned by the Town. The town attorney talked to the county attorney and talked to the tax department and they still insist that we have to pay taxes on these properties. He is requesting that Council allow \$47,000 to come from our Tourism Fund Balance to pay for the taxes on these properties. We would receive back at a minimum of \$12,435 so the total cost of the county portion of this is \$34,565. He is going to talk to the county and see if there is a way to receive these funds back in a grant at some point. We're obligated to pay these taxes before January 5th and it is something we need to amend our budget so that the finance director can cut a check. This will be every year until we demolish the buildings and they become a public entity.

The town attorney said there are some things we can do to construct the agreements with the approval of our lender that he would like to explore doing at the time that we do this refinancing for CBP3 and we are also going to be asking the county to give us a grant in that amount. But, he also wants Council to know that he disagrees strongly with the county's position that this property is taxable. He thinks that their position is incorrect. He does not think it is cost beneficial to contest that decision given there are other ways to skin a cat.

Mayor Macon made a motion to take \$47,000 out of the Tourism Fund Reserve Fund in order to pay the taxes associated with CBP3, Inc. MOTION CARRIED UNANIMOUSLY.

DISCUSSION AND DIRECTION REGARDING A WORKSHOP TO FOLLOW-UP ON THE LAKE PARK BOULEVARD RESTRIPIING PROJECT

The town manager presented this item. He said they had talked about holding a workshop to further discuss this project. Staff has contacted some key personnel they thought would bring a lot to the table - Council members, NCDOT representatives, Wilbur Smith, staff from the Wilmington MPO, key Town personnel and a group of professionals they have identified. The outside team he is proposing is Walkable and Livable Communities Institute led by Dan Burden. The events we would like to have are from 8:00 a.m. to 11:00 a.m. and would be mainly a ride through, getting accustomed to what the project is, looking at the project, trying to identify those issues. Hopefully Council will appoint two members to go on that ride along and then from 1:00 p.m. to 5:00 p.m. a series of informal meetings and some more work leading up towards the January 11th meeting from 8:00 a.m. to 12:00 p.m. That meeting would be a workshop where we would all sit down and talk about what the issues are, what some of the solutions could be. The anticipated expenditures are roughly \$13,000 for Walkable and Livable Communities who are out of Washington state. There are three people who will be coming here: Dan Burden, traffic engineer; Ian Lockwood, transportation planner; and Jonathan Mugmon, signage and wayfinding. They will come on-site and meet with

the group of individuals we assemble for the workshop. An outline was sent to them which detailed some of the concerns and issues and things Mr. Owens wanted to be considered. Out of that they created a scope of services and from that deliverables will be a report from them at the end of the project. In addition to the three that are coming here, there will be two others that will be working off-site. One will be looking at the intersections, trying to design intersections, see what the flows are like and another one deals more directly with public involvement and we will look at some of the processes we went through and some of the media coverage we've been getting. The scope and costs of services are in their packets as well as the resumes for the individuals participating with the exception of NCDOT and some others. Anticipated costs for all of it will be roughly \$15,000. If Council wants to pursue this, he would recommend that they take this from the Tourism Reserve Fund in order to fund this project. He thinks they will have some key members there. He saw where there was a Livable and Walkable Community conference in Charlotte where Dan Burden was actually presenting. It said the guru Dan Burden. He feel it means a lot for what we are doing and bringing those types of professionals here and, hopefully, coming up with some good solutions.

Councilman Wilcox feels Kure Beach should be part of the process as well, the town manager agreed.

Councilman Lewis recommended having representatives from the business community.

Councilman Lashley made a motion to include Dennis Barbour and Michael Kirkbride to participate in the workshop. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to appoint Councilman Wilcox and Councilman Lewis to do the ride through and to take \$15,000 from the Tourism Reserve Fund to finance the meeting. MOTION CARRIED UNANIMOUSLY.

Councilman Wilcox asked staff to forward the materials to Dennis Barbour and Mike Kirkbride.

The town manager said he will put together a packet for all invitees. He suggested the meeting be taped and Council agreed. The meetings/workshop will be held on January 10th, 8:00 a.m. to 5:00 p.m. and on January 11th, 8:00 a.m. to 12:00 p.m. The meeting will be advertised to the public.

ADOPT THE CONSENT AGENDA

MPT Efird made a motion to approve the consent agenda as follows:

Approval of the minutes:

Special Meeting	November 8, 2010
Special Meeting	November 9, 2010

Notification of budget transfer:

FIRE DEPARTMENT

Transfer \$15,000 from line item #10-530-009 PT Salaries to line item #10-530-010 Volunteer Call Pay.

Transfer \$1,000 from line item #10-530-045 Cont. Ser. To line item #10-530-033 Supplies.

Transfer \$10,000 from line item #10-530-075 Small Cap to line item #10-530-008 Uniforms.

amending Article 11 Sign and Handbill Regulations and Article 23 Definitions. This amendment is being considered for all zoning districts. Allowances may be modified/expanded during meeting deliberations.

Set a public hearing date for January 11, 2011 at 7:30 p.m., or soon thereafter, to consider amending Section 3.9 Dimensional Standards for Various Zoning Districts to allow for intrusions (shower enclosures into the required setbacks) into required yard setbacks for residential zones.

MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to take a 5 minute break. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to call the meeting back to order. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING - REQUEST FOR A CONDITIONAL USE PERMIT AND A VESTED RIGHT FOR A "SITE SPECIFIC DEVELOPMENT PLAN" TO ALLOW AN ADDITION AND RENOVATION TO THE EXISTING FIRE STATION LOCATED AT 9 S. DOW ROAD (PIN #3130-15-2967), 815 CAPE FEAR BLVD. (PIN #3130-16-3009) AND 811 CAPE FEAR BLVD. (PIN #3130-16-4004); ZONING R-3

Ed Parvin, Tim Owens, Jonathan Rorie and Brett Keeler were sworn in.

