

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

September 9, 2008

The Town Council of the Town of Carolina Beach met in regular session on September 9, 2008 at 6:30 p.m. in the Council Chambers at the Municipal Administration Building, 1121 N. Lake Park Blvd., Carolina Beach, North Carolina. The following were present: Mayor Joel Macon; Mayor Pro Tem (MBT) Dan Wilcox; Councilwoman Pat Efird; Councilman Jerry Johnson; and Councilman Alan Gilbert. Also present were Town Manager Tim Owens and Town Clerk Lynn Prusa.

Mayor Macon called the meeting to order.

INVOCATION

Mr. Tom Campbell led the invocation.

PLEDGE OF ALLEGIANCE

Also, Mr. Campbell led everyone in the Pledge of Allegiance.

CHANGES TO THE AGENDA

Councilman Gilbert made a motion to move Item #26 to Item #4(a), add Items #19(a) and 32(a), and delete the August 12, 2008 minutes from Item #12(a).

MOTION CARRIED UNANIMOUSLY.

***ADOPT A PROCLAMATION RECOGNIZING SEPTEMBER 17-23, 2008 AS
CONSTITUTION WEEK***

Representatives from Wilmington Ladies Tea Walk Chapter of the National Society of the Daughters of the American Revolution presented a flag to the Town of Carolina Beach to fly during Constitution Week. Ms. Campbell said they will be going into the school rooms to do constitution projects all during the week of September 17th through the 23rd, they support and honor the veterans, and they are involved with the History Center and do genealogy work.

Mayor Macon made a motion to adopt Proclamation No. 08-929 proclaiming September 17-23, 2008 as Constitution Week. MOTION CARRIED UNANIMOUSLY.

REQUEST FROM RUBY FREEMAN FOR A DONATION TO MT. PILGRIM MISSIONARY BAPTIST CHURCH BUILDING FUND FROM FREEMAN PARK REVENUES

Ms. Ruby Freeman from the Freeman family on Carolina Beach Road made the presentation. She gave Council pictures of the church. She said that on October 19, 2008 the church will be having their rededication service. The church is over 135 years old, and it is the Freeman family church. Church members have been doing renovations and they are seeking donations. She asked if it would be possible that the Freeman Park revenue could make a donation to the church. She has not taken this request to the Freeman Park Board.

The Town Manager, Tim Owens, said that the town does make donations to non-profits, unless they generally serve a certain function to the public and, generally, municipalities shy away from giving donations to religious type organizations.

Councilman Gilbert suggested Ms. Freeman give her contact information to the town manager and perhaps the town can help facilitate donations through some of our organizations.

Mayor Macon suggested she call him, he might have a better way to help honor her request.

REQUEST FROM JIMMY ELLINGTON TO HOLD A SKATE COMPETITION AT THE TOWN'S SKATE PARK ON SATURDAY, OCTOBER 18, 2008

Jimmy Ellington and his Manager, Jacob Lee, from the Hampstead area made the presentation. Mr. Ellington said they own the oldest skate park in North Carolina and it is located in Hampstead. They have run skateboard contests about twice a year, for 12 years. They have also done a couple of events in Greenfield Skate Park in Wilmington and staged an event for the 2008 Azalea Festival. They are requesting to put on a three part contest at the Carolina Beach Skate Park, the first part being held here. Each event will have prizes and awards. Mr. Ellington answered questions received from the Town Manager's memo. He said he was glad that Carolina Beach is enforcing the rules for safety equipment and they would enforce that as well. He has obtained the \$2 million dollar liability insurance policy through Azalea Insurance Company with the town as additional insured. He said their total cost would be about \$1,000 and they expect to have about that much in income and any profit that is made they would be giving to the park for improvements. They estimate profits between \$150 to \$300. They staff a minimum of four people and a maximum of eight. He has contacted Ted Lashley at Parks and Rec and would obtain help from him if needed for the event. They would ensure the park would be cleaned up and brought back to pre-event status or better. Every participant will have a signed waiver from the park and a helmet sticker and would be put into place, if approved. They are trying to make this a regional event. The park

will remain open to the public. All areas not in use for the contest will remain open to the public. Only one area can be in the contest at a time. There will be no vendors setting up, however, they do have sponsors who do have pop-up tents but they are not selling anything. There will be a PA system and will play some music that does not contain obscenities, etc. They are excited about the event, as well as the kids, and would like to make it a fun a safe event.

Councilman Gilbert made a motion to approve Mr. Ellington's Skate Competition on October 18, 2008. MOTION CARRIED UNANIMOUSLY.

REQUEST BY SUSAN KEELIN TO CONSIDER EXTENDING THE DEMOLITION PERMIT FOR SEA WITCH PROPERTY LOCATED AT 35, 223, 224 AND 227 CAROLINA BEACH AVENUE NORTH

Gary Ferguson said he spoke with Ms. Keelin this morning and they worked out an agreement where she will not have to ask for an extension of the demolition permit.

PRESENTATION BY CECIL WORSLEY, III CONCERNING GAS TRANSPORT IN EMERGENCY SITUATIONS

Gerald Bigley and Mitch Rose, Vice-President of Operations for Spring Eubanks Oil Company on Shipyard Blvd., and Cecil Worsley, III were present. Mr. Bigley complimented the town on how well they handled the hurricane. Mr. Rose said they are partnering with Mr. Bigley at his CITGO station in Carolina Beach. He reviewed a sample of the billing as part of the request for proposals for gasoline. With receipt of documentation, CITGO can remove any state or federal taxes so that would not be a burden on the town to recoup those funds. They also allow you to setup each vehicle separately or by department or vehicle within the department to determine how much fuel is being used by each vehicle, miles per gallon, where the purchases were. That goes hand in hand with Mr. Bigley's store from the standpoint of having security cameras and generator backup if there is an emergency. This is general information on what they can provide through CITGO to help the town grasp on what their full cost might be. Regarding supplying fuel during an emergency, they are the only facility that stores bulk fuel in storage, other than the terminals themselves. They have 180,000 gallons of fuel storage at their facility on Shipyard Blvd., six tankers, eight short trucks to deliver. They are the emergency response suppliers for New Hanover County, Pender County, Onslow County, and Progress Energy. If Mr. Bigley's station were wiped out during a hurricane, they still have trucks that would bring fuel to the town's vehicles/equipment. Mr. Bigley said that reports are available for each vehicle for the town to monitor fuel usage vs. miles driven which is very important. Mr. Bigley mentioned that the police department uses one of his boat slips at no charge to the town.

RECOGNIZE EMPLOYEES FOR YEARS OF SERVICE

Charlie Parker was not present and will be recognized next month.

Chief Younginer introduced a new employee, Police Officer Dustin Gentzler.

