

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

December 8, 2009

The Town Council of the Town of Carolina Beach met in regular session on December 8, 2009 at 6:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor Joel Macon; Mayor Pro Tem (MPT) Dan Wilcox; and Councilwoman Pat Efird. Also the following were present: Town Manager Tim Owens, Town Attorney Steve Coggins, Finance Director Dawn Johnson and Sara Hartman in the absence of the Town Clerk Lynn Prusa. The newly appointed members of Town Council, Bob Lewis and Lonnie Lashley, convened following the organization of the new Council.

Mayor Macon called the meeting to order.

INVOCATION

Mayor Macon led the invocation.

PLEDGE OF ALLEGIANCE

Mayor Macon led everyone in the Pledge of Allegiance.

AUDIT REPORT BY CLEMENT GOODSON, CPA

Mr. Goodson presented the audit report for the past fiscal year ending June 30, 2009. He highlighted some of the report for questions. He said the town received an unqualified opinion on their financial statements which means they had no reservations and everything was materially represented and in good order. On Page 13, Statement of Net Assets, the town's accounting funds is divided into two groups: one is the governmental activities and one is the business-type activities. The governmental activities are basically your general funds. At June 30th there was \$4,788,000 in cash in the bank and other assets of approximately \$450,000 giving a total of current assets of \$5,252,000. There were capital assets of \$11,633,000 and liabilities in the general fund of \$5,578,543 leaving net assets of \$11,307,000. In the water, sewer and storm fund there were total assets of \$5,419,000; total fixed assets of \$21,379,000; liabilities of \$6,049,000 leaving a net asset of \$20,748,000 so the total net assets of the town as of June 30th were \$32,056,000. On Page 14, Statement of Activities shows the cost in each general category of the town and what it costs to run those. For the year, the net change in the net assets for the general fund was an increase of \$363,000. You went from \$10,944,000 to \$11,307,000 so your general fund assets increased by \$363,000. The assets in the enterprise funds increased by \$827,000 for the year. On Page 15 is the Balance Sheet as of June 30th. This shows the fund balance which is used for a lot of statutory requirements and for budgeting purposes, but the fund balance in the general fund was

\$4,292,342 of which there was an unreserved fund balance of \$2,915,892. Also, there were reserved funds designated for capital outlay for the capital reserve project of \$413,000 and they have already appropriated \$286,000 for this coming year. Page 16, Statement of Revenues and Expenditures for the year, shows the general fund total revenues of \$7,910,000; total expenditures of \$8,582,000; other financing sources of \$896,000 giving a fund balance of the general fund an increase of \$224,168 for the year. On Page 20, Exhibit 7, Revenue and Expenditures for the enterprise fund. The water and sewer fund had total revenues of \$4,621,000; total expenditures of \$3,629,000; and other non-operating net expenses of \$151,000 for the year giving a net increase in the water/sewer assets \$640,000. The tourism fund had an increase of \$186,000 giving a combined total \$827,000 for the year. The balance of the report gives a lot of good information there in the notes of the financial statements. That gives you additional information on the assets and liabilities of the town and there are several reports in the back as far as detailed line items comparing the revenues and expenditures to the budget amounts for the year. Overall, with the economic climate that we have faced here in the southeastern part of the state this past year, he thought the town did an excellent job with the finances for this year. All of the fund balances increased for the year, the net assets increased and the town should be commended for an excellent job in maintaining all that for this current year.

CAROLINA BEACH COMMITTEE REPORTS

There were none to report at this time.

PUBLIC DISCUSSION

No one signed up to speak.

SPECIAL RECOGNITION

Mayor Macon said that outgoing council members Alan Gilbert and Jerry Johnson were not able to be at the meeting and hopefully they will come in January to be recognized.

REORGANIZATION OF COUNCIL

Re-elected Mayor Joel Macon was sworn in by Magistrate Long to serve a 2 year term of office. His family stood with him as he was sworn in. Mayor Macon thanked them for standing with him.

Councilman elect Lonnie Lashley was sworn in to serve a 4 year term of office. His family stood with him.

Councilman elect Robert "Bob" Lewis was sworn in to serve a 4 year term of office. His wife stood next to him.

ADOPT THE CONSENT AGENDA

Mayor Macon welcomed the two new council members. He also recognized Alicia LaChance as one of the candidates and thanked her for being here tonight.