Ed Parvin made the presentation. He said the fire department is looking at doing several additions, they are adding one bay for a total of six bays. Four of the bays are going to be reoriented from Dow Road to Cape Fear Blvd. creating a little safer situation. They will be adding some office space and renovations in their berthing, living, kitchen, classroom and existing office space. They will be expanding the lot coverage, building, decks, and steps by 5,418 sq. ft. and increasing the parking from 9 to 28 parking spaces. The

required parking is 13. This is in the R-3 zoning district. Government facilities are allowed by a conditional use permit. The setbacks are being exceeded on all the sides and the lot coverage is limited to 40% and the fire department is at 36% after the renovations. We had a lot of discussion at the Planning Board level about sidewalks, curb and gutter. This is the first Town project we have had since we rewrote our site plan requirements and Planning and Zoning had a discussion about this being the example as a Town project so we took a lot of time looking at the criteria listed in Article 8 about whether we want to require sidewalks for this project. They determined that this wasn't a good area for sidewalks based on being close to Dow Road which is not an area where you want to have a sidewalk dead-ending on a 55 MPH road and it is not an area where we are proposing sidewalks in our pedestrian and bicycle plan that is not adopted yet but is in the final stages of being developed. Also, there was the same discussion with the landscape buffer. The fire department is providing a landscape buffer with the exception of the driveway cuts on Cape Fear Blvd. The recommendation from staff and Planning and Zoning is to adopt the grant order. The expiration date, since this is a site specific development plan, is five years from the Permit Extension Act which would be December 31, 2016. He showed the site plan.

MPT Efird asked if this is the same one they went over with the fire chief. Staff said yes, nothing has changed.

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

No comments were made.

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

Councilman Lewis made a motion to approve the conditional use permit and vested right for the site specific development plan to allow for renovation and expansion of the existing fire station. It is consistent with the Land Use Plan, has met all 7 required findings, general conditions 1-4, all Technical Review Committee comments, all staff conditions, and any recommendations of the Planning and Zoning Commission, as follows:

Required Findings have been met as follows:

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

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

General Conditions:

1. It is the Town Council's conclusion that the proposed use will not materially endanger the public health or safety if located where proposed and developed according to the plan submitted and approved by the issuance of the conditional use permit.
2. It is the Town Council's conclusion that the use meets all required conditions and specifications.
3. It is the Town Council's conclusion that the use will not substantially injure the value of adjoining or abutting property.
4. It is the Town Council's conclusion that the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Town Land Use Plan and policies.

THEREFORE, because the Town Council concludes that all general and specific conditions precedent to issuance of a Conditional Use Permit have been satisfied, **IT IS ORDERED** that the application for the issuance of a Conditional Use Permit by **the Town of Carolina Beach** be **GRANTED**, subject to the following conditions:

1. All permits and approval letters/final inspections required by all Federal, State, and Local Agencies must be submitted to the Town of Carolina Beach Planning Department prior to beginning operations.
2. The site specific development plan corresponding to this approval was designed by Reynold's Architecture Corporation dated April 28, 2010 with revisions on May 4, 2010, August 12, 2010, September 19, 2010, and October 5, 2010. The plan was stamped received by the Town of Carolina Beach on October 06, 2010.
3. The site specific development plan was approved for a two phase project to expire 5 years after the state permit extension act ends. The expiration date will be December 31, 2016.
4. Waivers are granted for landscaping, sidewalks, curb, and gutter requirements. Landscaping shall be provided in accordance with the site specific development plan.
5. The lots shall be combined by a recombination plat which has been reviewed and signed by the Town of Carolina Beach Planning Department, and recorded with the NHC Register of Deeds Office prior to the issuance of a building permit.

MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING - CONSIDER AMENDING ARTICLE 3.9 OF THE ZONING ORDINANCE TO ALLOW FOR A REDUCTION OF THE MINIMUM FRONT YARD SETBACK WHERE ADJOINING LOTS HAVE LESS THAN THE REQUIRED MINIMUM YARD

Ed Parvin presented. He said the purpose of this amendment is to allow for some degree

of building alignment along roads where there are maybe some homes that are encroaching in the front yard setback. One thing he put in is the note that no additional non-conformities shall be created. So if you have a house that is already at the maximum, usually 40% lot coverage, you can't bump out a deck just because your neighbors are encroaching into the setback a little. You would have to meet the 40%. This is something that didn't make the ordinance in 2000 when they did the rewrite, not sure why. They did come back and add this amendment a few years ago for oceanfront lots and there has been some interest in the community about adding it in for all lots. It's a little bit different than it was before but this is how it already exists in our ordinance for oceanfront lots, essentially all homes within 200' of the new structure going in you would average out the setbacks and the average, as long as it came out, in this example is 11', you couldn't go below 10', 50% of the setback, so it would have to be at least 10'. Planning and Zoning recommended this unanimously.

Mayor Macon said that when he went to work for the Town in 1984, this was in the ordinance back then and was inadvertently left out. As an example, take an older neighborhood like Raleigh Avenue from Fourth to Fifth where you have a lot of the older cottages and there would be a vacant lot in that area with a the new setback which would require that the building be sitting back further from the street than the rest of the homes on the block and would kind of put you in a tunnel. Whereas if you are allowed to line up with the rest of the street, not only does it make the neighborhood look better but also more conforming.

Councilman Wilcox asked what is prompting this request, have there been a number of people complaining about it.

Mr. Parvin said this was staff driven but we have had people come in who wanted to build their house up but were in the situation like the mayor just described where people around them have built closer to the street and they would like to do the same thing. The only thing holding them back is the 20' setback and the specific person we are working with now actually has a portion of their building into the setback and people on the adjacent sides are into the setback and they just want to expand, not as far as their existing building, but a little on the side but it is still in the 20'.

Councilman Wilcox asked if this applies only if the lot on either side of you is improved.

Mr. Parvin said if the lot on either side of you is not improved then it would be considered conforming.

Councilman Wilcox said to backup a little. Unless the lot on either side of you is improved, establishes that reduced setback line. In other words, if you have a house on one side of you and a lot on the other side that is not there, it doesn't apply, right?

Mayor Macon said he thinks it would still apply if you go in that 200' from the home, right?

The town manager said what it would do is those vacant lots would be 20' or whatever that setback is so it would skew your average a little bit. The vacant lots do count. You take the average from 200' on either side.

Mr. Parvin said they had a lot of discussion at Planning and Zoning about how far out they should go and decided to go with what is in the existing ordinance for oceanfront lots.

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

No comments were made.

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

Councilman Lashley made a motion to adopt Ordinance No. 10-855 (Exhibit 2) and that it is consistent with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.

PUBLIC HEARING - CONSIDER AMENDING THE CODE OF ORDINANCES, ARTICLE III CAROLINA BEACH POLICE ADVISORY BOARD, SECTION 13-62 MEMBERSHIP TO INCLUDE ALTERNATE MEMBER/MEMBERS TO SERVE IN THE ABSENCE OF A REGULAR MEMBER, AND SECTION 13-65 ORGANIZATION OF THE POLICE ADVISORY COMMITTEE TO ELIMINATE A TERM LIMIT FOR CHAIRMAN AND VICE-CHAIRMAN

Steve Stanton, 527 Spencer Farlow, presented. He said he is here to encourage Council to approve the ordinance changes for the Police Advisory Committee that would allow for greater efficiency and eliminate term limits for the chair and vice-chair but would not preclude removal by Council or voting out by the committee itself. The first motion is to allow alternates for the committee to become discussion members but non-voting members and we have several people who are good applicants that are willing to participate with the committee on a non-voting status until that time comes when a vacancy does become available and they could be appointed at that time.