CAROLINA BEACH COMMITTEE REPORTS

Rick Rogge, resident of Spartanburg Avenue, gave a report from the Harbor Committee. He distributed a map to Council. He said they have been working on a number of issues which they prioritized. Their number one concern is with water quality. The problem is stormwater runoff. It includes chemicals, oils, feces, etc. There are currently over 30 pipes of unfiltered pollution flowing into the harbor. Current water quality does not permit shell fishing. The harbor is filling in with silt. Some steps are currently being taken to help curb the pollution which he reviewed. The solution is that we must filter and contain the town's stormwater and drainage system. We have some fees in place and a number of grants to help. We need to implement a short and long term solution with a time and quality goals and ask that Council implement a resolution this evening pushing forward on this matter. The second item is regarding a mooring field and boater access to our waterways. The solution to get boaters to stop is to put in a mooring field and have the town charge a fee to get boaters to stay there. They have done extensive research on the areas that may conducive to this. He said they would like to start off with a trial basis of maybe ten moorings that would accommodate transient vessels. It would be a fee based rental with a two week maximum which could be extended by the harbor master. They also recommend the use of dingy docks with access to the town and beaches. They proposed three locations along the north end where some dingy docks could be placed. Our town has access to the beach which is something other towns do not have. They have a lot of ideas on how to let the boaters know that Carolina Beach is open for business and encourage them to stop and visit. They have lots of ideas but their number one concern is the water quality and they are hoping Council will act on that.

Mayor Macon said they do have a partial report on the storm drains which they received today in a meeting with the engineer. They did receive a grant from the study of these outfalls, which are all located and numbered and they are waiting for a rain event to take water samples at each one. Then they will do testing and get back to the town and finalize their report. They will be ranked in the order of importance and recommended ways to minimize the impact.

Mr. Rogge said that on the mooring field they are in a time crunch situation with the Big T grant. There is money available specifically for that and encouraged that we go after it. Tim Owens said there is an item on the agenda to encourage us to apply for that grant.

Adam Higgins, Arts and Activities Committee, gave an update. They meet weekly in the Police Training Room if anyone wants to join them. Two concepts they are currently working on they need direction and overall approval from Council. First one is the

Boardwalk Art Show, which has been brought before Council twice for date ranges. It has been conducted on Thursdays, primarily paired with the fireworks/band and has been pretty successful with a lot of positive feedback. They would like an extension of that overall approval, making it a blanket approval and be free to find any dates that will work. They would extend the insurance policy, date specific, until it is cheaper to have a year-long policy. They would seek to continue to use Town land along the boardwalk and would coordinate and get approval from the town manager. Tim Owens said that would be easier for him and he would make sure they had their privilege licenses, working with the fire chief, etc. Councilman Gilbert said there is another section of the ordinance that would have to be addressed if it is not a town sponsored event. Additional events should complement scheduled events and all private entity events should be considered with regard to flexibility. Mr. Higgins said he has rescheduled events in order to not conflict with anyone. MPT Wilcox said it is part of the Boardwalk Makeover efforts which is supported by the town.

Mayor Macon made a motion to continue to support the Arts and Activities Committee with support on the Boardwalk Makeover event at the boardwalk subject to coordinating the event with the town manager. MOTION CARRIED UNANIMOUSLY.

Mr. Higgins said the second one is the Pleasure Island Summer Never Ends concept which would highlight the fact that the boardwalk, CBD and Carolina Beach is still open for business, things to do and reasons to come down into the fall. They want to use the remaining band budget (about \$900), two remaining fireworks shows and an extra date with the bounce house. Package that with similar things they did on May 3rd at the Boardwalk Makeover event to highlight the beach and as a thank you to all the volunteers and rally everyone again. They would want to use the FEMA lot for pony rides and other town lots for the event. They want to sell crafts and have a beer garden similar to the one organized on May 3rd with small snack sales. They want to do less big meal type things - small cheap snacks such as cotton candy, peanuts to be a part of a carnival type atmosphere. Proposed date is October 18th. Council agreed it would complement the skateboard event. Mr. Higgins said there would be a timeframe they would like to close Cape Fear Blvd. to be used for parking or possibly other attractions.

MPT Wilcox made a motion to approve the Arts and Activities Committee request, on behalf of the Boardwalk Makeover group and Chamber of Commerce, to have the Pleasure Island Summer Never Ends event on October 18, 2008 to include closing a portion of Cape Fear Blvd., no further than Lake Park Blvd. and not any further than necessary, and a portion of Canal Drive as required. MOTION CARRIED UNANIMOUSLY.

Tim Owens said they would need event insurance as well.

Randy Simon, Police Advisory Committee Chairman, said they are a 9 member board, with diverse members including an attorney, and continue to meet the first Monday of every month at 7:00 p.m. in the Police Training Room. They met with the chief of police

the last two meetings on the golf cart issue and they would like to participate in the golf cart item tonight. They closely studied and are in support of the Boardwalk Makeover program, including the beer garden. They are working on bringing awareness of such programs as Community Watch, safe zones for the children, awareness of internet pornography to parents, etc. Members of the committee were on site handing out information on these issues at the Chowder Cook-Off. Rules have changed now and include a fee of \$130 to participate at these events, plus extra fees for people manning the booth, and will not be able to take part as they have in the past. They will continue in every other aspect.

PUBLIC DISCUSSION (Five minute time limit per person)

Kris Testori, 500 Otter Road, spoke regarding the fees associated with water turnoff. She wrote Council a note which was forwarded to the town manager who requested she contact him. She is concerned about the fees. Through some error she had her water turned off last Friday and was charged \$80 which she feels is somewhat exorbitant. She called the clerk and was told there are approximately over 100 people every month who have their water turned off. She is concerned about where that money is going. The process does not cost that much to turn it on and off. Why are they charging so much? Last year it was \$45 which was not changed on the website until about 2 days ago. Why is there an extra \$40 charge for the second time? She feels they are trying to punish people that don't have the money. Wilmington charges \$50 and Kure Beach charges \$60 and do not increase the fee for doing it more than once. Also, why are they turning it off on Fridays because people don't have time to get home and have the potential to get it turned back on. Most people are not computer savvy enough to go to the town's website and find they can have their water turned back on by the police department or the fire department for an additional \$50 fee. She understands that when people don't pay their bill why they have to cut it off but doesn't understand why on Fridays when they can't get it turned back on.

Councilman Gilbert would like Council to direct the town manager to consider this and look at other utilities, with respect to power, and maybe go into the next month and say on the bill that you have a disconnect date which it does not say now. General Statutes are very clear that it has to be a disconnect.

Councilman Gilbert made a motion for the town manager to bring this back to Council for deliberation.

Tim Owens said they will add something on the next billing. Bills go out on the last day of the month and you have until the 15th to pay and on the 26th it is cut off. The revenue goes into the water and sewer fund for projects and general operating expenditures. MPT Wilcox said it would be nice if it were not cut off on Friday. The finance officer said it was not a practice in the past to cut off on Friday. Mr. Owens asked Mrs. Testori to call him tomorrow to discuss it.

MOTION CARRIED UNANIMOUSLY.

