

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

***July 14, 2009***

The Town Council of the Town of Carolina Beach met in regular session on July 14, 2009 at 6:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor Joel Macon; Mayor Pro Tem (MPT) Dan Wilcox; Councilman Alan Gilbert; Councilwoman Pat Efird and Councilman Jerry Johnson. Also present were Town Manager Tim Owens and Town Clerk Lynn Prusa.

MPT Wilcox called the meeting to order.

***INVOCATION***

Michelle Connet led the invocation.

***PLEDGE OF ALLEGIANCE***

MPT Wilcox led everyone in the Pledge of Allegiance.

***CHANGES TO THE AGENDA***

**Councilman Gilbert made a motion to adopt the agenda with changing the order of Item #13 and Item #14. MOTION CARRIED UNANIMOUSLY.**

Mayor Macon arrived at 6:35 p.m.

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

Chief Younginer recognized Officer Darryl Collins, Police Officer II, for 5 years of service.

Gary Ferguson recognized Mary Grady, Planning Permit Technician, for 5 years of service.

***REQUEST BY SEAN WILSON OF BLACKBONE INDUSTRIES TO HOLD A SKATE EVENT AT THE CAROLINA BEACH SKATE PARK***

Mr. Sean Wilson of Backbone Industries, a promotion company which promotes positive athletic events, said they would like to have a skating event at the Carolina Beach Skate Park on August 15, 2009. It will be open to the public and no admission will be charged. The only financial transactions will be for items from vendors who will be required to have appropriate permits (privilege license). Skate contestants will be charged a \$15 fee for entering the contest with all fees going towards cash prizes. Music will be provided and acceptable for all audiences. They also have a DJ with the same guidelines. This will be a non-profit event. He showed an aerial view of the skate park and outlined where the contest will be, vendors and live music locations, power outlet, restrooms open to the public with a handicapped port-a-john available. He will work with Ted Lashley regarding trash and other logistics covered by Parks and Recreation. With Council's approval they will have the Dog Park up and running. Access will be open to all part of the park and at no time will anyone be denied any times they want to skate in between or during sessions while the competition is going on. There will be no off limit areas. Port-a-johns will be provided by Parks and Recreation. The park will be left in good condition. He said that Backbone Industries will be the last ones off the field and will make sure it is left in pristine condition. Music will be played while the skaters are competing followed by the bands. Vendors will be determined once approval has been given. All Carolina skate and surf shops will be invited with local pizza shops, ice cream shops, etc. as well. Vendors will be set up on the outline of the baseball field adjacent to the skate park. Any left over donations or revenue will be donated to the city. A donation will be asked from all vendors to go towards the city. He will work with Tim Owens on this. He is thinking of a minimum of \$25-\$35 and is estimating between 15-20 vendors. Promotions will be done by flyers distributed throughout Carolina Beach and Wilmington. Boys and Girls Clubs will be asked to attend. Ted Lashley has said he would like to have the Recreation Department youth available there who he is happy to have. Radio advertisement is being considered and local media will be asked to attend and provide coverage. They would like to have the Mayor attend and be recognized during coverage as support for the community. In summary, they are requesting the Carolina Beach End of Summer Skate Jam to be held on August 15, 2009 at Mike Chappell Park from 11:00 a.m. to 6:00 p.m. It is a non-profit event. All contributing elements will not overshadow any element of this event. The Town of Carolina Beach will be the flagship name for this event. He will work with Ted Lashley on power requirements for vendors as well and has electricity on standby. He will be working with Michelle West, Jimmy Kimball and others who have done skateboarding events before.

Tim Owens said he will work with Mr. Wilson to make sure he has insurance and make sure it is a non-profit event.

Mr. Wilson gave a copy of the insurance estimate to the town clerk that includes \$1 million dollars per incident coverage and a maximum payout of \$2 million dollars per coverage.

The town manager said he is now comfortable with everything and will work with the applicant.

**MPT Wilcox made a motion to approve Mr. Wilson's request for the Carolina Beach Skate Park event to be held on August 15, 2009 subject to the conditions the town manager sets forward. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER A REQUEST TO HOLD A FARMER'S MARKET AT THE GAZEBO STAGE ON SATURDAY, BEGINNING JULY 25<sup>TH</sup> UNTIL SEPTEMBER 26<sup>TH</sup> FROM 7:00 A.M. TO 12:00 NOON***

Ken Badoian, member of Arts and Activities Committee, 8123 Bahia Honda Drive, Wilmington, proposed a farmer's market and would like to reserve the dates July 25<sup>th</sup> through September 26<sup>th</sup> at the gazebo. He has done the research and tried to do it last year. He helped start the one in Wilmington and feels the island could use one. He has investigated the insurance which is \$100 a day, \$1 million plus \$2 million but will try to find it for less. There are a series of steps to make sure everyone is certified agriculturally and before he would jump into this, he would be sure it is done right. It might not fly until the first week in August with 5-10 people the first year and hopefully the event will grow next year - more formalized with more advertising. This summer would be a trial period to see how many people will attend. It would be held on Saturdays from 7:00 a.m. to 12 noon. He is asking for this as a personal thing but not under Arts and Activities. It would only be food and flowers, no crafts. He would like to do it under the Arts and Activities but they didn't have a quorum last month. He would like to eventually set up a 501c, non-profit, so they could build up an advertising budget, have a plan of action developed.

**Councilman Gilbert made a motion to approve the request for a farmer's market from July 25<sup>th</sup> through September 26<sup>th</sup> from 7:00 a.m. until 12 noon.**

Mr. Badoian said he e-mailed the plan to the town manager. Mr. Owens said he received the plan today and has not passed it out yet.

Councilman Gilbert said he doesn't feel it is reasonable for the town manager to run the farmer's market. This is a private venture on Mr. Badoian's side and the concept is on him.

MPT Wilcox said he has no problem with the concept but we are talking about food products that people consume and he would like for Council to give a nod but have him come back with an operational plan and all the details before approving the event.

Councilman Gilbert asked if it is reasonable for the town manager be responsible for reviewing Mr. Badoian's operational plan and go forward without waiting until another council meeting.

Mayor Macon said he didn't see any problem with Council giving the general approval for a farmer's market and let the town manager work out the details and if he doesn't feel comfortable he can bring it back to Council. Perhaps the Arts and Activities Committee would have a quorum at the next meeting and they would like to run with it.