The town managers said the only thing they are considering, he thinks, is the change for one alternate member, correct? You mention terms but he would caution Council in getting away from term limits because in order to take somebody off the board, there's no way to get somebody off the board once they are on the board, basically, unless you abolish the whole board and then bring the board back.

Mr. Stanton said he was under the impression that Council could remove any member.

Chief Younginer said the term limit was for the chairman to stay in the chair. They wanted to vote the chair back on the board but can't because of term limits.

The town manager said that's fine.

Councilman Wilcox said it probably needs to be reworded. It says deleting the requirement for the chairperson and vice-chairperson to serve no more than two consecutive terms it doesn't specify as chair persons.

Mayor Macon said, so what you're saying is that someone can be chairman for as long as they want to be chairman, if elected, but it doesn't matter whether or not their term is up as far as Council goes. Staff agreed.

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

No comments were made.

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

MPT Efirm made a motion to adopt Ordinance No. 10-854 (Exhibit 3), the changes requested by the police advisory committee and to clarify the language as discussed. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to move Item #21 to Item #17(a). MOTION CARRIED UNANIMOUSLY.

APPOINTMENT TO THE POLICE ADVISORY COMMITTEE

Mayor Macon made a motion to appoint Kathleen Laural Miller as an alternate member to the Police Advisory Committee. MOTION CARRIED UNANIMOUSLY.

CONTINUE PUBLIC HEARING TO 1/11/11 - REQUEST FOR A CONDITIONAL USE PERMIT FOR A PLANNED UNIT DEVELOPMENT (PUD), APPROXIMATELY 1,500 SQ. FT. (3 BEDS, 2 BATHS) SINGLE-FAMILY UNIT ON THE NORTHERN END OF THE LAT IN COMBINATION WITH AN EXISTING DUPLEX LOCATED AT 303 SOUTH 3RD STREET, CAROLINA BEACH, NC 28428 (PID #r09006-041-013-000; ZONING: R-1)

The town manager said the applicant is asking to continue this item.

Mayor Macon made a motion to continue Item #18 until January 11, 2011. MOTION CARRIED UNANIMOUSLY.

REQUEST BY RIDE-ABOUT, LLC FOR A TAXICAB/PEDICAB LICENSE

Sheila and Jim Nicholson, 400 Virginia Avenue, have applied for a license for a pedicab business here in Carolina Beach. With that they included the business plan, insurance

information - as much information as they could get at that time.

Councilman Lashley said he had one request, hopefully they will not be going on Dow Road. She said no.

Mr. Nicholson said the business should hopefully employ three to six younger people per cab.

Councilman Wilcox said that when they did this a while back, did we have a limit?

The town manager said we did and what Council would do would be to approve the concept and the police department would have to get proof of insurance, etc., and they would do the permitting. There is no limit.

**Mayor Macon made a motion to approve the application for the pedicabs.
MOTION CARRIED UNANIMOUSLY.**

DISCUSSION CONCERNING LOT RECOMBINATION AT 104 VIRGINIA AVENUE

Ed Parvin presented this item. He said this has been around since 2002. He gave an overview. The Town subdivision ordinance, adopted in 1977, requires a plat to be approved and recorded for major/minor subdivisions. They cannot find a record of this ever occurring on the lots behind Virginia Avenue. They were deeded by a metes and bounds description to the different property owners in the area. Right now we don't recognize these as legally platted lots. There was never a plat recorded. These are just deeded property which didn't go through the legal process in Chapter 12 of our ordinance. We can continue with that interpretation. Another solution would be to require all the lots in the area that were created by deed to be recombined and then they could be parceled out to the current property owners recombined with the people who own the lots that front Virginia Avenue. That is what was recommended by the School of Government. That becomes a little bit arduous when you try to get all the different property owners who own those lots to want to recombine lots with somebody other than themselves. To get them to work together to do that would be almost impossible. The third option would be to allow the deeded lots to recombine with the lots fronting on Virginia which is the request we have had in the past and that we have now. He showed a slide of the area under discussion, the area that was deeded vs. platted. In most instances, but not all, the property owner on Virginia owns the lot behind them. What some folks would like to do is combine this lot, which is split zoned, and then have the ability to build on that area which would be limited by conservation zoning. The attorney may want to go over some of the legal concerns with the three options.

Mayor Macon asked about this particular case, it's still zoned single-family, if you combined that lot as one big lot he can use all of his property. Is that not the case?

Mr. Parvin said conservation is R-1b and then the back half of the conservation which would allow for single-family as well. It could be a split zoned but you would only be able to use it for single-family.

The town manager said you would have to comply with whatever the conservation on it which is increased setbacks and less pervious.

Mayor Macon said you would have a 10' rear yard setback and that rear yard setback would be moved simply because of the recombination of the lot. He doesn't think they can stop somebody from combining their property if they own both lots and making one deed.

The town attorney said they would still have to comply with really significant rule changes by the state that is enforced through DENR, Division of Water Quality and DCM. He doesn't know if that complies with their new built upon area and setback rules and buffer zones from the estuarine conservation area, separate and apart from the Town rules there. That is another matter entirely. In your subdivision ordinance, you are given the ability to straighten out the title, if you would. Yes, all they did was take their land and break it up into different parcels all along the rear there on Virginia Avenue. That was an illegal subdivision. (Staff said this happened during the early to mid eighties.) For whatever reason, the Town at that time perhaps didn't know about it, but no action was taken at that time to enjoin them and restrain them from that action. The Town actually did have the power and probably still does have the power to bring an action in a court and have them un-ring that bell. A practical way to solve the problem might be to bring a friendly lawsuit where you bring an action charging that there was a violation of our subdivision ordinance and that the court order, the undoing of the illegal subdivision, and, by consent, that each one of these denominated parcels then be deemed to be owned by the folks adjacent to it. There are a few of them that do not actually belong to the Virginia Avenue owners and that is another matter. Those would probably have to stay in the name of those who own those differently and, to be fair, also the ones that are not owned by the lot owners of Virginia Avenue, they are not the subdivider. They actually acquired it from the developer who illegally subdivided, is that right or not?