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

Set a public hearing date for January 12, 2010 at 7:30 p.m., or soon thereafter, to consider a request for a modification to the Conditional Use Permit for the Last Resort located at 600 N. Lake Park Blvd. (PIN 313011-56-1811-000) and 602 N. Lake Park Blvd. (PIN 313011-56-1815-B01). The applicant is requesting to expand the outdoor seating area, redesign the parking, and create a permanent canopy over the deck area.

Set a public hearing date for January 12, 2010 at 7:30 p.m., or soon thereafter, to consider a request to amend the Town Code of Ordinances, Appendix A, Zoning: Article 14 to clarify the Conditional Use Permit approval process; and Article 17 to redesign site plan requirements for all uses (i.e., businesses, homes, additions, etc.). These amendments will apply to all zoning districts and may be modified/expanded during meeting deliberations.

Authorize manager to send letter on behalf of Council to the NHC Board of Commissioners expressing the importance of the county moving forward with a process of exploring the feasibility of seeking local beach nourishment permits.

Set a budget in the amount of \$100,000 for the Carl Winner turn lane widening project.

The Fire Department notified Council of its intent to apply for SAFER (Staffing for Adequate Fire and Emergency Response) grant.

Approve application to the NCPARTF for \$500,000.

MOTION WAS SECONDED BY MAYOR MACON AND CARRIED UNANIMOUSLY.

APPOINTMENT OF MAYOR PRO TEM

Councilman Wilcox said he has been honored to serve as mayor pro tem for the last two years. It helped him along the way when they got started on some of the projects and was pleased to carry that title. When he was elected two years ago, Councilwoman Pat Efird had been on the Council for some 28 years and was probably due to be mayor pro tem but she knew he was anxious to get out and do some stuff, community service and some projects, and recognized that title might help him do that at that time. She was gracious

enough to step back and nominate him for mayor pro tem. He was honored and surprised at the same time. **Councilman Wilcox made a motion to nominate Councilwoman Efird for Mayor Pro Tem.**

Councilman Lewis said he had gotten to know Councilwoman Efird in the past year or two, said she is a great person and very gracious and dedicated to the community. He hopes to do just a part of what she has done in the next four years. He is very supportive of the nomination.

Councilman Lashley said 40% of the Council are senior citizens. He seconds Councilmnn Wilcox and Lewis for having Councilwoman Efird for Mayor Pro Tem.

Councilwoman Efird said she will be on Council for 31 years in January.

Mayor Macon said a lot of people don't realize the work Councilwoman Efird has done over the years and there are a lot of things we take for granted. She was the point woman on water and sewer. She is a big reason that we have the facilities in Carolina Beach. She did have a two year hiatus. He has known her a long time. She was on the Council when he was first hired by the town in 1984.

MOTION CARRIED UNANIMOUSLY.

MPT Efird thanked everyone. She said she has worked well with Mayor Macon. They have gone through some pretty tough years together for a while but they worked it out. They have done a lot and worked hard together and is looking forward to working with Councilmen Lewis and Lashley and hopes it will be the best Council ever in working for the people of Carolina Beach.

***APPOINT COUNCIL MEMBERS TO REPRESENT VARIOUS
BOARDS/COMMITTEES***

Carolina/Kure Beach Regional Sewer Authority. Previously appointed: Alan Gilbert and Dan Wilcox.

Mayor Macon made a motion to keep Councilman Wilcox on the board and appoint Councilman Lewis to the Carolina/Kure Beach Regional Sewer Authority.

MOTION CARRIED UNANIMOUSLY.

Cape Fear Council of Governments. Previously appointed: Jerry Johnson.

MPT Efird made a motion to appoint Councilman Lashley to the Cape Fear Council of Governments. MOTION CARRIED UNANIMOUSLY.

New Hanover Beach Communities Board. Previously appointed: Joel Macon.

Mayor Macon said he would stay on.

Wilmington Regional/NHC Port, Waterway & Beach Commission. Previously appointed: Dan Wilcox.

Councilman Wilcox said he would stay on.

NHC Tourism Development Authority. Previously appointed: Joel Macon.

Mayor Macon said he would stay on.

National League of Cities. Previously appointed: Pat Efird.

MPT Efird said she would stay on.

Senior Citizens Board. Previously appointed: Pat Efird.

MPT Efird said she would stay on.

American Coastal Coalition. Previously appointed: Alan Gilbert.

Mayor Macon made a motion to appoint Councilman Lashley to the American Coastal Coalition. MOTION CARRIED UNANIMOUSLY.

