

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

***February 12, 2008***

The Town Council of the Town of Carolina Beach met in regular session on February 12, 2008 at 6:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor, Joel Macon; Mayor Pro Tem (MPT), Dan Wilcox; Councilwoman, Pat Efird; Councilman, Jerry Johnson; and Councilman, Alan Gilbert. Also present were Town Manager, Tim Owens; Town Attorney, Al Clyburn; Finance Director, Dawn Johnson and Town Clerk, Lynn Prusa.

Mayor Macon called the meeting to order.

***INVOCATION***

The invocation was given by Pastor Keith Grogg of the Presbyterian Church.

***PLEDGE OF ALLEGIANCE***

Mayor Macon led everyone in the Pledge of Allegiance.

***CHANGES TO THE AGENDA***

The following were presented as proposed changes to the agenda:

Add request to consider a Conditional Use Permit (CUP) modification for an open air commercial platform/oceanfront restaurant located at 101 Carolina Beach Avenue South.

Item #23 - Move - Breakers Homeowners Association request to reconsider the zoning issues relating to properties at 1801 Canal Drive, Buildings A, B, C and D to Item 16(a).

Item #17 - Move - Boardwalk makeover update and presentation by Brett Keeler and Adam Higgins for boardwalk fundraising activities for March and April and request for funding to Item #16.

Item #16 - Move - Request to extend a CUP for 817 Canal Drive to Item #17.

Set all public hearing dates for March 11, 2008 at 7:30 p.m., old business, special presentations then recess to another night to finish all new business.

The town clerk requested approval of minutes of January 23, 2008 instead of January 8, 2008 as written.

**Mayor Macon made a motion to adopt the agenda with the changes. MOTION CARRIED UNANIMOUSLY.**

### ***SPECIAL PRESENTATIONS***

Marilyn Youngbluth, Kure Beach representative and Secretary to the Executive Committee of the New Hanover County Human Relations Commission, accepted the proclamation on behalf of the Commission in recognition of Human Relations Month - February 2008.

**Mayor Macon read aloud the proclamation and made a motion to adopt Proclamation 08-913 (Exhibit 1). MOTION CARRIED UNANIMOUSLY.**

### ***RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE***

Tim Owens recognized: Iris Salke, Administrative Assistant to the Town Manager, for 10 years of service; J. D. Wrenn, Fleet Maintenance Supervisor, unable to be there, was recognized for 15 years of service; and Nancy Stout, Police Records Specialist, was recognized for 5 years of service.

### ***INTRODUCE NEW EMPLOYEES***

Introduction of new employees was tabled as they could not attend the meeting.

### ***REQUEST FROM THE PLEASURE ISLAND CHAMBER OF COMMERCE FOR THE SUMMERTIME MOVIE AND FIREWORKS SERIES***

Speaking on behalf of the Chamber of Commerce, Duke Hagestrom, requested the town consider providing ROT/marketing funds in support of Independence Day Fireworks, Summer Fireworks Series, Outdoor Family Movies and Events Support. Total funds requested are \$62,000. Also, two additional requests - authorization to block off Cape Fear Blvd. east of Lake Park Blvd., Woody Hewitt at the Raleigh Avenue intersection and all parking lots and street parking be free on June 7, 2008 for the Beach Music

Festival; and a request to use the Gazebo at Cape Fear Blvd. for the “Touch of Class” Charity Auction on May 3, 2008. Councilman Gilbert asked if the Fourth of July fireworks could be held on that night. Mr. Hagestrom said traditionally the Chamber has it on the off night so that they are not in competition with the cities of Wilmington and Southport plus cost to do fireworks on the 4th is significantly higher, about \$18,000, so they have scheduled them on July 3<sup>rd</sup>. Councilman Gilbert said a lot of visitors expect them on the 4<sup>th</sup>, maybe they could be done the day after, on Saturday. Mr. Hagestrom said he would take the suggestion back to the Chamber. MPT Wilcox thanked the Chamber for everything they are doing. Tim Owens said they are funded up to July 1 but would like to secure those contracts.

**Councilman Gilbert made a motion that Council deliberate their requests during budget workshops.**

Mayor Macon opened for discussion. Mayor Macon said he did not have a problem with letting the Chamber know how Council feels support-wise, they need to know whether or not to be planning the events. Councilwoman Efird wanted to know when the next workshop is. Councilman Gilbert said his recommendation is that someone will have to go to the county and request funds that we normally use out of TDA, need to have some deliberation over it because we are in a deficit. Councilwoman Efird asked how much of the funding from the tourism funds goes towards entertainment. Mayor Macon said basically the funding for lifeguards and the activities described earlier by Chamber, plus some overtime, Christmas lights this year. Tim Owens said the Tourism Fund was in a deficit last year, had to allocate over \$100,000 from the reserve fund. MPT Wilcox said he couldn't imagine regardless of what we have to do, whether we have to get additional funding from the county for lifeguards and not use some of that money, that we would not make these funds available for these events. To put it off for a month or two just to make the same decision doesn't make sense. Councilman Johnson said we have some other considerations that we don't have feedback from such as the strain on our volunteer Fire Department working these events every week as well as other town personnel. He feels we need feedback from these departments. Tim Owens said that summertime in general is pretty taxing but it is up to Council if they want to fund it tonight or during budget deliberation.

Mayor Macon called for a vote. **MOTION DENIED 2-3 (MAYOR MACON, COUNCILMAN WILCOX, AND COUNCILWOMAN EFIRD VOTED NO).**

**MPT Wilcox made a motion to approve the funding request by the Chamber of Commerce for \$62,000 specified in their memo to Council and to approve the special considerations for the “Touch of Class” Charity Auction and the Beach Music Festival. MPT Wilcox also made a recommendation to Council and staff that they approach the County Commissioners and try to work something out with our lifeguard services so that they are not drawing down our TDA funds so much that we can't fund these types of events.**

Mayor Macon opened for discussion. Councilman Gilbert said we are over \$100,000 going into the reserves. We have gone into our savings to fund the Senior Center and other things - there are a lot of New Hanover County residents that utilize our services and use us as their destination - we need to start going to the county and requesting these things. He is all for funding these things but there is no money in the bank, how can we fund other things. Councilman Gilbert said he would support MPT Wilcox on the lifeguards if someone will go before the county and ask for the money. Mayor Macon said he would be more than happy to do that. MPT Wilcox said we are trying to improve tourism here and bring people to the town, to entertain them when they are here and make them want to come back in an effort to stimulate our economy. One of the last places we want to look at cutting back funding are the things that would help our economic revitalization which is what we need to increase our tax base to solve our other problems. He feels we would be going backwards when we start looking at not funding these types of events that have also proven to be very successful and are contributory to increased TDA funds at Carolina Beach. Councilman Gilbert said he wanted to make it very clear that he is not saying not fund this but we are in a deficit of over \$100,000. He has voted to fund this every year but we're in a deficit so if Kure Beach and the county are not going to pitch in and we are the island support and we're going to be the ones doling out the money, he thinks we're going to have to look at it very closely because the TDA funds can't support it, need to have some fiscal management and be accountable. Councilman Johnson said this request is \$10,000 more than last year plus the funding we would lose if we open all the parking lots for free. Mayor Macon said he is also concerned about moving the Beach Music Festival. Councilman Gilbert said it didn't matter to him personally but people might be disappointed if it is not held on the beach. MPT Wilcox said there are a lot of beach festivals that are not held on the beach and there might be a lot more people there that wouldn't ordinarily come and it wouldn't stop the other people, they could still go down on the beach.

**Mayor Macon called for a vote. MOTION APPROVED 4-1 (COUNCILMAN JOHNSON VOTED NO).**

### ***PUBLIC DISCUSSION***

Brett Keeler, 303 Hamlet Avenue, representing Paradise Island 7 also known as Black Horn Bar and Kitchen. He stated that they recently secured a lease on 103 Carolina Beach Avenue North, which is located north of the Black Horn operation. They submitted a plan for a CUP modification to expand the operation of the Black Horn to that northern lot for 140 outdoor seats with a bar and stage area outside and about 6 feet of landscaping on the west, north and east sides of the property. It is going to the TRC on Monday. Councilman Gilbert asked if the CUP had already been submitted. Mr. Keeler said it had. Councilman Gilbert asked if this was something they should be hearing. Mayor Macon said Mr. Keeler should not get into details and go ahead and make his

point. Mr. Keeler said that because of the short season, the CUP which includes expansion of the business, seating and parking waiver, all of the building could be done prior to Council approving the CUP which they are moving forward with CAMA permits. They are requesting a special meeting in March, after the March 13<sup>th</sup> meeting of Planning and Zoning Commission, so that this can be heard and they can start operations in the outdoor area. He said that Council had discussed having a second meeting for the March meeting to continue it. Tim Owens said he is not in support of changing meeting dates, it is up to the Council, feels it can confuse things. He said if they want to do it, the way to do it is to advertise the Council hearing and the Planning and Zoning Commission hearing at the same time, make sure it is posted the same way and notify the property owners and if you want to have a special meeting, that could be done sometime later in March. The Planning and Zoning Commission hearing is on the 13<sup>th</sup>. **Councilman Gilbert made a motion to set a public hearing to hear a CUP from Paradise Island 7 on Friday the 14<sup>th</sup> at 7:30 p.m. MOTION CARRIED UNANIMOUSLY.**

### ***CONSENT AGENDA***

Tim Owens said he would like to clarify the item Budget Amendments and Transfers, the original request was to go from the Powell Bill reserve fund for \$131,009.50, some of those are ineligible, and that amount now becomes \$105, 174.00. That project is to do two things - to extend the sidewalk from the Fayetteville/Hamlet area all the way to the lake and also make it handicapped accessible, the other part (\$68,000) would be to retrofit all of what needs to be handicapped accessible sidewalks on Lake Park Blvd. Another clarification is that some of the resolutions, there are some questions about whether they are all the same, \$1,750,000 for reimbursement - all of those are correct. That would allow the town to be reimbursed if they take out a loan for this project.