**MOTION CARRIED UNANIMOUSLY.**

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

Joel May said he feels he is misrepresented on the agenda; he is not requesting participation. He wants to make clear that he is here representing a contractual obligation that was entered into by the Town of Carolina Beach with Anchor Bay Condominiums for an easement to put in a drainage system on their property and he wants the town to fulfill the obligations of that contract. The last paragraph on page 2 of the easement contract states, "said party of the second part covenants and agrees that it will indemnify and save harmless the party of the first part from all damage growing out of, or in anywise connected with the use of this easement, or by any other person making use of same under contractual agreement with the part of the second part to carry out the intended purposes hereinabove stated, and return the land to its original condition as practicable." The photographs made by the town manager do not in any way represent the problem that is growing at the outlet of the drainage. There is a bloom of drainage sediment that is seen at low tide which is entering into the access area for the Anchor Bay Condominium slips. The silt has built up to a point where they do not have access to those slips. On the south of there, there are four other slips that have no access problem because the sedimentation from the drainage ditch has not encroached to that point. If you move forward to the north, you can also see a significant indentation of deep water as you go away from the drainage ditch area, clearly seen a bloom of sediment coming from the area of the drainage ditch. The sediment is causing two problems, one is access to their slips and the second problem is that, as a result of deferred maintenance of the bloom of sediment from the drainage ditch, they are now having encroaching grasses going into the access area of the slips. As a result of CAMA rulings that are on the books now, you cannot cut those grasses back if they grow in. They are in danger of permanently losing their boat slip access because the grasses are beginning to encroach into an area where the CAMA regulations won't allow dredging after a certain point of time. CAMA regulations only allow dredging within 10 feet of the grasses. The owners of those four slips are in danger of a financial loss to their property. Five years ago he began a discussion with the town about taking care of these slips, the problem that was occurring at that time. This has been an ongoing thing and feels he and the problem has been ignored. He stressed the urgency because they are in a position of losing that access to those slips unless they do something very quickly.

Mayor Macon asked the town attorney if he has had an opportunity to look at this in depth.

MPT Wilcox asked if the town attorney would explain the last paragraph of the contract.

Steve Coggins said he had not had an opportunity to look into this matter.

Mayor Macon said Council needs to see their pictures that show what Mr. May is talking about and bring them to the July 28<sup>th</sup> meeting.

Mr. May said he would take pictures that would be representative of the condition of the location.

Mr. Coggins requested photographs and some kind of documentation as to when the slips were put in, the permitting that was obtained from CAMA or the town. The document Mr. May is referencing is dated in 1986.

Mayor Macon said the building was permitted in the early 80's, structure built in 1985 and the slips around that time.

Mr. Coggins said he takes it that Mr. May has done some investigation in what would be involved in dredging and permitting.

Mr. May said he does not have any bids at this point but has talked to 3 dredging companies who have not gotten back to him with bids. He has not applied for a dredging permit. The permit that they need is not difficult to get. He does not believe it has been dredged before.

Mr. Owens said he will look into this and would be glad to work with Mr. May on some of the things mentioned and get it to Council before the July 28<sup>th</sup> meeting or August meeting.

**Mayor Macon made a motion that Councilwoman Efirm be excused from voting on this matter. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion to continue this item to July 28, 2009 at 5:30 p.m or soon thereafter. MOTION CARRIED UNANIMOUSLY.**

#### ***DISCUSSION AND CONSIDERATION OF AN ISLAND SHUTTLE SYSTEM***

**Councilman Gilbert made a motion to table this item to the end of the meeting. MOTION CARRIED UNANIMOUSLY.**

#### ***TOWN OF CAROLINA BEACH COMMITTEE REPORTS***

Elaine Stewart, representative of the Arts and Activities Committee, said they have received some resignations from the committee mostly because these individuals were on

the Boardwalk Makeover Committee and are very busy - John Garcia, Dava Villapiano and Laura Pender. They need 3 applicants.

Lynn Prusa, Town Clerk, said they would have to wait until the meeting on July 28<sup>th</sup> to be considered for appointment.

Ms. Stewart said they have 2 more dates that have already been approved for Art at the Seashore in the Coves, July 25<sup>th</sup> and August 22<sup>nd</sup>, and 2 dates for the lake, July 19<sup>th</sup> and August 16<sup>th</sup>. A new project that is being discussed is a dog show for October 17<sup>th</sup>, National Animal Safety and Protection Month, which would tie in. They have connected with Jeannie Mintz and her program to rescue animals. They would like approval for that date which is on a Saturday with a rain date the following day on Sunday. With approval of the date they would bring the details of the event for approval next month. The event would be at the lake.

Councilman Gilbert said he would like to have a discussion about reserving properties through the Parks and Rec Department and then going forward with it, a policy for how we rent these facilities.

Mr. Owens said they are going to pull together a written policy for doing that.

Jeannie Mintz, representing the Arts and Activities Committee, said they would like to have a Salty Paws Fall Festival every October around the lake. It would be a big crowd puller. A vet is interested in coming to do micro chipping on site for ½ price and the money goes back to the charity; the aquarium regarding sea turtles; Friends of Felines group; Cat Adoption Team; Adopt an Angel; Animal Control to talk about what to do with your pet during a storm; use of the disaster trailer; discussion on spaying/neutering and puppy mills; pictures of pets; vendors; prizes. It would become a family affair. They would like to see a beer and wine garden if they can get it that far. They would like to charge a \$5 admission to use towards setting up feral cat programs, education, spay/neuter programs on the beach as well as help the sea turtles project and other nearby projects. They have a 501(3)c and they would pay for the insurance.

**Councilman Gilbert made a motion to approve the concept of a dog show for October 17<sup>th</sup> at the lake. MOTION CARRIED UNANIMOUSLY.**

Ms. Stewart thanked Council and the town manager for approving the stop signs at Carolina Sands and they are actually working. She also thanked Chief Younginer for putting together a community watch at Carolina Sands.

### ***PUBLIC DISCUSSION***

None.

***ADOPT THE CONSENT AGENDA***

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

Approval of the minutes:

Special Meeting	April 13, 2009
Special Meeting	May 25, 2009
Regular Meeting	June 9, 2009

Set a public hearing date for August 11, 2009 at 7:30 p.m., or soon thereafter, to consider a request to rezone approximately 0.9 acres from R-3-R-1. Properties: 600, 602 and 606 Harper Avenue (PIN: 313010-36-0861-000, 313010-36-0981-000 and 313010-26-9869-000).

Set a public hearing date for August 11, 2009 at 7:30 p.m., or soon thereafter, to consider a request for a Conditional Use Permit to expand the existing Island Kite and Surf Shop from one (1) unit to a three (3) unit multi-use facility located at 207 and 209 Lake Park Blvd. South and 106 Fayetteville Avenue (PIN: R09006-035-004-000, R09006-035-005-000, R09006-035-006-000).

Approve the amended schedule as presented by the NC Department of Cultural Resources to amend the municipal records retention and disposition schedule in compliance with GS 132-3(a) and 141-4(b).

Approve submittal of applications to the NHC TDA as presented for expenditures to include expenses incurred for donations to the Chamber of Commerce and Boardwalk Makeover and a separate application for projected lifeguard expenses.

Approval of the following requests for budget year-end transfers and amendments:

Identified in the spreadsheet herein are three year-end budget transfers which needed to be completed for budget year 2008/2009. I have attached the listing for your notification.

Also, several projects were not completed in the 2008-2009 budget year those monies need to be brought forward into the 2009/2010 budget. The projects and amounts are as follows:

Boardwalk Makeover Monies-	\$17,600
Drug Seizure Monies-	\$14,593.26
Streetscape Project-	\$ 2,035.00
Marina-Transient Slips	\$18,000.00

In addition to the incomplete projects there are two new items which need to be addressed. The town received a grant from FEMA to elevate a home at 1117 Carolina Beach Avenue North. The total grant is \$148,360 of that amount \$133,524 is to be paid by FEMA and the balance of \$14,836 is to be paid by the homeowner. We need to record this grant in the current budget year.

