

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Tuesday, January 6, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Interim Town Manager Frank Clifton, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Reverend Jonathan Ballard of Straightway Ministries gave the Invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Hardison seconded the motion. Alderman Farley asked what is different about his two copies of the agenda. The clerk indicated that the year was incorrect on the first one. The motion passed unanimously.
- V. **COMMITTEE REPORTS:**
 - A. **BOARD OF ADJUSTMENT:** Board of Adjustment did not have anything to present to the Board.
 - B. **PLANNING BOARD:** Sue Tuman reported for the planning board regarding their last meeting on December 11, 2008.

Key actions: In accordance with the Bylaws Article V Section 1, the Planning Board members held an Election of Officers and unanimously voted for Sue Tuman as chairman, replacing Mike Yawn and for Paul Dorazio to remain as vice chairman.

Planning Board and Staff discussed an Annual Report of scheduled projects and milestones for 2009. Projects include:

January:

Public hearing on Bridge Policy and Procedures

Joint workshop with the Board of Aldermen to review Holland & Associates responses to the State comments on the CAMA Land Use Plan.

February: Review draft of Subdivision Ordinance.

March: Submission of the draft Zoning Ordinance, Subdivision Ordinance and completed updates of the Zoning Map coordinated with Onslow County GIS to the Board of Aldermen.

Training (with Zoning Board of Adjustment):

1. February: "Zoning"
2. March: "Making a Decision"
3. April: "Special & Conditional Use Permits"
4. May: "Variances"

TBD: Hazard Mitigation Plan to be coordinated with Onslow County.

Staff was directed by the Planning Board to present a draft of the Subdivision Ordinance by mid-January.

Mrs. Tuman reported that following a discussion on Bridge Policy and Procedures with Building Inspector Randall Moudy, the Planning Board instructed staff to prepare a proposed ordinance amendment. A public hearing on the matter is scheduled for the Planning Board's January meeting.

Alderman Farley asked Mrs. Tuman who will be doing the training. Mrs. Tuman said that Deborah Hill is coordinating it and she does not know. Alderman Peters asked if the training would be part of the regular meeting. Mrs. Tuman said she did not think that it would be part of the meeting and invited anybody who might be interested in going the trainings to come. She said you do not have to be a member of either board. You might find out that you want to become a member.

Alderman Farley asked about the Hazard Mitigation Plan that is to be coordinated with Onslow County. Mrs. Tuman said there is a staff member with the County that can help make it a complete and professional document. There is currently no need for a joint committee. The County has something ready that the Town can take and make it our own. Mr. Clifton said that the Town's plan needs to be consistent with the County's plan anyway and that the Town can piggyback from the County's efforts.

- C. BEACH NOURISHMENT:** Mary Convy was not able to attend the meeting. Mr. Clifton said the committee would like the Board to refer to the report in the Board packet. He said that the committee is working on scheduling Dr. Dean to return to present his report at a special meeting.

VI. **MANAGER'S REPORT:**

Survey of Town Hall Building - Mr. Clifton said that the Board authorized to have an architect look at some of the issues with the Town Hall building. He has finished his work and the Town should be receiving estimates on the repairs. There are not very many big issues. The main issue is the main power supply to the building needs to be relocated.

Bid Specs for Demolition Project - Mr. Clifton passed out the bid package for the demolition project for the North end houses. The advertisement of the request for proposals will be in the Sunday, January 11th Jacksonville Daily News. The bid packages will be released on Monday, January 12th and the bids will be opened on January 28th at 2:00 p.m. Recommendations will be made to the Board at the next Board of Alderman meeting. Mr. Clifton asked if there were any objections. There were none. Alderman Farley said he went online and the NC League of Municipalities has an electronic process for bidding on projects. Mr. Clifton said that we can look into it for other projects. He said that there are already several contractors that are interested.

Landscaping Services Contract – The contract for landscaping services expires at the end of March 2009. Mr. Clifton is working on getting together some specs and possibly for the February meeting or March meeting the Board will be in a position to renew or award a contract as necessary. Mr. Clifton said that there have been a few companies that were interested.

Solid Waste Contracts - Mr. Clifton says that the solid waste contract does not expire until September 30, 2009, but there is a 60 day prior notice that has to be given or it automatically renews itself for another year. Mr. Clifton thinks the Town needs to notify the current vendor and tell them that the Town intends to put it out for bids. The Town needs to give a new vendor time to purchase the carts and get them delivered here. He is going to notify the current vendor. He has looked at the original contract and there has not been a rewrite to the agreement for a while and he thinks some issues need to be addressed. The current vendor usually provides a pricing to the Town in April or May and the Town can include that in budget considerations. Mr. Clifton recommends that the Town puts the contract out for bids in April or May. He also said that recycling could be added to the contract.

Alderman Tuman asked Mr. Clifton when the RFP will be going out. Mr. Clifton said that he will work on it from now until the time the new town manager arrives. He said the most important thing to do is to notify Waste Industries that the Town intends to put the contract out for bid. The Town was quoted a price for recycling, which was about \$100,000 for a whole year. It may not be an easy process to switch vendors and get the recycling started immediately. Mr. Clifton also said that the Town should consider possibly making changes to pick-up days. He wants the Board to provide input on what should be included in the new contract. He will be looking at bid specs and contracts from other agencies to get some ideas to work off of.

VII. **OPEN FORUM:**

Becky Bowman of 106 N. Permuda Wynd – Ms. Bowman encouraged the Town to proceed with the dune restoration project. She said that she thinks now is the time for pushing the sand and restoring the dunes. In her area, in the south of town, the ocean has deposited between 3 and 4 feet of sand out on the berm and since the dunes are our first defense against storms she thinks we ought to restore the dunes. She encouraged the Town to lobby for terminal groin structures. She thinks this will allow the Town to have another tool to prevent and stop erosion on the north end of the Town. There are two ways it could help the Town. If the Town decides to centralize the channel there will be high maintenance costs, maybe in 3 or 4 years the channel will have to be re-dredged, she thinks a terminal groin structure at the inlet entrance will cut down on the maintenance costs or if the Town decides not to centralize the channel the terminal groin structure itself will help against erosion. Terminal groins have been tried in other areas and have worked for years and she thinks the Town should put forth an effort to join the lobbying for terminal groin structures.

Bill Horstmann of 303 Lantaner Lane – Mr. Horstmann addressed the Board representing the HOA for Portofino. Portofino is located close to mile marker 12. The landmark nearby is the Onslow County beach access area in the southern portion of the Town. He would like the Board to reconsider the location of where the sand is going to be pushed on the beach. Portofino is a near a very large area that is going to be pushed. If he looks at it from the ocean view, the Town is going to push 8,000 feet to the right of Portofino and another 550 feet to the left of Portofino this is going to leave about 500 feet of dune area that is not going to be pushed, according to the Town's map. He thinks this presents a hazard for future storm activity, that it will create a tunnel right there, a weak spot, it will be the weakest link in the dune and possibly during the next storm the dune might be breached in that area. In one area the dune is so low you can see the ocean from the street. Mr. Horstmann asked why they were left out. He urged the Board to reconsider continuing the push from the 8,000 feet and continue on to that additional 550 feet. He said that there are 44 properties in Portofino and all of the property owners feel that the dune is protecting their property. Mr. Horstmann said, "Some of these are very nice homes with some very nice tax base, we want to save them we hope you do."

Sharon Easley of 209 Porto Vista - Ms. Easley announced that she is the president of the Portofino HOA and that she wanted to say that she supports Mr. Horstmann and the homeowners and expressed that they feel strongly that this is something they need because they don't want the tunnel effect of the water coming in and washing the dunes out. The HOA requests that the Board approve the sand pushing near their homes.

Mike Yawn of 207 Tamarix Court – Mr. Yawn said that he agrees with the other citizens, he thinks that the Town should do the dune push. When you look at the cost per linear foot it gives the Town a great benefit for a very low cost. He said that CAMA and the Army Corp of Engineers rules have an effect on where the Town can push and when and that is why some areas are not included. He thinks that the Town should consider not just pushing near Portofino, but anywhere else in the Town where the sand can be pushed.

He mentioned that the item on the agenda regarding beach equipment rental storage should be referred to the planning board and possibly the BEST team. He thinks that the

Town has some coverage in the ordinances already on temporary storage, accessory structures, and home occupations that could affect this, and that there may be some issues with CAMA and Army Corp of Engineers. He said that the proposal needs a careful viewing. There is plenty of time between now and tourist season for the planning board to look at it and Mr. Yawn urges the Board to refer this to the planning board.

He also wanted to mention recycling. He noticed in the paper that Surf City was starting it at \$3 a month bi-weekly. He begs the Board to start it as quickly as they can, and reminded them that it was in the budget for this year. He has a lot of neighbors that know that he is involved with the Town and they ask him all the time when the Town is going to start recycling. If there is any way we can piggy back on Surf City or treat it as a completely separate contract. He wants the Town to move quickly on it.

Before Mr. Yawn left the podium Alderman Farley said that he wanted to personally thank Mr. Yawn for all of his hard work on the planning board. Alderman Farley said, "You are somebody who I think the citizens of this Town could rely on your honesty and integrity and your straightforwardness." Mr. Yawn said that it was really fun working with the whole planning board and with Ms. Hill and with the other staff and enjoyed working with the Board too.

Jean Miller of 4452 Island Drive - Ms. Miller did not know that the whole Town was not getting a push the way it has always done in the past. Before that, citizens were allowed to contract on their own and for \$300 they got pushed. She asked how she finds out if she is getting sand. There is plenty of sand sitting out there. When she walks she goes past stair cases where you can tell there was sand there and that it has left because there are new stairs there and they are wobbly. She said her dune is sliced in half and that in some places there is so much sand there that you cannot walk until low tide. Mr. Clifton asked her if she received a letter in the mail. She said she did not. Mr. Clifton explained that if she did not get a letter, her area was not impacted at the time the Town did the survey. Letters were sent to property owners requesting permission to trespass in order for the contractors to do their work. The letter went out a couple of weeks prior to this meeting. Mr. Clifton pointed out that the Town has to work by Army Corp of Engineers and CAMA guidelines which tell the Town how much sand can be pushed. At the last Board meeting the Board approved an area based on the availability of sand at that time. He said that later on this evening when the Board considers the bids they can decide whether or not to add additional areas based on availability of sand. Ms. Miller said that sometimes there is a lot of sand there. Mr. Clifton explained that it changes with every tide and that when the survey was done they tried to determine the areas that would comply with the regulations that the Town has to operate under. He said that the Board will discuss it in detail later.

VIII. **CONSENT AGENDA:**

A. Approval of Minutes: Minutes of meetings on December 2, 2008, December 4, 2008, and December 17, 2008 were approved by the Board of Aldermen.

Alderman Peters pointed out two minor corrections to the December 4, 2008 minutes. Alderman Daniel Tuman was not present at the meeting and this was not noted on

Page 1. On Page 14, Mulligan needed to be changed to Milligan and Horstmann needed to be added to Bill's name.

- B. Department Head Reports:** Reports from Finance, Fire, Inspections, Planning and Police Departments were submitted to the Board of Aldermen. There were no presentations made by department heads at this Board of Aldermen meeting.

Alderman Tuman made a motion to approve the Consent Agenda as it is presented. Alderman Swantek seconded the motion. The motion was approved unanimously.

IX. Old Business

- A. Request to Award Contract for Dune Restoration/Repairs:** Mr. Clifton explained that he will defer to the attorney on one issue. The Town went out for bids; it was based on roughly 13,500 linear feet of sand to be pushed only based on the CAMA rules and Army Corps of Engineers rules. The Town had bids from seven different contractors. The Town had a set of specifications, and when the bid opening occurred, the low bidder, Rutherford Contracting, did not present anything other than the bid; he didn't provide insurance coverage, contractor license number, or any plan of action. The next two bidders, R & W and J.P. Russ provided all of the information except they had lower levels of workers' compensation coverage than what was indicated in the bid specs. Mr. Clifton said he will defer to the attorney as to if that is something the Board can waive. The lowest bidding contractor that met all of the requirements of the bid specs was DRC. Between those four, the prices the Town got were close.

Mr. Clifton recommends that the Board authorize up to an additional \$100,000 in expenses associated with pushing sand. That will almost double the existing amounts with the understanding that property owners will have to sign a waiver to allow the contractor to trespass on the property to push sand. The Town will start in the areas where the Town has the most property owners who have given permission. The Town has received about half to two thirds of the letters back of the ones that were sent out a few weeks ago. The contractor cannot start working until January 21st. That gives the Town until the 20th. The Town cannot allow the contractors to go on the property without permission. Some people will be disappointed, because their neighbors will not have given permission and there will be gaps.

Mr. Edes advised the Board not to waive the workers' compensation insurance requirement. He explained that the idea is to have everyone starting on a level playing field and that if the requirement is waived, that will give one contractor a financial benefit over another. Anything that will effect the out of pocket cost for a bidder should not be waived.

Mr. Clifton added that he has been working with the County on the public beach access areas and the County said they will reimburse the Town based on the per linear foot price on the contract. The County will provide the Town a letter giving permission to trespass.

Alderman Peters asked if the contractors could readily increase the amount on their insurance. Mr. Edes said that they could, but they would not be able to change their bid amount. Alderman Peters asked that if they had known they would not be able to get the bid because of it, would that be something they should be approached on. Mr. Clifton explained that a lot goes into preparing the bid specs and everyone has the same opportunity to read the bid specs and meet the requirements. Mr. Edes added that if the Town starts giving the contractors “second bites at the apple” that may cause some litigation.

Alderman Farley asked about the licensing. Mr. Clifton explained that when the project is over a certain amount (\$35,000), the State requires that the contractor have a general contractor’s license. Many of the private pushes do not require the contractor to have a license because the cost of the project is low. Alderman Farley said that he was told that there has been an issue with the requirements in the past. Mr. Clifton said the thought that it may have been a FEMA regulation. Mr. Edes said that it was before his time, but he thinks the last push was under FEMA. There was further discussion about the licensing issues from a past project. Mr. Clifton said that those requirements do not have anything to do with the project the Town is currently working on.

Alderman Tuman asked for clarification on what the Board is considering. He said that the Board needs to choose one of the vendors and also approve to spend additional funds to do more pushing. He suggested that the Board add the flexibility of doing the whole beach instead of limiting it. Mr. Clifton said that if the whole Town is done that it would cost around \$200,000 to \$250,000.

Alderman Farley said that he could go along with doing it in the limited areas that were identified and that he agrees that the Board should authorize the whole town. Mr. Clifton said that back when the survey was done, the identified areas were the only places where sand was available. Since that time, some of the places more sand and some places have less sand.