**Councilman Gilbert made a motion to approve the consent agenda with the proposed changes by Town Manager, as follows:**

Approve of the minutes of the regular meeting, January 23, 2008.

Approve the following budget amendments and transfers:

#### **Legislative-Amendment**

In the current year only \$7370 was budgeted for election expenses; however the actual cost for the election was \$8417.32. Therefore, the Clerk is requesting that \$1047.32 be appropriated from fund balance to cover the shortfall.

The amendment would be to increase account 103990.00-Unappropriated Fund Balance and increase account 104100.45-Legislative Election Expense.

#### **Powell Bill-Amendment**

The Director of Operations, Paul Parker is requesting that \$105,174.00 be

appropriated from Powell Bill Reserve Funds. The monies will be used to make the sidewalks handicap accessible in the CBD and also South of Hamlet to Atlanta, this project will cost approximately \$105,174.00. \$68,000 to be

used for retrofitting all of what needs to be handicapped accessible sidewalks on Lake Park Blvd. The amendment will be to increase account 103990.02 Appropriated Fund Balance Powell Bill in the amount of \$105,174.00 and increase the Powell Bill Expenditure Line item 105610.38-Street Maintenance.

Set a public hearing date for March 11, 2008 or soon thereafter to consider the following:

A request from Seaview Properties, L.L.C. for a modification to a Conditional Use Permit to add 5,000 sq. ft. of conference space to the branded resort hotel located at the following addresses:

21 Carolina Beach Ave N	PIN 313011556544000
200 Carolina Beach Ave N	PIN 313011557316000
202 Carolina Beach Ave N	PIN 313011556369000
203 Carolina Beach Ave N	PIN 313011556530000
206 Carolina Beach Ave N	PIN 313011557480000
210 Carolina Beach Ave N	PIN 313011558405000
200 Canal Dr	PIN 313011556416000
100 Harper Ave	PIN 313011557394000

Consider a request for a Conditional Use Permit for a restaurant located at 300 N. Lake Park Blvd. (PIN 313011-56-2178-000) and 302 N. Lake Park Blvd. (PIN 313011-56-2267-000), currently King's Boat and formerly Barnacles Restaurant and Sweetwater Restaurant.

Consider amending the Code of Ordinances, Chapter 8 Licenses and business regulations to add Article XI Outdoor Performances and Events.

Consider amending the Zoning Ordinance, Article 12 Development Standards for Particular Uses to reevaluate the 11 conditions associated with bars, taverns, and cabarets in the Central Business District.

Consider amending the Zoning Ordinance, Article 23 Definitions Figure 2 to consider changing how front yard setbacks on non-rectangular lots are measured.

Consider amending the Zoning Ordinance, Article 16 Planned Unit Developments to consider eliminating the 2 Acre Minimum Lot Size

Hold a public hearing concerning the town's proposed Entryway Beautification Project.

Hold a preliminary budget hearing for the FY 08/09 Carolina Beach Budget.

Consider amending the Code of Ordinances, Chapter 16 Utilities, Article IV Stormwater Management Ordinance.

Consider a request for a CUP modification for an open air commercial platform/oceanfront restaurant located at 101 Carolina Beach Avenue South (PIN #313015-54-5527-000)

Consider approving application to Tourism Development Authority for funding in the amount of \$23,681.85 for tourism related expenditures (welcome banners and Christmas lights and decorations).

Adopt Resolution No. 08-910 (Exhibit 2) for reimbursement for new Wells 15G, 16A and water line improvements, (2) Adopt Resolution No. 08-911 (Exhibit 3) for reimbursement for rehabilitation and improvement of Lift Station #1, and (3) Adopt Resolution 08-912 (Exhibit 4) reimbursement for costs associated with an aquifer storage and recovery system (ASR).

**MOTION CARRIED UNANIMOUSLY.**

**REQUEST BY THE BREAKERS HOMEOWNERS ASSOCIATION TO RE-CONSIDER THE ZONING ISSUES RELATING TO PROPERTIES AT 1801 CANAL DRIVE, BUILDINGS A, B, C AND D**

Mr. Frank McLaren presented this request. Mr. McLaren of 1801 Canal Drive, said he is the current board president and has been property owner there since summer of 2004. Stated that there are 72 condos there built in 1982. Some owners purchased property pre-construction, the latest sale was in 2006. Owners are a mixture of year-round residents, investment/rental property and second homes. Residents contribute to the local economy

and supplies people to local tourist attractions. Roughly 30% of the units are rented during the summer months which brings in new money to Carolina Beach. The zoning fiasco over the last year has hurt residents there, owners have not been able to sell their property - no sale of property there for two years and owners feel the zoning issues are partially responsible because realtors are scared to sell property there knowing their potential customers couldn't rebuild if there was a disaster. The property owners are requesting to have the conservation area lifted and established back the way it was previously to the R-1B. They understand there is a density issue along with that and they would like those issues addressed so they can rebuild what they have. Due to the changes in the Town Council and their actions, they haven't found where some of these items were advertised, notifications made and they don't understand what the delay is in getting this established back where they need it to be. They are hoping to work with the board to resolve these issues. They are asking for the change to be made and any input Council can offer to them as to the status of this. They were told over a year ago that it would be resolved shortly. It is his understanding with conversations with Mr. Ferguson, they are having to start the process over - making a presentation to Council tonight and to Planning and Zoning Commission again. They have been that route. They feel they are going through actions to recover something that they feel was never legally changed in the first place. They cannot find the documentation to support the changes that are on the current map other than the notification of the meetings last year. Any actions prior to that they have not been able to locate where it was advertised, none of the owners received notification that they have been able to contact that are long term owners. He is speaking on behalf of the Board, there may be other comments from additional owners. They want to work with Council to get it resolved. The owners have some major insurance issues coming up with the Breakers - this is impacting them in more ways than one. MPT Wilcox said there have been some discussions on the zoning map going back to Planning and Zoning Commission. Tim Owens said there are two items, one is the non-conforming ordinance and he believes they have corrected that situation and it would allow anyone that is damaged by catastrophic means to be rebuilt - same density, same footprint, same design, that has been adopted in the non-conforming ordinance. You would still have to meet flood and CAMA regulations. The other item is that if you decided to tear them all down and rebuild, it is possible that you might be able to do that but you would have to meet standard setbacks, parking, buffering, height, etc. Mr. McLaren said, short of a disaster, they really can't rebuild anything to what they have now. Mr. Owens said they still could rebuild. He said Council directed staff to go back with the Zoning Map and they have a presentation to discuss some of that. There are some options there, density is still an issue - there are a lot of structures like theirs density-wise that they might not be able to put them all in a certain zoning district. Councilman Gilbert said about 6-8 months ago Council adopted the non-conforming language that allows them to rebuild. Mr. Owens said if you do routine maintenance less than 50%, you can continue to do that on a year by year basis too. MPT Wilcox said not only The Breakers property owners, but all the property owners down Canal, single-family lots that haven't been built on yet, are at an extreme disadvantage - they can't sell the lots, the property values are depressed. You can't build a 35 foot structure

in the front, then you have to zoom it down to 10 feet in the back in the conservation area and it is something that needs to be addressed. It can't go any faster than right now, it is going to Planning and Zoning Commission on February 21<sup>st</sup>, then coming to Council immediately thereafter so any changes will at least have that same advertisement period. Gary Ferguson said what they are most interested in this evening is getting clear direction from Council to send to Planning and Zoning as to how to proceed. He said there are several options - one, have the zoning map go through Planning and Zoning and act on all of the issues at the same time; two, what kind of zoning to put them in. MPT Wilcox said he has yet to see the advertisement in 2000 when supposedly this zoning change took place and did not see any advertisement last year when that zoning line was moved again - advertisement posted for rezoning of people's property. Mr. Ferguson said property owners were notified and advertisement was made for the last zoning map change that came before Council which was basically a rezoning. What they want to do is a total map re-adoption and go to a digital map and that is a different process. MPT Wilcox said it concerns him that when you do a zoning map amendment, that is not a specific statement to any particular property owners that their particular property is going to be rezoned. That is the difference between advertising when you are going to specifically rezone their property or whether they know to come to a meeting or not, you're just going to adopt the zoning map. That doesn't necessarily mean anything to a lot of property owners and he has a problem with that part of the process. Mr. McLaren said the property owners received a notification last November which would adopt the zoning map that the town was claiming was adopted years before, they were just going to make it official. What was adopted years before, they can find no records of that ever took place as far as advertising is concerned. Tim Owens said they need to go forward to figure out a way to correct the problem, whether that is a map amendment or re-adoption of the entire map - he would like to re-adopt the entire map. The town can notify the property owners where changes are made, they can probably do that. MPT Wilcox said the policy should be to notify the property owners that an adoption of the zoning map is also going to rezone their property. Ed Parvin said the problem is that the current zoning divides those lots on Canal Drive, some of the issues were some of the nonconformities that exist on the Breakers today. The alternatives that staff looked at were maintaining the status quo which Tim Owens outlined how property owners can operate under the nonconforming ordinance. The cons are that there are two different zoning districts on one lot and leaves a lot of nonconformities at the Breakers. The second option to bring it more into compliance is creating an increase in density or another type of district on the north end which would require amending the Land Use Plan and having to look at a zoning district that meets the current conditions and would satisfy future concerns which would be difficult - would increase traffic, parking, etc. Option three would be to rezone the properties to be consistent with the Land Use Plan that was recently adopted which shows those properties as R-2 which is very similar to the R-1B area. Staff is recommending rezoning those lots to all R-1B, right now they are split between R-1B and Conservation. With that staff has laid out an advertisement plan to include 1/2 page advertisement in the newspaper as well as notification to property owners. The town could also at this time officially adopt the town's zoning map which currently has 24