The transient slip project was not completed in the prior year, there is approximately \$50,000 needed to complete the project. Therefore, an amendment is needed to accomplish this. I have included a journal entry listing of all the items discussed in the memo along with any paperwork I received. If you have any

questions, let me know. As you know, the transfers only require your notification while the amendments need your approval.

**Town of Carolina Beach  
Year-End Budget Transfers & Amendments  
For the Meeting Held on 7/14/09**

<i>Budget Adjustment</i>	<i>Budget Amend</i>	<i>Account</i>	<i>Account</i>	<i>Debit</i>	<i>Credit</i>
<i>Description</i>	<i>#</i>	<i>Number</i>	<i>Description</i>		

<b>Year End Transfers</b>					
Police Department	72	105100.10	401K	2,300.00	
		105100.02	Salaries		2,300.00
	73	105100.16	Maintenance/Repair Equip.	30.00	
		105100.14	Travel & Training		30.00
Fire Department	74	105300.05	FICA	60.00	
		105300.02	Salaries		60.00
<b>Amendments</b>					
Boardwalk Makeover Monies	1	253900.00	Fund Balance	17,600.00	
		256300.60	Boardwalk Makeover Donation		17,600.00
FEMA Grant	2	103450.01	FEMA Grant-House Elevation	14,836.00	
		104910.47	FEMA Grant-House Elevation		14,836.00
Drug Seizure Monies	3	103990.00	Fund Balance	14,593.26	
		105100.60	Drug Seizure Monies		14,593.26
Streetscape Project	4	103990.00	Fund Balance	2,035.00	
		104100.48	Streetscape Improvements		2,035.00
Transient Boat Slips	5	253900.00	Fund Balance	18,000.00	
		253900.00	Fund Balance	50,000.00	
		255500.74	Marina Capital Projects		68,000.00

Approve job descriptions for Public Works Director and for Utilities Director and a pay grade of 25.

**MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 8 LICENSES AND BUSINESS REGULATIONS, ARTICLE IX SIDEWALK CAFES TO ADDRESS OPERATIONAL PARAMETERS***

The town's Senior Planner, Ed Parvin, presented this item. Mr. Parvin said this item has been discussed for the last several months originating with Brett Keeler in April. Staff's recommendations regarding the CBD/Boardwalk, the areas of pedestrian ways not adjacent to a street - the boardwalk proper, is that platforms should not be allowed because (1) it doesn't appear to slope drastically enough to require leaving the platforms down, (2) the one platform we have doesn't seem like it is being manager in accordance with the ordinance, (3) according to Laurel Wright with the Department of Insurance the platforms have to be handicapped accessible which this one is not, and (4) the platform currently exceeds the size requirements which has to have a 4' clearance pedestrian way. Also no barricades should be allowed for people to congregate behind. If platforms are not allowed, staff recommends that barricades should not be allowed as well. Obstructions, if they are allowed by private business, should be limited or prohibited. If sidewalk cafes are continued to be allowed that they be limited to 3' measured from the edge of the building. 3' from the edge of the building on the boardwalk areas would give you about a 5 ½' walkway clearance. Most sidewalk cafes in other communities require 5'. That would allow you to keep a sidewalk café on the boardwalk proper - Carolina Beach Avenue N. where Blackhorn is, Cape Fear Blvd. east of the Gazebo and the walkway adjacent to the oceanfront. (Pictures were shown.) CBD sidewalks adjacent to a street, most of which are 8' in width, staff is recommending that sidewalk cafes be prohibited based on the current ordinance which requires a 4' clearance. If Council wants to continue to allow them, they can do that but the area would have to be reduced from 4' to 3' which is the bare minimum for ADA - the pedestrian clearance. They are also recommending no barricades for the same reasons as before. If the barricades are kept there is no way you can have an accessible sidewalk café on an 8' sidewalk. There is a 2' buffer zone where there are light poles, meters, signs and car overhangs which average about 2' into the sidewalk. If Council wanted to continue to allow them they could take away the barricade requirement and it would work. Right now we require 4' in the pedestrian way under the current ordinance, which would have to be reduced.

Mr. Owens said he thought the table height would have to be lowered to meet ADA requirements. Mr. Parvin said he would have to check that out.

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

Shawn Cook, representing Shuckin' Shack, 6A N. Lake Park Blvd., said he came to the last meeting where it was tabled and he wanted to speak on it. He initially thought it had to do with the problem of people pouring out onto the sidewalks and people not being able to get by. At the last meeting where it was tabled was the first he heard of the ADA requirements. He went out and did his own measuring and took pictures. The buffer zone of 2', the lamp post only sticks out 16". The signs that are in the way, they don't regulate what the signs say and he doesn't understand why they are there. The buffer

zone for people parking SUV's is 2' and combined with the 16" for the lamp post gives them an extra 8". By law a car bumper is not allowed to impede a sidewalk. He doesn't know who enforces that. They would lose a lot of revenue by having to pull those tables in. Also, right up against the wall there is another 4" where they could move the table closer. He would like to eliminate the barricades. This would give them 4 ½' which he chalked out. They would be fine with no more than 2 people at each table to be able to keep that seating. He said he just wanted to be clear that there is more than 3'.

Brett Keeler, 15 Caroline Beach Avenue N., representing Blackhorn Bar & Kitchen, gave a synopsis of history of the platforms/sidewalk cafe - opened in December 2005, came before Council spring of 2006 regarding the matter and because of a 5" slope the owners felt it was unsafe and requested platforms which Council agreed to as long as they left 4' in the center of the boardwalk. The platforms were approved by Planning Department and the town manager. From what he saw from the accessibility on the picture they have 4 ½'. In the original ordinance they had to take up the platforms every night at 11:00 p.m. and they could be put back down at 8:00 a.m. the reason being that the Operations Department was driving down CBAN to pick up trash. Now that is not a real issue because they are not able to drive there because of obstructions. The reason this was brought up was because they did not want to have to continue to lug those 7' x 6' pieces of platform which weigh 60 lbs. requiring several people to remove them and there is no real traffic between those hours. The platform where staff alluded to the ADA, yes it is not ADA accessible but from his understanding of ADA is that you have to afford the same type of service and they have a back deck which affords the same service as the platforms on the boardwalk proper. If the question was posed to Laurel Wright in the correct manner, staff would have also said that they do have seating outside with table service on the Woody Hewett area. The barricades are there for a reason so that it is not a tripping hazard. If you have the platforms, you have to have the barricades to keep pedestrians from tripping. It has been in the ordinance since they began business and because of the work they have done to better their business and better the Boardwalk, involvement with the Boardwalk Makeover, to bring people down, now they are being penalized for bringing that congestion. People enjoy sitting outside and they feel that is what they should have, it is part of their business plan during the summertime. The 3' from the edge of the building, it's understandable on the Lake Park area because the sidewalks are so small, but in the boardwalk proper where it is 20' in front of them, 3' is very small and not comfortable. It's a two-seater. If you want to have a family dinner, 4-8 people, and do it with a 36" table, that's not feasible. He doesn't understand why the whole issue was whether or not they would have to pick up the platforms and take them in at night at 11:00 p.m. when there is minimal traffic and put them back out at 8:00 a.m. When it was originally put in use in 2006, Councilwoman Eford put it in as a sunset clause. They have passed that sunset clause and there have been no problems with it.