Alderman Swantek asked that if the Town amends the areas that the Town will push, can the Town go back to the companies. Mr. Clifton said no, he said the reason the Town did the bidding the way it did was to get a linear foot price so that there is flexibility to add more areas. Alderman Swantek asked if the companies should be given the chance to increase their insurance coverage. Mr. Edes said the Town would have to rebid it. Mr. Clifton agrees with Mr. Edes and said that all of the contractors had the same opportunity to go by the specs. He said he would rather spend the money on the beach than on attorney’s fees. Mayor Martin pointed out the DRC is the lowest bidding contractor that met all specs. Alderman Swantek said that is what is bothering him, because the Town already gives them money. Mr. Clifton explained that the agreement the Town currently has with DRC is a small retainer and that if there is a big storm they will come in with their equipment within a short amount of time. Alderman Farley asked how much the retainer is. Mr. Clifton did not know the specific amount, but that it is not a large amount.

Mr. Edes asked if there is some way to post which properties have given permission to trespass. Mr. Clifton said that staff is keeping an active list. Mr. Edes said that it

may be helpful for homeowners to know that so that they can encourage their neighbor to get their form in. Mr. Clifton said he would look into it. Alderman Swantek asked if the Town could do a letter that would cover the Town for a whole year. Mr. Clifton said that it was possible to do it on a yearly basis. The issue would be that if the property changes hands the new owner would need to renew it. The attorney will look into it.

The Board members looked at the bids and discussed the amounts and the information that the contractors turned in with their bid. Mr. Clifton said that one of the bidders was present to address the Board. The Board allowed the gentleman to speak.

Wade Norris representing R & W Construction – Mr. Norris said that his company did all of the hauling for the Town about three years ago. He explained that when the bids were sent in it was during the holidays. He said that he had the insurance company faxed in the information so it would be at the Town on time. When he contacted the Town about it, he was told \$500,000 workers' comp would probably be fine. The aldermen asked Mr. Norris who told him that. He said it was Thomas Best. He said he was also led to believe that he had to have the "H Stamp" which is the highway stamp. The mayor asked him if his company would pay to increase the workers' comp. Mr. Norris said that he doesn't think that would be a problem. Mr. Edes asked when Mr. Best told him that the \$500,000 would be fine. Was that before or after the insurance people sent the information? Mr. Norris said it was after. Mr. Clifton said that the problem is that Mr. Best was not the person who put the bid spec out, he was. The bid specs are pretty clear. He said he appreciates the gentleman's position. He continued, if you can read the bid specs, it said \$1,000,000, if you can't read the bid specs and somebody is doing the work for you that is a different story. He repeated that the bid specs were clear.

Mr. Edes advised the Board to send the project back out for bid. He thinks all of the contractors need to be on an even playing field from the beginning. Mr. Clifton explained that another bidder that was in the same position as R & W Construction did not come to the Board meeting but was also given the opportunity present his information to the Board. He explained that the Town has a short window here and that if the Town keeps waiving requirements and going out to bid it will prolong the project and the ability to get work done. Discussion continued between the Town Attorney, Town Manager and Board as to the options the Town can take in this situation. Mr. Edes said that there would not be any legal issues if the Town put the project back out to bid.

Another contractor approached the Board.

J.P. Russ of J.P. Russ & Son – Mr. Russ said that the "H Stamp" was a state requirement. He said that he bid under the assumption that it was a requirement like the last time. He said if the Town does the whole Town it will be cheaper.

Alderman Tuman asked if the Town put the project out to bid again how long it would take. Mr. Clifton said that the revisions to the specs would have to be done and that the notice will have to go to the newspaper tomorrow to get it into Sunday's

paper. The Town would have to give 10 days to 2 weeks for contractors to respond. It might be on February 5th agenda. The real issue is the window to do the work. Mr. Clifton said that it would be another month before the Town will be at this point of deciding on a contractor again and the same issues may come up. The bidder has an obligation to read the bid specs. Alderman Swantek asked if there was a contact person on the bid specs. Mr. Clifton said it was Carin Faulkner, Town Clerk. Thomas Best was not the contact person. Ms. Faulkner said that she remembered referring a couple of contractors to Mr. Best when the question was about technical issues having to do with sand pushing. She did not know that the contractors were asking about insurance and she said that if she did get a question she would refer directly to the bid packet. She only recalled speaking with contractors before the bid opening. Mr. Edes said that the contractor could not have done anything about the insurance amount after the bid was submitted and even after the insurance information was faxed in.

Alderman Tuman stated that the Board has the option of going with DRC which had the lowest bid meeting all requirements or say that the bids are unacceptable and put the project out to bid again.

Alderman Farley made a motion for the Board to accept DRC's bid. He explained that Mr. Clifton was very specific in what the Town needed and everyone had a chance to look at the bid packet. He said he would like to move this process along, he would love to save the Town money, but it was a fair process. Mr. Clifton had a question about the motion and asked if the motion includes the whole town, depending on the sand available. Alderman Tuman repeated the DRC bid at \$3.94 per linear foot up to doing the entire Town. Alderman Tuman seconded the motion. The motion passed 4-1 with Mayor Pro Tem Hardison, Alderman Farley, Alderman Tuman and Alderman Swantek voting for and Alderman Peters voting against.

- B. Request to Accept Bids for Surplus Equipment:** Mr. Clifton explained that the Town put some surplus equipment out for bid, five vehicles. Staff recommends the Board award the vehicles to the high bidders in each case with the exception of the 1992 Ford F-350. Staff thinks it can get more money for it than was bid on it, the bidder submitted a bid lower than the minimum bid advertised. Mr. Clifton asked the Board to allow staff to put the F-350 on govdeals.com. He also explained that the bidders were advised to look at the vehicles closely.

Alderman Swantek made a motion to approve the recommendation and to award the bids to the highest bidder of the four vehicles and put the fifth vehicle on govdeals.com. Alderman Farley seconded the motion. The motion passed unanimously.

X. **New Business:**

- A. Anvil Proposal:** Ms. Deborah Hill said that she and Mr. Clifton met with Robert Smith of Anvil Partners, LLC in November. She explained that his firm works with local governments in processing applications for cell phone towers. The firm also helps the governments write their ordinances to include rules for cell towers. Ms. Hill

said that she has been approached twice by locators, individuals that work for tower companies that were trying to identify a place for a cell tower. Over the last few years it has been cost prohibitive for companies to locate a cell tower at NTB and it appears to be more convenient and more cost effective to locate out in Sneads Ferry. However there are some state requirements placed on local governments to have a process to review cell tower applications. She explained that Anvil Partners is compensated for their time and the services they provide through the application fee that the cell tower company will pay. The Town of North Topsail Beach would have to adjust the current fee schedule to reach Anvil's fee amount.

Mr. Robert Smith introduced himself. His company is out of Wilmington. He made a brief presentation explaining how his company works. His company looks at town codes and helps the town change their codes to give the towns the level of control they need to dictate the way cell phone towers will look in their town. The company asks the town to be able to be part of the town's permitting process. When the application for a cell phone comes in the company acts as the town's expert, the company evaluates the application, provides an analysis to the town, company staff comes to the public hearing.

Mr. Smith's presentation showed the importance of wireless technology to citizens (business people, services industry, sports industry, etc.) and public officials (public safety) and how usage has gone up over the years. More towers will need to be built to meet the growing demand. If local governments don't dictate how the infrastructure is going to fit in the community the industry is going to do it for them, he said local governments can get control through zoning. He showed pictures of the many different ways that communication infrastructure is found. There are ways that it can be hidden.

Mr. Smith said that the Town needs to be ready before the first cell tower company comes in to request a permit. Most localities don't have the staffing in place to get the appropriate regulations in effect. Anvil can help get the permits through faster and they will always be there. Some cell phone companies get away with doing things in the name of "maintenance" and Anvil will help the town define what maintenance in the ordinance. The company knows the industry and can determine if their arguments are valid. Anvil can help the town have a code that helps with hurricane preparedness.

Alderman Farley asked who owns the towers. Mr. Smith said that mostly tower companies own the towers and not the phone companies. The companies are now building smaller towers to keep the capacity up and increase coverage. Alderman Hardison asked Mr. Smith if he was here because the Town has a problem. Mr. Smith said no, the Town currently does not have a problem, but that the Town needs to be prepared to deal with the situation of having a cell tower company coming to the Town for a permit. Some of the money for the permit application goes to his company. Alderman Tuman said that the current Town Code does not include cell phone towers. Ms. Hill elaborated and said that it is somewhat like adult establishments, a Town cannot have an ordinance that prohibits them.

Mr. Clifton explained that the Town can sit back and wait and not do anything. Or Anvil can help the Town with the code. Anvil may never make money if a cell tower company never comes to put in a tower. Alderman Tuman asked if Anvil is going to promote the Town to the cell phone tower companies. Mr. Smith said that he is not going to have any influence over the tower company or the cell phone company and his job is more to help regulate the companies. Those companies have their own market plans. Alderman Tuman stated that he remembered that a year or so ago the St. Moritz was approached about putting a tower on their building. They eventually decided not to do it. Mr. Smith said that if a town does not have an ordinance specifically for cell towers, the court usually goes with the closest thing to it, such as an ordinance about water towers. Ms. Hill said that there is some information about cell towers in the draft of the zoning ordinance which has not been approved yet. The fees for the permits are in place, but they will need to be adjusted if the Town decides to use Anvil.

Mr. Clifton said that the reason that staff brought this issue forward is because the Town currently does not have a level of comfort to deal with this issue. Mr. Clifton suggested that the attorney take a closer look at the contract. He has an issue with whether or not the fees are market compatible. Mr. Edes asked if the fees have been found to be out of line. Mr. Smith shared information about his competition. He said that his experience was that the projects the other company does take about 18 months. The reason he started the company because the competition charges a lot of money and takes a long time. Mr. Edes asked if there are permit fees in excess of \$3,000. Mr. Smith said yes, that the charge is far more than that.

Alderman Tuman said that if the Town is approached by a tower company that the Town would use the fees from the application to pay Anvil. There is a fixed variable there and how do you determine the variable. Ms. Hill said the current fee is \$2,000. Mr. Smith explained how his fees work. Mr. Clifton thinks the contract needs some review, but if the Board agrees with the concept of it staff will move forward. Mr. Clifton asked for information on towns the company has worked for. Mr. Smith said that North Topsail Beach would be the first client. Alderman Tuman asked if the fees go to the Town coffers or to the state. Mr. Clifton said that it goes to the Town that the state has its own fees for public service. This is considered a public service and the Town cannot deny it and must work their zoning to accommodate.

Alderman Farley would like the Town to bring in the competitor and see what they offer. Alderman Hardison asked what kind of job it would be to get the Town Code in order. Mr. Smith said that the Town needs to have some workshops and to invite the carriers and tower companies in for input. In about three months there should be a draft ready. The attorney and planning board will also have input.

Alderman Tuman said that he would like the Town to pursue it. Alderman Farley said he would really like to see the competition. Mr. Clifton said the Town will research it. The Board had a consensus on this issue.

B. Request to Establish a Beach Equipment Storage Location on the Beach Front:

Mr. Clifton said that the Town was approached by a vendor to establish a beach equipment storage location on the beach front. The vendor has a similar operation at

other local beaches. Mr. Clifton said that he wanted to bring the proposal to the Board for their consideration. He said that the planning board may also need to review this issue.

Mr. Sean Cook of Pleasure Island Rentals addressed the Board. Mr. Cook described how his business works. He would like to put his equipment storage boxes in front of three locations at North Topsail Beach (for beach umbrellas and chairs). He has already received permission from St. Regis Resort's owner. He would have them out there from May 1st through September 30th. He will be employing 8-12 people, most likely high school and college students. Mr. Cook said he is not asking the Town for an answer, but would like a positive response so that he can move forward with his business plan. He said he is willing to work with planning and zoning.

Alderman Tuman said that this type of business requires him to submit an application to the Town Clerk which asks him to describe the operation and should include permission from the land owners. Mr. Clifton said that Mr. Cook would not have a problem getting a privilege license. He said that the issue is that the storage units will be out beyond the property line. Alderman Tuman agreed that it needs to go to the planning board as advised by Mr. Yawn earlier. Mr. Clifton said the Town may need to make a minor change to the ordinance.

Alderman Farley said that he has concerns with this proposal. He does not think that it is appropriate for the beach. He thinks that there are many people who have probably thought of doing a business on the beach like this one. He does not think the citizens want it. How do you limit businesses to just this type? It is a very subjective decision, to say one thing is fine, but another isn't. He is not supportive of it and thinks there are a large number of citizens who would not be supportive of commercial enterprises out on the beach.

Alderman Peters Mr. asked Mr. Cook if Carolina Beach has an ordinance that requires people to take down umbrellas, etc. down at night. Mr. Cook said yes they do. Alderman Peters said that North Topsail Beach does not have such an ordinance and that Mr. Cook's service is a benefit to those towns that have ordinances that prohibit leaving items out overnight. He advised Mr. Cook that there will be beachgoers that will continue to leave their items overnight even if his service exists. He said that maybe the Town should consider passing an ordinance like that because it does look bad out there. Mr. Cook said that the property managers here said that tourists ask for his service. He said that he has been in Carolina Beach with six years and he has had a good relationship with them.

Mr. Clifton said that the Board needs to decide whether or not it favors this proposal. He said it would be fair of them to let Mr. Cook know so that he can make the proper plans to start his business. Mr. Edes said that the Town cannot make any assurances tonight. Mr. Clifton advised the Board to refer it to the planning board for review. Alderman Tuman said that Mr. Cook needs to make an application to the Town and then it will need to go to the planning board. He will need to show proof that he has permission to put the storage boxes outside of the resorts. Alderman Peters asked Mr. Cook if he has approached Villa Capriani. Mr. Cook said that he had not. Mr. Cook explained that Carolina Beach has specific requirements that he had to meet such as

business worth and having a beach vending license. Alderman Farley thinks that NTB does not allow vending on the beach. Alderman Peters said that the Town does not have an ordinance for vendors. Mr. Clifton said that Mr. Cook's biggest issue with the Board is leaving the storage boxes on the beach overnight. He can probably get a privilege license like the many vendors that already operate in the Town. Mr. Clifton advised Mr. Cook to speak with Deborah Hill and she will advise him on how to meet with the planning board.

