

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

October 9, 2007

The Town Council of the Town of Carolina Beach met in regular session on October 9, 2007 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, Bill Clark; Mayor Pro Tem (MPT) Alan Gilbert; Councilwoman, Pat Efird; Councilman, Jerry Johnson; and Councilman Joel Macon. Also present was appointed staff: Town Manager, Tim Owens; Town Attorney, Al Clyburn; Finance Director, Dawn Johnson, and Town Clerk, Lynn Prusa.

Mayor Clark called the meeting to order.

INVOCATION

The town's Public Information Officer, Valita Quattlebaum, led the invocation.

PLEDGE OF ALLEGIANCE

Mayor Clark led everyone in the pledge of allegiance.

ADOPT THE AGENDA

The following were presented as proposed changes to the agenda:

Item #9(f) – Revised – Approve Request to New Hanover Co TDA – Remove “maintenance of Freeman Park” from the request. A copy of the revised application is attached.

Item #16 – Move – Joint Master Bike/Pedestrian Plan with the Town of Kure Beach to Item #5(a)

Mayor Pro Tem Gilbert made a motion to adopt the agenda with changes. MOTION CARRIED UNANIMOUSLY.

PRESENTATION BY MIKE BENNETT, DIRECTOR OF PLEASURE ISLAND SOCCER ASSOCIATION, CONCERNING A “SAND SOCCER” TOURNAMENT IN CAROLINA BEACH

Mr. Bennett, Director of Pleasure Island Soccer Association, proposed a “sand soccer” tournament on the beach. The location selected was to promote the Central Business District and tourism while the dates would coincide with the New Hanover County Schools’ spring vacation. Mr. Bennett said the

sponsorships and tournament fees will go back to Pleasure Island Soccer Association. He said, we are asking for community awareness, support and a heightened access for emergency services.

Mayor Pro Tem Gilbert made a motion to approve Mr. Bennett's request to hold a "sand soccer" tournament in Carolina Beach. MOTION CARRIED UNANIMOUSLY.

After the motion was voted on, Mr. Bennett asked if these particular dates don't seem to hold or work for us that we get first right of refusal to be able to change those dates to be able to accommodate the best enrollment and registrations for Pleasure Island Soccer. Council's suggestion was if there was a change to run it through the Chamber and our town's Recreation Department first. Councilman Macon said he doesn't see a problem with it since you have been on the island and have been running an excellent program and you should have whatever weekend you want. Council was in agreement and thanked him for the service he has provided on the beach.

JOINT MASTER BIKE/PEDESTRIAN PLAN WITH THE TOWN OF KURE BEACH

The presenter Michael Kirkbride introduced Paul Martinez. They are both representing the WMPO Pedestrian Committee for Bikes and Pedestrians for the island and greater Wilmington area.

Mr. Kirkbride presented the proposed bike/pedestrian path. He said we are starting with the existing path and then augment that from the north end of the island all the way to the south. We want to go down the same side of Dow Road as the existing path to Spartanburg. At Spartanburg across from the dredge pond we're looking at coming inside of Dow Road and going along the fire cut all the way down to the historic museum, then coming in at the Riggins, we're looking at crossing over Ft. Fisher Blvd. at that point and joining their trail along the ocean. When we get to the recreation center we're requesting a connection between the historic park and the Aquarium trails. Then we're going with the existing path through the aquarium and then requesting an off-road path all the way to Federal Point. For the most part all of this is the dominion of Sunny Point so our major goal is to get support from Council to request this path from Sunny Point. The other key part is we're looking to create a loop along Dow Road using the existing NCDOT pathway easement. Sunny Point has suggested the only way we can get any further away from our fire cut is by using that easement.

If we make this a public transportation route and it coincides with specks of the East Coast Greenway, which is a 12' wide paved path, then we can have our path designated as East Coast Greenway and be connected to that pathway system which will give us a broader regional bike for funding.

We are asking Council, can we proceed with asking for what the stakeholders are offering and go forward with the NCDOT grant for our master plan for the bike and pedestrian ways for our town? Assuming we're successful with this bike plan request of the parks and Sunny Point, then we need both towns to step up with a master plan to connect to this. We want to have our master plan and this plan connect to our greater Wilmington area and have a regional connectivity.

Mayor Clark made a motion to support the joint bike/pedestrian path with Kure Beach and to proceed with the application for the grant. MOTION CARRIED UNANIMOUSLY.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Mayor Clark and Valita Quattlebaum recognized Nyllia Mann, receptionist at Town Hall, for 10 years of service.

INTRODUCE NEW EMPLOYEES

Police Chief Younginer introduced two new police officers Chris Potter and John Boller.

PUBLIC DISCUSSION

James Beasley of Beasley's Taxi, said some of you may know me. My family has been running businesses here on Pleasure Island since the '60s. I've operated a taxi service in Wilmington as my private business for the last two years. I'm continually getting calls to come down here to Carolina Beach and transport people about. I would like to be able to make that a permanent situation where I can keep a vehicle on the island. I have one that is up and running right now. I have two more that are in the process of being ready to be put on the road. I have found that even though they are already taxis permitted for Carolina Beach, it doesn't seem to meet the needs of the people here. Like I said I am constantly being called to come to the Marriott and take people to the airport. My mother owns a bar in the business district and I'm constantly being called by her patrons to take them off the island. I frequently turn down customers who are staying on the island for the simple fact that at this time I do not have a privilege license to do business inside the city limits continually. I ask the Town Council if I could have that privilege license so I can bring my service down here to the beach.

Mr. Owens replied there is an application for that so if you will get with me ... Mr. Beasley said I have all the paperwork and it's already been turned into the city. They said they were still waiting for Town Council's okay to go ahead with the processing of the paperwork. Mayor Clark asked Mr. Owens if he has seen the paperwork. He replied that he has not and he will find out where it is. Mr. Beasley said I brought a complete new set of paperwork in this afternoon so it's there. Mr. Owens said it will be on the November agenda.

For those of you who don't know me, my name is Susan Underwood and my husband is Shawn Underwood. Shawn is the campaign manager for Mr. Joel Macon. I am not here tonight to advocate anyone for any elected office. I am here tonight as an advocate for every woman in Carolina Beach. I have in front of me a deposition from the court in Wake County...at this time Mayor Clark said Ms. Underwood we're not going to get into politics from the public discussion if you would, we're not going to get into politics tonight so if you've got political things to talk about we're not going to hear them. Ms. Underwood said I would ask for Mr. Gilbert's resignation. Mayor Clark said well I'm sorry...Ms. Underwood continued, ... a withdrawal from the race for Mayor because to do otherwise would be an insult to every woman...again Mayor Clark said this is not a political forum here.

CONSENT AGENDA

Approval of the Minutes:

Special Meeting	May 31, 2007
Regular Meeting 6/12/07	June 15, 2007
Continued	
Special Meeting	June 29, 2007

Special Meeting	June 30, 2007
Regular Meeting 8/14/07	September 10, 2007
Continued	
Regular Meeting	September 11, 2007

Authorize the request to transfer funds in the amount of \$2000 to co-sponsor lunch for the annual conference of the NC Beach, Inlet & Waterway Association.