Duke Hagestrom, 920 Riptide Lane, said he found out recently that his son, who is signed up for the Pleasure Island Soccer Association, that all games will be played in Veteran's Park. He spoke with Mike Bennett, director of the league, who had very compelling reasons as to why. The number one reason was our poor facilities at Mike Chappell Park could not support the league offered to the children. He is concerned that our parks and recreation facilities are not keeping pace with growth on the island. Mr. Hagestrom mentioned the \$35.5 million dollar bond referendum that was passed in May 2006 to expand parks, green space and cultural facilities throughout Wilmington, New Hanover County and the beach towns. Each of the beach towns were supposed to be allocated \$200,000 each. He asked how much the Town of Carolina Beach requested from New Hanover County from this bond. He spoke with someone from the parks and recreation department and was told they was not aware of any request from the town for any of those funds and he wanted to know why. He understands that the entire pot of bond money has been allocated and no more money remains. Who was responsible to make sure that Carolina Beach got its fair share of the parks and recreation bond and what is Council going to do to ensure something like this doesn't slip through the cracks again? Our 3% fair share should have been over \$1 million dollars. He heard that the parks and recreation manager has been waiting to request those funds in hopes of getting a matching funds grant. He asked, we couldn't get our act together in two years? He spoke to the county planning manager about it and he asked where Carolina Beach and its representatives were during the bond planning and execution process? He would like to know where our leadership was and why we didn't get our fair share and what will we do in the future to ensure we do get our fair share.

Mayor Macon said he spoke with Mike Bennett a couple of weeks ago. The Mayor said that expansion of the park is a part of the problem. They have gone to Sunny Point about it. There is also a maintenance issue, the fields are not playable or there are not enough fields.

Mr. Hagestrom said that, in a conversation with Mr. Bennett, had they done a good job in planning the facilities and making sure that they were taken care, they would have had sufficient capability to have this league on the island. He did say that two-thirds of league participants do not live on the island.

Councilman Gilbert said that there are a number of reasons why Mike Bennett has gone to Veteran's Park and, to his knowledge, he has never gone to the Recreation Committee, to Ted Lashley, to Margaret or come before Council regarding the facilities. This is part of the politics going on in soccer in the southeastern region.

Tim Owens said it is his understanding, which predates him, that there was no money going to come to the municipalities and the three beach mayors got together and got the \$200,000 each. That \$200,000 is earmarked for Carolina Beach and is a reimbursable agreement in that if we spent that amount it would come back to us. They have a lot of things going on now recreation-wise through the Master Development Plan and the

\$200,000 and turn it into a lot more through grant match money. If there is a \$200,000 project that we needed right now, he would suggest that they go ahead implement the project and seek reimbursement.

Mr. Hagestrom said that our goals, paid for by the town, have been moved to Veteran's Park. Councilman Gilbert said he is not sure if fees paid for them or the town.

Mayor Macon said that Sunny Point has not granted permission for expansion of the fields which the town has asked for in the past.

Councilman Gilbert said that former Mayor Tim Fuller of Kure Beach volunteered some of their fields for PISA and discussed it with Ft. Fisher with the opportunity to set up some fields down there to possibly attract more people here for year round soccer. He is not sure access is now possible to Ft. Fisher. We should look to expanding on the island.

MPT Wilcox said that he and the Mayor have met with each of the County Commissioners and discussed master plan issues as well as parks and recreation issues and they have recognized that Carolina Beach has parks and recreation needs as well and are open to working with the town.

Tim Owens said that in the last year and a half the town has approved a Parks and Recreation Master Plan and it is just a matter of implementing it. He said they could talk to Mike Bennett and find out why the decision was made to move.

ADOPT THE CONSENT AGENDA

Councilwoman Efird made a motion to adopt the consent agenda as follows:

Approval of the Minutes:

Recessed Meeting	
from 6/16/08	July 7, 2008
Special Meeting	July 22, 2008

Set a public hearing date for October 7, 2008 at 6:30 p.m., or soon thereafter, to consider amending Article 22.5 Protest Petitions to be consistent with NC General Statutes.

Set a public hearing date for October 7, 2008 at 6:30 p.m., or soon thereafter, to consider amending the Zoning Ordinance to address public notice requirements for Planning and Zoning Commission meetings.

Set a public hearing date for October 7, 2008, or soon thereafter, to consider amending the Carolina Beach Code of Ordinances, Chapter 8, Article IX Sidewalk Cafes.

MOTION CARRIED UNANIMOUSLY.

CONSIDER A REQUEST FOR A MODIFICATION OF A CONDITIONAL USE PERMIT TO INCREASE ALLOWED SEATING FROM 143 SEATS TO 250 SEATS AND TO ALLOW THE ADDITION OF A TIKI BAR LOCATED AT HARBOR MASTER'S RESTAURANT, 313 CANAL DRIVE (PIN 313011-56-7531-000)

Ed Parvin, Gary Ferguson, Tim Owens and Jeremy Bailey were sworn in. Ed Parvin made the presentation. He said the original permit was granted September 11, 2007 for a 143 seat restaurant and they are requesting additional seats up to 250. This request requires a parking waiver. Council originally waived 29 spaces for 87 seats. They would like an additional waiver of 38 parking spaces or 112 additional seats. The total parking waiver request will be 67 spaces. There are 17 on site with 2 handicapped spaces which will be 84 total spaces to accommodate 250 seats. Staff concluded that there is ample parking within the 500' radius as required by the ordinance. In addition, but not part of the CUP, the Technical Review Committee (TRC) reviewed a temporary parking lot across the street for Harbor Master's. It will be approximately 64 spaces with ingress/egress off of Canal Drive. The conditions put on it by TRC were the dumpster should be 15' set back from the property line on Canal, and enclosed on three sides and the concrete pad would have to meet Waste Management specifications. Also, an apron is to be installed, per operations specifications, to prevent gravel from migrating on Canal Drive. Stops would be installed to denote spaces in a gravel lot. The ordinance requires a 3' landscape buffer for temporary lots and signage required if there is to be any towing. Staff has asked the applicant to have this done by October 1st of this year, again, this is not part of the CUP. It will be a temporary lease. These parking spaces can go away. Staff had a specific concern about refuse and service area with relocating a dumpster from the site of the restaurant to a site across the street and taking a nuisance from one area to another. Staff made the condition that it has to remain on site and returned to the original site if the parking lot goes away. Adjacent uses to the north include a single-family home. The Harbor Master's is on the edge of the CBD with T-1 on the north, to the south is the Town Marina and a parking lot. On both adjacent uses are parking lots to the north and south. Planning and Zoning Commission looked at this last week and unanimously recommended approval. They are requesting the dumpster be moved across the street because they have the dumpster/recycle, grease trap, laundry bins and is very crowded on the corner side of his business. The tiki bar will be a temporary, rollaway service area on the permanent deck behind the parking leased lot and will abide by CAMA regulations.

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

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

Councilwoman made a motion to approve the conditional use permit for increased seating from 143 seats to 250 seats at Harbor Master's Restaurant based on Zoning Ordinance Items 1-4, the 7 specific conditions, and staff recommendations 1-11, as follows:

General Conditions:

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

Required Findings/Conditions:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;

No changes are proposed for ingress and egress under this conditional use permit.

- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the conditional use on adjoining properties and properties generally in the district;

This structure has traditionally utilized the on-site parking lot along with public parking in the area.

- (3) Refuse and service area, with particular reference to the items in (1) and (2) above;

The existing fenced trash collection area is proposed to be moved to the lot across the street. Staff has concerns about an allowance of an off-site dumpster. Moving the dumpster to the adjacent property takes a nuisance from the lot of the primary use (Harbor Masters) and puts this burden on others. The zoning ordinance is silent on the issue of dumpster placement. Under Chapter 14 Sec. 14-6 Dumpsters, the Town code does state the public works director

shall determine the location of the dumpster, and may order changes to the size of the container and/or frequency of collection.