Gary Ferguson said that staff did present the question regarding platforms to Ms. Wright saying there was an outside deck available for ADA in the back and she said that the front platform area would also have to be ADA.

Alicia LaChance, 102 Carolina Sands Drive, said that several weeks ago she took some photos of the Shuckin' Shack and sent them to Ed Parvin and also of Pop's hotdog stand. The Pop's stand has less clearance than the Shuckin' Shack or The Dive with the big plastic dog sticking out and the trash can and flower arbor at another business and there is a photo she took of a gentleman standing there and there was room for one person which is basically what Mr. Keeler has there. The point she is making as a resident is that she feels they are picking on certain businesses and The Dive and Shuckin' Shack are at the end of that. If we are going to do it, we need to do it all the way around so it's fair just as you discussed with the Blackhorn. She has ridden for the last month doing a north end and boardwalk and skate park subcommittee that she chairs for the Police Advisory Committee and she has yet to see one table on those platforms or one person on there and she has been out until 11:00 p.m., 12:00 a.m. to 3:00 a.m. so the back deck is packed and I'm all about everybody having a good time but she thinks you have to be fair. Hopefully that is your general consensus. As far as Lake Park Blvd. goes, you can't just look at the Shuckin' Shack and The Dive, you have to look at the other businesses that have items out there that are protruding as well. The photographs are here and if they could be pulled up you would see what she is talking about and they actually do have less room than the Shuckin' Shack and The Dive.

MPT Wilcox said that is the next item on the agenda, the town is looking at both of those - structures, signs, merchandise, sidewalk cafes. The Shuckin' Shack and The Dive were just examples.

Ms. LaChance said she was using Pop's as an eating establishment, same as Britt's Donuts - it increases the biggest bottleneck on the boardwalk. She loves Britt's Donuts and will stand in line for an hour. It is a huge pedestrian issue. She just asks that they look at it fair to everybody. She hopes they would set a guidelines for the entire boardwalk business, a maximum square footage that any business can come out for a restaurant or sidewalk café and you would do the same for Lake Park and not just centralize that on these sidewalk cafes. It would be a generalization of all businesses.

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

**Councilman Gilbert made a motion to approve Ordinance No. 09-804 with his interpretation that the platforms would go away per the ordinance referencing obstructions and that the existing cafes would be able to operate with an impact meeting the distance requirements as defined in the ordinance.**

MPT Wilcox asked if the ordinance requires for the table and chairs to be pulled in.

Mr. Ferguson said in the evening, yes, and put out the next day - that's in the existing ordinance as well.

**MOTION DENIED 2-3 WITH MAYOR MACON, MPT WILCOX AND COUNCILWOMAN EFIRD VOTING NO.**

**MPT Wilcox made a motion that with regard to the boardwalk area, he really doesn't care about the platforms as long as we have the clearance and maybe if we are asking the applicant to compromise, we could compromise a little bit and provide for a 4 ½' clearance but not make it from a 3' buffer zone but from wherever the actual elements or fixtures were or make the buffer zone 2' or whatever it is, and he thinks it is 2' pretty much all the way down. So the motion would be that we would do Lake Park Blvd. as staff recommends, 3' for the café with minimum 3' clearance and whatever is left over is for the café, and for the boardwalk we would not require the platforms to be removed but we would require a 4 ½' pathway and whatever is left over would be for the establishment and stanchions would have to be within that area if they use stanchions (Exhibit 1).**

Councilman Gilbert asked for clarity, so you're saying they don't have to remove the platforms but they do have to have stanchions out there to outline.

MPT Wilcox said if they have platforms then they have to have stanchions but they can be within the platform area - it doesn't matter where they are as long as there is a 4 ½' clearance.

Councilman Gilbert said, with respect to staff, these would not be ADA compliant with his interpretation of the question.

Mr. Owens said they would have to be.

MPT Wilcox asked with wheelchair access to the platform or is there a certain distance around the table that is required for the wheelchair?

Mr. Owens said he didn't know if you have to be able to get all the way around the table or just on one end and that is something they will have to find out and if it doesn't work with the platform then, obviously, you can't use a platform. They will have to figure out all those issues before they are asked to cut down their platform.

Brett Keeler said that Councilman Gilbert commented that they haven't been managed well. For about a three month time period the police officers that were on beat told them that they didn't have to worry about it and we only started doing it again when he was called by Mr. Owens and Mr. Ferguson to start doing it again.

Mayor Macon said he appreciates that but they don't have that authority but he will say this, he thought he was talking about insurance.

Mr. Keeler said that would be easy to put that on. With regard to what Ms. LaChance said about not using tables, they have been and there has been a huge turnover out there. They are used a lot.

Chief Younginer said there have been very few tables out there except for the last couple of weeks when it has been busy but it is empty most of the day.

Mr. Keeler said his response to that is because the last time they went through a CUP modification they were limited in the amount of outdoor seating they had and Councilman Johnson took them down from 22 they asked for to 16 because they weren't given the seating on the rear deck and now that they have taken their CUP away, they are still allotted those 16 outdoor seats so they flip flop them back and forth so as not to go over the amount of outdoor seating they are allowed depending on what is being used on the other side and when people request that seating.

Mayor Macon asked to clarify what MPT Wilcox is saying on the Lake Park Blvd. stuff - the stanchions would not be required and MPT Wilcox said that is correct.

MPT Wilcox said that on Lake Park Blvd. they would still bring in their tables and chairs. On the boardwalk, part of his motion would be the platforms could stay and they would still bring in their tables and chairs. This is a compromise and they can look at it again if it doesn't work.

**MOTION CARRIED 3-2 WITH COUNCILMAN JOHNSON AND COUNCILMAN GILBERT VOTING NO.**

***CONSIDER AMENDING THE TOWN CODE OF ORDINANCES TO REDUCE THE AMOUNT OF PUBLIC SPACE TO BE USED FOR THE DISPLAY OF GOODS AND MERCHANDISE***

Gary Ferguson presented this item. He stated the ordinance before Council was presented June 9<sup>th</sup>, tabled June 9<sup>th</sup> and June 23<sup>rd</sup> and is back before them. It speaks to displaying goods, items, commodities for sale on the boardwalk or any sidewalk. The current ordinance has two basic rules that go with it. The first part speaks to the distance the commodities, items can be protruding out from the place of business onto a public sidewalk/boardwalk. Currently that distance is 3'. The proposed ordinance limits it to 1'. In addition, there is a provision that speaks to the amount of time that these items can stay out which is 4 weekends per year. Staff is recommending deletion of that provision. There is also one other provision in this ordinance Council should be made aware of and that is the placing of such commodities, materials and goods out for sale or display would be limited only to the CBD which is a new part of the ordinance that wasn't actually in the existing ordinance. Those are the three big changes to Section 15-37.