Set a public hearing date for November 13, 2007 at 7:30 p.m. or soon thereafter for a request to amend Zoning Ordinance, Article 7 Off-Street Parking and Loading Requirements to Review Commercial Loading Spaces and Parking Requirements Concerning Accessory Uses for Hotels.

Set a public hearing date for November 13, 2007 at 7:30 p.m. or soon thereafter for a request for a conditional use permit for the expansion of a motel located at 701 N. Lake Park Blvd. (PIN#313010-47-022-000), 205 Winner Ave (PIN#313010-47-5259-000), and 207 Winner Ave (PIN#313010-47-4261-000).

Adopt Proclamation No. 07-902 (*Exhibit 1*) recognizing the Annual Soldier Ride in Carolina Beach.

Authorize the request to New Hanover County Tourism Development Authority for funding the weekly fireworks displays in the amount of \$55,101.42.

Mayor Clark made a motion to approve the consent agenda. MOTION CARRIED UNANIMOUSLY

CONTINUED DISCUSSION CONCERNING THE ASR (AQUIFER, STORAGE & RECOVERY STUDY)

Mr. Owens said before you is a proposal that I would like our engineer, Harry Dai, to talk about a little bit in detail and explain where we are going with the proposal.

Mr. Dail said before you is a proposal that picks up the GMA study for Phase I work. The Phase I piece of this is a cost effective determination to find out two things: 1) can we use ASR as a way of compressing the total amount of water that we end up having to have extra from what we've got right now. That compression would be looking at the build-out, which can be accomplished with about a one-half million gallons of additional water if we are able to use ASR. If we are not able to use ASR, it will be about 1.2 million; 2) it allows us to protect the wells that we've got. The cost effective evaluation is a part of this proposal and the study to determine if ASR is even able to be utilized. The soil structure that we've got is a part of this study. Both of these issues would be accomplished by a combination of my office and GMA.

Pitt County is the first in this state to get permitting for ASR and GMA did that study. Wilmington is being looked at right now for the very same reasons. It allows you to bridge very large gaps of usage. If you have a water source from somewhere else that you can store, it allows you to pull that back out and you are able to use it without having to build so much additional capacity. A lot of things that have been done to develop the program at Pitt County and Wilmington will benefit us when we go to Phase II if ASR is a way to work.

ASR would be a long term fix. We would take another source of water from wherever and we will put it probably in a boundary area between the Cape Fear River and Well 13. Then we will have a positive direction of flow of the water from that pile of water we put in back towards the Cape Fear River and that will keep the chlorides out. We can protect the wells that we've got and we can use that elevated pile of water to withdraw at our higher demand periods.

Mayor Pro Tem Gilbert made a motion to go forward with the Phase II investigation and appropriate the \$40,000. MOTION CARRIED UNANIMOUSLY.

CONSIDERATION OF PARKING CONTRACT RENEWAL

Mr. Owens said this is a request to consider renewing the parking contract that we currently have with Central Parking. I have written you a memo outlining the total revenue, cost for service, and revenue we generate per year. The cost for just the parking aspect of it is \$111,000. In 2005 we generated \$299,000, 2006 \$295,000, and 2007 I anticipate \$275,000. There is a table that shows meter revenues, citations, pay lots and the total per month and per year. From 2005 to 2007, there's a trend that citations have gone down in revenue. Meter revenue has been about the same for that time period. The pay lots are about the same for 2005 to 2007. Totals are around the \$300,000 mark. We pay our current contractor for a six month span. We pay them in increments of \$18,508.

I have heard Council say at prior budget meetings is that we want to be friendlier to visitors to the island. I have made several recommendations. One suggestion is to have free parking from 7 p.m. to 7 a.m. Another suggestion is free parking during December, January, and February. We do not collect a lot of revenue during this time period.

Joshua Bagwell said he has been with Central Parking since last May. If you were to embrace the 7 p.m. to 7 a.m. free parking, you will sacrifice about \$11,000 in potential revenue; however, our fee would drop about \$950 a month. We have picked up a little more meter revenue in the past couple of years. Whatever means the town would like to take, Central is here to help facilitate and serve you. After some discussion between Mr. Bagwell and Mr. Owens, Mr. Owens said there may be a maximum of \$20,000 lost revenue and an annual savings of \$5700 for the reduction for Central Parking.

Mr. Owens is looking to see if Council wants to scale back on some of the elements he has recommended or go beyond that and also asking for a one year extension to the Central Parking contract.

Councilman Johnson made a motion that the hours for free parking be from 7 p.m. to 8 a.m., free parking for the months from November through March, and to extend the contract with Central Parking for one year. MOTION CARRIED 4-1 (WITH COUNCILMAN MACON VOTING NO).

CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 18.2 NON-CONFORMING LOTS (g) REDUCTION OF REQUIRED LOT AREA WHEN LOST TO SHORE EROSION

Mayor Clark said the applicant has asked to table the item to consider amending the Zoning Ordinance, Article 18.2 Non-Conforming Lots (g) Reduction of Required Lot Area When Lost to Shore Erosion. Mr. Owens said there are several options: (1) table to the next meeting, (2) go ahead with the public hearing and vote, or (3) have the public hearing and then table.

Council decided to hear the request this evening.

Ed Parvin, Senior Planner, presented this item. He said this language allows for a reduction in setbacks along the oceanfront. Some of the positives is it allows for a more uniform streetscape in the older areas of town and it would allow for a structure to be placed further away from the ocean which could reduce damage or the loss of the structure. Some of the negatives are that the structures would now be placed closer to the roadway and could create a wall affect on either side. This is particularly due to the size of the structures that are being built today.

The language reads oceanfront lots within a 200' distance will be used to calculate the setback. The boxed language was recommended by the applicant. I tried to simplify it. The four criteria would be:

1. All lots being in the same zoning district for the 200'.
2. All lots shall front on the same side of the same street.
3. All lots shall be considered as having the minimum required setback if the lot is vacant.
4. In no instance shall the calculated average front setback be reduced to less than fifty (50%) percent of the original setback. Most of those lots on oceanfront do have a 20', so no more than 50% would be 10'.

That's essentially how it would work. You would take 200' of stretch and look at the different homes in that area and determine the average setback and the new home would get that average setback.

P&Z heard this in July and August and both months they had six people and in both months they tied. They have an ordinance that requires them to move it forward after two months, so they moved it forward.

Mayor Clark motioned to open the public hearing. MOTION CARRIED UNANIMOUSLY.

Mary Dogan said she was here to speak on her own behalf and that of 17 homeowners in the 1700 block. We've been fighting development on the 1700 block for almost four years, 3½ years. She then read from a slide presentation. Having been unsuccessful thus far to get the town to reduce their setbacks, we believe the owners of these lots and their builder are looking for another way to get the setbacks on their side of the road reduced by amending the zoning code. While this amendment has been proposed by another individual, it would apply to all oceanfront lots and it is our belief it was specifically designed to enable the project in the 1700 block. It would however ultimately affect all oceanfront lots and could change the character of Carolina Beach Avenue dramatically. At this time we also have a court action pending and our attorney is here seeking to prevent this project from being cantilevered over the CAMA line behind the rocks. This hearing is currently on the court calendar possibly for sometime this month.