- (4) Utilities, with reference to locations, availability, and compatibility;

No upgrades in utilities were required by TRC.

- (5) Screening and buffering with reference to type, dimensions, and character;

The use is on the northern edge of the CBD. The northern end of the property abuts a single family home. There is a 6' privacy fence that has been constructed in accordance with the original CUP.

- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

All new signage shall require a sign permit.

- (7) Required yards and other open space and preservation of existing trees and other attractive natural features of the land;

No changes are proposed to the open space areas.

Staff Recommendations:

1. LIGHTING

- a. Outdoor artificial lighting fixtures shall be designed and positioned so that the point source of light or any reflective surface from a light fixture is not directly visible from adjacent properties.
 - b. All types of wall pack fixtures mounted on a vertical structure shall be full cutoff or fully shielded.
 - c. Outdoor fixtures mounted on a building structure are considered appropriately designed if they are completely shielded down light only fixtures or are recessed fixtures having low wattage (i.e. 50 watts or less) "bug" type bulbs and non-reflective interior surfaces. Other fixtures that have appropriate shields, louvers, or full-cutoff features may also be used if they are in compliance with subsections (1)(a), (b) and (c) above.
- 2. No structure or equipment of any description shall be erected or otherwise located outside the proposed footprint. All setbacks shall be maintained as presented. Any modifications to this proposal (as deemed significant by the Director of Planning or his designee) will require new application for conditional use permit.
 - 3. All improvements shall be done in accordance with the flood damage prevention ordinance.
 - 4. Businesses within the CBD currently have a total of 786 public parking spaces allocated to them by the Town. By subtracting the total number of spaces available (584) from the number allocated (786), it appears that the

Town is currently overcommitted on parking by 202 spaces. The number of public parking spaces allocated to this use is currently 29 parking spaces; the applicant is requesting an additional 38 spaces for a total of 67 public spaces. The total of overcommitted parking in the CBD will increase to 240 spaces. The owner must sign a Town of Carolina Beach Parking waiver acknowledging that public parking will not be exclusively for the use of this restaurant; the availability of public parking can not be guaranteed and that the Town is not liable for any deficiency of public parking spaces.

5. Seating shall be limited to 250 seats.
6. All permits required by Federal, State, and Local Agencies including the Health Department must be submitted prior to Certificate of Occupancy.
7. Amplified music shall be limited to indoor areas. All outdoor entertainment shall obtain a special event permit
8. No patrons shall be served food or beverages or utilize waiting areas for eating or drinking
9. No seating or structures shall be allowed on the floating docks. No permanent structures shall be allowed on the permanent deck located on the northwest corner of the building. The tiki bar shall not be permitted until a letter of approval has been received from CAMA stating the proposal is consistent with CAMA rules for urban waterfronts.
10. The refuse collection area shall return to the original site on the north end of the property if the proposed refuse site in the leased parking lot across the street is lost.
11. All conditions in the original grant order shall remain except those explicitly modified by this conditional use permit.

MOTION CARRIED UNANIMOUSLY.

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

Mayor Macon called the meeting to order.

CONSIDER A REQUEST TO AMEND THE ZONING ORDINANCE TO INCLUDE A DEFINITION FOR "APPURTENANCES" AS WELL AS TO AMEND THE CURRENT DEFINITION OF "BUILDING HEIGHT" IN ORDER TO EXCLUDE APPURTENANCES ASSOCIATED ONLY WITH HOTELS

Steve Coggins, Town Attorney, requested an executive session to explain some legal issues with respect to this item as empowered by ordinances in 160A.

Mayor Macon made a motion to go into closed session as requested by the town attorney. **MOTION CARRIED UNANIMOUSLY.**

Mayor Macon said no action was taken. Steve Coggins recommended proceeding with Item #14.

Gary Ferguson presented the request. He stated this was discussed previously at the August 22nd meeting which was an amendment to the Land Use Plan (LUP). During that discussion they were proposing to amend two things: (1) LUP Policy #30 which speaks to the definition of building height. The proposed definition of building height to the existing Zoning Ordinance definition would read:

1. The front street line.
2. The nearest front street line where there is not an adjacent right-of-way.
3. An average of each front street line on through lots.
4. Hotels - appurtenances ten (10) feet or less in height shall be exempted from height measurement.

In addition, they are also proposing a definition of appurtenance to be included in the Zoning Ordinance:

Appurtenance(s): Items required for the operation and maintenance of a building including parapet walls, skylights, ventilation equipment, domes, flagpoles, cooling towers, housing for elevator equipment, stairways, tanks, fans, air conditioning and heating equipment and similar operational devices.

The Planning and Zoning Commission heard this item on September 4, 2008 at a special meeting they had to conduct due to an advertising issue. They approved this zoning amendment at that time by a vote of 4-1.

If Council so chooses and they are favorable towards this zoning amendment, if there is a motion to approve, in accordance with NCGS 160A-383 the motion shall include a statement as to why the amendment is reasonable and in the public interest. The following statement will meet this criteria, in staff's opinion:

This amendment will help to accomplish the following goals:

1. Support for a resort market niche. (This statement comes out of our policies and current LUP.)
2. Economic stimulus for the community.
3. Increase in tourism opportunities.
4. Is consistent with the CBD Master Development Plan that was done by Peter J. Smith.

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

Attorney Tom Johnson at 2501 Blue Ridge Road, Raleigh, NC, reiterated staff's comments and agreed that it is consistent with the action Council took on August 22, 2008 which was discussed at that meeting and moved forward with it. The amendment is consistent with the Master Plan.

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

MPT Wilcox made a motion to adopt Ordinance 08-757 (Exhibit 1) stating that it is consistent with the LUP, Master Plan and specifically consistent with the reference within our LUP that refers to the Master Plan, it is also consistent with our adoption of the amendment to the Master Plan adopted on August 27, 2008 and is reasonable and in the public's best interest consistent with NCGS 160A-383. It is also consistent with the goal outlined by staff in the power point presentation, items 1-4. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE ZONING ORDINANCE TO CHANGE RESTAURANTS FROM A CONDITIONAL USE TO A PERMITTED USE AND TO ADDRESS STANDARDS FOR ALL EATING AND DRINKING ESTABLISHMENTS

Mayor Macon brought to the Council's attention that (1) he had received an objection to his participation in Council's consideration of the matter, based upon the Mayor potentially having an impermissible conflict that allegedly would inhibit him from fairly considering the matter; and (2) the Mayor concluded he had no conflict and declined to recuse himself from consideration of the matter. The remaining members of the Council then considered the objection and inquired into the matter.

MPT Wilcox made a motion that the objection to the Mayor's participation be overruled. MOTION CARRIED UNANIMOUSLY BY COUNCILWOMAN EFIRD, MPT WILCOX, COUNCILMAN GILBERT AND COUNCILMAN JOHNSON.