amendments. This is a practice that should probably be down once a year. MPT Wilcox said there is currently a lawsuit in part of this rezoning, is the town taking action on any of that? The Town Attorney said no. MPT Wilcox said the R-1B would solve these folk's problems, he feels it should not really be an R-1B area but rather R-1 consistent with everything else on that end. The R-1B would be reserved for the area on Georgia, Virginia and Florida Avenues because those lots given the marsh areas and some other limitations, he's not sure you could really increase density - it might be something they would want to pass on to Planning and Zoning just to get their feedback. Councilman Gilbert said that if they do that, it's consistent with the Land Use Plan, protects the property owners at the Breakers so they are not in Conservation and with the zoning changes, text changes last year are nonconforming, we're good. Staff agreed. Councilman Gilbert said it will go to Planning and Zoning Commission and advertised as coming back so if there is anything that is not kosher, there will be two opportunities to speak to these changes.

Mr. Tim Allen encouraged everyone to go to the website and read the nonconforming ordinance and call him or staff if they have any questions. Ms. Teresa Salter, owner of The Breakers, Units C13 and C12, said she had read the nonconforming ordinance and it still says that more than 50% .... cannot be rebuilt. Tim Allen said there is another section. Ms. Salter said it is page 88, Section 18.4(b) - "any building or structure lawfully used for residential or non-residential purposes for which repair or routine maintenances proposed in an amount less than 50% of the current tax or appraised value, regardless of the reason, shall be entitled to do so using the same building footprint and density". There was some question as to whether the Code of Ordinances had been updated. Ms. Salter said that is what is currently on the website. Gary Ferguson said the ordinance was readopted, when Council readopted the amendments on August 14, 2007, that's when it was recently adopted. What Ms. Salter is reading from is an older version of the non-conforming section. Councilman Wilcox said that the updated ordinance is also listed on the website and may not have been posted on the ordinance. Mayor Macon said that the website is something that they are trying to fix as well, that MPT Wilcox has made that an issue that the ordinances should be up to date within a short, reasonable time - that is something that is being looked at as a town and Council as well.

The town manager presented Council with the following options to consider:

**Option 1**

Consider moving the R-1 zoning lines to the rear of The Breakers property through the rezoning process. While this is possible, The Breakers will still remain a non-conforming project due to the density of the project and a variety of other regulations that the project does not currently meet.

## **Option 2**

While not recommended, another option would be to rezone the property to either a zone that would allow the density or create a new zone that would allow the density. This type of action could possibly be considered spot zoning (unless it can be justified) and would likely result in a large number of projects seeking the same zoning classification due to their non-conforming density (particularly at the northend of the island).

## **Option 3**

The Town Council has directed the staff to bring back to P&Z and eventually the Town Council a recommendation to amend the current zoning map. This process will begin soon and could provide a resolve to the concerns of The Breakers' owners.

**Councilman Johnson made a motion that option 3 be approved and direct staff to proceed with option 3 to the Planning and Zoning Commission. MOTION CARRIED UNANIMOUSLY.**

## **BOARDWALK MAKEOVER UPDATE AND PRESENTATION BY BRETT KEELER AND ADAM HIGGINS FOR BOARDWALK FUNDRAISING ACTIVITIES FOR MARCH AND APRIL AND REQUEST FOR FUNDING**

Mike Kirkbride, 905 S. Fort Fisher, Kure Beach, gave a presentation. He thanked Council for supporting the project on an expedited, short notice basis. He showed Council an overhead of the Boardwalk logo made by the marketing team, the brochure which shows what they are looking to create, how to participate and some of the parts of events that people or businesses might want to sponsor. Sponsorship levels will also be put in the brochure. The Polar Plunge was the send-off event and was sent to press. The media includes the Chamber of Commerce, The Gazette, and The Snow's Cut Monthly which has done a great job. The marketing team has also created a sticker which will show support for this makeover project and will be available for a \$25 sponsorship level. T-shirts are being made and will be used at the Polar Plunge. The Marriott has made meeting space available to include a number of amenities, Mr. Kirkbride thanked them. He showed areas that were in disrepair that were cleared out. He pointed out the unevenness of the paving and brick areas. The town has repaired all of the brick areas, cleared out all of the bushes for new plantings, and has cleared the area around the bathroom area and is putting a retaining wall around it where a metal roof will

be attached. He thanked the prison team for building new planters, under the town's direction, and will be placed at the boardwalk this week. They would like to put up a sign at the gazebo to emphasize the project. They are working on a site plan to determine placement of the planters, trash accessories, etc. and how to integrate the landscaping plan - will be working this week with the town on the latter. He said one of the things that needs to be addressed is some kind of accessibility around this Marriott and the new Marriott for bikes and pedestrians. They would like to open up biking in general in the boardwalk area. He took it to TRC this week for review, one option would be the perimeter, a designated path, around the whole boardwalk temporarily to see if it would work. The other option was to make the Boardwalk bike and rollerblade accessible, maybe not skateboard accessible. That's something Council might address. He would be glad to take it to Planning and Zoning Commission but would like their guidance on the issue. He feels it needs to be approached in the Master Plan anyway and seeing how it works over the summer might give some direction. The team is also working on designs for banners and flags on the light posts. They are also proposing a few swings to be sponsored on the landscaped areas. He thanked everyone again for their help and support. Mayor Macon asked all the volunteers who have been supporting this project to stand (about a dozen people) and thanked them as well as MPT Wilcox for making things happen. MPT Wilcox asked that the bike path and signage be taken up by Planning and Zoning Commission on the 21<sup>st</sup> so it can come back to Council on the 14<sup>th</sup>. Mayor Macon said he would volunteer his time to wash cars for donations to the Boardwalk group as a fundraiser.

John Garcia of 931 Searidge Lane, presented the Thursday night festivities which is a 15 week program which will be enhancement to the fireworks series - proposing entertainment from 6:00 to 9:00 p.m. to include live music and street performers. They are trying to get people there a little bit earlier, spend time and money at the CBD area, draw people from other areas, as well as returning tourists. He said this was funded in 2006, \$10,000 was appropriated and \$6,500 was utilized. They are requesting \$15,500 for this year - bands would cost \$7,500; performers (magicians, balloon artists, face painters) \$3,000; advertising \$2,000; sound/lighting \$3,000. They would like for this to be a yearly event. It will be run with the Boardwalk Makeover group and Pleasure Island Revitalization Association (PIRA). According to NC law 1/2 of the funds must be used in each town and the remainder to be used in each town for tourism related expenses. Brett Keeler, 303 Hamlet Avenue, represented the Boardwalk Makeover group, said there was \$3,500 leftover when it was funded in 2006. They were given \$10,000, roughly \$6,500 was used. They do need some kind of reserves to start booking bands about 2 months in advance, can get better prices on traveling bands if done earlier. They need at least \$7,500 to book the bands through the 15 weeks, also better advertisement if it coincides with the Chamber's fireworks. The group is trying to do \$500 sponsorships per week. Councilman Gilbert said that the town funded this project through the general fund - recreation for 2006/2007 and the remaining \$3,500 went back to the fund balance. Tim Owens suggested to once again go into the reserve fund or the tourism fund, can look at that at budget time. It is difficult for the town to administer this. He asked the Chamber

if it was donated to them if they would administer and account for it and at the end, give the town the receipts so that they might be able to get reimbursed through the TDA funds. He thinks they have agreed to do that.

**MPT Wilcox made a motion to fund the whole request, \$15,500.00, out of the reserve funds and then find places to fund these things at the budget meeting. Everyone agreed with Councilman Gilbert to have the Chamber facilitate the funds. Councilman Gilbert asked how many property owners are in the makeover area and Mr. Keeler said about 17. He said that every owner with the exception of 1 or 2 are all very much a part of it and very supportive. MOTION CARRIED UNANIMOUSLY.**