The individuals purposing this amendment site Carolina Beach Avenue South and justifying the change. She said, pointing to the slide, this shows one block where high density newer structures have been built to the setback of older single family structures.

The lack of a 20' setback along Carolina Beach Avenue South has resulted in an unattractive tunnel of buildings constricting traffic and parking that often encroaches on the right-of-way creating hazardous driving and walking.

The narrow right-of-way left by these setbacks has resulted in Carolina Beach Avenue South being made into a one-way street. Is this what we want to encourage.

The 1700 block of Carolina Beach Avenue North, the proposed rezoning would allow the similar construction of large duplexes right up to the setback determined by the four structures that were built before the setbacks were established. Crowding duplexes on the left side here would completely change the character of this block.

The older beach cottages in Carolina Beach were built when there were no restrictions on where homes could go. As new building codes were introduced, older homes were grandfathered in. The idea that today's builders are entitled to ignore current codes and somehow get grandfathered guidelines is absolutely absurd. To knuckle under these demands is to virtually ignore all the progress that's been made in developing and enforcing the current zoning, building codes, and land use plan.

The current zoning code and established setbacks were developed to protect property values, citizen safety and well-being, and the character of Carolina Beach. Construction along Carolina Beach Avenue South with reduced setbacks has resulted in an area with total character, serious traffic constriction requiring that the road carry only one-way traffic, less safe and comfortable pedestrian movement, and crowded parking that often encroaches on the right-of-way. To change our zoning regulations to encourage that type of development would be contrary to responsible governments. We ask that the zoning amendments to allow oceanfront construction with reduced setbacks based on homes that were grandfathered be denied.

We also wish to ask that Mr. Macon recuse himself in this matter due to his lengthy business relationship with Mr. Kirkbride who wishes to develop the left side of the 1700 block of Carolina Beach Avenue North. We've recently been informed of a proposed 41% increase in insurance premiums for wind and hale coverage for the entire coastal area. If local governments continue to allow irresponsible construction and permitting practices in high hazard areas, the insurance companies will have good justification for raising rates higher and higher in the future. At a time when there is a five year backlog of real estate for sale, it makes no sense to encourage this kind of development. The only possible reason for doing this is to support the sheer greed of developers, builders, and those with political ambitions they support. Say no to this amendment.

Ms. Dogan said this next picture says it all. In March, we spent 2.8 billion dollars to pump all this sand on the beach. In June, it looked like that (*Exhibit 2 is Ms. Dogan's slide photos*).

John Lebenich said he owns the property across the street from where the setbacks are being looked at right now. I was told 14 years ago when I bought my property that you couldn't build on the lots across the street from me. I was told by Harry Oakes not one time, not a dozen times, more than that.

I've weathered storms at Carolina Beach on the north end. I've got pictures of houses going from the east side of the street over to the west side of the street. There are safety issues there. This is a high hazard area. This is a flood zone. I'm paying insurance premiums that are ridiculous. I'm living

across the street and I built my house on a lot that was conforming. There was nothing different about my house than any other builders on that north end. I was told that you couldn't build on that property over there. I had a chance to buy that property that is owned over there. Like a lot of the people who own property across the street from that property, they toured that property. It was for sale for about five or six years. All of us were told you couldn't build on any one of those lots; they're non-conforming lots. How could you build something over there that has a 10' footprint? I'm an engineer. I know what it would be to build a house on that little 10' footprint that they're trying to do over there. They are going to radically cantilever a house on that if it's possible to do. I'm an engineer and I wouldn't put any kind of license on anything like that. The way I see things going they're going to probably be able to do something there someday and it's going to fall down or it's going to be unsafe. The people who are going to buy it are going to have problems with that whole area. I built a big house right next door to that thing with the premise that I wouldn't have anything in front of me that would end up in my front yard. Across the street, there were houses that ended up in other people's houses on the other side of the street. Two doors down from me where the Kirkbride's have built two duplexes that house went $\frac{3}{4}$ of a block and slammed into the corner. I've got pictures of that. That is what we end up with on the north end when there is a storm. We're looking at this thing like well there's a possibility for this, there's a possibility for that. I don't know what's real and what isn't real any more after 14 years of living there going through all those hurricanes, rebuilding my house, and making a decision to put something in there that isn't going to be a problematic of something in front of me that's going to be possibly be just radically engineered and end up in my front yard. I'm almost insulted in the fact that I have to spend money on litigation for this 14 years after the fact that I was told repeatedly we could not build on that property. I looked at that property and I went through that house that's on that property across the street from me. I was in that house six times, maybe seven. I was told repeatedly I couldn't build on that property if I bought that, so I bought across the street knowing from what the city zoning guys told me here that it wasn't going to be able to be built on and that's where I'm at.

My name is Robbie Melice and I'm an owner across the street also. My main concern is really public safety. I have small children and already when we walk we walk on the roads. There is a little bit of a space so you can walk along the grass area and for me it's adequate. But my concern is if they do move it up it's not the parking that's going to go underneath the house, it's the parking behind that that's going against the road because they are going to lip out into the road. What's going to happen is cars are going to swerve into the on-going traffic or if there's no traffic there could be walkers in that area and that to me is my main concern. I know they can build a foundation; but if you look at the water tables there, you go 5' down and you're in water. I know they probably can figure that out how to alleviate that problem so from that standpoint I can't really comment on whether or not that's right or wrong. Storms are going to hit the houses and there is going to be trouble there; but for me it's more so if you bring the setbacks closer to the road, it's the secondary parking that concerns me. I guarantee you it's going to lip out into the road and people are going to have to swerve around it and they are going to go across the median, the line, so my main concern is the safety.

For the record my name is Ken Shanklin. I'm an attorney with Shanklin and Nichols in Wilmington, NC. I've been before you and spoke before. I represent Ms. Dogan and the others. I'm here to speak against this text amendment. What I'm going to hand you is from the CAMA Land Use Plan. It's an area of the town showing yellow which is low suitability for development. This morning I argued a case with the City of Wilmington regarding one of its ordinances. New Hanover County had declared one of their ordinances unconstitutional. I've read a lot of ordinances; I've written a number of ordinances and I've litigated ordinances and I've read this proposed text several times and I'm