Ed Parvin presented this item. Council heard this item before and requested several items be addressed. The purpose of the amendment for restaurants is to encourage family oriented businesses that are strongly encouraged by the town to their support of a resort market niche and year round residency, which comes from the LUP. The restaurant as a desired use, the conditional use permit (CUP) can delay the process for approval and unnecessarily delay the opening of restaurants for the tourist season. The CUP process costs the town time and money for a use we are trying to encourage. Council requested at the last meeting that staff address all eating and drinking establishments which staff categorized into 5 categories: bars/taverns, drive-in/drive-up window and no dining requirements, limited service restaurants, specialty restaurants and standard. He reviewed those categories. Standards for all eating and drinking establishments, which includes bars/taverns because they are a drinking establishment that may serve food but their requirements have not changed. Staff expanded some of the requirements for bars/taverns to all eating and drinking establishments. You have to have a manager on

duty, ample staff to maintain order, maintain the appearance of the building, maintain compliance with ABC Commission and maintain consistency with the fire code. With regard to outdoor seating, staff heard the board ask for circuit breakers for these restaurants. One of the areas where they thought this was appropriate was an outdoor seating where they would want to bring it before the boards because you probably want to have some comments on something that could be a nuisance to a neighbor. If a restaurant was proposing to do an outdoor service area or amplified music, a conditional use permit shall be required. Standards for bars and taverns, eating and drinking establishment rules apply. Specific standards that are just for bars and taverns and those have not changed. Distance rules have not changed, 200' rules and 100' for bar to bar in the CBD. CUP review and revocation for bars and taverns will remain in the ordinance as written. Standards for restaurants, eating and drinking establishments and bars and taverns have been reviewed. Specific to restaurants: kitchen has been defined. Some restaurants are required to have a kitchen. The ABC requires that a kitchen be present for a standard restaurant. Accessory entertainment limitation (gross floor area (GFA)) - defined GFA which says you can't go over 15% of the GFA with accessory entertainment area. An establishment will be considered a bar if there are under 36 seats and there will be liquor for on-premise consumption (consistent with the ABC). Areas permitted: bars/taverns - CBD, HB, MB, T-1, I-1 with a CUP; restaurants - MX, CBD, NB, HB, MB, T-1, I-1 changed from CUP to permitted use; drive-in restaurants are only allowed in HB, changed from CUP to permitted. The Planning and Zoning Commission heard this item last week and recommended approval with one modification - to keep restaurants as a conditional use in the MX zoning district because the district abuts residential areas in some places and those businesses serving alcohol could be a disturbance. Staff's alternative for consideration regarding P&Z's modification would be to keep restaurants permitted by right in the MX zoning district but if alcohol is requested to be served, a CUP shall be required. This addresses what P&Z are after without bringing back the Rick's Beach Bites before you that you may not have any comments on, in the MX zone.

In response to questions raised by MPT Wilcox, Mr. Parvin said that coffee shops would fall under specialty restaurants. If a restaurant meets all the requirements but wants to put some outdoor seating they would be permitted by right and not require a CUP unless they wanted amplified music outside or have speakers mounted on the deck or if they wanted to have a service area outside such as a tiki bar, the restaurant would be permitted but they could not open that portion of it. That language could be put in. Each restaurant would go through the Technical Review Committee meeting whether they are permitted by right or conditional use. MPT Wilcox suggested that non-amplified music might also be a problem. Staff said maybe they should say amplified music or entertainment.

Councilman Johnson questioned whether specialty restaurants could sell alcohol. Mr. Parvin said the town cannot regulate that, it is up to the ABC board. The town can require a CUP but you can't say they can't serve alcohol, only the use. Language could be added under the specialty restaurant definition - you can mention non-alcoholic beverage sales and that could be permitted by right but in a note on this you could say alcoholic beverages may be permitted with CUP.

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

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

Councilman Gilbert made a motion to approve Ordinance 08-756 (Exhibit 2) with a modification to Standards for Restaurants add item #4 stating specialty restaurants serving alcohol shall obtain a conditional use permit and item #5, restaurants in the MX serving alcohol shall obtain a conditional use permit.

MPT Wilcox suggested that he may want to make it clear to an applicant and future staff that you can come in and get a restaurant permit for everything that is permitted and it want hold you up if there is a part of it that isn't permitted. You could just come back to Council and get that part of it approved.

Councilman Gilbert agreed with MPT Wilcox and said to add under Standards for all Eating and Drinking Establishments a #8 and put in the language that was recommended by Councilman Wilcox.

Mayor Macon stated for clarification that basically the motion on the floor was to approve keeping all restaurants in the MX with a conditional use permit and that specialty restaurants the language changed to non-alcohol but also the last sentence would be: speciality restaurants requesting to serve alcohol beverages must be permitted through a conditional use permit, or language that planning staff feels comfortable with. Councilman Macon explained that the additional language would not stop a rest from opening and they could apply for a conditional use permit for alcohol and outdoor seating and amplified music. Councilman Gilbert agreed and said that would be an item #8 for all eating and drinking establishments.

MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE ZONING ORDINANCE TO ADDRESS PARKING STANDARDS FOR ALL EATING AND DRINKING ESTABLISHMENTS

Ed Parvin made the presentation. Planning has reviewed the parking standards for eating and drinking establishments and identified some problems with the ordinance, including enforcement issues and abuse of parking waivers with the current standards. Code enforcement is a continuous effort. During the tourist season there are different days or months that restaurants are adding or taking away seats and trying to continually audit the seats or find out who has the right number of seats for their number of parking spaces or who has paid for their seats for their impact fees. With regard to parking waiver abuse, we looked at an item tonight where there was a request for 250 seats but the applicant said he probably will not have that many but he wanted to have that allowance in case he

needed them. Several other restaurants have done similar requests and that is done in order to keep them from having to come back to ask for more seats. One of the biggest problems with that is it gives staff skewed numbers when looking at the parking study and the number of spaces waived. It will look like you have less parking than you really do. A lot of time and effort has been put into the parking study and it is a continuous update to maintain that study. He reviewed the parking requirements and alternatives. After looking at all that, staff's findings calculated parking by utilizing one space per 110 feet of gross floor area or one space per 55 square feet of customer service area which appeared to give the closest match to current standards. Staff recommends going with the gross floor area as it seems to be something that is easily calculated. The customer service area was somewhat arduous and ambiguous because of areas that were excluded and hard to calculate. Staff recommends changing our standard from 1 space per 3 seats to 1 space per 110 square feet of gross floor area.

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

There being no public comments, Councilman Gilbert made a motion to close the public hearing. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion to approve Ordinance 08-758 (Exhibit 3) which amends Appendix A, Article 7 Off-Street Parking and Loading Requirements and Article 23 Definitions and that it is consistent with the comprehensive plans. MOTION CARRIED UNANIMOUSLY.

Councilman Gilbert made a motion that Ordinance 08-758 is consistent with our comprehensive plans. MOTION CARRIED UNANIMOUSLY.

CONSIDER AMENDING THE CODE OF ORDINANCES, CHAPTER 16 UTILITIES, ARTICLE V CAROLINA BEACH OPERATIONS DEPARTMENT ADVISORY COMMITTEE, SECTION 16-236 MEETINGS

Tim Owens said the request is to change the Operations Advisory Committee meeting to 9:00 a.m.