Mr. Parvin said it is his understanding that they all were sold by the illegal subdivider to the folks who have them now.

The town attorney said so the illegal subdivider doesn't own any of that property anymore? Staff said right.

Councilman Wilcox said first of all we admit we don't have any records, doesn't mean they never existed. We don't have anything to show that this is a legal subdivision. What is a legal lot? Apparently they didn't go through the steps of making this a legal subdivision but when they recorded it through New Hanover County, is it not a legal lot?

The town attorney said it is a legal lot; it was a legal transaction that was done in violation of our subdivision ordinance. That doesn't mean that the people who bought it don't have title but, at the same time, it doesn't mean that the Town is not in the position to enforce its subdivision ordinance. It does have the capability of bringing an action to, if you would, for a mandatory injunction to acquire the title. Yes, that is arduous but what would be easy if everyone along here, including the Town, agrees that this is a problem that needs to be fixed and the way you fix it and the way clarify the title and remove any controversy about it is everyone agrees to a consent order from the get go. Even before the lawsuit is filed, everybody signs on and says I own this and I own that, it complies with the Town's subdivision ordinances and it is done on the very same day the lawsuit is filed. The Town would bring action against everyone. It is not a question of fault, it's a question of fixing the problem. They didn't create the problem, they're inheriting the problem just like we are and if you want to remove this problem that we're talking about here where someone is asking for approval to combine their lots and you're worried about exposure and you don't want to have this thing popping up again. Mr. Parvin says he has been dealing with it since he came in 2002.

Councilman Wilcox said there is no major subdivision here, no minor subdivision, but there are some arguably legal lots, why would you not just plat one lot? Does it have to be handled by a subdivision? Can't each owner plat that lot behind them and recombine them?

The town manager said they would love to clean this all up at one time but, given the nature of it and some of the past history of it, we felt it better just to bring this to Council and ask what they felt about the concept of recombining that back lot with the front lot. Legally we could do that and probably could have done it administratively but we felt because it was such an issue and then anybody else that comes back we would have that authority to go ahead and allow them to recombine that lot.

Mayor Macon asked the attorney if this gentleman goes down to New Hanover County and takes both deeds and shows ownership and asks that these two lots be combined as one piece of property, they will do it, from a tax perspective, and there is nothing we can do about it.

The town attorney said that is a different issue entirely.

Mayor Macon said once he gets that deed and it is one piece of property and he comes in here to get a permit to build his addition to a single-family home and it still remains a single-family home, there is nothing we can do about it.

The town attorney said he thinks the combination for tax parcel purposes is not a combination for zoning purposes, those are two different issues.

Mayor Macon said he disagrees because it has been an issue before this Council, he has seen it come before us where people have combined lots and the Town says you bought that lot and you bought that lot but now that is considered one lot.

The town manager said his recommendation is that Council consider allowing staff, on a case by case basis, to allow recombinations. He understands there are a lot of different opinions on what is a legal lot but he feels this is a way to resolve it. They can only build single-family, our zoning won't allow for anything otherwise. At some point, the zoning could change, that's his only concern, but it would remedy the problem.

Councilman Wilcox said they are extremely limited on what could be built there by environment and zoning.

The town attorney said he has presented a formula for taking care of a problem that keeps coming back over and over again.

Mayor Macon said he doesn't know that they don't need to do that.

The town attorney said the legal issue is can one combine illegally subdivided lots. In the concept of law, that is an oxymoron. If it was illegally subdivided, one cannot recombine that which was illegally subdivided. That is the legal issue.

Mayor Macon said he disagrees, he still says he can go and combine those two lots and when you plat it, it's one lot. You can't stop him from going in there and combining two lots that he owns.

The town manager said the subdivision laws have changed and now he thinks the Register of Deeds does ask them to sign off do they not?

Mr. Parvin said they require us to sign off on a subdivision plat but not on a deed.

Mayor Macon said it's just like the guy that started the rigmarole over the single, individual lots on 7th Avenue where he had half of a block and he went in there and got them all deeded as separate, individual lots and that is what prompted all the stuff with the lot of record in the R-12.

The town attorney said he thinks it is also important to use the same words. When I say the word plat, I'm talking about a thing that is recorded down at the courthouse for a subdivision that goes with a subdivision lot as opposed to a survey. Sometimes people take survey and use the plat and use them interchangeably.

Mayor Macon said he understands but he wouldn't be going for that. What he would be going for is he would take his deed and his survey showing he owns this property and goes to the county and says he owns both of these properties and I want to combine them into one piece of property for tax purposes. They will do that.

The town attorney said, again, that is for tax billing purposes and he has to respectfully disagree that that is the combination for subdivision purposes. If the policy of the Town in the past has been...

Mayor Macon said they are not creating a subdivision. Regardless of the fact of the subdivision that was done, the lot sold out illegally. This guy owns the lot directly behind him, he's not creating a subdivision, he's not doing anything except combining his lot so that he can come in and pull a permit to do an addition to his single-family home.

The town attorney said that for title purposes the mayor is correct but we are not talking about title. You have a subdivision ordinance. You either mean to have it or not or to enforce it or not. All I am saying is that when it comes to complying with the subdivision ordinance, you cannot combine two lots that were illegally divided in the first place.

Mayor Macon said these two lots weren't.

Mr. Parvin said he thinks the difference in this situation and others is like on 7th Street when you go back and look at the old plats you can find out where those lots were originally platted out so they could come back and get the tax ID numbers but there is no record that we or any of the owners have been able to find where these lots behind Virginia have ever actually been platted out.

Councilman Wilcox said there was no subdivision ordinance when those lots on 7th Street were subdivided, they are legal lots of record.

The town manager said, once again, he thinks there are two solutions. The first solution would be to allow them to recombine these lots and make them one lot or, two, the town attorney mentioned take some action against all of them and require somehow by consent that they fix the problem. He is in favor of that solution. That this clears up Perry's situation and, hopefully, others will follow. He is in favor of doing it piecemeal, per request and allow staff to sign off on that recombination plat with each request. The problem with that is, someone may come back next year or the year after and try to get a building permit to build on one of those back lots.

Councilman Wilcox said the ordinance allows for a driveway to lead back to that lot and connect it. Is it limited to just recombination of the lots? If you are going to let someone recombine the lots, does that automatically set some kind of precedence that they can put a road in and build on a lot?

The town manager said what they are doing tonight is saying by recombining that, the Town is signing off and make sure you have frontage on Virginia Avenue, it will allow you to build on that one larger lot. Until you do that, until you recombine, his stance is that you can't build on that second, rear lot.