Transportation Advisory Committee. Previously appointed: Alan Gilbert.

Mayor Macon made a motion to appoint Councilman Lewis to the Transportation Advisory Committee. MOTION CARRIED UNANIMOUSLY.

NC Resort Town's Association. Previously appointed: Pat Efird.

MPT Efird said she would stay on.

SET WORKSHOP DATE FOR PETER J. SMITH TO PRESENT THE FINAL DRAFT OF THE CAROLINA BEACH STREETScape PLAN

Tim Owens, Town Manager, said he would like Council to consider establishing a meeting on February 4, 2010 at 9:00 a.m. at Town Hall. The purpose of the meeting is to get the final draft plan for the streetscape development plan. Council agreed.

SET WORKSHOP DATE TO DISCUSS THE TOWN PARKING PROGRAM, LIFEGUARD COVERAGE AND FIRE DEPARTMENT MATTERS

The town manager recommended January 11, 2009 at 9:00 a.m. at the Fire Department. Council agreed.

DISCUSSION AND CONSIDERATION OF CREATING A NON-PROFIT HOLDING CORPORATION FOR THE PURCHASE OF PROPERTY ASSOCIATED WITH THE CAROLINA BEACH OCEAN TO SOUND ACCESS PARK AND FUTURE HOME OF THE NC AQUARIUM PIER AT CAROLINA BEACH

The town manager said they will be closing on about \$4.3 million dollars worth of property, a little over 2 acres. The intent of the property is going to be a wonderful park setting and the future home of the NC Aquarium Pier. They are looking at several things, mainly grants to help offset some of the costs of the project. The first step would be acquisition and then the development part of it and seek grants as well. The town attorney will talk about why we are doing what we are doing. Mr. Owens thinks it is a very good way to continue to be able to apply for grants and get things straight for the whole project. Also, they would like to set another public hearing for December 17th at 7:30 p.m. relative to what the town attorney will be talking about tonight.

Steve Coggins, Town Attorney, said that recently Council authorized an extraordinary step to move forward the future of Carolina Beach in the acquisition of properties formerly owned by Arcadius strategically located between the boardwalk area and the Carolina Beach Yacht Basin and Marina in the hopes that it would be developed in a joint venture with the State of North Carolina for the construction of an aquarium and pier. That was approved through multiple public hearings as well as financing arrangements, standard lending arrangements, with BB&T through its local government lending office whereby the town would borrow the required sums and be financed for a period of 20 years and annual payments to be paid on those lending obligations. Council took advantage of a rather extraordinary opportunity that was presented by virtue of the fact that the property became available through a bankruptcy auction. Traditionally when towns purchase property, they do so by performing careful due diligence, lining up grants -- there's time to process some things. Sometimes, though, you don't have that luxury. The town was presented that opportunity and moved to obtain the property at substantially below market value for the benefit of the taxpayers of the town and, ultimately, for all of the visiting public to Carolina Beach. That meant that the town did not have the opportunity to research all of the available grants that would help defray the costs for the purchase and acquisition of the property. It is a peculiarity of a number of grants that are available to the town which could apply that, while funds can be made available to the town to actually front the purchase price for properties, the grants are not available to reimburse the town for properties which it has already acquired. Fortunately there is a procedural mechanism by which the town can nonetheless seek out those grants and at the same time proceed forward with the financial arrangement for the purchase of the property under the same arrangement that has already been negotiated under the same terms and all parties protected and that is through the creation of a non-profit corporation which would immediately take title to the property at the projected closing date, that has already been approved, and that it would be obligated on the note and the deed of trust to BB&T. Meanwhile, staff and Council will diligently search for all grants that are available that can be obtained that would reduce the amount of debt that would be required to be incurred in order to purchase the property, of considerable savings to the taxpayers we hope, and then at that time, when all the grants are lined up, then property