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

Duke Hagestrom, 920 Riptide Lane, commended Councilman Gilbert on his sense of fairness in looking at this and making sure that when we take a look at our ordinances that it is applied fairly across the types of businesses. Because he doesn't operate a

restaurant maybe he shouldn't be allowed the same amount of display space, he doesn't know that he necessarily agrees with that. The title of this item is to consider amending the Town Code of Ordinances to reduce the amount of public space to be used for the display of goods and merchandise. He feels that an amendment like this fails to address the unique nature of different areas across the town. A 6' sidewalk along a busy roadway is distinctly different than a 20' wide pedestrian area. He has heard of complaints of foot traffic bottlenecking in the boardwalk area but he challenges whether or not those who complain understand the nature of what he essentially considers to be a pedestrian mall. Retain consultants would be quick to let you know that the goal of a pedestrian mall is not to quickly get you to the anchor stores but to have you meander past all of the businesses and to maximize your exposure to the entire mall. Other narrow areas in town have unique circumstances that may or may not lend themselves to displays on public property but he cautions them about passing a blanket ordinance when a bit of unique display in appropriate areas may better serve the public interest. This is a bit of a stretch of going from display of items but an example of something that might serve public interest is they currently have a rule that doesn't allow you to have flashing signs. In a pedestrian area a flashing sign might be very appropriate because it doesn't distract traffic which is why they are not allowed along main roadways. It may be that enhancement to that pedestrian area and obviously flashing signs must be being allowed because if you walk by the carnival there are plenty of flashing signs going on down there. For 6 out of the 7 years he has had a business on the boardwalk, he has been allowed to have a display on the sidewalk. He has been thanked for bringing life to an otherwise Spartan area. Now that 6 years of effort are slowly starting to pay off and the boardwalk is getting more foot traffic, businesses are asked to stop doing the very things that have allowed them to build momentum. He thinks they are making far too much out of pedestrian congestion. The pedestrian congestion is limited to one to two hours per evening. Most of the day there is plenty of room for people to walk through there. Fireworks night it gets pretty congested but isn't that a good thing? Won't retailers tell you that if you have pedestrian congestion it is going to increase your sales, people will stop and take a look at your business and want to enjoy what you have to offer. So because maybe you personally want to get through the boardwalk area quickly, doesn't necessarily mean it is in the best interest of that particular area. Maybe a little bit of congestion is a good thing, maybe they'll stop and take a look at our businesses. He has to say thank God we finally have people down in the boardwalk, it's been a long time coming and we are so excited they finally came. He hasn't heard anybody say it is a public safety issue that people are tripping and falling, pushing and shoving and trying to knock each other over to get through there. People are on vacation, having a good time and are generally patient. He is a little disappointed that the town chose July 3<sup>rd</sup>, the heart of the season, to address these issues. If what businesses have done for the past 6 years was acceptable, at least give them the rest of making it through this challenging season and then address the issue. Let's talk about it in the off season. Take some pictures, form a committee, think big picture, revisit the ordinances within the context of where they should or should not apply. We finally have people on the Boardwalk. We finally have some business - let's not ruin a good thing. Let's figure out how to work with the businesses that bring people here.

George Connett, 1321 Cabot Court, said there are a lot of cross conversations going on around here about this boardwalk. The boardwalk has come alive and done a tremendous job. He doesn't know where to compromise. He thinks permanent structures should not be allowed. He thinks traffic flow should be looked at before anything is taken up or taken off. There are some definite bottlenecks down there. He hears them talk about the snow-cones and Britt's and thinks it is a wonderful thing they are standing out in a line. People stand and talk, people move and people say excuse me and walk through the lines so it's not a permanent structure and he doesn't see a problem with all this. He loves to see all those people standing around. He doesn't know if some of these structures should be allowed down there but he thinks all this conversation tonight that really and truly they need to go down and look at what they really need to do because it is for the people and it is down there and we brought them down there but there has to be some kind of advertising so to speak for the merchants to be able to put something out there to draw those people in we bring down. It's up to them to bring them in the store, we got them down there.

Alicia LaChance, 102 Carolina Sands Drive, said back to her earlier comment she would like to reiterate that just as Councilman Gilbert has stated, if you are going to give the restaurants a certain amount of feet, you need to give the businesses. How can you discriminate against a retail shop and a restaurant? She has lived here for 6 years and typically people outside the bars at 11:00 p.m. are severely intoxicated. She never sees that at Britt's Donuts and or at the snow-cone place. If you are going to deal with it, give everybody the same or give nobody anything. The boardwalk is booming right now and when you are looking at this and picking on the businesses, Mr. Owens has a photo of the carnival rides sticking out 3 1/2' to 4' so you need to address that as well.

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

**Councilman Gilbert made a motion to table this issue and give staff direction that if distances are going to be considered that it be equitable to merchandisers and café owners.**

There was a discussion among Council about the distance that would be required and what would be permitted in that distance - merchandise only or the people standing in it. Some members of Council felt it should be studied further because there are too many unknowns. Some too felt this isn't an issue. If we don't change the ordinance it would be 3 1/2' with time restrictions. The town manager said he would like to see the time restrictions lifted.

**Councilman Gilbert amended his motion that this ordinance rescind the time requirement in the permit and allow them to come out 3' in the interim of reviewing this.**

The town manager asked if Council wanted to allow rental to the 3'.

Councilman Johnson asked wouldn't it be simpler to go ahead and approve the ordinance using the same language as the ordinance we just approved? Wouldn't that cover all these places?

MPT Wilcox said if you allow merchandise 4 ½' in the walkway and people standing there looking at it wanting to buy it then we are not going to have any walkway.

Councilman Gilbert said this was never an issue in this town.

Mayor Macon asked Councilman Gilbert to clarify his motion.

Councilman Gilbert said he doesn't know if projecting the ordinance in place now on rentals what harm or benefit it would do but we have an ordinance that says 3' on the sale of goods and doesn't know why we want to bring rentals into it. We have an ordinance that was never enforced with respect to permit and time, it wasn't an issue.

The town manager said, in his opinion, since rental items aren't listed in the ordinance, then they are not allowed on the sidewalk. That was what he was trying to get at that they would now be allowed on the sidewalk 3'.

Councilman Gilbert said he thinks the ordinance should mirror what we just allowed for cafes.

**Councilman Gilbert made a motion that what is allowed for rental and sale, allow the same accommodations as the cafes (Exhibit 2).**

MPT Wilcox said you are talking about 4 ½' on each side and a 2'-3' buffer and 2 ½' walkway left on the boardwalk and he feels it is a huge mistake.

Councilman Johnson said this seems fair across the board to each and every merchant.

Councilman Gilbert said if it is a mistake then we'll address it.

Councilwoman Efird said as good a season as we have had so far she doesn't feel we should even have to discuss this.

**MOTION CARRIED 4-1 WITH MPT WILCOX VOTING NO.**

The Town Planner asked for clarification, there will be no time restrictions on this and it will be rental and sale items and will project out as far as cafes are allowed to project out. Councilman Gilbert said that is correct.

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

Mayor Macon called the meeting back to order.

***CONSIDER AMENDING THE ZONING ORDINANCE TO ADDRESS THE TYPES, STANDARDS AND DEFINITIONS FOR ALL TYPES OF EATING AND/OR DRINKING ESTABLISHMENTS IN CAROLINA BEACH***

**Mayor Macon made a motion to table this item to the September 8<sup>th</sup> meeting. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 7(6) OFF-STREET PARKING AND LOADING REQUIREMENTS***

The town's Zoning Administrator, Jeremy Hardison, presented this item. He said staff is proposing the following amendments, "Required off-street parking spaces and loading spaces are permanent areas and shall not be used for any other above ground purpose." This is referring to regulation of required parking so that space is open for patrons of the business. If you have excess parking for a business, it does allow for things such as merchandise, signs in that area or selling of goods such as a produce stand or stormwater runoff in your design for excess parking. Before the required parking those types of activities would not be allowed. Special events would allow for use of those parking spaces. This amendment regulates required parking making sure it is being used just for parking. Surplus parking may be used for whatever is in the boundaries of the ordinance.