Mayor Macon said you can't build at all because it's not a legal lot of record so even if you wanted to build a single-family dwelling on it behind you, you couldn't do it. Make it one lot and then you can make use of your lot in the sense of addition to your existing home or build a new, bigger home. The town manager agreed.

The town attorney said that person should want to make sure he's got clear, marketable title and can make all the assurances to the lender, etc. Those people along there need to know where they stand, eventually.

Mayor Macon said he wanted to give Terry Hamm an opportunity to come up.

The town attorney said that when they are talking about lack of records, a subdivision plat is, by law, supposed to be recorded both under our ordinance and state law at the Register of Deeds office. The fact that it doesn't appear in the public record is proof positive that it never was done.

Terry Hamm said starting back in 2002 is when this came up. For the attorney's information, none of these lots were ever part of the lots you want to join them with so how can you call it recombination? The front lots were never part of the rear lots. The rear lots were one tract of land that behind the back of seven lots, about 520' long. George Blanton, who is now deceased, lived at 114 Virginia Avenue and his wife and daughter still own the property. He bought that tract of land from whoever the original developer was and he went by metes and bounds, just sat down and said 520', 80' goes here because part of it goes behind the Delaware access, then the front facing lots that are 60' wide, the people who own those lots, he sold them the rear part to match their property for \$500 apiece. They were never platted, they were never legally recorded. We did title searches on all of them, we went through this three years ago. They are not lots of legal record. But, forget that, if you want to recombine, the only thing that can be recombined is to put those seven lots back together again. George Blanton, the original purchaser, he's dead but he knows for a fact that some of the owners right now will never agree to that. We have already discussed this because that has already been talked about in the past that you could recombine them and then go through the proper subdivision process. Two of the lots right in the middle of these, you'll never get that done. The property owner will never agree to it. They want the lots left like they are, conservation, pay \$10 a year property tax on them or whatever it is and enjoy the view out the back. They don't want to develop these lots. But there is a problem with what the mayor is talking about. If you look at Canal Drive, Perry's lot, behind his house at 104 Virginia Avenue, abuts to a property facing Canal Drive that is not developed property. You let him combine these front two lots and he has one big lot, he doesn't know how you deal with the different zonings because the back ones are conservation and the fronts are R-1b. Let's go a step further. The lot facing Canal Drive abutting his property, he buys that lot. Now he does what the mayor says, he goes down to the courthouse and says he wants to combine these two lots with the one he just bought on Canal Drive. Canal Drive is not R-1b from Virginia Avenue going north so you have opened the door for duplexes, condos, whatever you want to call it.

Councilman Wilcox said no you haven't because they are zoned differently and their zoning doesn't change, it's not changeable and the back lot is still conservation.

The town attorney said a lot, a parcel of land can have more than one zoning.

Mr. Hamm asked what happens if he does combine those lots and he buys the lot on Canal Drive that is R-1 or whatever and he goes and combines them. Now what happens? He wants to get a building permit to build on which lot, what street is it on, what zone is it? We're going to be right back where we were that we have been defending our single-family neighborhood status for about seven years and he has been through about four different iterations of Council, most of which all of you have been involved with except for Mr. Lewis. Councilman Lashley was on his side of the fence the last go around and now he is sitting over there. We don't want to open the doors.

Councilman Wilcox said they can't do what he is talking about. (*Note: Mr. Hamm is responding but it is inaudible.*) Councilman Wilcox replies you can only build a duplex in the R-1, you can't build it in the conservation.

Mr. Hamm said that when you combine now you've got a conservation, R-1B and an R-1 that, if you did what the Mayor said, is one piece of property.

Councilman Wilcox said you still can't build a duplex on it. You can't rezone one piece of property, that's spot zoning.

Mr. Hamm asked what happens next. Is there going to be a public hearing about this? He is the only property owner on the street that even knows this is going on besides Mr. Perry. Until he saw the agenda on-line, he didn't know about it.

The town manager said they do not have to but if Council wishes to have a public hearing and invite these property owners, we can do that.

Councilman Wilcox said he thinks he understands Mr. Hamm's concerns but he thinks he has some improper information or ideas about what can be done. Why don't we get some information available to them and then schedule this for another meeting.

Mr. Hamm asked how you can take an illegal lot and a legal lot and combine them and now say the whole thing is a legal lot. There is a whole lot about this he doesn't like.

Mayor Macon said if there is nothing he can do except build a single-family, how does it hurt him? Your whole goal, from what you said, is we're going to fight duplexes. This doesn't change that and his point is not to be against something just because of your hypersensitivity. Look at the issue straight up and make a decision based on that.

Mr. Hamm said if he doesn't improve his capability of doing anything, why would he want to do it?

Mayor Macon said it does, it allows him to build a bigger house.

Mr. Hamm said he doesn't have a problem with that.

Councilman Wilcox said they are not trying to change anything that was done by previous Councils, anything that was done with decisions that were made even though we disagree with some of them. We're not trying to change any of that. We're hearing a request from a citizen here about something that is different and, as he understands it, all those lots will retain their existing zoning and he is very limited on what he can do with that and it would have to be part of that single-family home on Virginia Avenue.

Mr. Hamm said if it maintains the single-family environment and he meets the setbacks and builds a single-family home, I don't care what he does. But he knows what has been going on for seven years, that shoe horn just keeps digging and you know very well because you were involved in it.

Councilman Wilcox said he was involved in speaking on what he felt was proper. Once decisions were made, nobody has tried to change anything over there.

Mr. Hamm said when the original project came up to build two houses on that property, there was a Blue Water structure sign in that front yard.

Councilman Wilcox said that is right because it was legal. Until Council changed the rules, it was legal. He asked the town manager to get them some stuff and schedule this for the next meeting.

Mayor Macon said he thinks Council has too many questions too. He doesn't feel comfortable taking action tonight.

Mr. Hamm said if these lots had ever been one lot to start with, recombination would be a fair action. These lots were never part of the same parcel of property and combining an illegal lot with a legal lot, to him, doesn't work. As long as you are not doing anything tonight and they have an opportunity to find out what is going on and add input to it, he will sit down and shut up.

Mayor Macon said he understands but thinks he should step back and see what he is going to do before you are against it. To him that is the important thing. But, you also do need to have your concerns of what happens with other pieces of property and he thinks the answer is they can only build a single-family dwelling on it if they combine it.

Councilman Wilcox said they still can't build in the wetlands and they still have to have the 20' setbacks. If you look at that plan, it's pretty limited on what he can do but he can extend his existing structure or build one structure that straddles the property line. Whatever it is right now, he is not going to vote for something that is going to change the intent of what was done or what he can build there.