Mr. Keeler then presented two other events - Mike Chappel's skateboard event and a volleyball event on the Boardwalk beach. These were to be included with the presentation. PIRA is heavily involved in the Boardwalk Makeover and feels this is a good opportunity to do a skating awareness at the skate park. Mr. Keeler said he spoke with the Town Manager to find out if the skate park could be used and was told that any town property cannot be used for profiteering. He said their motivation was to do a skate awareness, competition and exhibition at the skate park and turn over all proceeds be donated through PIRA (Pleasure Island Revitalization Association), which is a non-profit group, back to the town's Parks and Recreation Department. March 29<sup>th</sup> is the proposed date at 9:00 a.m. through 8:00 p.m. at Mike Chappel Park. The theme is awareness and safety rules. They are working with Tony Silvagni who is connected with IBX Promotions. Mr. Silvagni said he will bring the Silvagni Benefit Surf Tournament from Ft. Fisher to the Carolina Beach Boardwalk area which is the number two North Carolina surf event. Mr. Keeler said the event would be run in conjunction with the supervision of Parks and Recreation Department and the town. Councilman Johnson said that the minutes from Parks and Recreation Committee reflect that they voted no on this event as it conflicted with other events and was too soon. Mr. Keeler said the Police Advisory voted in support of the event. MPT Wilcox he would like to see a little more dialogue in figuring out how to make something happen rather than just putting it off without any discussion on how to resolve those problems. Tim Owens asked Mr. Keeler if he was given direction to talk to Mike Bennett about the parking situation with the vendors. Mr. Keeler said he did speak with him but he also spoke with Wilmington Trolley is working on a way to trolley people from the Hotel Astor lot or the CBD lot to the park. He said there has been no feedback as yet regarding the event from Mr. Bennett. MPT Wilcox said they need to work out the issues with Parks and Recreation and coordinate it with the soccer people. Mr. Keeler said their group has been in contact with the national representative of ATO and UNCW regarding a volleyball tournament and they are very interested and supportive. They have teamed together with UNCW, PIRA, IBX Promotions and ATO to put on the tournament on April 12<sup>th</sup> on the beach in front of the Boardwalk beginning at 10:00 a.m. and ending at dusk. Proceeds will go to the Boardwalk Makeover and a portion to the ATO which they will in turn donate to the Boardwalk Makeover. The tournament will be refereed and there will be an emcee, there

will be a band, food vendors and other ancillary events. The event will be BYOB. He has spoken with the Chief of Police about Carolina Beach police presence but with no conclusions at this point. Interpol charges \$30 per hour for security for off duty uniform police, \$18 per hour for security guards - the tournament would require about 6 to 8 on duty. The location would be where the Beach Music Festival was held and they would ask for that area to be fenced off. He said it would be funded through PIRA. BYOB meaning allowing coolers and charging a cooler fee, everyone would be carded and given wristbands. He said insurance has been taken care of. He said there are roughly 18 organizations that are interested and it is doable on the one court that is available. Ted Lashley said he would be happy to discuss this further with Mr. Keeler but there are all kinds of issues associated with events that need to be worked out. Parks and Recreation was concerned with soccer practice and the lack of parking there. Wanda Barbour, Advisory Chair, said they also had some concerns and issues that needed to be addressed and hopes they will do that with the skate park - for safety. Bobby McConville, asked if the soccer association was run through the town. The Mayor said no. Mr. McConville questioned whether the town receives any revenue from the soccer association. Mayor said not that he was aware of. Mr. McConville said the skate park would bring money to Parks and Recreation. Leah Garcia, member of PIRA, said from the outset they have tried very hard to keep PISA (Pleasure Island Soccer Association) in mind and she has e-mailed Mr. Bennett numerous times with the date of the event to give him a head's up. Her company sponsors a soccer team and they fully support soccer. They have tried to be very deferential to soccer, keep everybody in the loop and work with everybody and will continue to do so. Tony Silvagni, 717 Settlers Lane, Kure Beach said safety gear and equipment would be provided, it would be a big event and would provide money to Parks and Recreation. He has a lot of networking tools for the surfing and skateboarding industry to make it happen in 50 days at the skate park and would be a great tribute to this island. Council thanked Mr. Silvagni for his efforts and involvement.

The town manager asked Council to consider moving Item #15 to the top of the public hearings. **Councilman Gilbert made a motion to move Item #15 - Consider Adopting a Parks Master Plan to the beginning of the public hearings. MOTION APPROVED UNANIMOUSLY.**

## **CONSIDER ADOPTING A PARKS MASTER PLAN**

The town's Parks and Recreation Director, Ted Lashley, opened with presentation to Council to consider final adoption of the Parks, Recreation and Open Space Master Plan as compiled by staff and Dr. Jim Herstine, Ph.D., Associate Professor, Department of Health and Applied Human Sciences, UNCW. He said the 120 page document has been on the website for a couple of months and hard copies available at the front desk for the public to read. The document takes into account all the facilities in New Hanover County, all the programs with clear direction from community, public, and staff meetings

on where they would like the Recreation Department to go from 2005 and beyond. Mr. Lashley introduced Dr. Herstein. Mr. Lashley went over the highlights of the plan such as, the expansion of Carolina Beach Recreation Center; the improvement, renovation and expansion of Mike Chappel Park; the improvement, expansion and renovation of Carolina Beach Lake Park; the design and construction of pedestrian and non-motorized vehicle transportation network; the establishment of public access sites and amenities; preservation of working waterfronts along the Cape Fear River and Myrtle Grove Sound; the construction of a small park at the southern end of town; the construction of a small park at the northern end of town; the creation and hiring of new full-time staff positions; the improvement, remodeling, upgrading, and expansion of public facilities in the CBD and downtown boardwalk area; the expansion and improvement of general cooperative partnerships and the establishment of various committees and task force such as pedestrian and non-motorized vehicular transportation steering committee, military terminal Sunny Point liaison committee, and the Federal Emergency Management Act, and a shoreline access task force. He also talked about the appointment of a Town Council liaison to the Parks and Recreation Advisory Committee.

Dr. Jim Herstein of 137 Combine Lane SE, Leland, NC, said the document was about a year in preparation after much research and input. The document gives much more detail with specific recommendations for everyone of the parks the town has as well as expansion of those facilities followed with policy and procedures. Dr. Herstein thanked the town for the opportunity to perform this service.

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

Frederick Fisher, Drill Shell Lane, said a lot of money would have to be generated by the town to pay for this. As a taxpayer he feels he is being taxed out of existence, how will it be paid for? Grants come from taxpayers and when you talk about taking money from people, Council needs to think long and hard about it.

Mike Kirkbride, 905 S. Ft. Fisher, said he feels Mr. Fisher made a valid point and one of the things he sees with respect to taxes for the island, he thinks they get a disproportionate share of what they need from New Hanover County and on that basis they need to request a lot more from the county than they are and this falls in line with that. One of the things they have seen is that Kure Beach has been able to garner 3 to 4 times as much as what Carolina Beach has been able to garner this year and need to step up to the plate with New Hanover. When New Hanover has a park bond, they need to get more than \$200,000 - that just isn't commensurate with the load of people that they take on in our park. He feels that most of our tax dollars are going to New Hanover and is not fair. MPT Wilcox said there was a recent parks and recreation summit that Wanda Barbour, Council/staff members attended and Mike Kirkbride presented the bike trail and there was a lot of discussion regarding the economics related to these parks. There were

demographics regarding income levels, people that would come here and why they would come that showed people come here because of those features. On the bike trail for instance, the calculations that come from other municipalities that have done them show that for every dollar it cost, it generates nine dollars worth of economic spin off every year.

Ann Bowman, 1335 Bridge Barrier Road, Coast Walk Association Management, said she is in total support of having this master plan for Parks and Recreation. She feels that everyone needs to see that Council also wants to support it and then we'll just dig in and find a way to make it happen and would really like to see the plan approved.

MPT Wilcox hopes that staff can get the paperwork in to the county so the town can be a part of the next funding. Mayor Macon said if he has the specifics, he will be happy to go to the county and ask for the funding.

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

**Councilman Johnson made a motion to approve the Parks, Recreation and Open Space Master Plan with the condition that the approval is not a mandate to build some of the items in the future such as the aquatics complex, sports complex, etc. that it is not a blanket approval to do all those things but they are just future projections. Ted Lashley said the plan is a guideline and not a hard set of rules. Realistically the town cannot fund a lot of the things in the plan but it can be used as a guideline. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion for a 5 minute recess. MOTION CARRIED UNANIMOUSLY.**

## **CONSIDER AMENDING APPENDIX A ZONING ORDINANCE, ARTICLE 7.2 OFF-STREET LOADING REQUIREMENTS FOR LOADING SPACE SIZES**

The town's Planning and Development Director, Gary Ferguson presented this item. Mr. Ferguson stated that at a prior meeting staff recommended that Council make an amendment to the Zoning Ordinance to provide for a waiver of off-street loading requirements for businesses in the CBD if you met a loading plan. Staff promised during that meeting to come back with another amendment to the off-street loading requirements that would address commercial properties outside the CBD which is what he is addressing tonight. Mr. Ferguson reviewed Article 7.2 of the Zoning Ordinance. The ordinance is divided into two categories: uses that handle goods in quantity and uses not handling goods in quantity. When the building is at 5,000 sq. ft. or larger you have to provide a loading space/berth. If you don't handle goods in quantity (such as restaurants, hotels, etc.) you also have to provide a loading space if it is over 5,000 sq. ft. in size.

Staff looked at other coastal communities and their loading space requirements for commercial uses. Wrightsville Beach and Emerald Isle and they use a requirement for off-street loading when the building reaches 20,000 sq. ft. Oak Island just has a loading plan. At the January 10, 2008 Planning and Zoning Commission meeting staff presented this item to the Commission and they recommended what staff considers as Option 1 which in essence upping the square footage from 5,000 to 15,000 sq. ft. for uses handling goods in quantity or not. If the building is less than 15,000 sq. ft. in size you can still be required to provide the town with a loading plan to prevent conflict on the streets, etc. This option puts a graduated requirement in based on the building size beginning at 15,000 sq. ft. handling goods in quantity. If goods are not in quantity, it goes from 15,000 sq. ft. and the first loading berth would kick in between 15,000 and 50,000 sq. ft. Option 1 also includes a provision which says that “for all other commercial zoning districts where buildings are less than 15,000 sq. ft., the loading requirements may be waived based on approval of a loading plan“ and loading plans will be submitted to Council in the event that a project is more than 15,000 sq. ft., it would be submitted to the Planning and Development Department. Option 2 does away with the concept of having on site loading berth requirements, have what is required in the CBD and Planning and Zoning Commission thought that was too lenient, so they didn’t particularly care for this option. Option 3 was submitted by David Pierce which reduced the loading space size. Currently it is 12’ x 45’, Mr. Pierce asked it be reduced to 12’ x 25’. That was not recommended for approval by Planning and Zoning Commission in November 2007 when it was requested.