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

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

**Councilman Johnson made a motion to adopt Ordinance No. 09-801 (Exhibit 3) and is in compliance with NCGS 160A-383 the adopted Land Use Plan. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 11 SIGN AND HANDBILL REGULATIONS, TO ADDRESS BANNERS***

Mr. Hardison presented this item. This amendment specifically addresses the use of banners with our sign ordinance. It came about from the business community who want additional signage of their businesses for advertising. Under the current ordinance the square footage requirements is 20 sq. ft. and the proposed is 30 sq. ft. Display for a specific time currently is 4 weeks per year and the proposed would have no time limits on banners and would require a permit every year. Height allowance is currently 5' in height and the proposed would be 10' in height for a freestanding sign or self-supported post. Currently the number of banners allowed is one per lot and the proposed would allow one per business. Placement of banners currently requires a 10' setback. It can be

attached to a building, free standing, self-supporting pole, and must be outside the sight triangle. The proposed amendment would require a 5' setback. Permit requirements would be the same except the \$25 for the permit would be required yearly under the proposed. Banners must be maintained in good repair or removed. He reviewed the types of signs and showed pictures. Staff is proposing the addition of a "feather sign", the definition being "a device constructed of cloth, fabric, or other material" as a type of banner sign. They are recommending that the town manager approves banners for non-profits that may advertise for for-profit businesses as part of the proposed ordinance. Location would be determined by the town manager. Currently we have regulations for special event signs that allow for town sponsored events or non-profits and the same allowances are made in the ordinance but must be approved by the town manager.

Gary Ferguson said that the Planning and Zoning Commission were very quick in moving this ordinance forward as they felt there was an urgent need for this ordinance to be adopted without looking at the ordinance. They gave staff general direction and wanted the ordinance freed up and requested staff to devise an ordinance with these general parameters, which staff did and brought it to Council. He asked P&Z on occasion that evening if staff should bring it back to them and they said time was of the essence, they did not want to delay it to August.

Mr. Hardison reviewed the options: (1) no change - maintain existing sign regulations for businesses to utilize. Positive - allows businesses the opportunity to have additional signage for 4 weeks out of the year for grand openings, special events, and promotions. Negatives - existing regulation may be considered not business friendly; places time limits for signage of businesses. (2) banners would be allowed with no time restrictions with an increase in size from 20 to 30 sq. ft. Positives - increases allowance and visibility to commercial properties in the town; uniformly increases allowances for advertising properties in Carolina Beach; resolves current code enforcement issues faced with existing banner signs. Negatives - ordinance would increase the amount of permanent signage allowed on each site; the increase in signage may create visual clutter as well as confusion for new visitors to the town. In the ordinance under banner signs, "for four (4) weeks per year as a temporary sign" would be struck out and would be allowed by permit. Also added under banner signs would be: (2) When attached to an existing freestanding sign or on a self-supported post, the maximum height is 10 ft. If attached to the building the height shall be no taller than the top façade of the building and shall not be placed on the roof. (3) Maximum size: 30 sq. ft. (4) Minimum size: Five (5) feet from all property lines. (5) One banner sign per business. (6) Shall not be located within the vision clearance site triangle as described in Sec.7.1 (7)c. The existing Land Use Plan does not specifically talk about signage but it talks about esthetics within the community. The Master Plan talks about way-finding signs and if you have a lot of signs and banners it can be confusing. This was moved forward by Planning and Zoning to Council for their consideration.

Tim Owens feels that the ordinance presented tonight still needs a little more work.

Steve Coggins said the town needs to be very careful about using the word “billboard”. There is a comprehensive state scheme on the regulation of outdoor billboards. There is also NCDOT regulations with respect to signage. Staff needs to be very targeted in the ordinance to assure that we don’t infringe upon that which is best exclusively with the State of North Carolina.

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

Brett Keeler, 15 Carolina Beach Avenue N., representing Blackhorn Bar & Kitchen, asked the Planning Director about freestanding signs. He asked, does it include attached banner signs? Mr. Ferguson said a banner sign can be attached to a freestanding sign and can be a freestanding sign. It can also be attached to the building but below the roof.

Duke Hagestrom, 920 Riptide Lane, said that any town that has festivals having an event banner is pretty fundamental to promote those festivals. When we have the Seafood Blues and Jazz Festival and have a major sponsor who kicks in \$10,000 to be the big sponsor and their name happens to appear on that same banner that is promoting that event it seems to be a win as it helps to offset the costs of the event. The part about the not for profit sign if you were to amend that to include the language that it has to be with relation to a town sponsored event. When we get the Seafood Blues and Jazz Festival and have our big 3-5 top sponsors and have their logos on the bottom, he feels that is an appropriate way to help pay for the costs of the event. You want people to know where these events are.

There being no further public comment, **Councilwoman Efirid made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**MPT Wilcox made a motion that staff review this ordinance and come back with more recommendations on July 28<sup>th</sup>. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING VENDING RULES AND REGULATIONS OF UMBRELLA AND CHAIR RENTAL TO BE REGULATED IN THE CODE OF ORDINANCES BUT WITH SEPARATE AND DISTINCT RULES***

This item was presented by Ed Parvin. He said this ordinance is dealing with beach delivery services. We have two right now - Wheel Fun Rentals and Pleasure Island Rentals. Primarily they deliver chairs and umbrellas to our public beach area. The question asked of Council after the “Joint Committee” which was most of our committees in town who met to put together our vending ordinance and brought before Council was that previously we looked at beach rental equipment as a vending activity and at that time we said is this still vending or something different. It was determined that beach rental equipment is something different because a service is being provided and money transaction is occurring on our public beaches and that is why you need a contract. It is different because items are being rented vs. being sold so it is not vending. Based on that

what they discussed when they adopted vending was the need to come back and put something in the ordinance for rental items on the beach. The criteria for this ordinance is very similar to what is in the vending ordinance, the same insurance requirements with a \$1 million dollar liability policy. There was an ordinance adopted last summer for storage of chairs on the beach. That was taken out when they did the vending because it wasn't specific to vending so staff is looking at putting that language back into the rental language. Inventory is similar to vending in that you can't store inventory in residential areas. ATV's - it's been a long standing policy that the beach rental activities use ATV's. Beach access, we have 3 beach vehicle access ramps. Business location is like vending in that you have to have a brick and mortar business in the CBD. Solicitation is the same in that you can't solicit on the public beach. Hours of operation - 6:00 a.m. to sunset, just like vending. They had an addendum to Additional Regulations. One thing he left out, which is also in vending, is who has the right to do these and the limitation is two. He has been working closely with Duke and Shawn on this ordinance. At TRC there was a discussion of a 2 year minimum and maybe why they would want more years. One option for guaranteeing the right is they have first refusal to get the permit for a beach rental. It is consistent with vending and allows people to have continuity to have it year after year. The disadvantage is it might not allow for some competition. The cost of the contract might not reflect the market. Staff was considering, just like vending, it would be \$100 a year. If the contract was for two years it would be \$200. Option 2 would be bidding it out which might be a little bit more equitable but it is a process we have not done in the past so it's a little different than vending and the cost for doing business could increase if there are competitors bumping up the price of their bidding. For the first refusal the first option the language is basically that once they have the contract they have the right to have it again after two years as long as they submit it to us within 10 days of expiration. There is a performance clause that was added similar to what we have for vending and would typically be approved by the town manager and would go to Town Council if they don't meet their performance criteria of 50% of their days they are providing rental equipment. The second option would be the bidding of the contract. It would be public bidding, 3 year contract with an option for extending 3 years if they are willing to increase their contract amount by 10%. The payment would have a minimum amount due with the bid, \$100 per year. If they won the bid they would have to pay 20% of the winning bid amount less the minimum bid and would have to pay that within 3 days. The next portion, 40% of the fees, would be due further into the summer and the remainder due in late summer. The bidding and the first right of refusal is the addendum he gave Council tonight.