Mr. Hamm said he came here to learn.

Councilman Wilcox said they have been dealing with this for seven years and think they have an opportunity to fix this problem, take care of it once and for all, and make sure it

remains single-family if that is what Council wants to do. There will be no action tonight.

Councilman Lashley said we need to send a letter to all of these homeowners so they will be aware of the next meeting.

The town manager said he would prefer the Council act on that if that is what they want and do we hit both people on both sides of the street, he would assume, in the vicinity? That Council will be considering allowing the front lot to be combined, some kind of wording like that.

Mayor Macon said we need to make sure, and if Terry would help to explain what is going on. We want them to come but we don't want them to have misconceptions about duplexes, etc. If this doesn't cause that to be a problem, then it shouldn't be a problem. What this guy is trying to do, he bought a piece of property, he should be allowed to use it in the way it conforms with the Town, which is a single-family dwelling. He's been waiting a long time.

The town manager said if Council is in concurrence then he will continue this item, he will send a letter out to the property owners in the vicinity explaining what the proposal is.

Mayor Macon said to also explain that the Town's position is still that the back lots are conservation, non-conforming, they are not considered buildable, etc. If you happen to own the lot behind you, you can combine it and build a bigger single-family but it does not give you other right.

The town manager said maybe, we haven't decided that yet.

The town attorney said he understands that there are two or three owners of those rear lots who do not, under any circumstances, consent to undoing it and then basically recording a plat subdivision that shows these things.

Councilman Wilcox said they can leave their lots unplatted, can't they?

The town attorney said that is the status quo, that's the whole point, there is no platted subdivision for those rear lots and he is asking why would there be any objection to the owners of those rear lots to the Town implementing a recorded plat that shows all of this as a properly formed subdivision?

Mr. Hamm said the property adjacent, next door to Perry's, 106 Virginia Avenue and 108 Virginia Avenue are owned by Nancy James. She is a widower, about 78 years old, she said that was the way it was the day she bought it and that is the way it's going to stay. He is just repeating what she told him. She may come here and say something different but he bets she won't. There are other owners in the same process that he doesn't think will go along but they might. Bunch will jump on it in a heartbeat. Blanton's wife is in

ill health, she's in her 80's and his daughter probably would sell the property and his brother-in-law owns the property at 118. There's a property in the middle whose ownership is in debate right now.

Councilman Wilcox said it could be up to each individual owner, right? The benefit he would see to those owners, even if they don't care at all about this, is if at some point in the future they want to sell it and somebody wants to come in there and build a nicer, bigger single-family home, maybe it would make the property worth more if it allowed that person to build the single-family home they wanted to build.

The town manager said some may choose to recombine, some may choose not to because one day they feel like maybe that somebody will says theirs is an illegally subdivided lot and some may say to leave it the way it is in hopes of whatever in the future.

The town attorney asked Mr. Hamm if he knew the position of Mr. Craig and Elizabeth Winger?

Mr. Hamm said he would build on every single one he can get his hands on if he could. He is what started this when, somehow, the Town gave a building permit to let him build those two houses behind the houses at the end of the street.

Councilman Wilcox said, as it stands, the only thing he can do with that property, even under this scenario, would be to sell it to those people the lots are connected to. Is that right?

The town attorney said that is right because it is an illegal subdivision and there is no access.

Mr. Hamm said Winger's property was illegally subdivided the same way. He just has a big tract right now that I don't think he can do anything with.

PRESENTATION OF PROPOSED PROJECTS FOR CONSIDERATION PRIOR TO SUMMER 2011:

- (A) ADDITIONAL LAKE PARKING OFF ATLANTA AVENUE***
- (B) ADDITIONAL LAKE PARKING OFF CLARENDON AVENUE***
- (C) STREET LIGHTING REPLACEMENT ALONG LAKE PARK AND CBD***

Brian Stanberry made presentation. He said they wanted to present Council with some options on various projects. One, at the lake, with all the success of the festivals, farmer's market, etc., there is clearly a need for some kind of parking expansion there. They were looking at two areas, one being off Clarendon Avenue and the other being off the existing parking there at Atlanta. The Atlanta expansion, if they would want to do that, would add 29 spaces, cost about \$32,000 to put in. Clarendon Avenue is a little smaller and would add 21 spaces and cost about \$33,000 to put in.

Mayor Macon asked how are you going to get to the second parking lot?

Mr. Stanberry said it just extends off the existing and they would probably do some type of turnaround on the end or possible drive thru.

Mayor Macon said in order to avoid some of the traffic congestion on 421, to have it enter and exit on 3rd Street might be a better application.

The town manager said right now on the 3rd Street right-of-way there is a lot going on there. There's a sidewalk, there's an entrance and exit to a condominium complex so we would really have to look strongly at that. He would say out as opposed to in and out.

Councilman Wilcox said what about going straight down and exiting out where the walkway comes in between those town homes, across from the school?

The town manager said that's the Clarendon project. If you look at this drawing here, what we're proposing is if we did this at any time we could then have grass parking for overflow for bigger events but you could time something in all the way back over to 3rd Street. What they want Council to consider is, we would like to go ahead and do this one project here, the one that is being shown there. We can make some modifications if you want to see a driveway access leaving this site. We do believe we need to have a public hearing for this because it does impact some of those residential units around there and we want to give them some input into the process. The only thing we are really asking to do is to set a public hearing. We could set a public hearing for both of these if you want to do that.

Mayor Macon said he thinks it's a great idea but he would like to have an in and out traffic flow and maybe correct some of that.

The town manager said he would suggest allowing them to advertise for a public hearing, we'll notify those folks around with a letter and we can amend the project or whatever.

Mayor Macon said we definitely need more parking down there.

Mr. Stanberry said next would be the lighting and whether Council would like staff to look into upgrading some of the street lighting along Lake Park. They are looking at using the existing poles, paint them and put a new fixture on top. Each one would cost a total of \$560 with labor and everything. The benefits of using the existing pole, they checked into it and the easements, encroachments, the setbacks, it was a nightmare and the cost was astronomical. EWE came in and did one at the end of Harper and it turned out really nice. What we have right now is a high pressure sodium light. We would prefer to do just the CBD along Lake Park and that would cost about \$46,000. LED pricing was outrageous.

The town manager said there was at least a 5 year payback but is probably closer to 10 on the LEDs.

Mr. Stanberry said the cost was around \$1,900.