- C. Coordinated State Level Lobbying Effort (State Authorization to Use 'Terminal Groin' Structures):** A group of communities are being organized to lobby the state to allow terminal groin structures. A bill passed through the state senate but did not go through the house. The group that is organizing the coalition is the NCBIWA (North Carolina Beach Inlet & Waterway Association) but it is a 501(c) (3) and cannot lobby directly. An inter-local agreement will need to be made and one entity needs to be the lead entity. Mr. Clifton recommended that North Topsail Beach step forward to be the lead entity. He said the benefit would be that the legislature may only allow it in certain areas. Time is of the essence.

Alderman Swantek made a motion for the Town to participate in the coalition and that the Town will contribute \$5,000. Alderman Tuman seconded the motion. Alderman Farley said that North Topsail Beach's land use plan does not allow terminal groin structures (he referred to page 4-6). Alderman Peters said that the Town can always change the land use plan. Alderman Tuman said that it should be noted for further discussion. Alderman Farley said that he learned that the beach would still need to be nourished and that the groin does not prevent erosion. Alderman Tuman said that it stabilizes the beach in the area of the inlet. It stabilizes it enough to make the erosion rate equal to the rest of the Town. Alderman Farley said that the beach would still need nourishment. Alderman Swantek said that he is not only concerned with our island but other islands in the state where groins would be beneficial. Mr. Clifton said the groin structure is to stabilize the inlet, it does reduce the rate of erosion, but its main function is stabilizing the inlet. Alderman Hardison agreed and said that it another option that the Town can take that will help the Town in the long run. The motion passed 4-1 with Mayor Pro Tem Hardison, Alderman Peters, Alderman Tuman and Alderman Swantek voting for and Alderman Farley voting against.

- D. Proposed Federal Infrastructure Grant Program:** Mr. Clifton said that if the Federal government proposes an infrastructure enhancement program the only two projects that NTB has that would qualify would be the bike paths and the CP& E project, if the Town gets the permit. He suggested that if the Board agrees, the Town should notify our congressional delegation and our state delegation. It is not certain whether beach projects will be considered for infrastructure funding. Alderman Swantek asked if the Town can put in for handicapped ramps. Mr. Clifton said the Town can put in for anything, but it is his understanding that projects need to be ready to go, meaning the engineering has already been done. The Town may not see any money. In the past the money was sent to the state and the state allocated it. Alderman Hardison said that it will be important to emphasize the word erosion. It sounds more like an infrastructure project.

Mr. Clifton says that staff needs direction. These are the only two projects that are ready to go and it is going to be difficult to get anything else done with the time allowed. Alderman Farley said that he would not like to see the money wasted on beach nourishment. He said it would be nice to have the power lines put underground. Mr. Clifton said that the Town should consider coming up with a vision and start forecasting Town needs, that way the Town will have projects planned when opportunities for funding arise.

Alderman Swantek made a motion to apply for grant funding for the bike path and beach nourishment program. Alderman Tuman seconded the motion. The motion passed unanimously.

E. Budget Amendment # 3: Mr. Clifton explained some of the budget items that required additional expenses. He explained that many of the items had to do with changes in staff.

Alderman Peters made a motion to approve the budget amendment. Alderman Hardison seconded the motion. Alderman Farley asked about the line item titled Miscellaneous (10-420-57) where the amount increased from \$150.00 to \$9,550. Mr. Clifton was not sure what the increase was for, he suspected that it may be for the background checks and advertisements for the vacant positions. Alderman Peters pointed out that one of the finance reports was not included in the Board packet. Mr. Clifton said that it was an oversight by the Interim Finance Officer; he will get back to the Board on the item that Alderman Farley asked about. The motion passed unanimously.

XI. OPEN FORUM:

Tom Leonard of 218 Coastal Drive – Mr. Leonard said happy New Year to the Board and those in attendance. He said he was disappointed in the lack of open mindedness he observed tonight. He pointed out the young gentleman who came to present his business proposal to the Board and it was well thought out. One of the aldermen made an assumption that the citizens do not want his business here. He advised the Board to ask the citizens what they want before they make assumptions. He said that he is a citizen and he doesn't have a problem with it. He described the broken up chairs he sees Saturday morning all along the road overflowing out of trash cans. He said this business could alleviate that. He said the Town is going to drive people off. Mr. Leonard said, "Please don't make this so hard, let's try to meet people half way. It's progress. I'm still complaining about having a catalytic converter on my car, but I've got one."

XII. ATTORNEY'S REPORT: Mr. Edes said that he did not have anything to report.

Alderman Farley asked about what happened with the homeowners association for the recently donated property. Mr. Clifton said that it has been resolved. The HOA sent a letter indicating the Town does not have to pay dues but cannot use the facilities. The Town can use the land, but can only use it under the bounds of the conservation easement. Alderman Farley said he has a concern about it because it is only giving someone a tax deduction and it is not benefiting the citizens. Mr. Clifton said that it's like many areas of the island, it is a conservation area. He was told at one point that the Town

sent a general inquiry asking landowners to donate property. He did not find any documentation of that.

Alderman Farley asked about the issue with the man putting down gravel on a property. Mr. Edes said that a title search needs to be done to establish legally who owns what. He wants to look at the Powell funding as well.

XIII. MAYOR'S REPORT:

Mayor Martin thanked the Town staff for putting on a great Christmas party. He thanked Mary Ann, Sue, and Kathy for providing the entertainment when the D.J. bailed.

The mayor passed out a draft proposal for the Board to review to comment upon. He said as mayor he wants to open the discussion with the county commissioners regarding the funding partnership relating to the planned Federal beach project and any phase of the CP&E project the Town might pursue in the future. The Town also wants to seek involvement in any lobbying in the state and Federal governments for financial assistance relating to any beach project we pursue. He asked the Board to review the information and give him their input. Any final agreement with the county requires a vote of the Board of Alderman before the Town can go forward.

XIV. ALDERMEN'S REPORT:

Alderman Hardison thanked everyone for coming out.

Alderman Peters wanted to reiterate what Alderman Farley said about Mike Yawn's role as chairman of the planning board. He said we need to show more appreciation for the chairmen of our committees and our committee members in general. He specifically thanked Mr. Horstmann as well. He said we need citizen participation.

Alderman Tuman seconded everything Alderman Peter said. He added that he encourages everyone to volunteer for one of the Town's committees. He said it is a worthwhile experience. It might even make you enthusiastic. He said, "You might even want to consider sitting at this table."

Alderman Swantek thanked all of the citizens who come out every month to attend all of the Town's meetings. He wished everyone a happy new year. Hopefully everything will be prosperous for us this year. We are starting off with a clean slate. Hopefully we will get this Town in the smooth running condition it should be in.

Alderman Farley said, "Happy New Year to everyone, I am not going to change." He made a New Year's resolution that he is not going to change. He pointed out that today officially ends the Christmas season.

XV. **ADJOURNMENT:**

Alderman Peters made a motion to adjourn the meeting, Alderman Tuman seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 2/5/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, February 3, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Richard Farley, Robert Swantek, Daniel Tuman, Interim Town Manager Frank Clifton, and Town Clerk Carin Faulkner

- I. Call to Order:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. Approval of Agenda:** Alderman Swantek made a motion to approve the agenda. Alderman Peters asked to add parking to the agenda. He asked Mr. Clifton what needed to be done to get no parking signs put on a certain road. Alderman Farley seconded the motion. The motion passed unanimously.
- III. New Business:**

A. Discussion of Agenda for Thursday, December 4, 2008.

Discussion of Changes to the BOA Regular Meeting Agenda: Agenda has three new items, the monthly finance report did not include the budget amendments the Board passed last month, the new item reflects the changes. The Ford F-350 was sold on the internet; the Board needs to award the bid. The playground equipment was replaced but the mulch needs to be replaced, Mr. Clifton priced the two types of mulch and the Board needs to approve the budget amendment for the new mulch.

Discussion of Agenda Items:

Discussion and/or Direction Relative to Proposed Changes in the State Coastal Insurance Program and Rates: Mr. Clifton advised the Board not to invest money in suing the State, he recommended that the Board instruct the Mayor to write a letter or adopt a resolution in support of legislation to delay the changes.

Discussion of Changing Mayor's Term of Office from Two Years to Four Years (not on BOA Regular Meeting Agenda): Mr. Clifton reported that he looked into it and he talked to Representative Grady and if the Town moves forward it will take effect in 2011. It takes a charter change and the only way the Town can change the charter is to go through the legislature. This year there are 3 members up for a four year term and the mayor up for a 2 year term. The next election you will have two

members up for a 4 year term and if you want to make a change it will happen then. If anything is going to be introduced to the legislature it will need to be done by March 18th in the House and March 3rd in the Senate. Both Representative Grady and Senator Brown can do a blank bill about it, but Grady said he would like to have a resolution from the Town requesting him to do it. Alderman Hardison asked Mr. Clifton if this was his recommendation. Mr. Clifton said he does not have a recommendation, but that 2-3 Board members approached him about it. He was asked to investigate it.

Discussion of Demolition of Houses: Right of Entry Agreements for Two Property Owners: Mr. Clifton reported that he had received the Right of Entry Agreements for two properties that will need to be entered for the contractor to access the houses that need to be demolished. The Board needs to approve both agreements, one which includes the Town constructing a wooden pedestrian walkway for one of the property owners.

Mr. Clifton said that he has completed the follow-up on the low bidder. He has contacted the references for the firm. The references reported that the firm does a great job and they work almost exclusively in the Wilmington area. They will get in and get out pretty quick.

Discussion of Town Hall Renovations: Mr. Clifton reported that he has not completed his work on getting a contractor for the work that needs to be done on Town Hall. He received only one proposal up to this point. He described the work that needs to be done. There was discussion as to whether a violation exists. Mr. Clifton said that it in fact a violation.

Discussion of Minutes from Previous Meeting: Alderman Farley made a correction to the minutes. He indicated on Page 9 that in the vote to award the sand pushing contract to DRC, it was in fact Alderman Peters who was the only dissenting vote, not himself. There was discussion about the meeting procedure. The clerk will now call the roll in order to ensure that votes are attributed to the correct Board member.

Discussion of Public Beach Access Points: The Town has identified all of the beach access points that are on the island and they are either belongs to the County or the Town. The Town needs to do research to find out if they are indeed beach access points and the Town owns the property. The Town had to move a walkway in the past because it was later discovered the Town did not own the property. The Town needs to verify that they have an easement on file or that they own the land. The Federal project requires the Town to have a public walkway every ½ mile and there are gaps where the Town does not have one. There also has to be handicapped access points and they need to be identified. Parking is also an issue. There needs to be a certain number of parking spaces for each access point. It may be a good time for the Town to approach property owners, get a good price for land, and plan for the future.

Discussion of Manager's Report Item – Code of Ordinance Issues: Mr. Clifton found 3 specific items in the last few months regarding the Town Code. During last meeting the Board discussed the ordinance dealing with vendors and Alderman

Farley was correct, the code prohibits vendors of any kind on the beach or right-of-ways. Mr. Clifton advised the Board to decide what to do about the ordinance since the Town has been allowing vendors such as the “Shrimp Lady” and the hot dog stand to operate. Alderman Tuman thinks that some clarifications need to be made. Mr. Clifton says that the ordinance is clear and that the Board needs to decide if the ordinance should remain the same or be changed, and it should be decided before the tourist season. There was further discussion on what the ordinance says and what the Town usually does.

The ordinances prohibit construction on the weekends except for emergency. This ordinance has been enforced off and on. Our contractors will be working on Saturday for the demolition and sand pushing projects. The police officers have been told to enforce the ordinance. Mr. Clifton advised the Board to address this issue. It is not a planning board issue. Alderman Hardison feels that if the Town does not enforce the ordinance evenly, that it undermines the authority of the Town. Mr. Clifton said that the Town is handing out forms to contractors to inform them that they are not allowed to work on Saturdays and Sundays. Usually the ordinance is only enforced based upon citizen complaint because the building inspector does not work on the weekends. Mr. Clifton explained the issues with the code where parts have not been adopted into the latest version and the original ordinance are missing. He advised that the Board should consider having the ordinances looked over periodically, possibly by a citizen committee, section by section and come back to the Board to make suggestions.

Mr. Clifton explained that a private building project brought into question a Town regulation regarding the imposition of a “VE” overlay requirement for all building and flood plain requirements within town limits. The requirement was omitted from the adoption of the current Flood Damage Prevention Ordinance. Mr. Clifton described the restrictions under a VE zone and an AE zone. He advised the Board to have the attorney review the ordinances in detail and every ordinance should have a statement that indicates it was reviewed by the attorney and signed. Ms. Hill is going to take this issue to the planning board. The planning board is about to update the land use plan and the zoning ordinances and it is good timing for them to review the issue. The Town needs to decide if it makes sense to re-establish the “VE” overlay.

- B. Discussion of Parking:** Mr. Clifton explained that the Town does not have authority to regulate parking on the right-of-ways of the DOT roads. The DOT requires a Town ordinance in order to prohibit parking on right-of-ways of State roads. Mr. Clifton warned that the money the Town gets from the State and Federal government for beach projects is predicated upon the fact that the Town has public beaches. Alderman Peters says he does not want to restrict day time parking. Alderman Tuman asked Mr. Clifton if there have been any complaints from the public. Mr. Clifton said only from Alderman Peters and that it may be different in the summer time. He advised that the Town cannot selectively enforce ordinances. He discussed the laws in respect to private property and trespassing. Mr. Clifton said that the Town is required to have a public hearing and adopt an ordinance to restrict the parking. Alderman Peters describe the area where he would like the parking to be restricted. He explained that the owner of the house nearby holds weddings there and that

parking overflows in this area. Alderman Farley suggested looking at the zoning ordinance to see if that resident is compliant with the zoning ordinance as far as having enough parking spaces. Mr. Clifton advised the Board that they should be more flexible if they are expecting the Town to enforce the ordinances. The Board discussed that maybe the homeowner is in violation of a rule that has to do with carrying that type of business at the residence. Alderman Hardison thinks that something needs to be done. Mr. Clifton said that the Board needs to remember that the Town has public beaches and that if you restrict parking to the public the Town has to find places for the public to park. Alderman Tuman made the point that there has been letters to the editor for the Jacksonville Daily News in the past about this Town restricting access to the beach.

B. Other items discussed:

Sand Push: Alderman Farley asked about the sand pushing. Mr. Clifton explained that the sand push will start at the south end and move north. He thinks the houses will be gone by the time the sand push reaches that area. The Town will push sand where it is available. Mr. Clifton remarked about the cost of the bid and the number of bidders and said that the company is very reputable.