confused by it. If I'm confused by it, then I'm not sure someone that doesn't read ordinances everyday how they are going to interpret it. I look at the purpose of this and then I look at your CAMA Land Use Plan. I don't know how it's consistent with the CAMA Land Use Plan. This is a high hazard area. I've been in New Hanover County since '73. I've seen all the hurricanes since then and I've lived through all of them. I didn't leave town. I've seen damages. I've seen damage down here and I've seen damage at Shell Island and I represented Shell Island for a number of years and I represented Cabana de Mar for over 20 years down here. I know the hazards of being next to the water. What you're doing if you pass this amendment, you're basically giving credence to more non-conformity. When you pass ordinances in this town, you're going to create non-conformity; that's the way it is. You have a goal when you pass ordinances' setbacks especially to create uniformity in how you treat people and treat lots. If you adopt this basically what you're doing is giving a benefit to someone who has a non-conforming use, non-conforming lot, or non-conforming situation. There are three categories of non-conformity. If you go back and look at these lots on the ocean, I see a number of your plats that goes through your planning board and they are showing lots out to the water. Under the 1963 Sessions Law, the part of the lot that's beyond the building line is your property not the developers. Mr. Shanklin then handed out a copy of the 1963 Sessions Law to Council (*Exhibit 3*). So when you have a lot that's really not the size that the deed says it is, then you have CAMA setbacks. Then you have non-conformity. That's the way the lot is. To pass this proposed text amendment would be able to expand non-conformity not contract non-conformity. Non-conformity at some point has to be conforming. That's the way the law is. The law looks for non-conforming properties at some point in time. The reason you have non-conformity basically is because of the constitution. It is a taking if you change things to fast. In this context what you're doing is I think violating the CAMA Land Use Plan that you now have in existence and the proposed CAMA Land Use Plan that you are going to look at again on the 23rd of this month, especially in respect to flood insurance. You have a burden by the federal government, FEMA and the National Flood Insurance Program, an obligation to reduce the hazards not to increase those hazards. I think if you adopt this tonight, you've increased those hazards. Sometimes lots are small by nature and sometimes what you can build on it is smaller but that's a price for being next to the water.

Rick Rogge who lives on Spartanburg Avenue said, I have quite a bit of knowledge of the 1700 block. I lived up there for over 10 years and built a house on the waterfront at 1700 on that street. Some of the things that were discussed tonight came before the Board of Adjustments which I happen to sit on. The Board of Adjustments turned that down and it was appealed. A higher court came back and said that there was a sufficient amount of that, this is my understanding it would be better to talk to an attorney about it really, but my understanding was that they said that there was so much of that already that they kind of overturned our denial and directed us to give the applicant permission to proceed. If my understanding is correct, the things that you're looking at doing tonight a higher court is already pretty much decided it's going on here and that's the way it is. You have a difficult decision before you and an important one but I would recommend that maybe you get proper legal advice so you can make the right decision for the town and for everybody.

Leroy Franks, 908 Canal Drive, said I've been on this island quite a few years. I've seen homes along that stretch destroyed by one hurricane after another hurricane. They will not survive. Even if the one piling that he's talking about is 16' in the ground as per specification or by code, how is he going to support the weight? You are looking at a catastrophe that is going to kill somebody, maim somebody, create a traffic hazard, and just a royal mess. I would encourage the Town Council to appeal this ruling that this gentleman just talked about and that's the way I feel about it.

Michael Kirkbride, 905 S. Ft. Fisher, stated since it's been made quite an issue regarding my properties, I will respond just a little bit. I think it's interesting that Mr. Shanklin spoke about it being against CAMA allowing a setback for a home to be closer to the road and further from the ocean. That's an interesting notion. I think from any engineer's perspective homes further from the ocean would probably be a little safer. With that regard, I disagree with his evaluation.

I thought it was also interesting that Leroy Franks spoke about the piling being 16'. The pilings for the homes we're talking about have to be engineered. The engineering has them at 55' and they're 18" in diameter. The typical piling for instance Mr. Lebenich spoke about in his house bears a load of something like 10 kips. These pilings bear a load of 80 kips. In terms of safety for his house versus safety for the houses I'm proposing, there's not even a comparison. I have 80 kips of down force; I have 40 kips of up force and it has nothing to do with the water level for these pilings, the pilings have to be tested. In other words, in the home for Mr. Lebenich there was no testing involved in the pilings; there's just a prescriptive piling driven.

All the older homes from which most of the neighbors are speaking from basically had no engineering involved. They were prescriptive homes. If they were to be evaluated with today's codes for V-Zones, and they are also in the V-Zone, there's no home on that block on either side that's not in the V-Zone so if I'm to build homes, my main worry will be the homes that are other than mine. Engineering wise there is no question about this. We're talking about a jet airplane versus a horse drawn cart. The homes that are already existing that have had no engineering are basically horse drawn carts in engineering terms relative to the homes that the V-Zone is requiring today. One of the things I think the Council is faced with is how do you evaluate that. I happen to be an aerospace engineer. I mean I put a lot of buildings in my university days in Mock 2 wind tunnels, that's 1400 miles an hour. The bottom line is the engineering of today's homes is just a whole different level. If we're talking about restricting buildings in the V-Zone that I'm in on the 1700 block, we need to really talk about restricting building in the whole CBD. I think we have to look at the actual elevation of things. The elevation of my lots for instance is 6'. I think for instance Jerry where you live on Canal your elevation at the street level is 2'. The elevation in the CBD is somewhere between 3 and 4' for the most part. If we're going to look at my lots, we have to really look at the whole area. If we do have a Category 5 storm for instance as we all know the backwash of the homes from the sound is going to wash back through the front. Probably the major damage to our area is going to be the backwash from the sound side. All the homes from the sound side are going to be coming toward the ocean and down into the CBD so this is not a simple issue.

At this time, Councilman Macon asked Mr. Kirkbride, do we have a business relationship in any way, shape or form? Mr. Kirkbride responded no. Councilman Macon said no, we do not. He continued to say I am part owner in a mobile car wash business. Do you use our services? Mr. Kirkbride answered no, I don't. Councilman Macon said you wash your own cars and Mr. Kirkbride said yes.

Dee Kirkbride, 905 S. Ft. Fisher, said I did not plan to speak this evening, but since our name has been brought up, I would like to make just a couple of points. I don't think we're hear to discuss engineering, whether things are safe or not. That's not your job. What you're looking at is a text amendment that seems to be consistent with the other text amendments in the ordinance. If it shouldn't be put in there, then why were all the others put in? We're just looking at tonight, I think, a text amendment that has nothing to do with engineering, safety, or any of those issues. It's just is it consistent with everything else that is in the ordinance or not.

I had no prepared remarks but I would request that since this is a hot issue that you've had the public hearing, I would request that you please hold off on the vote until another time when I could prepare some remarks and possibly be better prepared. I don't think there's any rush at this point to make a vote tonight. I request a continuance please.

Leroy Franks had one more point to make. He said just to clear up a minor point, Mr. Kirkbride said some of the older homes were not engineered. That is not true. In 1997, I had to have a registered structural engineer design my support system. That was in '96 by the County of New Hanover and that should be applicable today. In other words, that documentation has got to go through the county office first.

Mayor Clark motioned to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Mayor Clark said to the town attorney, there has been some reference to a court case. Does this have any bearing on it? Mr. Clyburn responded I don't believe so. The court case that was referred to was the appeal. The Kirkbride's submitted an application for a variance to the Board of Adjustment. The Board of Adjustment denied the request for a variance. They appealed that to the Superior Court and we heard that matter back in September. Judge Cobb reversed the decision of the Board of Adjustment.