The town manager said if they want to upgrade the lights, they can do it for \$46,000 under our situation along on Lake Park or not do it at this point and can go back and look at LED lights and whatever else. There are no parts for the current lights, whenever they get torn down, they're done.

Councilman Lewis said we have been talking about the lighting and he thinks they came up with a good solution that drastically reduced the price they were talking about at one time. He would like to see if there is any other option for LED lighting but he is in favor, especially along Lake Park.

The town manager said to give them one more chance to look at LED lighting again and we can bring it back next month.

Councilman Wilcox said he would like to look at some other places beside EWE and see if we can bring the price down.

Councilman Lashley said that Harper and Cape Fear are terrible and very dark, really need some light at those two corners.

The town manager said they put LED lights up there.

Councilman Wilcox asked that staff look at the life expectancy of the metal halide lamps as well.

Councilman Lewis said that Phillips in Burgaw may be interested in working with us as they are very involved in the LED initiative.

Council said to move forward.

APPROVAL OF FUNDING OF EMERGENCY STORMWATER PROJECT ON FOURTH STREET

Brian Stanberry made presentation. He said the heavy rains in September caused the Town many problems. The drainage at Fourth Street, it comes down Columbia Avenue, cuts across Fourth and then to our lake, on private property, right next to a house. There was a system of sinkholes that appeared right there at that house during this rain. They have looked at what they have existing and they can abandon the line running to the lake and run this thing completely on right-of-way on Town property. We just need funds to do that. If we went in and fixed what was there, we would have to replace the pipe completely and then there would probably be sinkholes going out towards the lake.

The town manager said it is better to get it off private property and move it on public property.

Mr. Stanberry said we would need a \$22,000 fund transfer from the Water/Sewer Fund Fund Balance to complete the project. The work will be done in-house.

Mayor Macon made a motion to transfer \$22,000 from the Water/Sewer Fund Fund Balance to make an emergency stormwater repair on Fourth Street and Clarendon. MOTION CARRIED UNANIMOUSLY.

REQUEST TO ALLOW THE LIFEGUARD ASSOCIATION, A NON-PROFIT, TO ADVERTISE FOR SPONSORSHIPS, THAT WOULD BE TAX DEDUCTIBLE, FOR FUNDS TO CONSTRUCT NEW LIFEGUARD STANDS

Police Chief Younginer presented. He said that since he has been here they have made leaps and bounds in improving the lifeguard program. They have lots of good equipment, are our ambassadors on the beach, get really good training and make a very good impression. He would like to take those deer stands off the beach and replace them with some really good lifeguard stands for about \$2,300 apiece. He would like to build a base out there that stays, could be taken out, and then a top be put on and a ladder. The top could come off every year or for maintenance or painting. They would like to paint them in some pastel colors along the way that would coincide with bands that we're giving to the kids and then they would remember that they were at the orange stand or the blue stand or the green stand or the pink one, as we go down. We would have sponsorship for these. They would have three sides on them. The back would open to allow some breezeway to come through and when the sun hits in the back, it could be closed up. It will have a regular roof on it. We can put our equipment in there and it won't get in the elements and that will take care of that also. On the stands we would put some ownership, a nice plaque that said that "The Last Resort" bought this one. There are already some people interested in doing this. You could do it in memory of someone and have that permanent plaque on the stand. We have 14 stands. If we have more interest than that we could put up extra stands along the way too, we just wouldn't post those stands. We would build them out of treated wood. The top would be about 8' with three sides and a roof. He has a design and was going to build a prototype but didn't have time to get to it. The \$2,300 includes the cost of everything, including the plaque. He just needs Council's approval and then they will start raising the funds which would be donated to the Lifeguard Association, which is a non-profit. They will do them as they get the funds and he already has 3 or 4 people interested.

The town manager said they want to promote this through the paper.

Council agreed to go forward with this and suggested the design be included in the article in the paper.

CONSIDERATION OF ADOPTION OF RESOLUTION FOR A WATER RESOURCES GRANT FOR A NCPARTF GRANT FOR LAND ACQUISITION

The town manager presented. Staff is asking Council to consider two things, one, a basic

facts and assurances for a NCPARTF grant in the amount of \$391,679, which is the Town's match portion. He is asking them to approve that and also the resolution for a Water Resources grant, 10-1037. We received \$150,000 for a portion of the lot and we're asking for the other \$241, 232 and then the Town would match the 50% of that lot, which is an oceanfront lot.

Mayor Macon made a motion to approve the NCPARTF Basic Facts and Assurances document and instruct staff to move forward on applying the grant to assist in the future purchase of 235 Carolina Beach Avenue North. MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to adopt Resolution No. 10-1037 (Exhibit 4) authorizing the application of a Water Resources grant in the amount of \$241,232. MOTION CARRIED UNANIMOUSLY.

RESOLUTION TO THE WILMINGTON/CAPE FEAR COAST CONVENTION AND VISITOR'S BUREAU REGARDING BRANDING, MARKETING AND PUBLIC RELATIONS

The town manager made presentation. He said this is a resolution that stems out of a meeting with Wrightsville Beach, Kure Beach and Carolina Beach members from Council and some of their key staff. Out of that there was some concerns about our marketing efforts and moving forward. This resolution really addresses five main areas: (1) Reduce, phase out, or eliminate the use of "Cape Fear Coast" by the WCFCCVB as the official brand name for the three beach communities in all marketing and public relations materials and online; (2) Place the property names of Carolina Beach, Kure Beach and Wrightsville Beach adjacent with Wilmington in the same or similar typeface and size in the official logo; (3) Match the Brand name prominence and positioning of the beach community proper names with Wilmington in all marketing and public relations materials created by the WCFCCVB and the Wilmington Convention Center; (4) Ensure the efficient navigation and search engine optimization of the individual beach community websites and maintain their original URL addresses within the CVB host portal website www.capefearcoast.com; and (5) Continue to facilitate the direct participation by the respective Town Marketing Advisory Committees in conjunction with the WCFCCVB in the preparation, implementation and selection process of all RFP's for marketing, public relations and web design vendor services on behalf of the beach communities. He showed examples of branding option. There were some concerns that didn't really match our place and New Hanover County as far as our draw goes. The resolution was adopted by the Wrightsville Beach Board of Aldermen. It will go to the Kure Beach Town Council fairly soon.

Mayor Macon made a motion that we approve the joint resolution naming the Towns of Carolina Beach, Kure Beach and Wrightsville Beach in respect to branding, marketing and public relation efforts on behalf of the Wilmington Cape Fear Coast and Convention Center and Visitors Bureau (Exhibit 5). MOTION CARRIED UNANIMOUSLY.