BEST Committee: Ed Doherty said that the BEST Team will be submitting its final recommendation to the Board on Thursday night. He will present a summary of BEST's five recommendations. He asks that the Board consider the future role of the BEST committee. If the Board sees no further role, the BEST committee will conclude with one final meeting on February 17th. Alderman Tuman asked if Mr. Doherty had a recommendation for their next role. He said the committee could offer some ideas. Mayor Martin said they could be helpful in contacting the legislators. Mr. Doherty said that perhaps they could start another committee with that function.

- IV. Adjournment:** Alderman Farley made a motion to adjourn the meeting. Alderman Swantek seconded the motion. The meeting was adjourned at 12:26 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on:

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, February 5, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Interim Town Manager Frank Clifton, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Associate Pastor Andy Connor of Salem Baptist Church gave the Invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Tuman seconded the motion. Alderman Peters said that he would like to add a proposed resolution regarding parking to the agenda. Alderman Hardison seconded the motion to add the resolution to the agenda. The amendment failed 3-2 with Aldermen Peters, Swantek, and Tuman voting Nay and Aldermen Peters and Hardison voting Aye. The Board voted to approve the agenda as presented. The agenda was approved 4-1 with Alderman Peters voting Nay.
- V. **COMMITTEE REPORTS:**
 - A. **BOARD OF ADJUSTMENT:** Gary Miller reported that there was not a meeting of the Board of Adjustment in January. He said it looks like there will not be anything for them to discuss in the foreseeable future, but that during the meetings for February, March, and April the Board of Adjustment will be having training sessions.
 - B. **PLANNING BOARD:** Sue Tuman reported for the Planning Board regarding their last regular meeting on January 8th.

Board Actions:

1. Held a Public Hearing on a Private Bridge Ordinance. No one from the public came forward to speak. After discussion, the Board recommended

the Board of Aldermen amend Sec. 9.2 to include Private Bridges. The suggested ordinance was forwarded to the Town Attorney for his review.

2. A proposed subdivision northwest of 2nd, 3rd, 4th, 5th and 6th Avenues by Jim Day was presented and tabled for more information.
3. A Public Hearing was held on Rezoning Case #R-09-01 to rezone the property, near Galleon Bay, to R-20 from Con-D. The Board's recommendation was to retain Con-D designation for the property.

The Planning Board continues to hold workshops on ordinances on Monday evenings. Hard copies of the Land Use Plan are expected to arrive on Friday and will be distributed to Board of Aldermen and Planning Board members. Staff is requesting a joint meeting of the Planning Board and the Board of Aldermen to take place at 10:00 AM on Monday, February 23rd. That would give everyone two weeks to review the information.

C. BEACH NOURISHMENT: Ed Doherty presented the Board and those present with the BEST Committee report. He gave an overview of the history of the volunteer committee, announced the members, listed the various scholars and experts the team consulted with and visits the team made to research beach erosion. He shared what the BEST team learned which was:

1. The cause of beach erosion. There are two factors, a rise in sea level and the shifting of the alignment of the channel of the New River Inlet.
2. There are opposing views by the scientific community on beach erosion and what to do about it. There are two types of scientists that study the subject, coastal geologists (believe that it's financially impractical to do beach nourishment, you are not going to beat Mother Nature in the long term so you should abandon your property) and coastal engineers (a properly engineered beach nourishment project or other technologies can arrest erosion of beaches in a reasonable amount of time).
3. North Carolina does not permit any solution other than beach nourishment. Two challenges: (1) Quantity of sand (2) How do you pay for it?
4. Beach nourishment must be replenished every two years. There has to be a source of sand to replenish the beach.
5. It is very expensive. The cost to do the two proposed projects together will cost \$61.8 million over a 10 year construction cycle (\$6.2 million a year). The cost to renourish every 4 years is \$12.5 million (\$3.1 million a year). The revenue for the town is between \$2 and \$3 million a year. Without outside funding, the Town cannot afford it.

Mr. Doherty continued to describe what is included in the BEST Committee Report. He summarized the report's five recommendations which are as follows:

1. **Beach Nourishment.** BEST endorses the Beach Nourishment recommendations of CP&E and the Army Corps of Engineers. How to fund the estimated \$61.8 million 10-year construction/monitoring expense,

and the ongoing estimated \$3.1 million per year maintenance expense represents a very formidable obstacle.

2. **Pay-as-you-go Implementation.** BEST supports proceeding with implementing the Beach Nourishment solutions on a “pay-as-you-go” basis. BEST recommends establishing tax districts that correspond to the phased implementation plan. Any NTB taxpayer funds required, above what is already allocated by the Town for Beach Nourishment, should be provided only by the property owners in the tax district receiving beach nourishment.
3. **Cost Sharing.** BEST recommends that Oceanfront (OF) property owners should contribute 90% of the costs, and non-Oceanfront (non-OF) property owners 10% of the Beach Nourishment costs not provided by outside funding. This reflects the belief that Oceanfront property owners would gain the most from Beach Nourishment by protecting their property. A 90/10 cost split is consistent with the cost sharing allocation of other North Carolina towns, such as Emerald Isle, which approved a 94% OF, 6% non-OF split. 90/10 also represents a cost allocation that is most likely to be supported by NTB’s citizens.
4. **NTB Citizen Input.** BEST recommends sending a “fact sheet” that identifies the costs, funding required of property owners, risks, pros and cons, etc., about NTB Beach Nourishment to every NTB property owner. All NTB property owners should be invited to provide input to the Town concerning whether or not they are supportive of the plan. BEST recognizes that such input would be non-binding, but it would provide the Board of Aldermen with invaluable guidance as to whether or not public support exists.
5. **Need for Long-range Plan.** North Topsail Beach must develop a long range plan to ensure that future generations do not face the same risk to NTB property and quality-of-life that threatens the Town today.

Mr. Doherty said BEST team would be pleased to meet with the Board of Aldermen to answer any questions they may have about the BEST report at a mutually agreeable future date.

Alderman Farley said that he thinks that Emerald Isle has more sand bags than they did before their realignment and questioned whether or not their project was a success. Mr. Doherty said that the BEST team visited Emerald Isle and said that others should talk to the Town Manager. None of their sand used for the channel alignment was deposited on their beach. They had a dramatic accretion of sand on their area that is equivalent to our North End. Mr. Doherty reemphasized the fact that there are differing opinions on the subject. Mayor Martin thanked Mr. Doherty and the BEST Committee for their hard work. Mr. Doherty asked to recognize the members present at the meeting, Deb Lanci and Tom Leonard, and thanked them for their hard work. Mayor Martin thanked Mr. Doherty again and said that the Town appreciates all of the time and hard work he contributed.

VI. **MANAGER'S REPORT:**

Meeting with CP&E: Mr. Clifton reported that CP&E has called and are in the process of getting the permits and would like to meet on Monday or Tuesday with the Board to give an update on the permitting process and to seek direction on some of the issues that the Army Corps of Engineers raised during the process. He asked the Board to agree on the time and the Town Clerk will notify CP&E. The Board agreed that Tuesday morning at 10 AM would work.

Identification of Crossovers: Preliminary work needs to be done for the Federal beach project. One of the issues for the Town is identifying which parcels the Town owns and which are leased. Parking will also have to be identified at each site.

Sand Pushing: The sand push should be starting next week. He did not know how many letters went out, some people own multiple parcels, but 586 affirmative responses and 7 negative responses came in. The contractors will start at the south end working north. The timing of the push should allow for the north end houses to be demolished before they reach that area.

New Town Manager: Mr. Clifton said he spoke earlier this afternoon with the new Town Manager, Ms. Lara Burleson. She is in the process of moving to the area and will likely start on the 18th or 19th of February. She will assume manager duties when she comes here. He mentioned the two items relating to Ms. Burleson that will be acted upon later in the meeting, Ms. Burleson's employment contract and the resolution to adopt the retirement plan she is currently under with the ICMA.

Code of Ordinance Issues:

1) Vendor Sales - Mr. Clifton said that at the last meeting Alderman Farley pointed out that the Town's Code prohibited vendor sales on the island, and that Alderman Farley was correct (Article 1, Section 4-1). This code restriction prohibits at least 3 or 4 activities that have been occurring in the Town for a long period of Town. The Town needs to address this issue because Town Staff is expected to enforce the ordinance. He recommended that the Board have the Town Attorney research and decide how to appropriately amend the ordinance.

2) Construction Activity on Weekends- Mr. Clifton explained that the current ordinance limits construction activities Monday – Friday 7 am – 6 pm. Only in the interests of public safety and then only with a permit from the building inspector is construction activity outside of those limits allowed to occur. In the past the Town only enforced this based on report of complaint. The building inspector does not work on the weekends and would not see the activity. The Town has advised all of the builders of the ordinance. The police are aware of the ordinance. The police have been asked to tell builders to shut down operations.

3) VE Overlay Requirement – At one time the Town Board adopted within the flood damage prevention ordinance an overlay zone which applies to construction of a structure, how high it has to be, and break away walls, etc. There are also some other

rules that are in this zone that are not in the AE zone. Such as you can fill in an AE zone and in a VE zone you cannot fill. In 2005 the new flood damage prevention ordinance left the VE overlay out of it. The Planning Board should review this. If you qualify for Federal insurance coverage, if there was a VE overlay there is a favorable rating factor that would lower your Federal flood insurance rate \$150. People who are doing new construction in the VE overlay will have increase construction costs and more limitations. It is a good time for the Planning Board to review this issue while they are working on the planning ordinances.

Discussion: Alderman Tuman asked that the Town modify the language of the ordinance to include the vendors that have been around the island for a while. He thinks that there have not been any complaints about these vendors. He thinks that the umbrella vendor is a special case. It is an arrangement between the vendor and St. Regis Resort to serve the guests there. Mr. Clifton said that it requires a privilege license. Alderman Tuman thinks that he is probably on private property. He also pointed out that the Town Clerk has issued a privilege license to the vendors who have been here for years (shrimp lady, hot dog vendor, etc.) as part of the duties of the clerk.

Alderman Farley said that he thinks that it is wrong to get rid of vendors who have been here for a long time. He is against having vendors selling things on the beach. He sees it as providing warehouse space for the business. He does not see any problem with the umbrella vendor to use space at the St. Regis to store the items. There is a long tradition in the Town of not having vendors on the beach. He does not want the Town to start picking and choosing. Mr. Clifton said that the Town might want to look at the privilege license law, the shrimp and food stands have to get a privilege license, but they are exempt from fees by the State based on agricultural reasons. There may be a way to write the ordinance to include those vendors. The Planning Board needs to look at what type of commercial enterprises should be allowed in residential areas. Alderman Tuman recommended looking at Chapter 8 of the Surf City Town Code.

Alderman Farley said that the Town should not stop the contractors from working if the Town allows home owners to work. Alderman Tuman said the Town should accommodate everyone, but some work is considered a nuisance. Mr. Clifton said this is one of the more restrictive ordinances he has seen. The Board discussed noise issues. Mr. Clifton reminded the Board that they need to take action on it now. The Board discussed allowing Saturdays.

Alderman Peters said that if the Town allows the agricultural vendors that would open up the Town for allowing commercial businesses in residential areas. Mr. Edes suggested specifying certain areas that the vendors are allowed to operate.

Alderman Swantek said that he does not see anything wrong with selling on private property. If the St. Regis allows it, he does not see a problem with it. He does not want to put any restrictions on construction. He said right now the Town needs to give permits to everyone because they are working against the ordinance right now. He wants to give temporary permits out until the Board changes the ordinance. Mr. Edes said the Board will have to suspend a portion of the ordinance, in particular the portion that relates to an emergency for public good, urgent necessity and public safety. Alderman Swantek said that everyone is hurting for work and the Town should not stop them. Mr. Clifton said

the Board needs to take action. Alderman Tuman said that there are some residents that have come to Town Hall and complained about being disturbed by work that was going on during the weekend. The Town should make this aware to the Board. He thinks there should be a public hearing for the residents to give their side of the story. Alderman Farley made a point that the ordinance does not include holidays and that there are many residents who are on the island at times other than the weekends and they are also disturbed.

VII. OPEN FORUM:

Richard Baker of 3655 Island Dr. – Mr. Baker pointed out in the wording of the ordinance which indicates repair. He asked if it's true that this ordinance only applies to repairs requiring a permit. He described a few instances where vacationers may need someone to come out to fix things. He said that even if it is a necessity the ordinance requires a permit; Town staff is not available to issue the permit. He closed with referring to the place in scripture where Jesus healed a woman on the Sabbath. Mr. Baker said, "even the Lord Jesus let them do stuff on Sunday, you know what I mean?"

Gary Rowland of 127 S. Permuda Wynd – Mr. Rowland said that as a homeowner he would like to have work done to his house as quickly as possible. He said contractors should be allowed to work on Saturday. He suggested maybe making the time restrictions different, but it should be allowed. He said that the Town is creating an economic hardship by eliminating the potential to work on Saturdays as a make up day. He mentioned the noise that comes from Camp Lejeune. He recommended that the Board set aside restrictions on issuing the permits for the weekend.

William Polk of 1472 Old Folkstone Rd. – Mr. Polk said that maybe the Board that approved this ordinance did not know the potential this ordinance had. Saturdays are the contractors' window to get things done between renters. The renters leave on Saturday morning and the contractors need to get the work done between residents. He also said that the contractors will work with residence and be considerate of them when it comes to disturbing neighbors. They work on reputation.

Mack Privott of 327 Goldsboro Ln. - Mr. Privott pointed out the cost of staffing the permit office during the weekends. He thinks that this can be done without the expense.

Mark Zang of 1911 New River Inlet Rd. – Mr. Zang is a resident and contractor and has lived in the area for many years. He works for a living and if he gets rained out, he depends on the weekends. If he cannot work on the weekends he goes hungry. He thanked whoever is enforcing the ordinance and the person whose idea it was to created it for "taking food off our tables."

Tom Leonard of 218 Coastal Dr. – Mr. Leonard thought that the gentleman that preceded him that mentioned the window of time between renters brought up a good point. He also wanted to speak about the vendors in the Town and the ordinance that prohibits them. He thinks a simple solution would be to re-draft the ordinance so that it allows people like the Shrimp Lady and the hot dog man, and the vegetable guy to continue to do business. He does not think it is necessary for the Town Attorney to dig and do research to find a loophole in the ordinances to allow these vendors to stay in business.

Either you want them in business and you will modify the ordinance to allow them in business or you won't. But if you do it has to be for everybody and needs to be unilaterally applied.