could then be transferred from the non-profit to the town subject to and under the same favorable purchase terms, the same favorable financing terms so there is no material extra costs to the taxpayers and, with providence and good fortune, the debt is actually reduced at less than what we projected and a lesser burden on the town and its taxpayers going forward. He has prepared appropriate documents, should it be the desire of Council, to form a non-profit corporation which he has taken the liberty of naming CBP3 which is an acronym for Carolina Beach Public Purpose Properties, Inc. Those are not mere words. It underlines that the sole purpose and reason for this non-profit to exist is to carry forth the public purposes and obligations of the Town of Carolina Beach, as directed and determined by the Town of Carolina Beach, and for that reason alone. It will exist for one reason alone and that is to obtain, acquire, hold, maintain and operate properties of the town and the best interests as seen by Council in going forward at an appropriate time to convey it and this would be accomplished by the means as set forth in the articles of incorporation, which would bind it, its bylaws, which would bind it, and a contract relationship between this non-profit and the town, which would bind it. Basically that obligation is that it will hold that property, maintain that property and convey that property at the time Council so directs it to do. The non-profit corporation, unlike a regular profit corporation, does not have shareholders of course, it would have members and the members are proposed to be five. He has proposed in the draft that would be two members of Council plus three other members appointed by Council at its pleasure that would serve then as the members and directors of this corporation and making sure that it faithfully abides by all of the particular obligations we've talked about. They will have some work to do. Among these properties are the Surfside Hotel and the Guy Johnson Hotel which Council would need to make a determination as to what is in the best interests of the town in serving the public purposes in the meantime until it is determined what is going to be the ultimate use of this property. Should the hotels be so continued, CBP3 would then be able to enter into a management contract with an entity that would continue to operate the hotels. The entity, while it is holding title, would also be the official entity that would be dealing with the State of North Carolina and, with respect to the aquarium/pier project, and any other matters that would arise that belong solely to that entity that holds legal title to the property. Meanwhile, the town would have an option to purchase this property with CBP3. That is another legal, binding obligation that would make sure that this property is used for no other purpose other than what was originally intended, passed by this Council and approved by the local government commission. Then, when the town exercises the option to purchase, it would purchase it under the terms of the contract that basically reflect and mirror the terms of the purchase between the non-profit entity and BB&T. In effect, what the town would do when it acquires title, is step into the shoes of the non-profit. You could ask why BB&T would be willing to instead let the non-profit step into the shoes of the town and take property and get on the note and Deed of Trust when we all know that the non-profit doesn't have any source of income. That would be a problem a year from now when the first payment is due as what has been negotiated. The reason for that is the bank feels very good about the security it has in the Deed of Trust and it also feels very good about the full faith in credit and the outstanding history of Carolina Beach in meeting its obligations with lending institutions. It was interesting to find out that under the constitution of the State of North Carolina, local governments cannot guarantee the debts of another, including a

non-profit. All that can be done is a resolution by this Council that, at the appropriate time, when the first payment is due, say a year from now, that this Council will consider making that first payment that is due on the mortgage at that particular time and that staff would place the item into our budget for consideration and for adoption by the Council but it would be under no legal compulsion to do so. He thinks that, in some sense, it is regrettable that we have to go through these machinations but no one here wrote the rules of the grants that say that they will only issue grants for initial acquisition as opposed to reimbursement. He would not want those rules to deprive the taxpayers of an opportunity to reduce the debt and also deprive them of the opportunity to acquire this property at the extraordinary price it was able to do. What he tenders to this Council is to adopt a resolution in which it would approve the formation of the non-profit corporation to be called CBP3, Inc. with the appropriate Articles of Incorporation and By-Laws, which are within Council's packet, the adoption of appropriate resolutions by which it will enter into a relationship among the non-profit corporation and the lending institution as he has described and to, if required by the Local Government Commission, to have those particular procedures adopted by them. We don't believe they will require further action by the Local Government Commission until the time comes that the town acquires the property from CBP3, Inc. and enters into the financing arrangement with them at that time.

Mayor Macon asked how soon he needs the members. The town attorney said he would prefer to have them tonight as he could incorporate this entity tomorrow and one should go ahead and specify who those members are.

Councilman Lewis said the town attorney might want to mention that this is a protocol most towns and cities take. The town attorney said it is often used and has been used by the City of Wilmington and many other cities and municipalities both North Carolina and throughout. The good news is that while the town is going through this, if you would trouble, of setting up this infrastructure, you will have the legal basis from now on that, whatever, could be the public purpose that arises, whether it is water or sewer, police, fire, parks, recreation, whatever you will have an entity that will be in place to assist the town in those particular circumstances.

Councilman Wilcox asked if there is a specific resolution in the packet. The town attorney said there is not a specific resolution for that, it is rather straight forward and would be to authorize the formation of CBP3 as reflected in Articles of Incorporation that are in your packet as well as the By-Laws before you and then naming the five individuals.