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

Fred Fisher, 1504 Drill Shell Lane, said he is presently a member of the Operations Advisory Committee (OAC), said there was some discussion about the times of the committee meeting with some people wanting it at 9:00 a.m. and some later in the afternoon. Because he works, meetings held at 9:00 a.m. restrict him from carrying out the duties Council appointed him to. His recommendation, to make it more accessible to other people who would like to serve on this and other committees, would be to make it in the evenings after people get off work. His schedule changes periodically because he

works different shifts and recently he has been unable to attend the majority of the meetings since he has been appointed. If he is going to be a member of this committee, then he thinks he should be able to attend them, otherwise he should resign because he is not doing his job. He feels the town should change the time to a time more appropriate for people who work in the community so they can participate.

Randy Simon, also serves on the OAC, said this issue has been discussed among the members of the OAC at the last several meetings and have taken a vote at both those meetings and it was unanimous in agreement to the 9:00 a.m. time. They examine issues such as the hours of staff, in particular Brian with storm drains, Eugene with utilities are present at each meeting since we do not have a Director of Operations. They are there to present their workings and we examine them and their requests. We also examine those issues. We did take a vote and examined all the aspects. He understands his colleague's remarks about his conflict but in examining the other members it was beneficial at 9:00 a.m. but also taking into consideration the hours that staff works. The Police Advisory Board that Councilman Gilbert brought up earlier when Mr. Simon mentioned they meet Monday at 7:00 p.m., they sacrifice not having minutes taken by staff as done at the OAC, not to mention that the Chief donates his time. There are multiple members of staff that would have to be present at the OAC. Taking all these considerations into account, they decided and voted unanimously to ask Council to make it 9:00 a.m. He apologizes for that decision to not having every member making that the most convenient but that is why they reached that decision. It is also recorded in the minutes of the OAC.

Fred Fisher asked how it could be unanimous if he wasn't there to vote on it. He was there but he had to leave early because he had a commitment.

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

Councilman Gilbert made a motion to direct the Operations Advisory Committee that it would be the pleasure of Council that they meet in the evening to better service the entire community. MOTION CARRIED UNANIMOUSLY.

CONSIDER BANNING OVERNIGHT CANOPY TENTS ALONG THE MUNICIPAL BEACH STRAND

Tim Owens said this item was discussed at the last meeting, considering a text amendment that would ban overnight canopies. At that time their discussion included concerns from some of the property owners along the beach strand regarding the placement of the canopies and people treating beaches as a private situation, tents being blown around, effects on nesting sea turtles and wildlife and public safety. Some of the issues if Council decides to go forward would be consistently enforcing removal of tents, holding them for a certain number of days, issuance of citations in finding tent owners, visitors not being aware of the ban and the enforcement may create an unwelcome atmosphere for visitors. Education would be key which would include some of the larger

entities to all the rental agencies. They could come up with some type of sticker program to tag the ones left out overnight which would cite the ordinance. The ordinance was a model from Ocean Isle. He reviewed the ordinance.

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

Stan Lewis, 1503 S. Lake Park Blvd., agrees that we need to do something. He said a lot of people will come to the beach, say from a Saturday to Saturday, set one up Saturday night and it will be there until the next Friday and never comes down. These are public beaches and there should be an equal right for both residents and tourists to be able to go out to the beach and find a spot. If there wasn't so much abuse, he would say there is always going to be a spot, but recently he has seen 40 of them up at night. On a Wednesday morning he counted 49 of them between the Marriott and Atlantic Towers and in one place there were 8 of them in a row so you had an 80'-100' prime stretch of beach where no one could come out at 7:00 a.m. and stake out a spot because it was all taken up by canopies. He has recently been sitting out at Kure Beach and they have a no canopies and their lifeguards are taking them up when the last ones leave, 7:00 p.m. or 8:00 p.m. or whenever it is, and he is sure they have less employees down there than we do and they seem to be able to make it work. He thinks there is some abuse and we should be able to figure out a way to give them a warning if they leave it there one night. If it is there the next night, if we put a sticker on it, then tell them you can't leave them overnight and give them one day's warning, that's fair. Then do something. If we can't enforce it then you're right, it's not worth doing.

Susan Baum, 923 Coastwalk Lane, said she drives the beach on Thursday mornings in Kure Beach for the turtle patrol and, for sure, Kure Beach has this enforced and nothing is left, not chairs or canopies. Lifeguards pick them up around 8:00 p.m. at night and bring them to the fire station and if you want them you have to go there and get them. It is put in every single condo unit so it is done at Kure Beach without a problem. She also drives on Tuesday mornings for Carolina Beach and it is a road map that you have to go through these things and the problem, which people don't realize is, the canopy is not the problem because you can see it. But the stakes that they have to put down in the ground, the wires are clear, that's the problem. If you catch that on an ATV, someone is going to get hurt. It can be done if they follow what Kure Beach did and it shouldn't be a problem. The canopies, etc. are not allowed on the beach at night.

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

Councilman Gilbert made a motion to approve Ordinance 08-755 (Exhibit 4) substituting sunset to sunrise in place of 7:00 p.m. through 8:00 a.m. in Section 10-76, item #1. MOTION CARRIED UNANIMOUSLY.

***REQUEST FROM MR. RICK ROGGE TO CHANGE THE CURRENT
STORMWATER ORDINANCE AND METHOD OF CALCULATING FEES FOR
STORMWATER TREATMENT IN SUBDIVISIONS***

Tim Owens presented the request from Mr. Rogge asking Council to consider treating subdivisions a little bit differently than now. Currently we contemplate on-site vs. off-site. He referred to the stormwater management ordinance and an off-site storm water management requirement revision Section 16-204 which talks about private facilities. There are some definitions that talk about on-site and off-site. Historically, in subdivisions, what we have done is that those individual lots have to treat stormwater on site or they can dispose of it into the public rights-of-way and pay a certain percentage with regard to impact fees. Mr. Rogge is going to talk to Council about him retaining 100% of his stormwater within a stormwater pond and has some concerns about how we administer our ordinance and impact fees. Mr. Owens said the whole stormwater ordinance probably needs some work and have someone take a look at it. There are a lot of legalities as far as charging impact fees that are probably beyond him and need some professional attention. He recommends that if Council wants to go forward with any changes that they send this to an engineering firm that specializes in these types of ordinances. We just had some changes in the rates of stormwater regulations that he wants to make sure they are consistent with. This has not gone to the Operations Advisory Committee.