Ray Ortt of 1965 New River Inlet Rd. – Mr. Ortt has been a resident of the island for 13 years and worked here 20. He mentioned the contractor's window of opportunity. In the off season homeowners are also in a window where they are trying to get work done before the rental season starts. He thinks the Town is making it harder on the contractors in paperwork and now with the time they are allowed to work. There is not a whole lot of work to be had and what work they do have they would like to get it done and get paid for it.

Mark Wendling of 151 Creek Landing Rd. – Mr. Wendling defined repair as almost anything, he thinks it is very broad. The terms in the ordinance are broad. He says residents who only have time to get here to get repairs done on the weekends should be allowed to do that. He says he has a second job and he works on weekends and holidays and whenever he has a chance. He has 4 homes that he keeps an eye on for the residents who live out of town. He described situations where he would need to do repairs for his customers. He mentioned the window of opportunity. He thinks the ordinance causes economic hardship. He thinks enforcement should be on a complaint basis. He mentioned that work is often received through word of mouth and that contractors will not get business if they are not considerate. He suggested restricting the hours to times that most people are up.

Bud Rivenbark of 965 Old Folkstone Rd.- Mr. Rivenbark works for Coldwell Banker and he is representing about 150 homeowners that he manages property for on NTB. He was concerned when he read the ordinance. Most of what he came to say tonight was already said. All of the workers that came are his front line of defense for taking care of vacationers. He described situations where renters come here and they need the contractors to fix things so that they can be comfortable, they pay good money for that.

Alderman Peters asked the contractors if they could live without Sunday. Many contractors in the audience said no. Repairs need done at any time. Some did say that Saturday is very important because of the window of time between renters.

Alderman Farley said he does not think anyone has been stopped from doing repairs. He does not think the Town's ordinance was intended to stop repairs that it was mainly about noise.

Mr. Rivenbark said that almost anything can happen. He wants the Board to consider his comments.

Orin O'Quinn of 1457 Old Folkstone Rd. – Mr. O'Quinn thanked the Board for giving the public the opportunity to voice their concerns. He is a licensed general contractor and he has been here for 25 years. He said the other towns have similar ordinances on the books and they do not enforce them. He said it is a requirement to work on Saturdays. Sometimes houses need to be done in a certain time because the owner got locked in a certain interest rate. If you do not get them in it costs them \$400-500 a month. He thinks

this is making people stay away from North Topsail Island. The word is out and people are moving away from here.

John Cassidy of 169 Lake Haven Dr. – Mr. Cassidy has been here since 1996 doing construction. He makes a lot of noise. If he has to work on a Saturday he goes to the homeowners on the left and right and he lets them know that they need to finish their job and has never had any complaints. If the Town does not do anything about it, when there is a hurricane the Town will want them there to fix your stuff, and they will go to another place. He thinks it is a common sense deal to be courteous to people.

Paul Dirazio of 131 Old Village – Mr. Dirazio says it boils down to common sense. He feels that it was all brought to light because someone was being inconsiderate on a Sunday morning. Contractors need to be able to make up for lost time. He thinks there should be a reasonable time to start on Sunday.

Alderman Peters asked Mr. Dirazio what his solution would be.

Mr. Dirazio said that he would put 8-5 on Saturday and Sunday. He thinks that contractors should be considerate. He thinks things could be worked out.

Floyd McKissick III.. – Lawyer for St. Regis Resort. He came to let the Board know that he has been in contact with Mr. Sean Cook, “the umbrella man” who would like to lease some space at the St. Regis Resort. He said if anyone has questions for him, he would be glad to answer them. There is no opposition from homeowners or board members at the St. Regis. That is not to say that there is no concern about the quality of the job Mr. Cook would do, but there is no opposition. He encourages compromise on the ordinance the Town has been discussing this evening.

Mr. Clifton said that for the benefit of the people who have come out that if the Board would like to give direction to the attorney on construction activity that the Board should do it at this time. Alderman Tuman asked about the issue of construction activity. Is it for new construction? Mr. Clifton said that he is not sure of the intent of the ordinance and that is one of the more restrictive ones he has seen. He feels it needs to be corrected or changed. It is difficult for to enforce it against one person and not another. They take an oath to enforce all of the ordinances. If the Town does not want it enforced they should take it off of the books. Alderman Swantek thinks the Board should do something now. Mr. Edes said a motion can be made to suspend the portion of the ordinance that deals with the weekends.

Action: Alderman Swantek made a motion to suspend the portion of the ordinance that restricts construction activity on weekends for 60 days while the Town Attorney makes the appropriate changes to the ordinance. Alderman Farley seconded the motion and asked for clarification. Alderman Peters thinks the Town could go a little farther than that. Mr. Clifton explained that this is temporary and a more permanent solution will come later. Alderman Farley said the Board needs to come up with something they can all agree on. Alderman Peters said that landscapers are just as disruptive. Alderman Hardison said that he had an experience and was interested to hear what the contractors said. He said that it wasn't a problem with the code but that it was not handled properly.

He said the ordinance does allow for the contractor to get a permit to do what needs to be done.

The clerk called the roll and the Board voted unanimously to suspend the portion of the ordinance prohibiting construction activity on the weekends for the length of 60 days.

VIII. **CONSENT AGENDA:**

A. Approval of Minutes: Minutes of the January 6, 2009 were presented to the Board with appropriate changes made following the February 3, 2009 meeting.

B. Call for Public Hearings: 1) A call for a Public Hearing for Case # R-09-01 – Rezoning of acres from Conservation District (Con-D) to Residential (R-20) was presented to the Board of Alderman in the Board Packet under the Consent Agenda section. 2) A call for a Public Hearing on a proposed amendment to the Zoning Ordinance regarding private bridges was presented in the Board Packet under the Consent Agenda. There was no discussion by the Board of Alderman regarding the request to hold these hearings.

C. Department Head Reports: Reports from Finance, Fire, Inspections, Planning and Police Departments were submitted to the Board of Aldermen. There were no presentations made by department heads at this Board of Aldermen meeting.

Action: Alderman Swantek made a motion to approve the Consent Agenda as it is presented. Alderman Tuman seconded the motion. The motion was approved unanimously.

IX. **Old Business**

A. Request to Approve Right of Entry Agreement for 2380 New River Inlet Road # 2: The Town negotiated an agreement with the owner of this property for right of entry onto the property. It adjoins the area near the houses that need to be demolished on the north end and the contractor will need access.

Action: Alderman Swantek made a motion to approve the right of entry with 2380 New River Inlet Road # 2. Alderman Peters seconded the motion. The motion passed unanimously.

B. Request to Approve Right of Entry Agreement for 2276 New River Inlet Road # 2: The Town negotiated an agreement with the owner of this property for right of entry onto the property. It adjoins the area near the houses that need to be demolished on the north end and the contractor will need access. The contractor needs to cut through the dune to get to the houses and the dune will be restored and sea oats will be planted after the demolition is completed. The property owner also asked that the Town construct a wooden pedestrian crossover as part of the agreement.

Action: Alderman Swantek made a motion to approve the right of entry with 2276 New River Inlet Road # 2 including a wooden pedestrian crossover. Alderman Peters seconded the motion. Alderman Peters asked that if the Town is going to build a

pedestrian walkway for this resident what will happen if the neighbor finds out that the Town is building one. Mr. Clifton explained that this came up with another resident nearby and he explained that the Town is not building a walkway for everyone and that he stopped approaching homeowners when he got the access he needed. The motion passed unanimously.

C. Request to Award Contract for Demolition Services and Asbestos/Lead

Abatement: Two years ago the Town received some quotes (not bids) from a few contractors to demolish the north end duplexes and the lowest estimate was \$232,000. The Town went out for bids this past month and out of the roughly 20 bidders the lowest bidder is Four Seasons Earthworks Inc. out of Wilmington, NC and the bid was \$43,600. References were checked and the contractor has a good reputation.

Action: Alderman Swantek made a motion to award the bid to Four Season Earth Works Inc. which had a bid of \$43,600 for the demolition of the 6 duplex houses on the north end and to approve the budget amendment to fund the project. Alderman Peters seconded the motion. Alderman Farley said that Mr. Clifton said the times have dictated the price and he wanted to say that it's because of Mr. Clifton's hard work that the Town had so many interested bidders. The motion passed unanimously.

D. Request to Award Bid on Ford F-350 that was placed on Govdeals.com:

Action: Alderman Peters made a motion to award the bid for the Ford F-350 to the bidder as presented. Alderman Swantek seconded the motion and commented on the fact that this is the second time that this vehicle has been put out to bid and that the Town received much more than it bid for last time (last bid was below minimum bid set) and thanked Mr. Clifton for his hard work on this auction. The motion passed unanimously.

E. Tot Lot Repairs and Re-mulching Requirement: Mr. Clifton explained that the tot lot had some defective equipment and the equipment was replaced, but funds to replace the mulch in the area were not budgeted. The Town looked at two types of materials. The rubber mulch was \$58,710 and the wooden was \$7,210.

Action: Alderman Swantek made a motion to approve the purchase of natural mulch material in the amount of \$7,210 and to amend the budget accordingly. Alderman Peters seconded the motion. Alderman Hardison asked about the cost of the equipment that was replaced. Mr. Clifton said that it was between \$2,500 and \$3,000 to take out the old equipment and replace it brand new. The motion passed unanimously.

X. New Business:

A. CECLP 2010 Grant Application: There is a Federal program that allocates a certain amount of grant money to purchase preservation properties. Ms. Dawn York with CP&E contacted Mr. Clifton about it and that there was an opportunity for the Town. She had been discussing it with the people who coordinate the program at the State. She thinks that if the Town applies that the Town can get some funding to by some property at the very north end. Out near the beach access. Some of it is developable land. The issue is the application needs to be filed. It requires a lot of support documents. CP&E has proposed to complete the application on behalf of the Town at

the cost of \$5,200. If the Town doesn't get the funding in 2010, the Town will be able to reapply without having to do much extra work and the money will not be wasted. Alderman Hardison asked about the total cost.

Action: Alderman Peters made a motion to authorize CP&E to proceed with the grant application for the CECLP 2010 Grant for a fee not to exceed \$5,200. Alderman Swantek seconded the motion. Alderman Farley thinks CP&E has enough tax payer money and would not support giving the company more. Alderman Hardison does not want to make a commitment and that it is just a big question whether or not it is possible for this to happen. The Town does not know whether the land owners want to sell their land. Alderman Peters asked Alderman Hardison if this is something he wants the Town to accomplish. The motion passed 3-2 with Aldermen Swantek, Tuman, and Peters voting Aye and Aldermen Farley and Hardison voting Nay.

B. Discussion and/or Direction Relative to Proposed Changes in the State Coastal Insurance Program and Rates: Mr. Clifton said the Town was contacted by a group of attorneys associated with realtors who are working on the issue of coastal insurance rates. There are some cities, counties and towns have contributed money to pursue litigation against the state of North Carolina to challenge the rates the State has proposed to make for coastal areas. Senator Boseman has draft legislation and there is other legislation going through the State House. The question before this Board is whether it wants to participate and to what extent.

Alderman Tuman thinks the Town should at a minimum prepare a resolution supporting the legislative action of Senator Boseman.

Action: Alderman Swantek made the motion to follow the lead of Onslow County and contact the State legislative delegation and Governor regarding the issue in the form of a resolution in support of legislation that delays the changes. Alderman Peters seconded the motion. Alderman Farley asked Mr. Clifton if the coastal towns are bearing the costs of the inland residents. Mr. Clifton said there are three issues: The State has an open-ended obligation that is not covered by the rate structure. The changes in rate structure are seen as excessive. The inland residents are seeing increases as well. The change in the deductible scale could effectively be very significant. Mr. Clifton advised that history has told him that it is not a good idea to sue the State government. Tax payers are paying both bills. State government makes most of the laws that effect town government. Municipalities may win the battle but lose the war in this case. Alderman Farley was concerned about coastal areas paying their share. Alderman Hardison asked Mr. Edes if the commissioner of insurance takes this to the legislators or do the writers go directly to him. He would have to have some kind of approval of the request. His office manages the plan; the legislature is involved in funding the plan. The motion passed unanimously.

C. Approval of Employment Agreement for New Town Manager:

Action: Alderman Peters made a motion to approve the employment agreement with Lara Burleson to include up to \$5,000 in relocation expenses. Alderman Tuman seconded the motion. Alderman Farley commented on the amount of vacation (20 days). The motion passed unanimously.

D. Resolution Adopting the ICMA Retirement Corporation Deferred Compensation Plan and Trust for New Town Manager:

Action: Alderman Swantek made a motion to pass Resolution 2009-1 A Resolution Adopting the ICMA Retirement Corporation Deferred Compensation Plan and Trust for Ms. Burleson. Alderman Peters seconded the motion. Alderman Farley asked if the percentage the Town is paying is the same we would have been paying. Mr. Clifton said yes, there is no change in the percentage. The motion passed unanimously.

E. Resolution Designating Official to Sign and Otherwise represent the Board Regarding Mosquito Control:

Action: Alderman Peters made a motion to pass Resolution 2009-2 A Resolution Adopted by the Board of Alderman Designating Official to Sign and to Otherwise Represent the Board Regarding Mosquito Control. Alderman Swantek seconded the motion. Alderman Hardison asked why this would not be the Town Manager's approval. Mr. Clifton said that this is the way it has been done in the past and that Mr. Best does the work. The motion passed unanimously.

F. Authorization to Pay Army Corps of Engineers' Invoice and to Seek Appropriate

State Funding Assistance: Mr. Clifton explained that this is the Town's matching share for the Federal project for the next phase of the engineering study effort. This will take the Town through 6-9 months. They are doing the financial reviews. It will then go to all of the formal agency reviews. Then it goes to the next step. If they approve the funding for the design work, the Town will have to pay more money. The last time the Town got reimbursement for the funds they paid into this project.

Action: Alderman Peters made a motion to approve the payment in the amount of \$34,500 to the Army Corps of Engineers. The motion passed unanimously.

A request to approve a tax refund for North Topsail Beach ad valorem taxes was in the Consent Agenda and passed earlier by the Board of Alderman. There was discussion about this at the end of the meeting. Alderman Peters said that he did not recall having these in the past. Mr. Clifton said that the Town has had these and that the Board is required to approve them. Alderman Farley asked what creates this situation. Mr. Clifton said that there are several instances where a refund would be required, for example the property changed hands, or an exemption that they did not have qualified, etc. Sometimes citizens pay their taxes twice by mistake.

Action: A vote was taken again to emphasize this issue was addressed. Alderman Peters made a motion to approve the tax refund as presented. Alderman Swantek seconded the motion. The motion passed unanimously.