Mayor Macon made a motion to adopt Resolution No. 09-1001 to authorize the creation of the non-profit corporation CBP3, Inc (Exhibit 1).

Councilman Lewis asked if they should say specific properties or any future properties. The town attorney said the particular resolution is with respect to creating this entity, this non-profit alone, then at the appropriate time and this is the subject of the public hearing that is scheduled for the 17th regarding the specifics of this particular property.

Councilman Wilcox seconded the motion.

Mayor Macon said he spoke with two parties today and if anyone else has anyone they would like to be a part of this group. He spoke with Lisa Wills who is a local realtor and she is interested. He also spoke with former mayor Dennis Barbour who is also interested.

Councilman Lashley said he thinks Dawn Johnson, Finance Director, should be on this board for financial aspects.

Mayor Macon asked the town attorney if that was a conflict. He said that was not a conflict but he would like to maintain if he can through the membership that it not be too weighted with those that are actually employed by or elected representatives of the town. He believes Ms. Johnson can be asked to attend these meetings and provide input and, in fact, she will and must under the agreements they have been contemplating. Both the town and CBP3 will benefit a great deal from her effort.

Councilman Lewis asked if Greg Reynolds would consider being a part of this board. Mr. Reynolds said yes.

Mayor Macon called for a vote on the original motion.

MOTION CARRIED UNANIMOUSLY.

Mayor Macon made a motion to nominate Lisa Wills, Dennis Barbour and Greg Reynolds to be the citizens on this committee. MOTION CARRIED UNANIMOUSLY.

Councilmen Wilcox and Lashley volunteered to be on the committee.

Mayor Macon made a motion to nominate Councilman Wilcox and Councilman Lashley to be members of the committee. MOTION CARRIED UNANIMOUSLY.

The town manager said there is one other item and asked if this included the Option to Purchase. The town attorney said no, that is part of the 17th.

The town manager said the Property Management Agreement probably needs to be discussed now. He can go over the terms and the town attorney can talk about the actual form. The town attorney said he did actually address that given the fact that CBP3 will be taking title to the property, then, the question that comes with that is the responsibility for owning where is now located the Guy Johnson and the Surfside Hotel. We have prepared a draft of management agreement that would be between CBP3 and Village Realty under terms that he believes are considerably more favorable than what was initially discussed at last Council meeting. They have prepared drafts of that agreement. The town manager has been in direct negotiations with a representative of Village Realty and he thinks it would be appropriate for the manager to address any questions you may have now.

Mayor Macon took time to recognize Bill Castor, County Commissioner, and thanked him for everything he has done for Carolina Beach.

The town manager said that at the last meeting they discussed the possibility of having a separate entity manage the hotels with a flat rate management contract with the town in order to keep non-profit status on both of their loans and stay in good favor with the IRS. The Town Attorney did draft an agreement. The original discussion they talked about was \$500 a week after discussions with Village Realty. Bruce Slaven is here and can answer any questions. Bob Oakes is the president of Village Realty. They did come back with a separate offer. The management contract would be small in the winter seasons and peak in the summer seasons. The total contract, if you went through a whole year, would be \$57,000 to operate the hotels. They are responsible for the management of the hotels and for finding staff. They receive all the profits for the operation of the hotels. They would be required to have liability insurance in the amount of \$1 million for the property and the termination agreement that we have in this contract would be a 60 day agreement. They are very aware of the project we are looking to go forward on. Mr. Slaven actually owns property in Carolina Beach and is excited about trying to move forward and keeping these hotels functional. It is very important that we keep them functional unless we just tear them down immediately. If they stay vacant, they are subject to vandalism and other things that we do not want happening. We will have to get property and liability on it ourselves, and we will have to get flood insurance on it ourselves as well so there will be some costs associated with the operating of these hotels. He doesn't have a cost estimate for those insurances at this point but is working to get that prior to closing so there will be some recouping of some of the debt service and expenses that we'll undertake.

Councilman Wilcox asked what was the process used in determining the lease amount? The town manager said they can explain their process but they took into account what they have made and paid in the past to the Arcadius group that they managed the hotels for.

Councilman Wilcox asked if we have talked to other entities about the management contract? The town manager said he has not talked to anyone else or sent out any RFPs. To do a flat management contract, these folks know what kind of revenues and expenditures are generated. He thinks it would be kind of difficult for an individual firm to come in and know what competitively to bid, personally.