In a variance case, that's a very different issue from which you are being presented tonight. In a variance, the applicant is required to prove or to satisfy the Board that they have met their burden of proof with respect to the six different standards that they have to meet. What you're deciding tonight is really a legislative decision. You're sitting as a legislator so to speak for the Town of Carolina Beach. Our statutes and our courts give Town Councils a great deal of discretion in deciding whether to amend the ordinance in the way which you choose to amend the ordinance. An applicant or someone who would choose to appeal your ruling on a legislative decision would have to prove that your decision was arbitrary and prejudice. You have a very wide discretion and ruling on voting on this type of an issue.

Councilwoman Efirm made a motion to table this to the December meeting. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE ZONING ORDINANCE, ARTICLE 16 PLANNED UNIT DEVELOPMENT (PUD) TO CONSIDER CHANGES TO THE PUD ORDINANCE AND TABLE 3.8-1 ELIMINATE THE PUD FROM THE R1-B ZONING DISTRICT

Mr. Parvin stated at our August meeting you recommended that the town manager, myself, and Councilman Johnson review the Planned Unit Development language and bring back changes for your consideration. We did meet several weeks ago and identified four issues when looking at this language:

1. Where our Planned Unit Developments are allowed
2. Types of uses allowed
3. Setbacks
4. Open space

Essentially, this language has not changed dramatically. The changes that came out of our discussions were:

1. Only those uses permitted or conditionally permitted in the zoning district shall be allowed by a Planned Unit Development.
2. Planned Unit Developments are not allowed in R-1B

The other changes that we went over included the 2 acre minimum, no commercial in residential zones, and the language requiring bonds for infrastructure for projects. All that remained the same. Planning had the same concerns about the 2 acre minimum. The Planning Department still did not recommend that. Staff thought that the 2 acre would eliminate anybody from being able to use the PUD because there are not a lot of 2 acre tracts. We didn't have any problems with any of the other changes. Planning and Zoning voted to approve it with the 2 acres.

Mayor Pro Tem Gilbert made a motion to open the public hearing. MOTION CARRIED UNANIMOUSLY.

Mike Kirkbride, 905 S. Ft. Fisher, said since this has been kicked around, I have spoken to a few of the builders in the area that have tracts. In the face of our market place right now, they're looking at readjusting what they've got in terms of lots and have some of the possibilities that the PUD would offer to offer different amenities. In other words if you have a group of ten lots and you're looking at making those stand out, all of a sudden you want to carve out from within those ten lots a pool area and a tennis court area or a small children's park in the middle well PUD offers that ability. I just see as we go forward with this town we're going to have these kinds of adjustments with the lots that we have. The PUD allows that. If you bring in the 2 acre minimum, I just think there is no other vehicle that you can develop these kinds of changes. I think the 2 acre minimum will basically eliminate PUD but I also see that the PUD might allow us to reconfigure some areas of our town that could use a little collaboration to create something that's unique, different, and maybe better for that neighborhood. I see it as possibly helping things like the bike path if we could get a neighborhood like Carolina Sands to maybe reconfigure enough to have a pass through. I'd like to see it worked on a little further myself. That would be my request.

Rick Rogge from Spartanburg said I built a couple small subdivisions on the island and I think leaving the 2 acre requirement in there removes the future ability to be more flexible. I think that flexibility is the key to long term success. I think that putting the 2 acres in there will tie the hands of future people developers, Councils, everybody as far as what can and can't be done. I think the town has a nice opportunity to grow in a beautiful way and I think that flexibility would be a key to that. I'd like to see it passed without the 2 acre requirement in there.

Next to speak was James Golden of 1216 D Canal Drive. He didn't come for this particular item, but wanted to speak up and say he thinks the 2 acre thing in there is just ridiculous. I think the PUD is a good avenue for investors. I know some people think that's a dirty word right now but that's one thing they can still look at and have some possibilities and flexibility like the gentleman said. If you put the 2 acres in there, we've already closed the doors to a lot of investors over the last couple of years, and I think that will continue to be that way.

Dan Wilcox, 614 Monroe Avenue, said he has spoken to Council about this before. I think I agree with the people who have spoken tonight and the planning staff that a 2 acre minimum just doesn't

work in our community for apparent reasons. I'm also concerned about the lack of flexibility by absolutely limiting any construction or development in the north end, R1-B district. That has always been the area where multi-family could be built. I think we've reduced multi-family density in that area three or four times in the last ten years. It's not gone up; it's gone down. It's gotten to the point where the most you'll ever see up there probably is a triplex, maybe a quad. I doubt if you'll see too many more of those. I've never built a triplex or a quad in this neighborhood; I don't care for them. But for some people that own two lots they could build a duplex on each lot or they might find it very attractive to build a very high end triplex across those two lots with a pool area or whatever they want to do to make it a very classy development. What you're doing tonight would eliminate that. As a matter of fact what you'd be doing tonight would be forcing an increase in density because you can

build four units on two lots or you can build three units on two lots. Why would you want to tell them that they can't do a multi-family structure under any conditions? I think that's kind of a backwards approach to this situation. We have density in place. Mr. Johnson can attest to the fact that we lowered the density when we worked together on P&Z and I think if you look at those density numbers for the lots that we have you can't get crazy with six tracts and 12 tracts and stuff on small pieces of property. It's just not possible. You're lucky if you've got a lot and a half to be able to build a triplex. We've seen a couple of those go up. I think first of all you're talking about making a change in an area where most people bought those lots and have always bought those lots with the ability to be able to build some type of multi-family structure. Multi-family structures are sprinkled, they have to meet a different building code, and they're actually safer than the duplexes in many respects. I hate to see you go backwards with this. You may never see anymore of them up there but I'd like to see you leave some flexibility. We had a PUD up on the north end where if you hadn't allowed some flexibility recently we'd end up with a much less desirable project there. Instead there's a very beautiful project there with two buildings that look like single family homes. That latitude, if you take it away, we're going backwards here. I would like to see people build nicer projects and have a little bit of flexibility in design. I'd encourage you to not remove the ability to do any multi-family because first of all it's pretty much inconsistent with many other things that are in the ordinance that I don't know that are up here to be changed tonight so if you change this maybe you're creating some other inconsistencies.

Mayor Pro Tem Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Johnson made a motion that whereas in accordance with the provisions of North Carolina General Statute 160A-383, the Town Council does hereby find and determine that the adoption of the following ordinance amendment is consistent with the goals and objectives of the adopted land use plan and other long range planning documents. MOTION CARRIED 3-2 (WITH COUNCILWOMAN EFIRD AND COUNCILMAN MACON VOTING NO).

Councilman Johnson made a motion to approve Ordinance No. 07-709 (Exhibit 4). MOTION CARRIED 3-2 (WITH COUNCILWOMAN EFIRD AND COUNCILMAN MACON VOTING NO).