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

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

**Councilman Johnson made a motion to approve a consistency statement that it is in conformance with Land Use Plan MOTION CARRIED UNANIMOUSLY.**

**Councilman Johnson made a motion to adopt Option 1, proposed Ordinance No. 08-723 (Exhibit 5). MOTION CARRIED UNANIMOUSLY.**

**CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 11 PARKS AND RECREATION, TO INCLUDE A NEW ARTICLE V PARKS ORDINANCE AND SECTION 11-42(C) LIABILITY OF USERS**

Ted Lashley reviewed the proposed ordinance with Council (Exhibit 6). Mr. Lashley said he looked at the City of Wilmington, New Hanover County, Jacksonville, Atlantic

City and Newbern to get a general idea of their park rules. Councilman Johnson wanted to know if it is currently allowed at Mike Chappell Park to have fires in designated fire pits as stated in Section 11-64. The town manager said it should be clarified "as provided by the town". Mr. Lashley said the skate park rules are set by him and the town manager which allows them to change the rules and are not actually adopted as far as the ordinance but it is designated that participants must follow the posted skate park rules. The town attorney said that in reference to the skateboard park waiver and release that it does need a little wordsmithing before it is put in final format but he will work with Mr. Lashley on that.

Wanda Barbour, Chairperson of Parks and Recreation Advisory Committee, said they met with Mr. Lashley and Chief Younginer and voiced their concerns about some of things that happen at the park. She said that years ago the skate park was put in the capital improvements plan and it has been part of the vision to provide kids a place to go. They have received calls regarding things that are taking place there. Many times she has seen that helmets are not being worn, she has seen adult skaters from across the bridge and that is not allowing younger skaters enough time to skate and they are being intimidated by the older boys. They worked on various ideas, gave input to the rules and regulations and the waiver. She submitted to Council a letter regarding the decals and suggested a \$20 annual fee for non-resident skaters to defer some of the costs and might cut down on the number of people that use the park. She stressed the importance of letting the police department enforce the rules, write citations and close the park if it needs to be. Mrs. Barbour said you have to set the standard early on especially with kids and have the safety issue addressed. The park is spread thin and needs to be taken care of better than what it is. The police department needs to enforce the rules that they all decided on.

Ms. Elaine Stewart, President of Carolina Sands HOA, said she received a call last Friday from the police department regarding a complaint from a resident about kids in Carolina Sands skateboarding in their driveway. She said part of the problem is due to the older folks using the skate park and they don't feel they can go there.

Ms. Barbour clarified that they want to close the skate park for a minimum amount of time to send a clear message about policing it themselves and taking care of it and Mr. Lashley could always use more help. Councilman Johnson asked if Wilmington has ever had to close their park. Mr. Lashley said he was not sure, that their park is staffed all the time. MPT Wilcox said he spoke with some of the people that come here and he asked them why, they said they were not required to wear safety equipment here. He said, "What if you have to?" and they said they would not come anymore. Mr. Lashley said the park is not manned, they do occasionally. They do have a budgeted position to unlock the fields - an outdoor recreation leader. He suggested having a program on Saturdays just for that age group, maybe 12 and under. Last year there was a partially funded employee who was dedicated just for the outside all the time but she had to leave early. Councilman Gilbert said if you propose closing the skate park for one or two

weeks, how do you choose what violations you close it on? MPT Wilcox said it could be serious or repetitive. Chief Younginer said if the police department went out four times in a day and no one was wearing their equipment then they could close it for a day. Then, if it continued to happen they could close it for a longer period. MPT Wilcox said there are some additional damages at the park and could close it for that reason. Chief Younginer said they can enforce the rules but they can't spend all of their time there. It is hoped that peer pressure will help stop some of the problems. Mr. Lashley feels that an outdoor recreation position, working with the police department and dedicated to being outside, not involved in any other program ... (note: inaudible). Councilman Gilbert said he had a problem with the language - violations of any of the rules, he would like to see the closing of the skate park at the discretion of the town manager. He would like to see the police department call the town manager and leave it up to him. Because it is a public park on federal land, he is concerned about closing it because of violations of a single individual and feels it is too aggressive at this point. If you can't enforce the decals then you can escalate it to the next level if it becomes problematic but they need to be tried first. If the \$20 fee is to stop people from coming over the bridge he can't support that but if it is to be used as a cost of administering the process then maybe. Right now he would like to keep the \$20 fee out until they figure out how much it really costs staff to administrate it. MPT Wilcox said he doesn't see the sticker as any kind of magic wand and doesn't mean they will wear their helmets. He feels you have to have some teeth in something and get in there early and set the tone. He's not suggesting having the \$20 fee to discourage people from coming over but to contribute to the costs of the skate park because of the immense number of people coming over the bridge, having a lot of damage and a lot of other controls including time spent by the police and recreation departments.

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

Ann Bowman, Coastwalk Association Management, 1335 Bridge Barrier Road, said she has 18 grandchildren and she takes two grandsons to the skate park and playground every weekend. She requires the 13 year old to take all pads and helmet to the skate park and she discovered by looking at the webcam that he removes everything after she leaves. She said the word is out and the kids know they have to have the helmet/pads to get into the park but that they can take it off after they get inside so the town needs to use something with teeth in it. Mrs. Bowman said there are a group of kids that are starting to complain about some older men with grey hair coming to the park to skate. They are from across the bridge and they are bossing the younger kids around and act like they are their dads and they are not wearing any safety equipment. She said they were there Sunday afternoon for about 4 ½ hours.

Dennis Barbour said he has helped Wanda (Barbour) do a lot of research to present what is before you tonight. He probably would not have been on Council if it had not been for

Mike Chappell Park and his involvement with it. He said his wife researched 15 other public parks across the United States and 90% had wording that says if you can't follow the rules, we'll close the park. That's the last resort. You have to have the threat and the ability to do it if it is necessary. There was a lot of time and effort spent to make sure it was right - the waiver form, while there may be some wording adjustments, he feels the content is what you are looking for to bring less liability to the town and more control of the park. He also feels that if the town lets the parks and recreation director, the police department and the town manager do their job you will see more control in the park. They are working with the Parks and Recreation Committee and what is in place right now has not worked. There has been damage done to the park that was never there until the skate park was put there like the glass in the score tower has been broken as well as the air conditioner. The town needs to let the parks and recreation and the police departments do their job, put rules and regulations in effect that will bring the park back under control so the issue won't have to be readdressed again.

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

Mayor Macon said he spoke to the 13 year old son of a friend at length about the older kids, whether they were a problem, whether an age limit should be set, and the boy said no and the Mayor said he got the impression that most of the bigger, older gentlemen take very great care around the smaller kids and actually help them - teach and encourage them. There will always be bad apples in every situation and there are kids that can be intimidated by the situation but, in general, if they would get over that fear that it is a safe thing to be at if you are wearing your gear. The boy said the bigger kids pick on them and they joke around and they have a good time. Mayor Macon said he has a problem with fees right now, he is taxed and fee'd out. Councilman Gilbert said he saw a policeman in a pickup truck drive into the park last Sunday, stop and observe skaters without helmets and then drive away. He asked Chief Younginer if anyone from Council had given the police department direction not to enforce the rules in the skate park. Chief Younginer said not directly, he felt the sticker thing would be done pretty soon and some rules put in. The police department has been more reactive than proactive and not making them do it all the time. He thought the sticker thing would be done a lot sooner and some concrete direction about what they were going to do such as calling the Town Manager under certain circumstances about closing the park. The longer it takes, the harder it will be for the Police Department to change how the skaters act. Mayor Macon said it would be nice if there could be some type of rotation/schedule, some specifics laid out, then it will happen. Mayor Macon asked, with regard to initiating the sticker and the waiver sequence, was he going to make it available on the weekend to make that happen, is there any kind of plan in place to facilitate the people that are going to the park? Mayor Macon thought it might be better instead of advertising in the paper that on this day you can come in and fill the paperwork out on a Saturday and make that happen, try to facilitate it as much as possible. Councilman Gilbert said he agreed, the wrap up time if you are out there at peak hours, making it available at the park at peak hours you would

hit a majority of the people and do it all at once. Mayor Macon said if it is on a Saturday, if it is advertised, you could have the parents for the under aged kids. Mayor Macon said if someone is assigned the duty of checking on the park during the day, that's something they have to do. We need to be more specific with the employees as to what is expected of them. Ted Lashley said that is a request that he has had several times about refilling that budgeted position, that's one of the primary duties that this person will have waivers with them, will be able to do waivers at the park. That person would not be tasked with any other duties. There are three recreation leaders, one director and one person out in the parks who checks the parks during rounds. He said until they get the sticker program they had not been going out there as strong as they were. The employees are not there together all the time because of having to work weekends. Mayor Macon said that maintenance could wait if there was a schedule that the person needed to run out and check the park, it could happen. Councilman Johnson asked if there was a fee structure, do they charge fees at the skate park in town? Mr. Lashley said there is a nominal fee, a daily fee he thought \$2.00 a day. MPT Wilcox said he is fine with the Police Chief and Parks and Recreation Director reporting to the Town Manager for direction and doesn't mind charging those who come on the island to use the skate park. Councilman Gilbert feels that the fee is arbitrary right now and should only be done if needed. During the budget process, try to come up with what it costs to manage the system a year for each skater that comes across the bridge then maybe it can be justified. He also said the town does not take fees from people who come on the island to use their tennis courts.