The town manager suggested under 8-51, Beach Delivery Services, the first paragraph it says, "shall become null and void unless evaluated and reauthorized by the town manager at the applicant's request prior to the expiration date of the permit. (Add the language underlined.) Under 7. you talk about having an operational business. Some prior ordinance required that you be open 150 days. Council may want to consider a minimum opening.

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

Shawn Cook, 2 N. Lake Park Blvd., representing Pleasure Island Rentals, said he is looking forward to getting this resolved. This is the majority of his business, chairs and umbrellas. He doesn't want to sound like a broken record. He bought the business 7 years ago from Andy and Christie Edwards who came in front of Council. Mayor Macon and Councilwoman Eford were on Council at that time when the ordinance was changed to allow them to access the beach with their John Deere gator ATV to rent out chairs and umbrellas. That is why he purchased the business from them which is 50% of the business. He would hate to see it disappear. His main concern in what they resolve this evening is first right of refusal. The bidding process he can completely understand. The one thing he would like to point out as far as bidding goes is that people will come in and bid who come to the beach on the weekends and think it is easy money and they will outbid him, knowing what he really can put in, and they will either run an unsuccessful business or rent out bad goods or disappear in the middle of the season leaving the town high and dry as well as put him out of business. If they end up going in that direction, he can't stress enough the importance of researching who they allow to bid on servicing chairs and umbrellas. Supply and demand, there is Duke and himself and they have a gentleman's agreement. Duke takes care of Atlantic Towers and Marriott. He takes care of the rest of the beach. He has had the same customers for 10 years and new customers each year. Complaints are very low. He has a \$2 million dollar insurance policy named to the Town of Carolina Beach and he would like to purchase more chairs and umbrellas this season going into next season. It is quite a big investment and in order to do that he has to be able to show his banker that he is not going to be high and dry next summer for them to give him a loan. If they don't go the route of first right of refusal, he is going to ask for multiple years. Last time he asked for 5 years which they granted which is up this year.

Duke Hagestrom, 920 Riptide Lane, said they would be surprised how little they make on the rental of chairs and umbrellas but it is very important to both of their businesses. A lot of time, hard work and money has gone into building their beach rental businesses. It took a while but he and Shawn were able to find an equilibrium or gentleman's agreement and it works very well. Shawn takes care of the beach with the ATV's. He doesn't use an ATV so there is less clutter on the beach. They rent to Atlantic Towers, Marriott and folks who rent from their shops. Shawn spoke about the first right of refusal and it may sound kind of greedy but one of the things about this kind of business is that it is unique. He can buy a building and open an ice cream shop and build his customer base and over time he can bequeath that to his family. When you have a tenuous business like this where at any given point you are at the mercy where the town manager has the discretion to pull the contract at any point, you are at the mercy of whether or not your family's future is secure. Whereas maybe a small vending cart could make a difference in maybe that vacation you could take that year from the revenue you made from it. Taking away the chairs and umbrellas could make a difference as to whether or not you could have that roof over your head and a place to sleep. He thinks fairness is something Shawn and he both agree with. If there is a bid process, they certainly would comply with that, they understand the situation you would be in but once you have established your vendors, unless they are not performing and fulfilling the duties and taking care of

the customers on the beach and making sure they are meeting those performance criteria - he thinks you should allow them the opportunity to continue to make the beach proud for many years to come. They can't stress how important this vote is. It means a lot to them. They appreciate their support. He said it would take a good 5 years to make a return on the investment of 60 sets of chairs and umbrellas to support a couple of locations. That would be in excess of a \$25,000 investment, not counting vehicles, accessories or infrastructure which would take it to a \$100,000 to \$150,000 investment.

There being no further public comment, **Councilwoman Efird made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

Councilman Gilbert suggested putting on the beach delivery service contract where it says it shall be valid for 2 years, to put in not to exceed 5 years at the discretion of Town Council and they may issue an RFP at the end of 5 years. It breaks up a monopoly and doesn't give an unlimited stay on public trust lands

Mr. Owens said they could make it 5 years and non-transferable. Non-performance is not covered in this and that is a concern.

MPT Wilcox said he would prefer 5 years with an RFP at the end. Performance, negligence or unsafe practices could be criteria to pull the permit.

Staff will work on it and bring it back July 28<sup>th</sup>.

***CONSIDER A REQUEST TO RENAME THE 600 BLOCK OF S. SECOND STREET TO LAKE DRIVE***

Mr. Hardison presented this item. This is a proposal from the town to rename 188' of the 600 block of S. Second Street. This includes an 80' right-of-way. It is part of the town-wide addressing project that is going on. The property owners were notified that the street that abuts their properties was named S. Second Street and their addresses would be changed to reflect that. The property owners have always thought their addresses were off of Lake Drive even though the tax records show them to be S. Second. He showed a map of the address locations which appear to be on a winding road named Lake Drive. There is also a break in Second Street because of wetlands. The property owners want to pursue changing the name of the road to Lake Drive. If the 700 block of S. Second Street is ever filled in and paved it would be tied together and then you would have a name change at the end of the road. He showed pictures of the area. Council can rename the street and it would be recorded in New Hanover County.

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

There being no public comment, **Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**Councilwoman Efird made a motion to adopt Ordinance No. 09-799 (Exhibit 4) renaming the 600 block of S. Second Street to Lake Drive. MOTION CARRIED UNANIMOUSLY.**

***CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 9 MOTOR VEHICLES & TRAFFIC, ARTICLE VI SCHEDULES, SCHEDULE A SPEED LIMITS, TO REDUCE THE SPEED LIMITS ON HWY 421 FROM SNOW'S CUT CROSSING TO FEDERAL POINT SHOPPING CENTER, REDUCING THE SPEED LIMIT FROM 45 MPH TO 35 MPH OR AS DEEMED APPROPRIATE BY THE NCDOT***

Police Chief Younginer presented this item. He said this was brought to Council a while back and to the Police Advisory Committee about changing the speed limit from 45 MPH to 35 MPH from Dow Road to where it changes now at the old Food Lion Shopping Center. Originally people wanted to change it beginning at the new Food Lion location but DOT would not support that because it doesn't give enough warning for people coming across the bridge to change from 45 MPH to 35 MPH. So their proposal is to change it starting at Dow Road to where the ABC store is. DOT asked for Council to rescind the ordinance and then adopt the new ordinance if they wish to make this change.