CONSIDER AN AMENDMENT TO THE TOWN CODE CONCERNING HORSE REGULATIONS: CHAPTER 3, ANIMALS AND FOWL, SECTION 3-5; AND CHAPTER 11 PARKS AND RECREATION, FREEMAN PARK ORDINANCE

Councilman Johnson made a motion to defer this item to consider an amendment to the town code concerning horse regulations: Chapter 3, Animals and Fowl, Section 3-5, and Chapter 11 Parks and Recreation, Freeman Park Ordinance to the November meeting.

Mr. Owens offered to re-advertise this and bring it back in November.

MOTION CARRIED UNANIMOUSLY.

CONSIDER ADOPTING A TOWING ORDINANCE

Mr. Parvin went through the following sections:

Section 9-141-Administrative Responsibility. This states that the police are going to maintain a list of companies that may tow at Carolina Beach.

Section 9-142 is the actual permit fees that will be set tonight.

Section 9-144 Availability and Storage Requirements-talks about having someone at the towing company on duty for 24 hours. They must be located within New Hanover County, and they can't tow outside of New Hanover County.

Section 9-145 talks about liability insurance; you have to have a \$45,000 policy.

Section 9-146 talks about they are required to maintain wrecker equipment.

Section 9-147 says the Chief of Police can periodic inspections of the wrecker equipment.

Section 9-148 states what a tow company has to present on their application. It goes A-F.

Section 9-149 talks about the rates schedules. At this time, Mr. Parvin stated he would like to make an administrative change to this part. It references the city and he changed it to the town.

Section 9-150 spells out how the rotation lists will work. As accidents occur, the police department will go through the rotation and call the tow company based on that rotation.

Section 9-151 is information that may include on the officer's report. It has basic operating procedures. If adopted tonight, the police chief will do training with his officers to ensure that they meet this criteria when they go out and sticker to have vehicles towed.

Section 9-153 lays out the responsibilities of wrecker firms.

Section 9-154 pertains to pre-towing notice on private lots. This is already in our ordinance.

Police Chief Younginer added there has been a wide range of problems with wrecker services and the north end opened a whole new set of problems with these services, so we needed an ordinance to take care that problem. The fees by the wrecker services has ranged anywhere between \$75 and \$800 to tow. We have set some standard fees which are in line with other towns. If the wrecker services do not follow the rules, then their privilege license can be taken from them.

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

Duke Hagestrom, 920 Riptide Lane, said he has had his car towed. He asked how long do you have before you have to claim your car before they start adding incremental fees as a towing company? An example would be when I had my car towed they said if you want to get your car back, I can't meet you now so you can't get your car now but I can meet you in a little time window later on if you can come up and meet me. If you won't meet me then, which was a big conflict for me, then I'm going to charge you an overnight fee for keeping the car overnight until you can come tomorrow to pick up the car. So I am not 100% clear if the ordinance addresses that or if that is just open to private enterprise and they can do whatever the heck they want.

Mr. Owens replied there is a storage fee and that storage fee is set forth in the recommended fees. If it is stored outside it is \$20 per day and then \$30 if it is stored inside per day. We didn't get into if you get here before 12:00 midnight.

James Golden, 1216 D Canal Drive, said the only towing that I'm involved with is the beach tows. I know what a lot of the other companies charge to come down. There's only a few of us. There's Wayne's and us and I don't think anybody else will go out there. Two different things: 1) you never know what you're getting into when you go out on the north end. I think the police chief has covered that with the submerged vehicles. A lot of times we may have to go under a vehicle and take the drive shaft out. Most of the time by the time someone calls a wrecker, they're stuck; I mean it's bad so you've got winching that may have to be done and it really depends on where they are at the north. If they're at the entrance, there's no big deal. They are there and we pull them on off; but if they are down at the end, you're talking about more fuel, more time, and then of course coming back out. These 4-wheel drive wreckers are not good on fuel and they are not good on repairs either trust me. I think if you approve this like it is there are very few wrecker services that are going to be available at these rates to go out and get anybody. We will because I'm right here on the beach and the wrecker is on the beach. But if I'm not here and they call Wayne's and they are down on the end I don't think we're helping anybody because he knows Wayne's better than I do I think their average charge is around \$200-\$250 to come out on the beach. We're anywhere from \$100-\$350 depending on where they're at. If they are at the south end, it normally gets around \$250 or \$300 which I know you guys aren't concerned with. We want to help people. 2) if we are going to do a towing ordinance on the north end, Freeman Park, we may need to look at the people that are out there towing people that aren't licensed to do so and they're tearing people's cars up. I just pulled a young lady's car off last weekend that they hooked to her little steering bar up front and ripped it off, so now she was stranded because somebody towed her car. They said they knew what they were doing and they didn't. The people that do that and don't charge anybody I don't have that big of a problem with obviously they made a mistake but there are people out there, and I think the police chief knows this, that are out there charging people \$20, \$50, \$100 to get them unstuck and they shouldn't be doing it. If they tear the car up, they say oh I'm sorry but they still charge them \$50 to pull them off. We don't take advantage of people in our towing and I'm sure other wrecker services don't either but \$175 if you stick that in there and that's all they can charge I don't think many people are going to come out here and help them.

Mayor Pro Tem Gilbert asked if he was recommending that we have under special recovery maybe a (c) for some kind of extenuating circumstance. Mr. Golden replied yes. If we can go out there and we can hook up to them, get them out, then no big deal. We try to talk people into how to get it unstuck. I probably would say 60% of the calls we get, and I think the police chief will tell you this too, we go out there or we tell them on the phone let some air out of your tires because that's the biggest secret to sand. If they let some air out of the tires, they can drive out in most cases. If we have to pick a car up because their 4-wheel drive went out, we have to winch them out of the hole so we can get the wheel lift on them and then we got to pick them up, strap them in, and pull them all the way off the beach. That's just my opinion.

Wayne Peters, owner of Wayne's Towing, said the City of Wilmington has basically the same type deal on rotation calls. They do have an after hour gate fee that we're allowed to charge so if somebody comes on Saturday, Sunday, or 3:00 in the morning and they want to get their car and it's an emergency or if they need to get the keys out of their car usually we get like a \$25 gate fee that the City of Wilmington has on theirs.

On the submerged vehicles the \$175 plus \$50 per hour, I've been out there in January when you can't feel your toes in the water up to your waist and then in the summer time it might be a pleasant swim, so the submerge is sort of hard to put a price on that. It does need some kind of cap because like you say some people go out there and charge reasonable and other people are unscrupulous. That's all I see that needs to be done. An after hour gate fee and the a little more consideration on the submerged depending on the time of year or something on that line. It's hard to predict on the submerged ones, whether the tide has come in and over and whether the car is filled up with sand it's hard to say on that.

Wayne Gunter with Wayne's Towing said he does a lot of towing for Petey if they get stuck. We don't charge the town or the police department anything for that because they are public servants. I go out there in case they have problems because I know they have emergency calls they have to go on. I try to help them out.