**Mayor Macon made a motion to adopt Ordinance No. 08-713 (Exhibit 6) with change in the wording to 11-64 Fires and Trash (a) by adding the words to the end of the first sentence "provided by the town". MOTION CARRIED UNANIMOUSLY.**

Mayor Macon said he would like to have a schedule of what is going to happen with the site visits, feels there are enough people between the Police Department and the Parks and Recreation Department to check it daily.

#### **CONSIDER AMENDING APPENDIX A ZONING, ARTICLE 11 SIGN AND HANDBILL REGULATIONS, SECTION 11.4(c) PERMITTED SIGNS**

Ed Parvin said this is a proposed amendment for attached signs. Currently the sign ordinance is very lenient in the amount of signage that is allowed but very restrictive in how many you are allowed. Some of the issues staff defined: one per structure, does not allow for individual businesses in a shopping mall to have signage (currently be allowed but needs to be changed in the ordinance), most businesses do not want to create a sign that covers 25% of their building. He showed examples of what is in use now and what could be used. He said some ordinances allow a larger percentage on the front and smaller percentage on the side and some have more restrictions for internal lighting vs. external lighting. No internal window signs are prohibited. Alternatives: Option 1 -

Maintain what we have now. Option 2 - Take out structure language and add in business language to address the shopping center situations. In addition, another caveat was added for businesses that have insufficient setbacks to allow freestanding signs, attached signage shall be allowed on an additional side. Staff and TRC did not vote for this one because it gave a lot of allowance for some people but leaves a lot of people out and didn't seem fair. Option 3 - Recommended by TRC and Planning and Zoning Commission. There are two administrative changes staff is looking at: In item c. adding the word "structure" in the first sentence and "and may be applied to any building face" in the second sentence. Mr. Parvin said he would like to take the word "structure" out because it goes back to the problem of a shopping center and you want to get away from that. The other addition just reiterates what is in the first sentence. This option gives you 25% to use however you want on any side you want. This option allows the most flexibility for business owners. Councilman Gilbert said this would allow for multiple signs in an area. Staff said there are places where the front façade is broken. MPT Wilcox said you could allow one sign per side of the building and use the square footage to allocate those signs however you want. Staff said they looked at that option too but TRC and Planning and Zoning Commission thought this added more flexibility for the business owner. Staff said no one is using their whole 25% and most people want some flexibility. They had originally put one, two or three signs on a side but they opened it up for more flexibility. Councilman Gilbert said it is extreme not to have any kind of limitations. Councilman Johnson feels that at 25% it will get abused. Option 4 - Allows a larger sign on the front façade with other sides being limited to a smaller percentage: 10% on front building face and 5% on all other sides. Staff said they were fine with any of the four options, preferred Option 3 but that was the concern - the number of signs. Gary Ferguson said you cannot exceed the frontage of the building, you can put 25% based on the front façade of the building and allocate that 25% on all four sides of the building. Councilman Gilbert asked Council to recuse him because any order that passes will benefit him if any of the ordinances are passes with regard to a sign permit that was issued to him is not conforming with the current ordinance. The Town Attorney said the interest with the conflict is remote, there is no readily identifiable financial gain. The Town Attorney suggested, under Option 3, sentence 2 - "The total allowable building

face signage shall not exceed 25% of the front building face and may be apportioned among any/all building faces." Staff said they would also like to remove the word "structure" from the first sentence in Option 3 as well.

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

Dennis Barbour feels that the wordage will allow much more flexibility for businesses. When you come to the wording for passing the ordinance, he would discourage limiting the number of signs. They are preparing to expand their business with about 100 feet of building frontage with two separate entrances with distinct different offerings for each

entrance. One will be hardware, one tackle. On the front of the building will be Island Tackle and Hardware and he needs to identify each entrance on each side. If you limit it to one side or the front of the building, he can't distinguish which entrance is which.

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

**Mayor Macon made a motion to adopt proposed Ordinance No. 08-727 striking the word "structure" and adding the wording "and may be apportioned among any or all building faces" and that it be consistent and in conformance with the Land Use Plan. Councilman Gilbert asked to be recused from the vote. Mayor Macon rescinded all motions.**

**Mayor Macon made a motion to recuse Councilman Gilbert from voting on the proposed amendment due to possible conflict. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion to approve the zoning consistency statement with the Land Use Plan. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion to adopt proposed Ordinance No. 08-727 (Exhibit 7) striking the word "structure" and adding the wording "and may be apportioned among any or all building faces". MOTION CARRIED UNANIMOUSLY.**

**CONSIDER AMENDING THE ZONING ORDINANCE; ARTICLE 3 ZONING DISTRICT REGULATIONS TO REDUCE THE REAR YARD SETBACK IN THE HIGHWAY BUSINESS DISTRICT WHEN THE PROPOSED COMMERCIAL USE ABUTS ANY COMMERCIAL DISTRICT**

Ed Parvin said there was a zoning ordinance adopted in 2000 that changed setbacks in Highway Business (HB) from 15' to 20' to provide a buffer from the residential zone that abuts the majority of HB area. Recently there was a Board of Adjustment case where the issue was lots that are abutted on all sides of HB have a more restrictive setback for something the town added for a residential buffer. Twenty feet is more restrictive than any other setbacks in town, 15' is as well. Most of the rear setbacks are 10'. In Option 1 - maintain status quo of a 20' HB setback. Option 2 - returning to 15' rear setback which brings back the concern of the buffer for the residential zone. Option 3 - staff recommends this option which allows for the 15' rear setback but requires type I, II, or III construction where HB abuts commercial areas. Mayor Macon said he feels it should concur with the building code. Staff said this was a concern that was brought to them by the fire marshall who thought it would be more appropriate for the closer structures to have that type of construction based on response time, the reduction in setbacks caused him concern. Mayor Macon does not feel they should be exceeding code. Staff reviewed

the text amendment to Section 3.9-1, table for dimensional standards for lots and principal structures, under Highway Business which says you would be allowed 15', or 20' if abutting a residential district, or 20' if construction built as other than type I, II, or III. About half of the lots in HB would be able to take advantage of this. Staff showed an overview of those lots.

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

Dennis Barbour, said he wanted to reinforce the recommended change. When the change was adopted in 2000 it was intended to give buffer zones between residential and commercial or business at a greater distance. They did not think it would affect the business district the way it has. There are other people who are also interested in this being reduced. To address Council's concern about the fire code, he does not believe the fire code requires it to be a I, II, or III type building for a 15' setback. He feels that should be removed or consider if a business so chooses to build closer and comply with the type I, II, or III that the setback be reduced even further than that if the setback is intended to also meet the fire code. Example: if a business wanted to meet the type I, II, or III maybe a 10' setback should be allowed or remove the type I, II, or III requirement and just go with the 15' setback. He said it would be nice if he could put a stairwell next to a type III building rather than having to take up 20 sq. ft. inside the building. Right now he is required to have two stairwells by the fire code.

Greg Reynolds of 711 Canal Drive said in his opinion it is not site specific. The building code has its rules and zoning has its rules, usually the two don't mess with each other. He would prefer to see the type I, II, or III taken out the proposal mainly because type IV is heavy timber which typically won't burn so that has been eliminated from the 15' rule. There is table 601 and 602 of the building code which addresses each and setbacks required based on the type of occupancy and type of construction. So it is taken care of in the building code. We can't do it for certain things - we can do it for certain things. From an architectural point of view and building code, typically the building and zoning code should not contradict each other and in this case he thinks it would.

**Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.** Councilman Gilbert questioned staff in his reference to the fire marshal, staff said it was Bob Weeks, Carolina Beach Fire Chief.

**Councilman Gilbert made a motion that the ordinance is consistent with the goals and objectives of the Land Use Plan and other long range planning documents. MOTION CARRIED UNANIMOUSLY.**

**Councilman Gilbert made a motion to adopt the proposed Ordinance No. 08-725**

**(Exhibit 8) with the removal of type I, II, or III, as identified in item 2. MOTION CARRIED UNANIMOUSLY.** MPT Wilcox suggested that if the police chief or fire chief have a recommendation that specifically addresses these things and can't be here, they need to provide something in writing so Council can better understand their recommendation. Mayor Macon said that, in general, he would not be in favor of something that exceeds building code requirements.

### **REQUEST TO EXTEND A CONDITIONAL USE PERMIT FOR 817 CANAL DRIVE**

Ed Parvin said Robert Collins was approved on February 14, 2006 for this project. He has a triplex at 817 Canal Drive and is asking for a one year extension of his conditional use permit (CUP) which would total three years. Robert Collins, 614 Coburn, Wrightsville Beach, said that personal and local economics require him to wait a little longer. Councilman Johnson said he has received several calls from neighbors regarding a boat in one of Mr. Collins' slips now with people living on the boat. Mr. Collins said they pay dockage. Councilman Johnson said the concern is that people are coming and going and there is a vehicle there all night and he is concerned where the sewage is being discharged and he is asking the owner to give some help there because we have a new Harbor Management Plan which addresses things like that. This would also be a consideration of his extension to look into this. Mr. Collins said he can't speak to that because he doesn't know but he can find out if he is having it pumped out or if he is discharging it.