XI. **OPEN FORUM:** The meeting proceeded without mention of the second open forum.

XII. **ATTORNEY'S REPORT:** Mr. Edes thanked Mr. Clifton. He said he feels that Mr. Clifton has done a great service to the Town. He welcomes Ms. Burleson, but hates to see Mr. Clifton go. Mr. Clifton received applause. Mr. Clifton said that it has been fun

and he appreciated the opportunity and will continue to help the Town until he finds other employment. The Town has a lot of great opportunities ahead.

XIII. **MAYOR'S REPORT:** Mayor Martin thanked the BEST team for all of their hard work in getting their report to the Town.

XIV. **ALDERMEN'S REPORT:**

Alderman Hardison wanted to back up what the Mayor said. He is pleased with the hard work and effort the BEST team has been giving in the past months and keeping people informed and spending a lot of time making decisions. He thought the report that was made earlier was fair and very comprehensive. He personally thanked the members for doing a great job. He commented that the open forum was a surprise to him. He stands behind what he said earlier, that the situation was handled poorly. He sees it as it's not what you do, but how you do things sometimes. He thought the contractors coming to tonight was unnecessary. There is a point in the process where people have to say no. He hopes that the Board can come up with an ordinance that is better than what the Town has and is looking forward to what is going to come out. He thanked everyone for coming out tonight.

Alderman Peters thinks that the Town needs to get the ordinances updated and eliminate outdated or inappropriate provisions that the Town has. He thanked everyone for being here. He thanked Mr. Clifton for everything he has done for the Town.

Alderman Tuman commended the BEST team for their time and their effort. He said that the report is an impressive document, it is comprehensive in its scope it is a worthwhile document for those who want to know what the issues are regarding beach nourishment. He feels that it is incumbent upon this Board to respond to the BEST committee.

Alderman Swantek thanked the BEST team for their hard work. He thanked the citizens left in the audience for staying for the remainder of the meeting. He said he wishes that more people would get involved with the Town and the things that need to be done. There is a lot more to do than the small stuff.

Alderman Farley said he thinks there are still a lot of people out there who think beach nourishment thing is a big waste of money. He does not think it is such a great thing and pointed out that there have been several elections that have spoken to the beach nourishment issue. He wished everyone Happy St. Valentine's Day. He thanked Mr. Clifton for everything he did for the Town.

XV. **ADJOURNMENT:**

Alderman Swantek made a motion to adjourn the meeting. Alderman Hardison asked about doing a retreat with the new Town Manager. He wants the Board to decide when that will happen. Mr. Clifton said he is willing to participate in a retreat and any side work the Board requests, if he does not have other commitments. Alderman Tuman said that it would be worthwhile to take a day to discuss the Town's issues. Alderman Farley said that Mr. Clifton gave us many good suggestions in his memo to the Board.

Alderman Farley made a motion to adjourn the meeting. Several Aldermen seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on:

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Frank W. Clifton, Jr.
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting Tuesday February 10, 2009 11:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Interim Town Manager Frank Clifton

NOT PRESENT: Alderman Richard Farley

I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 11:05 am in the North Topsail Beach meeting room.

II. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Tuman seconded the motion, motion passed unanimously.

III. **NEW BUSINESS:**

A. CP&E Presentation to Board of Aldermen- Ken Willson: Mr. Willson gave a presentation to the Board of Aldermen on the North Topsail Beach Shoreline Protection. They took some additional vibracores in the channel in November and December and found clay layers in the channel where they want to cut.

He stated the factors to consider are:

- Project is premised on channel size for stability and for accommodation of Sand
- Project requires a coarse supply of sand for future nourishment
- Channel is proposed to be dredged to -18 feet NAVD 88
- Modeling analysis and geomorphic analysis determined the seaward terminal point of the channel

He stated in order to keep the project moving forward there are two options:

- 1) Current channel with upland disposal of clay.
- 2) Modify channel to avoid clay if possible.

Option 1. To keep the current channel where it is and disposal of clay in an upland site they would dredge sand on top of the clay and place it on the beach.

Then they would dredge the clay down to the proposed channel depth and dispose of it in an upland disposal site. Result is ~ 100,000 cubic yards less sand for Phase 1 and modification of lengths for Phase 1 and 2. The way the phases are constructed with putting renourishment events on top of nourishment events there will be a modification on the amount of material placed on Phase 4.

Option 2. Modify the channel to try to avoid the clay. They would conduct an investigation to clear any magnetic anomalies, get a new survey of the inlet to verify volumes in any new proposed channel. There would be some major changes to the EIS resulting in permitting delays beyond November 2009. Additional construction cost would be accrued. If they realign the channel they would want to do some geomorphic and hydrologic numerical modeling of the new channel options.

Option 1 the inlet survey would be \$18,000.00, the EIS modifications and Coordination would be around \$17,500.00 total of the added cost of permitting would be around \$35,000.00. Option 2 would also have the inlet survey \$18,000.00, magnetic anomaly survey \$15,000.00, numerical modeling \$60,000.00, EIS modifications and coordination \$40,000.00 the upfront permitting cost for phase two is over \$100,000.00. They don't see that there will be additional construction cost for phase two (option 2) but in phase one (option 1) the additional construction costs would be increased by \$500,000.00 for the additional logistics of getting the 100,000 cubic yards to the up to the disposal site. Phase two (Option 1) because they are increasing the length 3,000 ft. will be an increase of \$1.1 million phase three there will be no increase, phase four will be increased \$1.7 million because of the change in the grain size, phase five there will be no change. This would come up to \$3.3 million in additional construction costs.

Additional consideration- Option 1 dredging costs for shallow cuts could bring higher bids. There will be a risk of clay balls on the beach. Option 2- the magnetic anomalies may turn out to be cultural resources, there are no guarantees another channel could avoid the clay areas.

Washbore Strategy: If they go with the washbore strategy they would conduct investigations of magnetic anomalies, add 1-2 days of additional washbore surveys, determine whether the magnetic anomalies could be cleared and determine the extent of the clay. The cost of investigation of magnetic anomalies and 1-2 days of additional washbores would be between \$25,000.00-\$30,000.00.

Mr. Tom Jarrett recommended continuing with Option 1 and go ahead with the investigatory work in Option 2 to see if there is anything there that might suggest pursuing Option 2 as a replacement for Option 1.

Action: Alderman Peters made a motion to allow CP&E to move forward with the additional permitting expense of \$48,000.00 and associated work with the inlet survey. Motion failed for a lack of a second.

Alderman Tuman made a motion to recess the Board of Aldermen Special meeting until 7:00 p.m. February 11, 2009. Alderman Swantek seconded the motion.

IV. **OPEN FORUM:** Mr. Yawn thanked the BEST Committee for doing a great job and he agrees strongly with their recommendation. Alderman Peters reiterated what Mr. Yawn said.

V. **ADJOURNMENT: VOTE: Motion passed unanimously.**

The Board of Aldermen meeting recessed at 12:40 p.m. in the North Topsail Beach meeting room.

**Wednesday
February 11, 2009
7:00 PM**

The recessed meeting of February 10th was called to order by Mayor Martin at 7:00 P.M. in the North Topsail Beach meeting room.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Interim Town Manager Frank Clifton

NOT PRESENT: Alderman Richard Farley

There Board discussed various elements proposed by CP&E on 2/10/09 to be pursued as additional work related to the permits being sought for the channel and beach protection projects.

Alderman Swantek made a motion to defer any action on the options until all Aldermen can attend. Alderman Hardison seconded the motion.

Each alderman discussed the motion and relayed their individual concerns.

The motion was approved 3-2 with Aldermen Swantek, Hardison, and Mayor Martin voting Aye and Aldermen Peters and Tuman voting Nay.

Mr. Yawn spoke in appreciation of the BEST Committee study effort. Ms. Lanci gave an update on the C.R.C. meeting she had attended earlier in the day on behalf of the Town. The C.R.C. discussed in detail the advantages and concerns related to terminal groin structures.

The clerk is to attempt to arrange a meeting of the Board before the next regular meeting if possible, if not this issue will be on the next regular meeting agenda.

The meeting adjourned at 7:40 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on:

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Workshop Wednesday, February 25, 2009 9:00 A.M.

PRESENT: Mayor Don Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Farley, Robert Swantek, Daniel Tuman, Richard Peters, Town Manager Lara Burleson, Attorney Brian Edes, Town Clerk Carin Faulkner, Frank Clifton.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 9:20 A.M. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Peters seconded the motion. The motion passed unanimously.
- III. **ANALYSIS SUMMARIZING CURRENT ISSUES AND FUTURE CHALLENGES**

Mr. Clifton addressed the Board and said that he would like to start with three items and go through them quickly and then really spend some time to go through some other items and at the end hopefully establish some priorities. He also wants to bring the Board up-to-date on where the Town is and where the Town needs to go. He said that he will answer any questions the Board has and give the best response.

Near Term Items

- 1) **House removals:** The houses are coming down. The contractor should have the houses down in a couple of weeks. Mr. Clifton said he thinks the contractor is very good.
- 2) **Sand pushing:** There was some trouble on the north end. The Town followed the attorney's advice and received right of entry letters. He does not know how Surf City does it, Mr. Clifton said he does not think they do letters, they just push. Alderman Swantek had a good idea of sending letters annually each January or February for property owners to grant right of entry for beach vitex and sand pushing. It could also include debris removal for storms. For the ones that indicate "No" the Town can mark the property to avoid any problems. Alderman Tuman suggested making it renewable every year.
- 3) **Solid Waste/Recycling Contract:** The Town Attorney has a draft of the bid specs. He specifically asked for rollout containers instead of boxes for the recyclables

because the wind blows the waste out of the boxes at the beach. If Waste Industries gets the contract it will be a seamless process. If the Town changes vendors there will have to be a window of time for the contractor to order new containers.

Alderman Farley looked into increases that were made by the current company. He said there were significant increases. He would like the increases to be justified. He would like the Town to figure out how they calculated it. Ms. Burleson explained that much of his concerns will be addressed because the Town is bidding out the contract again. Mr. Clifton explained that the original contract was done in 1995. He is not sure about renewals and changes to the contract over the years. He said it probably did not get a lot of oversight over the years. He said the current contractor is very experienced in working with coastal communities. He took the specs from a number of specs from other towns. The Town will probably receive bids from the top 3 or 4 companies. Mr. Clifton said that the recycling is likely to come out to cost more than what the Town had budgeted for in the previous year. The good news is the tipping fee will be a little less to compensate for the decrease in waste going to the landfill. Alderman Farley asked if the Town would be able to get any savings from talking to the other Towns and finding out what they are doing. For example, our Town could use the same company as the other towns and that company can do the whole island in one day. Mr. Clifton said that it is possible, but that all Towns would have to get together at the same time and there are a lot of details to iron out. Boards change and managers change. Ms. Burleson said that she would contact the other managers. They may not be ready to renew their contract now, but maybe the next cycle. Alderman Tuman said the Four Town Meetings and the Mayors' Meetings was the mechanism set-up to facilitate those types of discussions.

- 4) **Technology:** Mr. Clifton said that Town does not have a lot of staff and it is important that they are able to work smart and efficiently. While he was here he tried to figure out what the staff was doing. He noticed that in 4-5 places employees were giving out triplicate hand written receipts. At the end of the day the Finance Officer would put an account code on it, then Staff would type a list of receipts, then the list of receipts are checked against the list. He explained that when the Town went to the Citipak software the Town did not get cash management module which will handle the money and receipts and the money is assigned to the appropriate account. At the end of the day there is a balanced document. The cost of the upgrade is \$3,000 plus \$850 a day to do onsite training. Mr. Clifton said Mr. Smith, Ms. Faulkner & Mr. Burleson need to be familiar with accounting software. It saves a whole lot of time.

Other technology issues: The Town can benefit from software to print out maps. The County charges for the maps. The maps can be used for Town use and citizen use. It would cost the Town \$1,000 - \$1,500 to get the equipment needed to print the maps. Mr. Clifton said that there is nobody on staff with the technical skills. The Town will likely have to depend on a third party to some extent. There is some basic stuff such as changing a PDF to a Word document that staff should be able to do. X-Geeks cleaned up the computers. The website is controlled by a third party. Someone on staff should be able to do it. The X-Geeks have made some proposals to help with the website. The Town needs to look at the Franchise Agreement to get information posted on Charter Television. He mentioned that the County video tapes meetings, puts them on DVD, and delivers them to the cable company to broadcast it. He

advised the Town to speak with Oak Island and have them to send us their educational film they put on the local cable channel. The Town can get this done with Charter the same way. There is nobody on staff that has a lot of technical skills. He said the Town needs to find somebody trustworthy that can help. Alderman Tuman said that the next hire should have those skills.

- 5) **Beach Nourishment:** Mr. Clifton said the Town must communicate with the island. He said the Town will be meeting with the County commissioners and others. Everything needs to be based on revenue streams. He advised the Town not to take on debt, maybe short term debt. No long term debt for projects. Alderman Tuman asked Mr. Clifton to be specific. Mr. Clifton talked about the level of participation with the different elected officials in the area. The Town has started a good effort on it, but it needs to be nurtured. He advised to look at north end not just as beach nourishment program but a channel project. There is money out there for channel improvements that is not associated with beach maintenance. He advised the Town to use the State Representative and State Senator in this process. He encouraged Mayor Martin to work with Representative Grady and Senator Brown. There has been no application made in this process. Alderman Farley said the Town has submitted applications. Nothing was done or at least on paper that Mr. Clifton could find. Alderman Tuman said he remembers that there was a verbal request. There was nothing specific, so nothing was filed. Mr. Clifton advised the Town not to ask for the whole amount. For example if the Town needs \$30 million, ask for a \$3 million commitment for 10 years. Mr. Clifton said the Division of Water Quality (DWQ) must approve project in concept and put the Town on the list for funding. Alderman Tuman said the Town's proposal does not have legs. He said the Town never has anything that has been concrete. He said the Staff and the new Town Manager should refine what Mr. Clifton has started and should bring it back to the Board and challenge the Board to respond to it so that the Town can have the discussion that has never been done in the past. There have been too many perspectives and nothing has ever converged. He said a lot of work is to be done. Mr. Clifton advised the Town to take the spreadsheet he did and add the delays. He said over period of time if the Town gets funding from State or other source (3 cent tax, etc.) that the Town can do it. It's not an insurmountable challenge. The Town needs to get into the funding stream with the State and get approval with the DWQ.