On the submerged vehicles, I have to do the back stroke sometimes to get to them. You're fighting the current plus whatever else that might swim by so I think you've got to base it on what you've got to do to get to them. I'm usually the one who has to go out there and hook up to them. You've got a lot of shoveling, digging, and stuff like that. The burnt vehicles that have caught on fire you've got to wait until they cool down. I've been burnt several times by the parts of the vehicles that are dripping on me trying to get hooked up to them. The last one I got I had to stand it straight up in the air and drag it off the beach. You can't charge too much,; the people don't come down here with bank accounts in their pockets. It's hard to judge a fee and not rip people off but you've got to consider the work you've got to put into it. Only a couple of us can go out there. These tow strap people they are going to kill somebody one of these days because a couple of people have been killed by them. I lift them up most of time. You do need a cap on the normal winching and towing; but when it comes to when they're under water and you have to swim out there and it takes you three hours and Petey and everybody else can tell you it will take you three or four hours to get them out of the water when you're fighting the current plus whatever else you've got to do. It takes a while. Mayor Pro Tem Gilbert asked if he has looked at these fees. Mr. Gunter said he thinks the fees are reasonable. Mayor Pro Tem Gilbert said on the submerged vehicles are you saying \$50 per hour probably isn't correct or are you saying the \$175 isn't where you want to be. Mr. Gunter said the \$175 isn't where I would want to be because if a vehicle is submerged under water they're totaled. There's no way they can be repaired because salt water destroys a vehicle. Normally if they've got comprehensive and liability insurance, the insurance

company will cover that. Mayor Pro Tem Gilbert asked Mr. Gunter his recommendation for the starting point? Mr. Gunter replied you've got to base it on how far out they are in the water and how far you've got to swim to get out there to hook up to them. Like Wayne said if it's January and 20 or 30 degrees you've got to go out there and swim and hook up to them in 20 degree weather. You're cold and out there two or three hours freezing to death and hooking up to them. You're soaked and wet. It's hard to base that fee. Mayor Pro Tem Gilbert said from what you've just said basically four hours, that's \$200, so with that you're saying submerged on the north end you're doing your math year round \$300 is your starting point. Mr. Gunter said right if they're under water because you've got to swim out there, hook up to them, pull a cable, if the current is going a certain way you've got to go up with it to let yourself drift to them so you can hook up to them. The fees and everything looks cool to me.

Mayor Clark motioned to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Mayor Pro Tem Gilbert made a motion to approve Ordinance No. 07-711 (Exhibit 5). MOTION CARRIED UNANIMOUSLY.

Mayor Pro Tem Gilbert made a motion to approve the amended fee schedule in Section 9-145 and editorial changes (Exhibit 6). MOTION CARRIED UNANIMOUSLY.

CONSIDER ADOPTING A REVISED VENDING ORDINANCE, CHAPTER 8, ARTICLE III PEDDLING AND SOLICITING

Mr. Owens stated the request before Council is a draft vending ordinance for consideration. There are two applicants that would like to be considered for vending tonight. One application is from Ms. Kelli Williams and the other application is from Mr. Dennis Barbour. They both want to do vending on the north end.

Our recommendation is to allow for a maximum number of vending permits at Freeman Park, on the municipal part of the beach, and in town. You do have information on the kinds of vending that are allowed at this time.

The first part of the proposal is definitions and Section 8-47 deals with restricting certain types of vending. A detailed application must be submitted and vending needs Town Council approval. The total number of vending licenses shall be limited to 2 on the municipal beach strand, 5 within the town limits, and 4 within Freeman Park. Alternate language would include vendors must have a business in the CBD. It also talks about liability insurance and not putting anything on the beach, hours of operation. This pretty much falls in line with some of our policies we have had in the past. It does talk about ice cream vending trucks and construction site vending. The ordinance does made some exceptions for charitable or religious purposes.

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

James Golden, 1216 D Canal Drive, said he hasn't had a chance to read all of this. He referenced one section would pertain to them big time. From what I understand I guess out of what you all just said you would have to have a business in the CBD to vend on Freeman Park. Mayor Pro Tem Gilbert and Councilman Johnson both responded no. Mr. Owens said the alternate language says in order to vend

on the beach strand you have to have a business in the CBD and the alternate language says if you're going to do it in town at this point you have to have a business in the CBD but not Freeman Park. Mr. Golden said I thought Freeman Park was considered part of the town. Mr. Owens said no, it's not and Councilman Johnson added only 1,000' of it. Mr. Golden said cool, no problem.

Duke Hagestrom, 920 Riptide Lane, addressed a few items in the ordinance. First, he thought most of the wording seemed very reasonable and thinks it definitely serves to protect residents and visitors while still allowing vending services. He is pleased in general with what the town manager has pulled together here.

If you look under Section 8-47 #1(f) it has a line that says all food products must be permitted by the New Hanover County Health Department. In many instances, especially with packaged foods, foods that haven't been prepared, the New Hanover County Health Department actually doesn't have jurisdiction over that product. In some instances, it's the Department of Agriculture and when it comes to just sundries like the candy it doesn't actually fall under either of those. I would recommend that perhaps you consider changing the language. One option you could just say by the appropriate accrediting or licensing agency or organization so instead of just saying whatever the food type or food product is whatever agency oversees that product they would be the one that would actually be in charge of making sure it met with their compliance if that makes sense.

The second item and this is a little bit conceptual in nature but there's been some discussion and I've heard discussions surrounding the concept of splitting out beach services versus vending. When I speak to beach services and I believe I'd advocate this, the beach service where you're setting up chairs and umbrellas and actually just offering a service but not necessarily selling a product perhaps you can consider setting that up as maybe you have a couple contracts that are set up with companies that are allowed to offer the beach services and keep that separate from vending where you're actually selling a product. It would apply for example to the chair and umbrella set ups that Shawn from Pleasure Island Rentals or myself from Wheel Fun Rentals when we go out and set up those chairs and umbrellas. That's a concept I'd like you to at least somewhat consider.

The next point if you go to Section 1(d) of the same area in the ordinance it says that the licensee shall not store any inventory or erect any structure on the public beach or any public property. I did a little review and 80% of the beach towns that I had an opportunity to review, and I only had an opportunity to sift through about 12 to 15 different resort beach communities, allow for a provision to store some chairs and umbrellas on the beach. I provided a photo and I'm not sure if it made it to you all but for example North Myrtle Beach have fairly professional nice looking boxes where they store the umbrellas and then they stack up the chairs with a lock and cable that goes through them. I've seen in another community where they just have a post that's in the sand with a locking ring on it and that's circled through the chairs and they are stacked neatly and professionally. This is just for consideration when it comes to the chair and umbrella services on the beach. As a convenience to guests perhaps you can consider and maybe you'd set up designated areas where this is allowed and where it's not allowed the ability to store those products on the beach.

The next item I wanted to bring up and reference was made to the 150 day per calendar year. I initially kicked around maybe we could drop that to about 120 days because you've got a pretty tight service season for the beach itself and I was a little bit concerned about the 150 days but I don't think I'm as hung up on that.

In general I just wanted to commend the town manager on his work on this. I think it's a good ordinance and I think it helps meet the needs of visitors as well as allow for some vending to take place and not have a lot of abuse.