**Councilwoman Efirm made a motion to grant the extension of the CUP for 1 year with the condition that he check into and take care of the boat situation. MOTION CARRIED UNANIMOUSLY.**

### **UPDATE BY ISLAND WOMEN REGARDING THE \$50,000 LANDSCAPING GRANT FROM NCDOT**

Jessica Keenan, 410 Atlanta Avenue and Janet Hoffer, 608 Seafarer represented Island Women. Ms. Keenan gave an update on the DOT beautification project. They received \$50,000 from DOT for a beautification grant specifically for Lake Park Blvd. They have been working closely with DOT following their guidelines to put their plan together. Staff has been very helpful and they are very appreciative. They showed overviews of their plans. DOT has very strict guidelines on landscaping materials and height restrictions for different widths as far as speed limits. The plant list has taken in these restrictions to include drought tolerant plants and native plants. Their next step is to try to get an encroachment through DOT and try to do some planting this spring. One of the biggest projects is located where the car wash is and that is to put in a berm and put full plants all the way from Atlanta Avenue to the end where the car wash is. Planting will be

done in front of The Grind on the corner and also across the street where the town has also put some landscaping in - fill in some of the bare spots there. The berm will kind of hide the car wash and try to make it match the landscaping across the street at the lake. A lot of the DOT restrictions is from the curb back, can't plant anything until about 6' from the curb so a lot of spaces they just want to plant grass and fill in all the dead grass areas. MPT Wilcox asked if any of these areas are being irrigated. Ms. Hoffer said they spoke with Tim Owens about how to get water. They are trying to pick spots where irrigation is already there. Tim Owens said it will be difficult to water those, obviously they will have to get them established so drought tolerance is very important, not sure if grass will work - will have to talk about that. Ms. Hoffer said if they can get the help of the town for the first year to get the plants established, they feel they will be okay. They would like for the grass to be an option, it would make the areas look much nicer. They know the town is working on sidewalks in front of The Grind and that whole area and they take those into consideration. Ms. Keenan reviewed the plant list, said there would be some maintenance. Ms. Hoffer said they have been working with some vendors on plant pricing. 20' of planting using plants from the list would cost approximately \$609.00 and allows for 10' back. A lot of Lake Park Blvd. only allows for 5' where they can't plant anything except grass. The guidelines allow big trees 10' back, small trees 5' from the curb, 1' to 5' from the curb only grass and this is only in a 35mph area. They showed the Unique Boutique area. Tim Owens said grass would be a challenge because of the drought conditions and would end up looking like it does now. The town is under water use restrictions and we could still have drought conditions 6 to 8 months from now. Maybe pavers could be used. Mayor Macon suggested a grant for a water truck to use waste water in the areas on the main drag. Ms. Hoffer said they could look at pavers. Mr. Owens said trucking water would be very labor intensive, said the town would maintain the areas to be planted. His biggest concern is long term maintenance. He would prefer was myrtles, stay green all year and no maintenance. Ms. Hoffer said they are open to suggestions and whatever they need to do to beautify Lake Park Blvd., they will do. Councilman Gilbert suggested talking to DOT and get their recommendation as he has done many of these projects. Ms. Hoffer said there are other areas for consideration - Last Resort, Welcome Inn, Beach Girls. There is just a strip of grass there. There is an opportunity at CVS, possible 5' area by the ABC store. Councilman Gilbert asked if the beautification grant is specific to plantings, said the corner area down by Cape Fear and Lake Park there are a bunch of newspaper boxes. Could the money go towards more aesthetic newspaper boxes. Tim Owens said probably not, strictly landscaping. Mr. Hoffer said it is just in the DOT right of way area. Their main focus this spring is the car wash area, could make a statement. Mayor Macon said he would call the car wash owner and see if they might take on the watering of the area. MPT Wilcox said Bank of America might be willing to take on some areas other than their own. Ms. Hoffer said they need to talk to some of the businesses to see what they would be willing to do even with their areas.

Mayor Macon said we appreciate your hard work.

**Mayor Macon made a motion to hear Item #20 before Item #19. MOTION CARRIED UNANIMOUSLY.**

### **APPEAL OF FEES BY PARADISE ISLAND, VII, LLC**

Attorney William Wright, representing Paradise Island, VII, LLC, spoke next concerning the Black Horn Restaurant's appeal of the facility fees assessed of 8/14/07 as part of their CUP modification. About July 1, 2007 as part of the budget, facility fees were changed from \$500 per seat to \$250 per seat. When this CUP modification came before Council in August, the facility fees that were assessed were after the change in the rate and instead of being assessed facility fees \$19,000 for the 38 additional seats, the Black Horn should have been assessed \$9,500 thus the principal basis for the appeal. They are seeking a refund for the overpayment in the amount of \$9,500. It is his understanding from listening to the transcript there was some intimation that the fees were assessed at a higher rate as a penalty for past conduct. The North Carolina law is clear facility fees are neither taxes, they are basically rents for the benefits of the use of the service, and you can't use it as a penalty. You also run the risk if you are going to use higher fees as a penalty, you're running into those red light cases when the Supreme Court said if you are going to assess it as a penalty, then that money has to go pay for public education. You are also running into an equal protection issue. I know the Shuckin' Shak came before you at the same time and assessed \$250 per seat whereas they were assessed \$500 per seat. They don't want to point any fingers at anybody, they just want to get it straightened out, get the right fee and pay that.

Also, in February 2000 this board passed a resolution for the CBD Revitalization Economic Incentive Program that allows for improvements over \$500,000 that the fees be paid over time. There are six factors involved in that, clearly this project meets them. The Black Horn has done a lot to improve the Boardwalk area, have put a lot of money into it, it's a good establishment. They also would ask that if they could get those fees back, they would pay them over a 5 year plan pursuant to the CBD Revitalization Economic Incentive Program and that money that they have could then be used buy additional parking, some beautification for landscaping around there and the additional parking that they are asking for. Councilman Gilbert asked for clarification if they had already paid the fees, they want the fees to be refunded and let them pay it over time. Mr. Wright said yes. Councilman Gilbert said that as of July 1, 2007 the fees changed, prior to July 1, 2007 they were already operating with those new seats in there. They were operating in violation of a CUP. The fees were not applied because of a violation or a punishment, they were charged because they were operating under a violation of a CUP and during their operation when all those seats were in there, that's what the fee was for that time. They came and requested an amendment for a CUP after the fact, everything was in there. So they just happened to come after the fact and request. Mr. Wright said they are not contesting the fines of \$2,850 that were put for being in violation. Councilman Gilbert said the fee structure was because they actually had those things in

place for the old fees. Mr. Wright said he understood but his point is when you granted the CUP amendment was after the fee structure had changed so it should not have been retroactive, should be prospective from the date that you grant that amendment and allowed that CUP, that is the time you should look forward and that's the time the fee should be assessed, that's \$250 vs. \$500 per seat. Councilman Gilbert said the idea is the CUP goes into place and then they put the seats in. They were already using the facility, the impact on the facility was where the old fees were. Mayor Macon verified with staff that there was a fine of \$2,850, \$50 per day. He said the \$50 a day covered the violation is what Mr. Wright is saying and then the \$250 vs. the \$500, we made him pay the \$500. The town attorney said he did not remember it being a condition of the CUP but correct him if he is wrong. Staff said they believed it was. MPT Wilcox said his understanding is that our ordinance states what our violations are, \$50 per day. It also states what our facility fees are when you are granted the CUP. Like it or not, the term punitive damages has been floated around regarding this issue and it seems like a double fine to him. You're saying our fine is \$50 a day but we're going to charge you another \$250 per seat because we don't like the point in time in which the violation was created. He knows that as a Council they can require additional general conditions on a project but his understanding of those are that they need to be reasonable, basically in the spirit of the ordinance and in the best interest of the public not to be used as an additional way to fine someone. He had some concerns when this happened. Councilman Gilbert said he made the motion and, to refresh his memory, they came at the beginning of the year to request a CUP and they were granted that CUP for X many seats. They made the decision after it was granted to put in X many more seats. They were given a CUP for a specific number of seats with the fees tied to that. They chose within that period not to go by what they were granted but to exceed that. So, it's not a penalty in his mind. They cognitively went over that. It just so happens that after July 1, 2007 the fees went down and that is when they were requested to come back and ask for amendment to their CUP. So their CUP was amended only after they had violated it. The fees were for a specific time. He wants to get the attorney started at a point where they decided on their own to violate it. It came in afterwards after they were forced to come and get their CUP amended. The Town Attorney wanted to get the facts straight. He asked if they were granted a CUP to add a certain number of seats and on their own, without the benefit of a CUP, they added additional seats. It seems as if they were caught and then came back in and said now we need a CUP for what we already have and the feeling of the majority of the Council was that they need to collect facilities fees for what you have been using. Is that a fair assessment? Councilman Gilbert said yes. Councilman Johnson said they were operating before they changed the fees. MPT Wilcox asked what if they hadn't been coming back for a CUP, what if they weren't coming back for a modification? What would you have done? Under our ordinance it allows you to fine them \$50 a day. Because they came back for a CUP modification we took the opportunity to pile on some additional charges. I don't see any place in the ordinance that allows us to do that. We could have denied the CUP. We could have charged them \$50 a day which we did. I don't see any place in the ordinance that allows us to do all of those things. Tim Owens said it is not an ordinance matter, it's about the fee and that was the Council's decision at