Rick Rogge, resident of Spartanburg Avenue, said he has a small subdivision on 7th Street. He said this is the second subdivision he has built on the island. The first one he was told the town would take care of stormwater after he paid to build the pond and that impact did occur. Upon completion of that subdivision he was told that from that point forward the town would no longer, ever take care of a subdivision's pond area. So upon starting the new subdivision and being very passionate and opinionated about the seriousness of stormwater, as he was just up there speaking to Council earlier about that, and coming from a background where stormwater was so critical that it was drinking water. He built the subdivision on 7th Street to hold 100% of the stormwater. In doing that, when they originally designed it, they were going to have 17 lots and, then, in order to meet the stormwater requirement to hold it all, they lost another lot and are down to 15. They gave up 1-2 lots to meet a very strict stormwater requirement which, ultimately, is good for everyone in this town. The expense of doing this was tremendous because of the lay of the land, all the water ran in a particular direction and they had to bring in a tremendous amount of fill plus giving up a couple of lots in order to accomplish what is good for everyone in the town. When they went to get a permit for this lot their 100% stormwater requirement took care of the roads, sidewalks to be put in, houses, driveways, etc. - the impervious area calculated into the figures and it specifically states that homes can only be a certain square footage to meet these requirements. He believes that they have done everything they can to be good people within the town and not be selfish and take care of one item. They have spent a lot of money, lost lots to meet this requirement. If they are maintaining, for this subdivision, 100% of stormwater and they come in to get a permit to put a house in and are told that that individual house has to hold 100% of its stormwater on that lot. Now we're holding back 200% of the stormwater and he doesn't

believe it is right that if the citizens of the town are required to hold back 100% of the stormwater, which he does think is right but he doesn't think he should be held to a different standard where he has to hold back 200% or pay a large fee. He said things have shifted over time. Before, you could either pay the fee or hold all the water and, his understanding, it was sort of a sliding scale. Councilman Gilbert said we have individual lots and the developer of the individual lot has a choice either to retain on-site or pay a fee.

The town manager said the state reviews subdivisions for consistency with its rules and, sort of like what we're facing with Wilmington Beach, they are going to require you to retain, whatever the design is, he can only guess or estimate that it is consistent with what our ordinance is and there might be some discrepancies there. The state would look at it from a water quality issue. Mr. Rogge said he understands that is the way it is now. He is not sure it was that way when they started but, whether it was a requirement that they must do or not, it was their intention to do that because it was the right thing to do. It's the way he hopes the whole town will move, that they won't have this tremendous stormwater problem that we currently have. He asked, if you meet the requirement and hold back all the stormwater, why do you have to do it two times? It is simple logic that if you are going to hold back 100%, but why 200%. He knows another subdivision, Hidden Hills, they also are maintaining 100% of the water. In fairness to the town, the town currently has serious difficulties financially as most everyone does right now, and as a member of the town, he doesn't want to put additional problems on the financial situation. In fairness, you can't pick a couple of people out to pay twice what everybody else pays. The other subdivisions that have been here before and in years gone by, the town has provided some additional services to those subdivisions that are a little bit different and that being they would put in all the stuff and then the town would maintain it all. The town doesn't have to maintain anything in his subdivision whatsoever. In his own subdivision, the homeowners association is going to maintain the stormwater ponds because he was told that was the way it had to be. There really is no expense for the town in building it, maintaining it or doing anything and yet he will be penalized twice as much and he is doing probably more than this other gentleman and probably more than almost anyone else in town to try to make a wrong right and we're the ones that are going to get double whacked for it. The way his subdivision is being designed and built is that all runoff is supposed to run to the street so that it can be captured within our ponds and properly treated.

Ralph Freeman, 208 Oak Outlook Way, said he thinks Mr. Rogge said it very well. You were asking about maintaining the ponds, the Corps of Engineers, his engineers, wetlands, woodlands, he went through all of them. They have less than 10% of impervious material on this property. It is all 1/3+ acre lots and he still had to pay \$7,000 for one house for water runoff and the other houses are running anywhere from \$2,000 to \$3,000 for each house put on there. It is more than double dipping because he left over an acre of open land above what he was required to do. He had already met the requirements for 100%. The Corps of Engineers and everybody agreed that he had X number of square feet for the lots. A lot of the lots are 1/2 acres and he is not using over 3,000 square feet of impervious material on the lot. That is no where near 40% and he

has to pay. He is so far under the 100% that it is unreal. There are no swales to take the water anywhere. They pay dearly for stormwater runoff for each one of the houses they cut up. They would appreciate any help they could get.

Tim Owens said he would direct Council to send the ordinance to an engineering firm who has a background to really look at this. We can also change the interpretation if Council wishes.

Councilman Gilbert made a motion to direct staff to evaluate and consider the ordinance with respect to the deliberation by Council. Interpret it fairly with respect to your background as town manager and in stormwater.

After some discussion, Councilman Gilbert decided to rescind his motion.

Mayor Macon motioned to set a public hearing date for the regular scheduled October meeting at 7:30 p.m. or soon thereafter to consider amending the stormwater ordinance. MOTION CARRIED UNANIMOUSLY.

PROJECTS UPDATE

The town manager presented this item. He reviewed the following list of projects requiring approval by Council:

1. Survey of Lake Park Blvd. – estimated cost of \$25,000 from the water/sewer reserve fund to start immediately. Finance officer to create the budget adjustment.
2. Reimbursement Agreement for two projects – Sewer rehab project on Lake Park for \$1.4 million (estimated cost at \$975,000) and equalization basin agreement for \$500,000 (estimated cost of construction at \$310,000)
3. Approval of Engineering Services Agreement for proceeding on engineering on the above projects.
4. Authorization to create bid documents and proceed with LGC packets for the above projects.
5. Set up a MDP meeting soon to discuss the status of streetscapes on Lake Park and the necessity of hiring a traffic engineer and PJS prior to resurfacing along with other MDP projects.

A motion was by Councilman Gilbert to do a budget amendment from the water/sewer reserve fund for surveying Lake Park Blvd. for maintenance street improvements and sewer rehab work. MOTION CARRIED UNANIMOUSLY.

A motion was made by Mayor Macon to approve Resolutions No. 08-930 (Exhibit 5) and 08-931 (Exhibit 6) for reimbursement agreement. MOTION CARRIED UNANIMOUSLY.

Council was in general agreement to give the authorization for the bids.

Councilman Gilbert made a motion for a 5 minute break. MOTION CARRIED UNANIMOUSLY.

CONSIDER ARCHITECTURAL FEES FOR FIRE DEPARTMENT

The town manager presented this item. This is a request for planning funds to explore an additional fire station expansion alternative and to consider scheduling a workshop in November to discuss the various fire department planning items.

A motion was made by Councilman Johnson to approve \$5,000 to be allocated from the General Fund to pay for the expense relating to the pre-planning for fire department expansion, and to call a special meeting for November 10, 2008 at 9:00 a.m. to be held in the fire department to discuss various fire department issues and expansion. MOTION CARRIED UNANIMOUSLY.

AUTOMATIC AID AGREEMENTS

Chief Rorie presented this item. Chief Rorie explained that the automatic aid agreements are entered into between departments to share resources based upon a pre-determined plan. A goal of the department is to have a minimum of two engines and one ladder respond to all structure fires with a minimum of 15 personnel within 9 minutes of dispatch 90% of the time. Enhancing our aid program creates economies of scale for all involved. He asked Council to consider authorizing the town manager to enter into an automatic agreement with the Town of Kure Beach, and New Hanover County Fire Services based mutually agreed upon response terms and conditions.

A motion was made by Mayor Macon to authorize the town manager and the fire chief to enter into the automatic aid agreement with Kure Beach and New Hanover County. MOTION CARRIED UNANIMOUSLY.