Mayor Macon asked if there is any action that we need to take. The town manager said if you want to enter into this contract you would need to approve the contract.

Councilman Lashley asked if we are limited to making \$57,000 or is there some bonus if it gets to a certain amount? The town manager said we are not allowed to operate under the bonus procedures because of the IRS.

Councilman Wilcox said \$57,000 may be a fair amount but he doesn't have any idea and

that is the problem. No one has seen their books and knows what kind of revenues or what they are bringing to the table. He was hoping for more information than this to make sure we are getting the maximum amount of dollars and, then, when you consider flood insurance and liability, etc., that is not going to be unsubstantial for that size of property so he is looking for the net to be considerably less than \$57,000.

Councilman Lewis said, looking back on the previous 3 years that they operated this. Arcadius had to put up money for whatever the value of the property was from a tax purpose, had to be pretty significant and was probably around \$50,000, maybe higher for the county alone, county and community. Arcadius had to be looking at probably close to \$80,000 to \$100,000 just to have the property sit there. It would surprise him if they were willing to accept someone to manage the property and not be able to recoup that money. He can go back and find out on county records pretty quickly what the taxes were on that property. It is hard to believe that somebody like Arcadius is going to sit there and say they don't need to recoup that money; I just need to somebody to run the place. He would like to see what the revenue dollars those types of places did deliver and look at what we should expect.

Mayor Macon said we are under a deadline are we not? The town manager said we close on December 18th and if we don't have a management contract under wraps then some of those folks won't be able to continue on.

The town attorney said, on the other hand that if it is Council's pleasure, we really don't have the capability for the CBP3 to enter into a management agreement until it actually owns the property so we have to wait until the 17th anyway.

Mayor Macon said why don't they just get more information to Council on the 17th and deal with it then unless there is a problem.

Councilman Wilcox said he would like to hear what they can tonight.

Bruce Slaven, said he is the site manager for Village Realty, Carolina Beach. He has been here 4 years and would like to continue with the town and the new corporation forming. The dollars they are offering Council at this point are higher than those dollars paid to Arcadius Co. They are seeing a large reduction in the income. They are estimating at this point they will see at least \$100,000 less income because some of the properties were sold off from the hotel but the dollars offered by the president of the company absolutely are greater than those ever paid to Arcadius. Arcadius did not insure the buildings. Their statement at that point was that if it came along they would consider tearing them down so they did not incur that expense as they went forward. They have tried to be fair with Council and welcome questions about income and how they came up with these numbers. The president came up with these numbers and wanted to offer what he thought was fair. The operating company will take all responsibility for those duties they have performed in the past. Some of those things: last 4 years paid around \$100,000 a year in taxes; this year they will pay in the \$90,000 range; purchased most of the personal property - window air conditioners, TV's, microwaves, mattresses, box

springs, sheets and towels, refrigerators, blinds, kitchen sets, ice machines - well over \$250,000 worth of items. They do understand that with the contract they are looking at and a 60 day buyout, which can happen at any point, most folks are not going to want to come in and buy all this personal property and take a chance that it could be closed on in 60 days. Everyone knows what could happen if they have a July storm. There are no guarantees. Our contract in the past was based on volume and profit and it was the greater of the two. They attempted to do that earlier and were told they absolutely could not enter that sort of contract. He is authorized to say that the president of our company has made the statement that if there is a certain income level reached, he wants to bonus the town. He doesn't know how to put that in contract form but, from what he is hearing, he doesn't think they can contract that in. They will provide liability insurance and it is in excess of the limits requested by Town Council. They do provide audited accounting systems and their books are open for the town to see. They do pay personal property taxes as well as the other taxes. Regarding the statement made by Councilman Lewis about the property taxes, he doesn't know that they really paid those until the bankruptcy came along. He knows there were lots of issues with the taxes. They were there 2 months and the personal property tax issue came up and they advanced rent that year in excess of \$40,000 just to stay operating for that period. Their rent that year did apply and that was for the year 2006 or 2007 but he doesn't think after that they were paid. He thinks once they entered into bankruptcy that was held out until the auction.

Councilman Wilcox asked, regarding liability insurance, is there a legal reason that we can't be named on their policy? The town attorney said the draft contract provides that both the non-profit and the town would be additional insured. Councilman Wilcox said the draft contract provides that but is there any reason we can't be named on their policy? The Town Attorney said no, there is not.