Organizational Issues

- 1) **Staffing Needs:** There has been some staff turnover (managers, clerks, etc.) one of the problems the Town has have is overlap; there is not any cross training. Mr. Clifton said if you hire good people with good skills, they still need cross training. The Town can bring people here to train staff or send staff out. He recommended that Carin & Breck should cross train (ex. Citipak training on site). Only one person has knowledge of the Citipak software. Mr. Clifton said Ms. Burleson and Ms. Faulkner need to be back-ups. Mr. Clifton searched on getting an accounting firm to do the Finance Officer position interim, but he hired Breck Smith, who had applied for the Town Clerk position.

Mr. Clifton said there was a position of Project Manager that he never filled while he was here. He did not think there were enough projects to have a project manager, but

the Town has a need for a position of some kind. It should have to do with technology and the website and communicating with public. The biggest problem is that there is no office space. The Town needs someone with technical skills and someone with good communication skills and possibly someone supportive of the Town Manager. The Town should pay enough so you get someone who is worth having here. Mr. Edes said that Oak Island has an Information Officer that handles the IT stuff and communications. He will forward the information to Ms. Burleson. Alderman Tuman thinks the Town should mold existing staff person to take on these tasks such as Town Clerk. Ms. Burleson said she will start looking at what the Town is currently doing and ask why we are doing it this way and try to find out a better process for doing things.

- 2) **Cross Training** (addressed above)
- 3) **Organization Reporting Structure**
- 4) **Staffing Positions & Job Functions & Flexibility:** The Town currently does not have an organizational chart. There is no overall plan that shows flow of responsibilities and duties. Ms. Burleson needs to put that together and make changes. Everybody reports to manager, except fire department, police department and public works.
- 5) **Personnel Management Functions:** There is a checklist for each employee in clerk's office. Breck Smith has payroll records.
- 6) **Record Keeping**
 - a) There are gaps in the Town's official records. Mr. Clifton believes that maybe the some records were lost during the 1995 storm. The Town Code was updated in 1998 and 2008 code. In 2009 Section 7 & 8 were not sent. Mr. Clifton tried to research codes and he is not sure what the true code is. The Town needs to adopt something. Mr. Clifton suggested adopting 2008 and then the Town needs to create history from 1998 until now. Someone will have to go through all minutes and find original ordinances.
 - b) Code of Ordinances (official copy)
 - c) File space & record security – off site
 - d) Personnel policies –The Town needs to updated the personnel manual and make sure performance evaluations are included.
 - e) Minutes and other records

HR Functions

- 1) Customer Service Training for Town Staff needs to be done.
- 2) Safety Training Program needs to be reviewed and added onto if necessary.
- 3) **Qualifications & Training Options** – The Town does not need to be hiring someone if they are friends, because they live on the island, etc. it is not going to work. Personnel hired must meet the qualifications of the job. The Town needs to make sure employees are getting training and this could be beneficial to the Town. Mr. Clifton

emphasized that some trainings are mandated (ex. Sexual Harassment) Mandated trainings need to be included in the personnel files. Police, fire, public works already have that in place. All jobs openings are posted with the Employment Security Commission, Topsail Voice, and Jacksonville Daily News. Some specialty jobs get posted on certain websites.

- 4) Staff evaluation & options with vacancy: Mr. Clifton emphasized professionalism. Police department and fire already have performance evaluations in place.

Communications

- 1) Current effort is weak and inconsistent. The Town needs to consider using newsletters, email, inserts (ONWASA, Power Co., N Topsail Util.), CATV, and improve the website.
- 2) Volunteer boards: The Town needs controlled support (action vs. advice) for boards. Boards need to understand whether they are in an advisory role or not and they need support staff. If you are going to have a board, they need to be on the website, with contact people, minutes, and follow-up information. If they are not worth putting there you should not have them. The Town needs to recognize the individuals that serve the Town. There needs to be methodology of appointment and terms. Conflict doesn't need to be an issue; you can't expect volunteer boards to agree.
- 3) Signage: The Town needs to build an image through having an icon. Mr. Clifton said that while he worked for the Town he looked at signs. He thinks the Town could use the same signs to give the Town an image. He said Tom Best started working on it. The Town needs to develop a logo or icon and each sign should have it. Put it on everything the Town does. For the public access areas the logo should be there and a number to call. He suggested that everybody in Town Hall should wear a golf shirt.
- 4) Political Interaction: Mr. Clifton emphasized interaction with County, State, Federal and core Towns politicians.

Financial Planning, Forecasting & Budgeting

- 1) County Sales tax issue: No resolution of support. Mr. Clifton said the Board should convey to Representative Grady and Senator Brown the needs of the Town. He said if the County gets a 3rd option they will have 3 options: 60-40 does (not solve uncertainty), Ad valorem, per capita or 3rd option. The issue is narrowing on the County. The County lost 1 cent on Medicaid. He advised never program the ad valorem money in your capital budget. Mr. Tuman said the Town should always advocate for Ad Valorem
- 2) Annual Budget: Should have no relationship to last year's budget. For example Mr. Clifton said he doesn't know where number for recycling came from (\$50,000). He said it can be a multi-year budget
- 3) Budget amendments should be tied to Board actions – contingency line item – still get Board approval but have that. The Town should have plans and specs before the Town finds a grant.

- 4) Use the budget as a forecasting tool. There should be a page that talks about each department that includes total personnel costs. For example of the Town's \$2.2 million to \$3 million budget, \$1.5 million is personnel. It is the Town's biggest expenditure. There should be a direct link, multiple years out. The Town should forecast what the Town is spending in an area. The Town follows state guidelines. But the Town created budget line items that could be miscellaneous. Forecasting should be done for example for changes in the fees for garbage services and the Town should look multiple years out. The budget lacks detail on certain issues. The budget should be in a standardized format and the Town can get certified as having their documents by the GFOA standards. It is a plus in the rating and would result in a ½ or ¼ discount in interest rate.
- 5) Inventory & Capital Investment Program/Community investment program: The Town should evaluate their buildings and size and get an estimate and determine when the Town is ready to build. The Town currently has space constraints. Does the Town want to build a Community Center? Police Station? Mr. Clifton advised to let the community tell you what they want.
- 6) Purchasing & Bidding & Contracting – Since Mr. Clifton started this the Town has already seen the benefits of doing that.

IV. DISCUSSION ON THINKING STRATEGICALLY ABOUT THE TOWN'S FUTURE

Strategic "Vision"

- 1) Budgets tied to vision (scheduled actions)
- 2) Town development plan connected to CIP
- 3) Strategic Coordination among town functions
 - 10 – 20 year planning outlook
 - 2-5 year adjustments
 - 1 year review & measurement of efforts
 - Regular status report to citizens and others
- 4) Community participation & buy-in (do not expect unanimous approval)

V. DEVELOPING AND/OR REVISING A NORTH TOPSAIL BEACH VISION

- 1) Prioritize goals annually and establish defined timelines
- 2) Develop multi-year budgets and financial forecasts based on established goals
- 3) Develop a defined Capital Investment Plan in Civic Infrastructure
- 4) Formulated a method to process to monitor and measure performance
- 5) Formulate a role and methods for citizen involvement
- 6) Communicate with everyone

VI. MS. BURLESON'S PERSPECTIVE & INSIGHT

Ms. Burleson said that she and the Board have a lot of work to do – as a group – a whole. If we all have the same priorities we will be okay. We do not have the staff and resources to get things done right away. She said the biggest thing right now is the Town Code and the policy and procedures. She said, "We have a lot of things coming at us." She emphasized professionalism of staff and encouraging training. She said are moving forward on these types of things. Some things from the past are keeping us from making

progress for the future. She said we need to avoid being negative. There will be no pointing fingers and blame. She said that the Town needs better policies and more policies on particular things. Informal policies need to be written and approved.

Alderman Tuman said that the Land Use Plan needs to be a priority. He said that the Planning Board meets every Monday to work on it.

There was discussion about the Town Code and possibly adopting the 1998 Code except for Chapters 7 & 8.

Ms. Burleson said that the budget that she and Breck will work on will be more standardized. She believes that the budget should indicate who you have on duty. For budget amendments, Ms. Burleson envisions that the Town can take care of this by having contingencies.

VII. BOARD DISCUSSION & DIRECTION FOR FUTURE ACTIONS

Alderman Swantek wanted to discuss capital projects. He thinks the Town should look at land for community center and centralized fire department. He also wants public works off of the island. Ms. Hill is currently working on getting the land the Town owns off of the island rezoned by the County.

Mr. Clifton mentioned that the County is discussion county-wide fire services and that Board and Staff needs to watch the County agenda for that issue.

Alderman Peters said that he had never been to the property the Town owns off of the island. He believes that it is too far away from our Town to make it functional. He thinks the Town should investigate purchasing land immediately off the island.

A timeline for the Community Center is needed.

The Town needs to work on a Comprehensive Facilities Plan

There was discussion about room for additional staff and possible changes to the Town Hall building.

Alderman Hardison thinks the Town would benefit from a certified accountant that could deal with grants and contracts. He also thinks that would help since the Town now has to pay someone to prepare the auditors to come, and has to pay for them to correct it.

Mr. Clifton's communication style was commended; everyone knows what is going on.

The Board needs to do something as a body and not kick colleagues out of discussions. The Board needs to pull people into the group and not make them feel different.

Mayor Martin said the Town will work with the 6 mayors to get Senator Jones involved in our Town to get funds. He plans to go to the state, we need funds from the state and the state needs to do more for the beach. He commented about the County commissioners coming and to show them our best.

Agenda for county commissioners meeting:

Reinforce what the beach means to Onslow County
Tourism money and property taxes.

Suggestions:

Get the information out there for the County so they are on the same playing field.
They have more information than we do, we do not need to spend too much time.
Emphasize that this is Onslow County's beach just as much as it is North Topsail's.
This meeting is just about the beach.
One issue at a time.

Mayor Martin said he would like to use the Four Town meetings more and try to coordinate things that the towns do. Alderman Peters said the general perception is that towns are afraid of bringing up issues. Mr. Clifton said that if the Town does that, the Town should let everyone know ahead of time so that everyone comes prepared.

Mayor Martin announced Resolution 2009-3 A Resolution Honoring the Interim Manager Frank W. Clifton Jr. for His Service to the Town of North Topsail Beach and read the text of the resolution. Mr. Clifton said that it had been fun and it gave him something to do for several months. He said we have a good community here and he thanked everyone.

Alderman Swantek made a motion to adjourn. Alderman Tuman seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 4/ /2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, March 3, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Town Manager Lara Burleson, and Town Clerk Carin Faulkner

NOT PRESENT: Alderman Richard Farley

- I. Call to Order:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. Approval of Agenda:** Alderman Peters made a motion to approve the agenda. Alderman Tuman seconded the motion. Alderman Peters said that he would like to bring forward the parking issue that did not get on the agenda the last time. Mayor Martin said that it should be deferred to the planning board. Alderman Peters said that is the objective. Alderman Tuman recommended to Alderman Peters that he have some private discussions with members of the Board because he believes that there is not enough support for it. Alderman Peters thinks the problem needs to be addressed and the problem is that the residences do not have adequate parking. He suggests that the Board have the Planning Board look at it. Alderman Tuman said that he feels that it is reasonable to ask the Planning Board to investigate the Town's ordinance concerning parking requirements and leave it at that. He said the Planning Board is currently working on Chapter 7, the part of the ordinance where parking is captured. He suggested that Alderman Peters remind the Planning Board that he is concerned about the parking and wants them to address it. Ms. Burleson asked the Board to allow her to look at it. She will see if this particular person is in compliance. There are some options, but there are some limitations to what the Town can do. She said she has spoken with the police chief about what the police can and cannot enforce. The motion passed unanimously.

III. New Business:

A. Discussion of Agenda for Thursday, March 5, 2009.

Discussion of Changes to the BOA Regular Meeting Agenda: Ms. Burleson explained that the agenda was amended. A new item under New Business, Item H was added. The resolution on Item F has been changed. Alderman Tuman recommended that Item H be moved to the Consent Agenda, the Board already passed a resolution for supporting that undertaking. Alderman Peters had suggestions for the BEST resolution.

Discussion of the Sand Push: Alderman Swantek wanted to speak about the sand push. He said this one was different than any one that he has dealt with. He felt it was not done properly. The Town sent out 100's of letters and we received 100's of letters back and the Town did not follow the letters. CAMA regulations say that the Town cannot push areas where letters did not come back. CAMA also dictates how the Town is supposed to push the dunes and he feels the Town did not follow it. He said the Town should not make any berms. When Towns do that, they should replant. He referred to Section 4 of the Division of Coastal Management handbook which states that manmade dunes must be aligned with existing and adjacent dunes and be similar in shape. He said it reads "dune building must not damage existing vegetation." Alderman Swantek said in the Town's case, we are disturbing the vegetation and not replanting. Surf City is doing it the right way. He said the major thing the Town did wrong was creating dunes in "hazard areas." He said we created a major row of dunes. Ms. Burleson said that the inlet hazard area is on the sound side. Alderman Tuman said there is a move to extend the hazard area all the way up to the St. Regis, but that has not happened. Alderman Swantek said he was concerned about potential lawsuits. Ms. Burleson said she received the stack of letters. She has not made it all the way through them. She is going to look at the communication to the property owners. Alderman Swantek said the sand push was nothing but a moneymaker for the contractors that did it. The Mayor said a lot of citizens are happy. Alderman Swantek agreed, but said the Town should do it right. Alderman Hardison said he never received the specs on the project. He said he asked the Interim Town Manager for them and never got them. Alderman Tuman said the specs were included in the bid packet. Ms. Burleson said that the Town is working on standardizing the bid specifications for projects and that Mr. Clifton had begun that process and that Town staff will make sure that the Board members receive all of the information they need. Alderman Peters made a comment about sand fence violations not being enforced.

Discussion of the North End Houses Demolition: Ms. Burleson reported that the north end houses are down. The majority of the debris is gone and they have a large sifter out there. She said they should be done by the end of the week. Wednesday is the final inspection. Randall Moudy will be doing the final inspection. Alderman Tuman was concerned about there still being debris out there and wanted to make sure that it was all taken care of. Alderman Swantek reminded Ms. Burleson that the Town can receive help from inmates. He told her to contact Michael Moore at Surf City and Chief Fillinger.

Discussion of Summary of Workshop: Ms. Burleson said that Staff is going through all of topics that were laid out at the workshop. The biggest thing she has on her plate right now is the Town Code. She is meeting with the Town Attorney on Thursday to discuss the code. She said Staff will have a recommendation to make to the Board of which way to go.

Discussion of Consent Agenda: Letter H in New Business will be moved to the Consent Agenda. Alderman Swantek brought up the budget amendment for attorney's fees. He said that he understands that this was from the previous attorney, but he feels that the Town needs to watch itself. Ms. Burleson said that the budget amendment is to make sure that the moneys are coming from the right place in the budget. Alderman Farley asked if the Board will be having a closed session to discuss a case. Ms. Burleson said she will check with Mr. Edes.