The town manager said this would be distributed to the committee at the meeting on the 22nd and they also have Wrightsville Beach's resolutions and he will get Mayor Macon to sign them and will then be given to Kure Beach.

Mayor Macon thanked Councilman Wilcox for his work on this.

SET A WORKSHOP DATE TO DISCUSS A VARIETY OF PROJECTS WITH ENGINEERING SERVICES AND FUTURE PLANS TO REMOVE SEDIMENT FROM CAROLINA BEACH LAKE

The town manager said there are some newer Council members and he thinks it is time to go ahead and start talking a little more about some of the projects we have going. Staff would like to schedule a workshop to have Dr. Spruill finish up the ASR study. We are also going to talk a little bit about looking at Cape Fear Public Utility Authority in addition to looking at the ASR stuff that we have already begun looking at. There are so many other projects that we need to talk about and it's a good time to do that because it's right before the budget year so he is recommending they hold workshop on February 7th at 10:00 am and will probably be all day. He has given Council a copy of a calendar that he put some of these workshops on, mostly budget workshops.

Council agreed.

The town manager said he will advertise it as a special meeting.

SET A PRELIMINARY BUDGET WORKSHOP TO REVIEW THE YEAR-TO-DATE STATUS OF THE FY 10/11 BUDGET AND DISCUSS THE UPCOMING 11/12 BUDGET PROCESS

The town manager presented. He said it is time to begin the budget 11/12 process. He has tentatively scheduled for Council a January 14th meeting at 2:00 pm workshop to go over year-to-date stuff, talk a little about next year's budget, talk a little about guidance, direction and priorities of the future Town Council workshops. He has given them another set of workshops that staff can continue to advertise as well. From here, for each Town Council regularly scheduled meeting they will be talking about budget from here on out to make sure that we know when those workshops are. He thinks the meeting will take about 2 hours. It then goes into our formal budget process. You will have a Town Council preliminary workshop on February 8th. The finance director will end up getting us revenue projections by the end of January. All of the department heads will submit budgets on the 25th to him and present proposed budgets to Council on March 7th.

Mayor Macon made a motion to set a budget workshop for January 14, 2011 at 2:00 pm. MOTION CARRIED UNANIMOUSLY.

PURCHASE OF GOLF CARTS FOR PARKING ENFORCEMENT

The town manager presented. He said this will be a budget adjustment. They wanted to purchase two golf carts to do parking enforcement. We believe we have enough funds from what we loaded into the budget for Lanier Parking. We are going to take the Freeman Park funds, which is \$40,000, and load those into contractor services and we want to take \$5,000 of that and put it towards these golf carts and move those into capital line item. We will purchase those before the beginning of the year and that way the parking attendants will have golf carts. They will belong to the Town.

Mayor Macon made a motion to purchase two golf carts using \$5,000 transferred from the parking capital improvement account and transferring \$32,000 from the parking attendant line item to parking professional service account. MOTION CARRIED UNANIMOUSLY.

NON-AGENDA ITEMS

MPT Efird thanked staff for the good work they have done this year. We have had sort of a trying year with the budget and luckily we didn't have to raise taxes. She thinks we have come a long way, everyone has worked hard. Everyone has commented on how clean the Town looks and all the activities that have been going on. They have made this a good season.

Councilman Lashley seconded that, they do a hell of a job. The town manager is doing an excellent job.

The town manager said the town attorney would like to have Council's permission to draft a letter to Otter Creek Landing HOA and Otter Creek Landing Yacht Club.

Mayor Macon made a motion that the town attorney draft a letter to Otter Creek Landing HOA and Otter Creek Landing Yacht Club. MOTION CARRIED UNANIMOUSLY.

Councilman Lewis also supported what Councilman Lewis and MPT Efird said regarding what a great job people are doing and appreciates what they are doing.

Councilman Wilcox asked if they have a proposed schedule to share with the public on the trash and lift station work that is going on?

The town manager said not yet. They are meeting this week to get some updates to find out what the schedule is. They have to have pretty much the base and everything in by Easter because they have to be off those lots in case the carnival rides come back. They moved the corral so they can get in there and start work. The CBAN stuff is taking a little bit longer than anticipated, still working on that. Georgia Avenue, they realigned those lines up there and will be tearing up Georgia Avenue shortly. Hopefully, at the beginning of the year when all the holidays are over they will get all that cleaned up and

finished. The EQ basin also will start. Some of the work has already started at the wastewater treatment plant but it is moving forward as well. They finished paving, for the most part, CBAN and we've done some skin patching. They have to come back and do one side of CBAN.

Councilman Wilcox said there is only one more Saturday left for Christmas by the Sea. We've had a couple of rain days but it has been a wonderful event. One of the organizations has it listed somewhere as one of the top ten Christmas events in North Carolina so for a second annual that is pretty good. We expanded this year and will expand a little next year. The Town stepped up and did great stuff and the fire department is coming out there and volunteering, tending the fire pit, Island Women and Community Church and Arts and Activities Committee; everybody pulled together. He thanked everyone for that.

Mayor Macon said he would also like to echo the rest of Council's thoughts, the Town employees have really done a great job, helping get Christmas lights up, water and sewer guys - we've had a couple of water main breaks and they are out there working late at night getting things done. We appreciate those guys doing their work and, of course, the police and fire. You guys are doing a good job and we appreciate it. Merry Christmas.

Mayor Macon made a motion to go into closed session to discuss attorney/client matters in compliance with NCGS 143-318.11a(1 and 3). MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to go back into open session. MOTION CARRIED UNANIMOUSLY.

The town attorney said it would be appropriate for the record to reflect that Council has received a request for disclosure of closed session minutes with respect to negotiations regarding the Collin's property and that Council has considered that it would be in the public interest for disclosure and it would be appropriate to act on that now in open session.

Mayor Macon made a motion to authorize the release of the closed session minutes that were requested relative to the Collin's property inquiry for offer on their part. MOTION CARRIED UNANIMOUSLY.

The town attorney said it would be appropriate for Council to indicate by motion whether or not it wishes for the town clerk and the town attorney to develop a policy for its consideration regarding requests for closed session minutes and the keeping and review of the minutes and also appropriate charges for the mechanics involved in responding to overall public record requests.

Mayor Macon made a motion to instruct the town clerk and town attorney to come up with a policy on closed meeting minutes and items of that nature. MOTION CARRIED UNANIMOUSLY.

ADJOURNMENT

MPT Efirid made a motion to adjourn the meeting. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Sara Hartman
Assistant to Town Clerk

Approved: _____