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

There being no public comment, MPT Wilcox made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

**Councilman Johnson made a motion to adopt Ordinance No. 09-797 (Exhibit 5) and Ordinance No. 09-798 (Exhibit 6). MOTION CARRIED 4-1 WITH COUNCILWOMAN EFIRD VOTING NO.**

***CONSIDER AMENDING THE CODE OF ORDINANCES TO INCLUDE A REQUIREMENT FOR CONTROLLED SUBSTANCE EXAMINATIONS FOR VEHICLE FOR HIRE DRIVERS***

Chief Younginer presented this item. He said the City of Wilmington recently adopted the ordinance being proposed this evening. They have a tool that can be carried that they can require taxi drivers, etc. to be tested for drugs. Wrightsville Beach is looking at this. The city didn't want us to fall through the cracks and be the only ones left with the leftover drivers and felt we should look at this and put this tool in our tool box to be able to require those people to do that should we have probable cause to do so.

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

There being no public comment, **Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**Councilman Johnson made a motion to adopt Ordinance No. 09-796 (Exhibit 7).**

**Councilman Gilbert made a motion to amend the motion with a 60 day implementation date (Exhibit 7). MOTION CARRIED UNANIMOUSLY.**

Mayor Macon called for a vote on Councilman Johnson's motion. **MOTION CARRIED UNANIMOUSLY.**

The town manager said they could get a letter out to those companies notifying them of this ordinance.

***CONSIDER AMENDING CHAPTER 8 LICENSES & BUSINESS REGULATIONS, ARTICLE III PEDDLING & SOLICITING OF THE CODE OF ORDINANCES TO DISCUSS ALLOWANCES FOR TEMPORARY ITINERANT MERCHANTS ON PRIVATE PROPERTY***

Mr. Ferguson presented this item. He said this is an ordinance that would basically allow for itinerant merchants to sell seasonal items limited to fruits and vegetables, Christmas trees and pumpkins. It will require standards: requires a permit, town manager has to inspect and approve the site, itinerant merchant facilities can only be located in commercial zones, limited to a single operation on private property with an existing principle structure with a functional bathroom, operation of such facilities limited to 90 days in any one given year, no structure shall exceed 500 sq. ft.; if tents are over 200 sq. ft. they have to get a permit from the Fire Chief, any structure must be set back a minimum of 10 feet from property lines, and no structure shall be located within required parking or drive aisles. In addition, if someone were to locate at a commercial site with 25 or more parking spaces, then no parking would be required. If it is less than 25 then 2 parking spaces would be required by the applicant in order to open up such a business.

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

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

There being no public comment **Mayor Macon made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.**

**Mayor Macon made a motion to adopt Ordinance No. 09-800 (Exhibit 8). MOTION CARRIED UNANIMOUSLY.**

**CONSIDER CALLING A SPECIAL MEETING FOR JULY 28, 2009 AT 5:30 P.M. TO BE HELD IN THE COUNCIL ROOM AT THE CAROLINA BEACH MUNICIPAL ADMINISTRATION BUILDING, 1121 N. LAKE PARK BLVD. TO CONSIDER THE ITEMS ON THE DRAFT AGENDA:**

**ESTIMATED  
TIMES**

**SPECIAL PRESENTATIONS**

5:32 p.m.      ITEM #1A      Recognize Firemen Jerry Burkhardt and Robert Weeks for Dedicated Years of Service

**OLD BUSINESS**

5:35 p.m.      ITEM #2      *Tabled from 6/9/09* – Request by Park Place at Carolina Beach, LLC for a One Year Extension to the Park Place Conditional Use Permit

5:45 p.m.      TABLED  
ITEM #18      *Tabled from 7/14/09* – Consider Amending the Town Code to Allow for Beach Delivery Services

5:55 p.m.      TABLED  
ITEM #17      *Tabled from 7/14/09* – Consider Amending the Banner Sign Regulations

6:05 p.m.      TABLED  
ITEM #8      *Tabled from 7/14/09* – Request from Joel May of Anchor Bay Condominiums for the Town to Consider Participating Financially in the Dredging of Boat Slips in Front of the Condos

**NEW BUSINESS**

6:15 p.m.      ITEM #3      Appointment to the Ad-Hoc Budget Committee

6:20 p.m.      ITEM #4      Appointment to the Freeman Park Committee

6:25 p.m.      ITEM #5      Appointment to the Ad-Hoc Arts & Activities Committee

6:30 p.m.      ITEM #6      Request for Proposals to Conduct a Management, Organizational Structure and Efficiency Study for all Town Departments

6:40 p.m.      ITEM #7      Consider Adopting a Resolution Honoring Former Representative Bonner Stiller

6:45 p.m.      ITEM #8      Consider Adopting a Resolution Recognizing National Night Out

6:50 p.m.      ITEM #9      Discussion Regarding a Change in Tipping Fees by New Hanover County and their Potential Effect on the FY 09/10 Budget

7:00 p.m.      ITEM #10      Consider Allowing Retailers that Sell Freeman Park Passes to Retain 5% of the Cost of the Freeman Park Yearly Pass

- 7:10 p.m.        ITEM #11        Consider Setting a Workshop Date to Discuss Beach Nourishment and Room Occupancy Funding and to also Begin Discussion on Phase II of the Wilmington Beach Project
- 7:20 p.m.        ITEM #12        Non-Agenda Items:
- Town Council  
Town Manager and/or Department Heads  
Town Clerk  
Finance Officer  
Town Attorney
- 7:35 p.m.        ITEM #13        Request for Closed Session to Discuss Real Estate Matters in Compliance with NCGS 143-318.11 (a) 5

***ADJOURNMENT***

- 7:50 p.m.        ITEM #14        Adjournment

**Mayor Macon made a motion to call a special meeting for July 28, 2009 to consider items on the draft agenda at 5:30 p.m. MOTION CARRIED UNANIMOUSLY.**

Mr. Ferguson said there was a teleconference today with the Fish and Wildlife Service and they have made it public on their video cam that those 9 homes that are in the CBRA zone along Canal and Virginia will be taken out of that CBRA designation. They will be revising their maps and are talking about a 15 foot buffer between the actual properties that are improved and the CBRA line itself.

Mr. Owens said there are still some unimproved properties that are located in that so he is not completely happy with the resolution. He did meet with some of McIntyre's staff in D.C. on Monday and they mentioned the CBRA deal. Staff will probably call to see if they can get a little more changed in their proposal.

Councilman Gilbert gave kudos to staff on the CBRA zone issue.

MPT Wilcox asked, if possible, that committee reports be given at the second meeting and presentations not be made during that report, only updates on the committees' activities. Presentations are to be on the agenda separately.

Mayor Macon said he will contact the committee chairs and will discuss this matter with them. He also praised the Zoning staff for all their hard work.

**Mayor Macon made a motion to go into closed session to discuss legal and real estate matters in complinace with NCGS 143-318.11(a)3&5. MOTION CARRIED UNANIMOUSLY.**

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

Mayor Macon said that no action was taken in closed session.

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

Respectfully submitted,

Lynn N. Prusa  
Town Clerk

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