Councilman Wilcox asked if they could look into that? Of course we would be notified if their policy was ever going to be cancelled and have the ability to get our own. It doesn't seem to make much sense to have two individual policies. All of this property was conveyed, TV's, air conditioners, everything, with the real property, correct? The town attorney said that is a question that is not entirely clear in this bankruptcy proceeding. Councilman Wilcox said this gentleman said there was a substantial investment into those goods and he assumes they are planning on continuing to do that for operating purposes. Mr. Slaven said absolutely. Their management contract basically says that you have no liabilities and you expect to receive a check each month.

Councilman Wilcox asked if there are any other expenses in operating this venture that you would not be responsible for.

Mr. Slaven said their management contract basically says you have no liabilities in this; you expect to receive a check each month. We would not be responsible for the property taxes. I don't know how that's handled with the town. Does the town own it? Does this corporation own it?

The Town Attorney said to Council that the contract that they have for the acquisition of

this property includes the personal property on the site. They either own it or they don't but they have contractually bound themselves to convey it.

Councilman Wilcox asked if they are conveying improvements. If they have to replace equipment once they've signed the contract, does the new equipment belong to us also?

The town attorney said he doesn't know because he doesn't know who owns it.

Councilman Wilcox said that is a good reason to wait until the 17th.

Councilman Lewis asked Mr. Slaven about the laundry that was part of another property and if that was sold? Mr. Slaven said it was sold and they have taken up that slack and included that expense in their contract. They own a separate commercial laundry and have worked on that contingency already.

Councilman Lashley asked what was the initial amount they were going to give the town at the last Council meeting? Mr. Slaven said they gave a letter saying that on a temporary basis they would pay \$500 per week, \$25,000 a year. Councilman Lashley said we have jumped to \$57,000 already. Maybe we should wait a little longer.

Mayor Macon said they will bring this back on the 17th.

NON-AGENDA ITEMS

MPT Efird said if you have not been to the boardwalk at night, especially over the weekend, please go. The lighting and everything is beautiful. She commended Councilman Wilcox and Michele and George Connet who made it possible. She is very proud of all the work that has been done.

Councilman Lashley talked about senior citizens. If you are 65 and above and make only a certain amount of money, you can get a break on your real estate taxes. That means if you only make about \$25,800 a year, you can get a break of up to \$25,000 reduction on your taxes or 50% of the assessed value. For example, if you had a \$100,000 home that means that your taxes, both in New Hanover County and Carolina Beach, are reduced by 50%. They also give a break to our senior citizens for the sewer utility bills that we receive. He wants the seniors to be aware of that. Call the tax administration office to see if you are eligible.

The town manager said they do have a closed session tonight and they can either decide to do it before the reception or after the reception. Closed session would take about 15 minutes.

Mayor Macon commended Mr. Stanberry for doing an excellent job.

Police Chief Younginer said they have had a lot of break-ins of cars and have asked people continually to lock them. It is usually only cars that are unlocked that are being

hit. The patrolmen have been hitting the streets pretty hard at night. Last night they identified three subjects who hit 15 cars last night and most of the property was recovered and probably some from other break-ins. That was in the lighthouse area. This is about the third set in eight months that have been caught.

Sara Hartman announced there will be a reception in the atrium for everyone to welcome the new council members and will be at 8:15 p.m.

Councilman Lewis said they are looking for volunteers for committees to fill them up as they go and is encouraging anyone in the community to join. A lot of people work on the boardwalk, Christmas by the Sea; it only takes a little time a month and they will listen to their recommendations and ideas and help promote those within the town here.

Councilman Wilcox said that Christmas by the Sea has turned out quite nice and everyone who has been working on it is quite proud of it; but, also, the town manager, Operations Department have done a wonderful job getting things down there they needed and facilitating all the volunteer efforts. Of course the Fire Department is down there on the weekends tending the fire and that has worked out very nicely so far. Good police presence down there also. They appreciate all the departments pitching in.

Mayor Macon wished everyone a Merry Christmas and to remember why it is the season and to remember to help those who are in need if you can. He would also like to thank the volunteers at the boardwalk. They put in a lot of long hours. The fire pit and lights are awesome. He thanked all the merchants who volunteered to do a cove. He thanked them for all the hard work and making Carolina Beach what it is.

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

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

Mayor Macon said no action was taken in closed session.

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

MPT Efird made a motion to adjourn. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Sara Hartman
Administrative Support Specialist

Approved: _____