CONSIDER BOATING INFRASTRUCTURE GRANT PROGRAM (BIG-P)

Mr. Parvin presented this item. The primary purpose of Boating Infrastructure Grant Program (BIG-P) is to provide matching grants to US States and Territories for the installation of tie up facilities for transient, non-trailerable (boats 26 feet or more in length) recreational vessels. The Harbor Commission met on August 27, 2008 and

unanimously voted to recommend the Town Council advise staff to apply for the BIG-P. The Harbor Commission recommended the grant be used for:

1. Development of 10 transient moorings in Myrtle Grove Sound.
2. Floating dinghy docks off of Seagull, Sandpiper, and/or Seabreeze
3. Perform dredging around the floating docks.
4. Installation of buoys to delineate the mooring field.
5. Install signage for boat awareness of the mooring field.

There are two levels of funding in BIG-P. Tier I provides each State and Territory up to \$100,000 per Federal fiscal year. The DMF may request funding for multiple Tier I projects; however, the total request from NC for Tier 1 Federal funds may not exceed \$100,000.

The USFWS designed Tier II to fund individual projects based solely on their merit using a national competition process. There are no limits on the Federal dollar amount projects may request. Typically, \$8-10 million are available annually for Tier II projects nationally.

A Tier I proposal will be scored based on how it meets program requirements, demonstrated need, leveraging of existing facilities or match, ability to complete the work, and cost efficiency. The NC DMF will initially review proposals. Only the best proposals will be forwarded to the USFWS for consideration of Tier II funding.

A motion was made by Mayor Macon to approve the Big P. MOTION CARRIED UNANIMOUSLY.

ADOPT A PROCLAMATION RECOGNIZING THE WOUNDED WARRIOR PROJECT'S SOLIDER RIDE 2008 CAROLINA'S CHALLENGE – OCT 22-26, 2008

A motion was made by Councilman Macon to adopt Proclamation No 08-927 (Exhibit 7). MOTION CARRIED UNANIMOUSLY.

CONSIDER REAPPOINTMENT TO THE BOARD OF ADJUSTMENT

Mr. Wayne Hartsell's appointment as a member of the Board of Adjustment expired on August 8, 2008. Mr. Hartsell has expressed interest in serving another term.

A motion was made by Councilman Johnson to reappoint Mr. Wayne Hartsell to serve a three year term of office as a member of the Board of Adjustment. MOTION CARRIED UNANIMOUSLY.

ADOPT A PROCLAMATION RECONGIZING LITTER SWEEP ROADSIDE CLEAN-UP FALL 2008 – SEPTEMBER 20, 2008 THROUGH OCTOBER 4, 2008

A motion was made by Mayor Macon to adopt Proclamation No. 08-923 (Exhibit 8). Councilman Johnson suggested that the Parrot Heads and Turtle monitoring group help organize the roadside clean-up. Councilman Macon agreed to add that to his motion. MOTION CARRIED UNANIMOUSLY.

SEEK DIRECTION FROM TOWN COUNCIL ON MANAGING AND ALLOWING ADVERTISEMENT FOR NON-PROFIT EVENTS ON THE ISLAND

The town manager explained that historically the town has allowed non-profits to place banners in the right-of-way. He said we have been allowing banners in the DOT right of way in violation. Since the town will soon be constructing an entryway project, this practice should be discontinued. Plus we do not want banners cluttering up the new entry way. He said we need to consider some type of message board to put on Town Hall property. Staff is seeking direction from Town Council on how they wish to address this item. Once that direction is given, staff can work to complete necessary steps to implement the Council's wishes. The town manager presented several other options. Council asked the town manager to bring back cost estimates for their consideration.

SEEK DIRECTION ON A GOLF CART ORDINANCE

The town manager said that Councilman Gilbert requested that this item be considered by Council. The use of golf carts as transportation in town is increasing. Recently, the state adopted legislation that gives the town attorney the authority to regulate such activities. He said, if the Council wishes to consider such an ordinance, staff can create one for consideration at a later meeting and a public hearing can be held.

Chief Younginer passed out a sample ordinance for Council to consider. In addition Councilman Gilbert shared with Council the Caswell Beach ordinance.

In conclusion the town attorney said he would like to work with the police chief in drafting a proposed ordinance for future consideration.

A motion was made by Mayor Macon to instruct staff to come up with an ordinance using the Caswell Beach ordinance, review it with the town attorney, and to set a public hearing for the October meeting at 7:30 p.m. or soon thereafter. MOTION CARRIED UNANIMOUSLY.

There was discussion about the regularly scheduled October meeting date being in conflict with the NCLM Conference which some of the members of Council plan to attend. **A motion was made by Mayor Macon to change the regular October meeting date from October 14, 2008 to October 7, 2008 at 6:30 p.m. He said this would**

include changing the public hearing that were previously scheduled under the consent agenda or any other public hearing scheduled this evening to the October 7, 2008 meeting date. Also, due to a conflict with Veteran's Day holiday, Mayor Macon included in his motion changing the November 11, 2008 regular meeting to November 10, 2008 at 6:30 p.m. **MOTION CARRIED UNANIMOUSLY.**

REQUEST TO ESTABLISH A BUDGET FOR TEST WELLS ON PROPERTY OWNED BY THE TOWN ACROSS FROM TOWN HALL AND FOR A WELL SITE ON AN EASEMENT ON STATE PARK PROPERTY

The town manager presented this item. Mr. Owens said the town is in the process of seeking several additional well sites to expand our water production capabilities. The locations that are being considered are the Ryder tract across from the Town Hall and an area on State Park property located near the intersection of Old Dow Road and Bridge Barrier Road (behind the Food Lion Shopping Center). The town manager summarized each location. The estimated cost of the Ryder Tract is \$24,600, and the estimated cost of the State Park site is \$32,600.

Mayor Macon made a motion to approve \$70,000 for 2 well sites. MOTION CARRIED UNANIMOUSLY.

DISCUSSION CONCERNING "SUGGESTED RULES OF PROCEDURES FOR A CITY COUNCIL" BY A FLEMING BELL, II

This is a request for Council to consider establishing a policy and guidelines for Council to follow in conducting meetings, voting procedures and other similar practices.

A motion was made by Councilwoman Efird to table this item to some other time. Efird withdrew her motion. Mayor Macon made a motion to adopt the policy and to use the following as guides: "NC City Council Procedures by David Lawrence" and "Suggested Rules of Procedures for City Council by Fleming Bell". MOTION CARRIED UNANIMOUSLY.

REVIEW COMMITTEE POLICY

Councilman Gilbert motioned that we following the policies and procedures Councilman Gilbert rescinded his motion. Mayor Macon motioned to table this item to the next meeting and anyone that wants to make recommendation for change have it ready at that time. MOTION CARRIED UNANIMOUSLY.

SCHEDULE MEETING TO DISCUSS MASTER DEVELOPMENT PLAN

Council agreed to meet on Monday, September 15, 2008 at 8:00 a.m.

NON AGENDA ITEMS

Councilman Johnson asked Council to direct staff to give authority that when we have a tropical storm or hurricane that the realtors have to take up their signs. Mayor Macon asked that this be brought back to Council at another time for consideration.

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

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

A motion was made by Mayor Macon to recess the meeting to Monday, September 15, 2008 at 8:00 a.m. to discuss the Master Development Plan. MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Lynn N. Prusa
Town Clerk

Approved: _____