the time. They had started operating in a year that the fee was \$500 a seat. MPT Wilcox said they basically held them hostage with a CUP modification to get an additional fee. If it hadn't been for the CUP modification, the most we could have done was charge them \$50 a day and ask them to cease and desist. Mr. Owens said it still would have been an interpretive decision when they came back in. MPT Wilcox said that Council has the ability to revoke the CUP, he doesn't see where they have the ability to back retroactively and charge additional fees. He doesn't read it that way. Councilman Gilbert said those chairs were holding an X number of people before July 1, they were using it, and that was the impact facility fee at that time. If they were given a CUP on June 30<sup>th</sup>, they would have been assessed all those fees and it wasn't retribution or to try to inflict something on them. In January when they got their CUP if they would have said we need 100+ chairs, that's what they would have done. If they would have recognized when they put those in that they needed to go back and get an amendment to the CUP, they had months where they could have done that and they didn't do it. Mr. Wright said it was his understanding that when the inspector came in within two or three days of opening and said you have too many people and they immediately applied for an amendment but it took that long to go through TRC then to go to your board, he thought it was within five days of when the application was made. That is what the transcript read. They paid the \$50 a day fee because that is what the ordinance said. When you have a statute or an ordinance or anything along that you have prospective application and you can't go back and retroactively apply it. So it goes from July 1<sup>st</sup> and you move forward, anything after July 1<sup>st</sup> you're doing \$250 per seat or else you have disparate treatment, you have arbitrary capricious treatment, you have equal protection issues because you have other similarly situated entities who have come before you like the Shuckin' Shak. They had the same thing, a restaurant bar who were given \$250 a seat and you're making them pay \$500. MPT Wilcox said it strikes him that they are on a slippery slope when you start applying this type of a standard to this situation and then every time you turn around if somebody has a sign ordinance or they have this ordinance and whether they were being charged a violation fee or not, if a year later they come before us and want a CUP they the town has a right to make retroactive fees that aren't prescribed in the ordinance or fee structure. Councilman Gilbert said this was an infraction of an ordinance, an anomaly. The town attorney said he typically get the agendas the day before the meeting so he is processing it as he is hearing it. He would like for Council to give him a chance to work with Mr. Wright and see if they can get to the bottom of it. Mr. Owens said there are several items there, he doesn't know if they spent \$500,000, they probably did but they would have to verify that. He has paid those fees and now he is asking for something retroactive, as far as he's concerned they should stand with that. MPT Wilcox said he doesn't know what the specifics of that are, guessed he needs to read it, but there are some guidelines he assumes to be able to take advantage of that option. Mr. Owens said yes there are. Mayor Macon said he either met the guidelines or he didn't but they need to find out. Councilman Gilbert said the whole idea of it is that they're going to pay interest on this money so we're basically loaning the money to pay us back and it's been two years and he thought the period is four or five years. They are already two years in to it, so they only have three years left. When you look at it that way, if you really want to do that, his

personal feeling is they paid it, it doesn't make sense to loan it back to them and they have to pay two years up front and then they pay interest on it. It is a little counterintuitive to him. Council discussed recess dates.

Council discussed continuing this item to future dates.

Council agreed to recess tonight's meeting to February 21, 2008 at 5:00 p.m., this item to be heard first.

The town manager said that before recessing tonight's meeting, he needs to go over some grant items.

**DISCUSSION AND DIRECTION FROM COUNCIL ON THE OPPORTUNITY TO APPLY FOR FUNDING FROM NCDENR - WATERFRONT ACCESS AND MARINE INDUSTRY FUND FOR THE PURCHASE OF THE BLACKBURN SEAFOOD SITE CURRENTLY OWNED BY THE WEEKS FAMILY**

Tim Owens said there were 100+ applicants for the Water Access and Marine Industry Fund grants and Carolina Beach was selected. The first intent was to try to buy Blackburn Seafood, some of the negotiations have fallen through. He would like to consider applying for a grant to do one of several things. One, do an upland marina where the parking lot is that would be mainly transient oriented which would require a lot of planning and permitting to even get there but the grant needs to get in. The tax value of the lot alone is \$1,000,000 and probably a lot more than that with all of the frontage and boat slips. The market value for each boat slip is \$100,000 at market value. He's offering up a cash match if they can get it funded of \$250,000 from the town as an incentive for them to fund us. Total anticipated cost of the project would be \$3,500,000. They will also seek other grants to help offset our expenditure or the state's expenditure. The big thing at this point is to find a partner. We do not have one at this point with regard to the state. The state actually has to own these facilities, which he doesn't understand. The state will grant you money for other facilities but in this instance they have to find a state partner. He has asked one state agency and they said no, is going to ask another one. The involvement with the agency will be very minimal, hopefully they will contract their rights to operation maintenance, everything, to us so the town can build it and operate it as a marina for transient boaters, people who might want to live aboard. Another element is to possibly put in a mooring field, 30 or so, could be a portion of this. Also transient facilities, would need bathrooms, showers, possibly a coin laundry and finally some gazebos and some informational things for people to get some information about Carolina Beach and the area. The request has to be in by Friday. He's not sure that it will get funded as he has had a lot of things break down at the end but he needs to get it in to the state. He thinks they will be doing the grant again because of the wide array of applications, he thinks the state will fund the town again. It may actually get them into the loop. The keys are: do they want to do this project and do they want to put up

\$250,000 to accomplish it. He feels it would accomplish a lot of things identified in the Land Use Plan, Master Development Plan and the Harbor Management Plan. Mr. Owens said the \$3,500,000 figure was an estimate based on the tax value of \$1,000,000 plus 10 or 20 of the slips along the waterfront at \$100,000 apiece could possibly surpass that figure. He said the negotiations that fell through might be salvageable. Phase 2 of this project would be to continue to negotiate with property owners but it will not happen under phase 1. Phase 1 was to be the whole gamut, tear the Blackburn building down, renovate it, reconstruct it as a true marine facility, state of the art. Have some office space there for the dock master for licensing, etc. and then put the shower facilities and things in that building. Also have some small retail. It would still be a fish house. MPT Wilcox asked if they purchase the property through the grants, whatever demolition is involved would be part of that purchase price. Mr. Owens said that is not part of this grant, the Blackburn portion is not part of this grant. It might be part of phase 2 if they can negotiate but he had to have a letter of support that they would accept X amount and the property owners would not accept the amount. The state is only going to pay what the appraised value is and will look very strongly at what the cost is. The \$250,000 would have to come from the general fund. They could go less. When you match grants you have to show in kind and he's saying there is \$3,000,000 worth of in kind there because we own the land. The cash match would be the \$250,000. All that in combination could be used to secure other grants to offset the state's or our money. He does not believe there is any downside to applying for the grant. He knows there are questions about having transient slips and a mooring field but he feels it would be a huge asset to the town. The land around it would become more valuable, you could have a village marina concept with condos upstairs and shops downstairs with restaurants overlooking the transient part of the marina.

**MPT Wilcox made a motion to direct the town manager to proceed with the marina grant project. MOTION CARRIED UNANIMOUSLY.**

**REQUEST FROM THE UNC-SCHOOL OF GOVERNMENT FOR A DONATION TO ASSIST IN EXPENSES RELATED TO THE NEW SCHOOL OF GOVERNMENT WING IN CHAPEL HILL**

Tim Owens said this is a request to consider making a donation to the Institute of Government in the amount of \$595.00.

**Councilman Gilbert made a motion to approve the donation to the School of Government. MOTION CARRIED UNANIMOUSLY.**

**REVIEW AND POSSIBLE APPROVAL OF A GRANT CONTRACT WITH THE CLEAN WATER MANAGEMENT TRUST FUND FOR THE**

**IMPLEMENTATION OF THE CWMTF GRANT RECEIVED BY THE TOWN AND REVIEW AND POSSIBLE APPROVAL OF A CONTRACT WITH ENGINEERING SERVICES TO PERFORM THE STORMWATER STUDY**

Tim Owens said Council has looked at the contract with the Clean Water Management Trust Fund as well as the contract with Engineering Services. He would like to go ahead and approve and sign both of those contracts and get them implemented and begin the study. He will ask the Town Attorney to review them. They will also have to allocate \$35,000 which is the match and he requests that come from the Water and Sewer Reserve Fund.

**Councilman Gilbert made a motion to give the town manager approval to go forward with the Clean Water Management Trust Fund grant. MOTION CARRIED UNANIMOUSLY.**

**REVIEW AND POSSIBLE APPROVAL OF A GRANT CONTRACT WITH THE DIVISION OF COASTAL MANAGEMENT FOR THE REHAB OF THE TOWN'S BATHROOM FACILITIES LOCATED AT THE BOARDWALK**

Tim Owens said they are trying to that open before the summer and would prefer that Council would allow him to go ahead and execute that contract so he doesn't have to bring it back. He will run it through the town attorney. He still doesn't have the documentation but is seeking permission to execute.

**Councilman Gilbert made a motion to give the town manager direction to execute the grant contract for town bathroom facilities. MOTION CARRIED UNANIMOUSLY.**

**APPOINTMENT TO PLANNING AND ZONING COMMISSION**

Gary Ferguson said they are in desperate need of at least one member since Mike Kopitopoulos resigned.

**Councilman Johnson made a motion to appoint Beverlee Hughes to the Planning and Zoning Commission. MOTION DENIED (2-3 WITH MPT WILCOX, MAYOR MACON AND COUNCILWOMAN EFIRD VOTING NO).**

**MPT Wilcox made a motion to appoint Shawn Underwood to the Planning and Zoning Commission. MOTION APPROVED (3-2 WITH COUNCILMAN JOHNSON AND COUNCILMAN GILBERT VOTING NO).**

MPT Wilcox asked if the business community would like to bring some discussion to the

March meeting regarding impact fees, could it be put on the agenda. Tim Owens said it would be a discussion item.

**Councilwoman Efird made a motion to recess the meeting until February 21, 2008 at 5:00 p.m. MOTION CARRIED UNANIMOUSLY.**

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

Approved: \_\_\_\_\_