James Golden said he was under the impression that it would be a vending ordinance and he didn't think the beach chairs and things would be part of vending. I'm sort of like Duke is on that. He continued obviously you guys know we want to sell ice cream on the beach strand too. I think that's something that visitors and residents would like. If you get the two that's there now that would definitely put out any kind of ice cream.

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

Mayor Pro Tem Gilbert made a motion to approve Ordinance No. 07-704 (Exhibit 7) that includes the amended language on (b) per Mr. Owen's recommendation, item (f) change to all food products or beverages must be permitted by the New Hanover County Health Department or other permitting agencies, and that this ordinance will sunset to no vending in Carolina Beach as of the date December 31, 2010 at which time all permits expire. MOTION CARRIED 4-1 (WITH COUNCILMAN MACON VOTING NO).

Mayor Pro Tem Gilbert made a motion to repeal the policy that dates back to 2003. MOTION CARRIED UNANIMOUSLY.

TABLED ITEM – VENDING REQUEST BY KELLI WILLIAMS AND SHELLEY BLANKS TO VEND IN FREEMAN PARK

Mr. Owens considers all the permits have been given for vending at Freeman Park.

Councilman Johnson made a motion to deny the vending request by Kelli Williams and Shelley Banks to vend in Freeman Park. MOTION CARRIED UNANIMOUSLY.

REQUEST BY ISLAND TACKLE & HARDWARE FOR VENDING PERMIT FOR FREEMAN PARK

Mr. Owens said this is a similar situation regarding vending. He did talk to Mr. Barbour and informed him of what may happen but he said he is still interested in vending.

Councilman Johnson made a motion to deny the request by Island Tackle & Hardware for a vending permit for Freeman Park. MOTION CARRIED UNANIMOUSLY.

PRESENTATION/DISCUSSION OF THE PARKS MASTER PLAN AND CONSIDER SETTING A PUBLIC HEARING DATE FOR JOINT WORKSHOP WITH PARKS AND RECREATION COMMITTEE

Ted Lashley, Director of Parks and Recreation said that meetings have taken place with Dr. Herstein and all the committees, key stakeholders, and all departments and staff. We are now requesting

Council's final comments. He asked Council to read over the Recreation Master Plan and said he would like their comments by the end of the month. This also encompasses the open space plan, marinas, beach crossovers, and more recreational facilities in the CBD. Council's comments will be forwarded to Dr. Herstein to be included in a final draft. There was also a request to have a joint Council and Recreation Committee Workshop to look at the final draft.

A decision was made to hold a special called meeting on November 19, 2007 at 6:00 p.m. with the Parks and Recreation Committee and Dr. Herstein to review the draft Parks Master Plan.

CONSIDER NEW POLICE VEHICLE DECAL

Police Chief Younginer said in the past couple of years on our uniform we changed our patch to more of a beach theme. We've incorporate the town seal into it and put the fish back on it and made it more about where we're from.

It used to be really limited on how you could mark your vehicle. Stripes had to be ordered but now there are some local vendors that can do that and have done that. We've changed the Ocean Rescue vehicle. The word police on the side is much bigger than what it is on the current cars. You can barely see the word police on the car now at night. We wanted to make it stand out and still be attractive. The new look has a wave action on it and incorporates some different colors which makes it more about where we're from. We don't want to change all the vehicles. As we get new vehicles in, we'll change them or if we have some damages, we'll redo them.

Council approved the new police vehicle decal.

NON-AGENDA ITEMS

Mayor Clark announced that at last night's skate park meeting there were about 50 people in attendance.

Mr. Lashley added it was a good, diverse group of parents, kids, and older skaters and I thought the major emphasis was the enforcement of our ordinance with the helmets, elbow, and knee pads. We talked with the League of Municipalities and the town attorney and it's a normal part of the duties of the recreation's staff or the police officers to ride by the skate park occasionally and educate and remind these guys to wear their helmets and pads.

An interim solution right now is to start doing random checks like we were doing. A possible long term solution that will help is having the kids come to the Recreation Center and sign a waiver. We will give them a set of rules so they will know the consequences of not obeying those rules and providing helmet stickers that we can identify by riding by the park.

It was also brought up last night that we don't have an ordinance that covers the enforcement of a lot of these rules and regulations in the parks so I am proposing to put together a comprehensive park ordinance that will include all the rules, including the skate park, camping, camp fires, etc. in all our city parks. I've provided a couple of examples from the City of Wilmington and New Hanover

County. If you want, I can come back at a later date for an adoption of a park ordinance, which will clear up a lot of issues down here.

Mayor Pro Tem Gilbert motioned to go forward with the interim application of Mr. Lashley's recommendation. MOTION CARRIED UNANIMOUSLY.

Valita Quattlebaum invited Council to the United Way kick off event on Thursday, October 11th at 12:00 noon.

Mr. Owens reminded everyone about the Land Use Plan public hearing to be held on October 23rd.

Mayor Pro Tem Gilbert brought up the townhouse ordinances where they tried to fix a challenge with HOA 3 and HOA 6 insurance. Ms. Bowman had a conversation with Ed Parvin and me and it's still a challenge. We have condominiums that are considered HOA 6 which has higher insurance. I pulled together an ordinance from Topsoil and some recommendations from a couple of people. We're trying to get that HOA 6 down to HOA 3 so we can reduce this insurance exposure for some of these folks.

Mayor Pro Tem Gilbert made a motion for Council to give direction to staff to go forward to pursue this language to save our folks some insurance increases in the future and some other fees.

Mr. Owens said he also did some research and we can place it on P&Z's agenda in the near future and rehash this.

MOTION CARRIED UNANIMOUSLY.

***REQUEST FOR CLOSED SESSION TO DISCUSS REAL ESTATE AND LEGAL MATTERS
[NCGS 143-318.11 (a)3&5]***

Mayor Clark made a motion to go into closed session to discuss real estate and legal matters according to NCGS 143-318.11(a)3&5]. MOTION CARRIED UNANIMOUSLY.

A motion was made by Mayor Clark to return to open session. MOTION CARRIED UNANIMOUSLY.

Mr. Clyburn took this opportunity to announce that we have resolved pending litigation with MCC Outdoor, Inc., which most people know as Fairway Outdoor Advertising. Litigation was brought against the town as a result of our decision to require them to remove a billboard from a parcel of property that we had acquired by the condemnation process. A motion was filed by Fairway to enforce an agreement which they contended that the town had reached with them earlier. That motion was argued and heard by Judge Cobb. Prior to his ruling, the town reach a settlement under which the town avoided any obligation to pay damages for alleged rents that they have been paying for a number of years in reliance on the agreement that they say that they had reached with the town. That agreement does also allow them to construct three billboards. One will be located as one comes over Snow's Cut Bridge on the right, another will be located in front of the ATM machine that is in near the Food Lion and right in front of the Walgreen's, and the other will be on the other side of 421 in front of the Pavilion strip mall.

ADJOURNMENT

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

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____