Discussion of Award Contract for Landscape Maintenance Services: Ms. Burleson said the lowest responsive bid was H&R Lawn Service. She explained that the extra services and the base bid turned out to be the lowest cost to the Town and staff has recommended the Board award the contract to this company.

Alderman Hardison asked about the mulching that was approved at last meeting and it had Gray Street specified as the location. Alderman Swantek said that must have been an error. Alderman Peters asked if the mulching was bid out. He said that the cost was high. Alderman Swantek said that it is a large area to cover. Ms. Burleson explained that there are many regulations on what material can be used and what thickness the mulch has to be.

Discussion of Public Hearing: Rezoning Case # R-09-01 – Rezoning of 2.98 acres from Conservation District (Con-D) to Residential (R-20): It may not be on the agenda. Ms. Burleson said she had not been contacted by the applicant. The Planning Board turned down the rezoning request.

Discussion of Public Hearing: Bridge Ordinance: Ms. Burleson said that it had come out of the Planning Board but Staff had some additional comments and it was sent back to the Planning Board. She said she would like the Board to make a motion to continue the Public Hearing so that it will not need to be readvertised.

Discussion of A Proposal Submitted to the Town of NTB by CP&E For Washbore Survey and Magnetic Anomaly Investigation at New River Inlet: Ms. Burleson explained that she had been briefed by CP&E the day prior to get up to speed on the permitting process and the two options. She recommended that the Board make a decision. Alderman Tuman said that he questioned CP&E about the two options proposed and challenged Mr. Jarrett on the hydrographic investigation. He said that is was not very likely that those would get significant results. Alderman Tuman said that the Town should just move ahead and modify the EIS to reflect the fact that the channel has some clay in it and that the permit should include that the Town will have to take some action with the clay. It will cost the Town to modify the EIS. Ms. Burleson recommended that no matter which option the Board chooses that the Board authorize the budget amendment at same time. The Board discussed the options thoroughly. They discussed the importance of getting the permit and that the EIS will have to be modified regardless. Alderman Tuman suggested tabling the issue and getting CP&E staff on the phone to address the issue with the aldermen that are interested. Ms. Burleson tried to get CP&E on the speaker phone but received a voice mail message.

Discussion of Request for Upgrade to Citi-Pak Software – Addition of Cash Management Function: Ms. Burleson explained that Town Staff has been doing some things manually that can be done with an addition to the Citi-Pak Software that the Town already has. Alderman Peters asked if Breck Smith has experience with this software. Ms. Burleson said that the software is new for Mr. Smith, but that it does the things that he needs it to do and some things easier for him than other software packages. She added that she wants to investigate whether the permitting process can also be used with this software. That will be the next piece she looks at. For now she is asking the Board to

giver her approval to purchase the cash management function. Alderman Peters said that his only concern is that if we do add this module that the Town will be obligated to keep using this software and he wants to make sure the software is good. Ms. Faulkner said that she is aware that many other municipalities use Citi-Pak. Ms. Burleson explained that the software that municipalities use is very different from the type that businesses.

Discussion of Resolution Authorizing Changes to the 2009 Powell Bill Allocations:

Three paved roads were added to the Powell Bill allocations. Alderman Peters asked about getting funds for the Bike Path. Some of the aldermen thought that Mr. Clifton put in for some money for the bike path. Ms. Burleson said she would look into it.

Discussion of Resolution Acknowledging the Recommendations of the Beach

Erosion Study Team and Commending the Team Members for Their Hard Work and Dedication to the Town:

Aldermen Peters had some suggestions in changing some of the wording. He suggested changing the wording from supporting to acknowledging. He felt that supporting is a little strong. Alderman Hardison asked who sponsored the resolution. Alderman Tuman said he thinks it was a response to a request made by the chairman of the BEST committee to respond to the BEST report. Alderman Hardison asked who drafted it. Ms. Burleson said it was a combination for Mr. Clifton and Ms. Faulkner. Alderman Hardison questioned who requested that this resolution be put on the agenda. Mr. Clifton suggested it so that the Town would have a record that the Board received the report. Alderman Hardison asked if the Town extends this courtesy to all committees. Alderman Tuman said that the Town should do that if a report is submitted. He asked if anyone was slighted. Alderman Hardison said that the Planning Board was not recognized for the work they had done. Alderman Tuman said that the Board recognized and thanked Mike Yawn. Alderman Peters said that the Board is not in the position to support all of the BEST team's recommendations and he feels that this is the way the resolution has been drafted. Ms. Burleson said that at this point the Board may not be ready to make a decision on some of the recommendations, but may be ready at a later date to commit to them. Alderman Tuman said that what he wanted from the BEST team was for a determination of whether beach nourishment was beneficial or harmful to the Town and secondly, determine as best they could as to whether the Corps plan and the CP&E plan in terms of their project design was correct or flawed. They did not answer the first question directly, but if you go through the report you could find a rationale that beach nourishment is beneficial to the Town. They endorsed the CP&E plan. He said the funding part has not played out yet. He wants citizen input on what they think is an affordable amount. He discussed an Office of Management and Budget (OMB) report that was done here in February 2006 to look independently at the Army Corps of Engineers (ACE) approach to determine if they were on the right track and endorsed the ACE approach. The Board discussed a meeting they went to that was discussed risk analysis. Alderman Tuman explained that individually the Board has different perspectives but he feels as though the Board could draft a resolution that all can agree on. Alderman Swantek said he wanted to change a few more words showing that the BEST team supports the recommendations and not the Board.

Discussion of Resolution Accepting and Endorsing the Solid Waste Management Plan of 2009 for the Town of North Topsail Beach:

Ms. Faulkner said she needs to

add the cost per ton and cost per household figures to the plan, she said she would have that information for the Board prior to Thursday night's meeting.

B. Other items discussed:

Land Acquisition: During the last Board meeting the Board authorized the Town manager to submit the application to NOAA for the potential purchase of land at the north end of the island. Ms. Burleson reported that she had received the appraisal back on that and she has had some initial conversations with the property owner's representative and he doesn't seem very interested in the figure that came back, it was too low. He is going to get back in touch with Ms. Burleson when he has spoken to the other partners. Ms. Burleson wanted to know if the Board had put some numbers aside and the Board said they had not.

Mayor's Term: Mayor Martin said the Town Attorney is looking at the option of changing the mayor's term from two years to four and will report to the Board on it. It will not be on the agenda.

Insurance: Alderman Peters asked about a resolution for the insurance issue that was before the Board last meeting. Mayor Martin said that Senator Harry Brown has proposed to put it off for 2 years. The Board will see what Senator Brown accomplishes.

Planning Board: Alderman Peters wanted to make sure that Staff asks the Planning Board to investigate businesses in residential areas which is related to the parking issue he has been working on.

Alderman Tuman spoke about the Planning Board report and that the PB passed a motion supporting the text change in definition of coastal high hazard zones to allow V Zone building standards to apply to AE zones. He said that is fine the only thing that disappointed him is that it was not captured in the Land Use Plan when the Board had their recent discussion and if they are suggesting the Town do it, in fact the Town survey reflected support for ordinances that protect the Town from storm damage, he said the requirement should be in the Land Use Plan. Ms. Burleson explained there are some benefits and some downsides to doing it, such as higher costs for construction. It is an issue that needs to be worked out. Alderman Peters pointed out that there are some rules that are in the V Zone that are not in the AE Zone, such as no filling. His opinion is that there are many lots that already platted and zoned and that many of them need to be built up a few inches and if you have a strict ordinance that prohibits them from being built up at all that could be a problem. He thinks Staff should provide the Board with a pros and cons for each scenario.

Alderman Tuman also pointed out that the Planning Board made a recommendation on the ordinance that prohibits repairs on the weekends. This issue has been given to the Town Attorney for him to provide additional advice. The vendor issue has also been given to the Planning Board to consider.

Alderman Swantek said that the Town should look at purchasing some property for a community center. He also wants to look at consolidating the fire departments and our

police department and said that the community center could also house administration. He thinks this will alleviate some of the space issues for the Town. Ms. Burleson said she did some research on it and the Town cannot consolidate the two fire departments because of the distance. She said she will give Alderman Swantek the information. It will raise the rating and our rating is 7 and the insurance ratings will go up. Alderman Tuman explained that before the north end fire station was there, that the insurance rates on that end of Town were very high.

Mayor Martin reported that he met President Obama when he visited Camp Lejeune.

- IV. Adjournment:** Alderman Swantek made a motion to adjourn the meeting. Alderman Tuman seconded the motion. The meeting was adjourned at 12:27 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 4/ /2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, March 5, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Pastor Keith Miller of Sneads Ferry First United Methodist Church gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Tuman seconded the motion. The agenda was approved unanimously.
- V. **COMMITTEE REPORTS:**
 - A. **PLANNING BOARD:** Sue Tuman reported for the Planning Board. The Planning Board held its regularly scheduled meeting on February 12th. The following actions were taken:
 1. Preliminary site plan for Jim Day major subdivision (northwest of 2nd, 3rd, 4th, 5th and 6th Avenues) approved with 2 conditions: final plat to show donated land and sewer/water lines and shared driveway at end of 4th Avenue documented.
 2. After discussion on vendors, Planning Board took the following actions:
 - a. Requested that Staff to contact US Army Corps of Engineers, Division of Coastal Management and any other State or Federal agencies that may have regulations restricting or prohibiting activities in certain areas;
 - b. After we have access to that information, hold another discussion regarding how the town might provide safe area(s) for vendors to set up with adequate parking for customers; and

- c. Requested that Staff draft a proposed ordinance change for purpose of allowing itinerant vendors and peddlers on the beach, only those not requiring any standing location; and
 - d. Scheduled a public hearing on itinerant vendors and peddlers on the beach at their regular March meeting.
- 3. After discussion, Planning Board unanimously passed a motion supporting a text change in the definition of the coastal high hazard area to allow V Zone building standards to apply to AE Zone plus any modifications needed to the Town's flood ordinances to apply V Zone standards to AE Zones.
 - 4. Regarding problems with allowable hours of construction on weekends, Town Building Inspector Moudy discussed with the Board problems with the Town Code definition of building operations. He suggested the Town use the State definition. Board passed unanimously a motion to use the State definition and set Saturday hours from 9:00 a.m. to 5:00 p.m. and Sunday 10:00 a.m. to 5:00 p.m.

PLANNING AND ZONING ORDINANCE.

The Planning Board continues their weekly 5:00 p.m. Monday workshops on Town Code Chapter 7 Planning and Zoning Ordinance.

TRAINING

Members of the Planning Board attended the training session on Thursday, February 19 on Zoning.

CAMA LAND USE PLAN

On Monday, February 23, the Planning Board and the Board of Aldermen held a joint workshop to review the CAMA Land Use Plan, after receiving comments on the Plan from the State. Holland & Associates will make the revisions based on comments received from the joint workshop.

HAZARD MITIGATION PLAN

The Planning Board continues to work with Staff on the Hazard Mitigation Plan. On Wednesday, February 25, Staff attended the Onslow County Hazard Mitigation Plan Update Advisory Committee Meeting. A draft update should be presented in a public forum during the May or June meeting of the Board of Aldermen. Onslow County will hold the second public forum in August. The Joint Hazard Mitigation Plan will be submitted to State by September 1.

Alderman Farley said that he had volunteered to work with the Planning Board on the Hazard Mitigation Plan and he has not heard anything. Ms. Tuman said that the County is working on it. Ms. Hill said that she will contact Alderman Farley when they are ready to meet.

Alderman Hardison asked about Mr. Moudy's comments at the Planning Board meeting. He asked what date that was. It was at the Planning Board meeting on Thursday, February 12th.

- B. BOARD OF ADJUSTMENT:** Ms. Hill reported that the Board of Adjustments had no variances. A training was held and there will be trainings for the next three consecutive meetings unless there are variances. There was a very good turn out at the last training. It was the first time that Ms. Hill could remember that the Board of Aldermen, Planning Board, and Board of Adjustment were all together and doing training. She wanted to thank everyone who took the time out of their day to show up and they will be doing it again this month. “Making a Decision” will be this month’s topic.
- C. BEACH NOURISHMENT:** Tom Leonard reported for the BEST Committee. His report covered the February 17, 2009 meeting of the BEST Committee.
1. Will Evans and Vice-Chair Mary Convy have resigned from BEST. The current members of BEST are: Ed Doherty, Jerry Heid, Duncan Heron, Deb Lanci, Tom Leonard, Mary Riggleman, Linda Smith, and Deb Swantek. Tom Leonard has been elected the new Vice-Chair of BEST
 2. The BEST Committee discussed the discovery by CP&E of clay in the area of the proposed realigned New River Inlet channel, and CP&E’s request for additional funding to study what to do about the discovery.
 3. The BEST report submitted on February 5, 2009, concludes the assignment of the BEST Committee. We trust the Board of Aldermen has found the report useful. We encourage the BOA to have a thorough discussion about the content of the report as soon as possible, and a timely decision regarding accepting and implementing the report’s recommendations.
 4. Having concluded its assignment, BEST recommends that the Board of Aldermen reconstitute the BEST Committee with a new mission and specific new tasks. Current members of BEST may elect to remain part of the reconstituted Committee; additional members should be recruited. Some task possibilities include:
 - What actions does BEST recommend that NTB take concerning the discovery of clay in the area of the proposed realigned New River Inlet channel?
 - Develop a Beach Nourishment “fact sheet” and letter to NTB property owners apprising NTB’s citizens of the beach erosion challenge facing the Town.
 - Provide public education about Beach Nourishment.
 - Be an advocate for federal/state/county funding of Beach Nourishment.
 - Establish contact with lobbyists and legislators encouraging support of NTB beach nourishment.
 - Determine what other towns have done to secure support for beach nourishment.
 4. BEST encourages the BOA, Mayor, and Town Manager to hold a special meeting as soon as possible to discuss the recommendations of the February 5, 2009 BEST report. NTB officials should decide at the special meeting if the BEST recommendations will be accepted. If they are accepted, “ownership” of each recommendation should be assigned to individual BOA members to ensure actions are taken to implement each recommendation. The reconstituted BEST Committee is available to assist the BOA in implementing the BEST recommendations.

5. The BEST team will not hold any further meetings until receiving guidance from the Board of Aldermen concerning the future role (if any) of BEST.

Mr. Leonard concluded his report by saying that the BEST report is the result of hundreds of hours of work by 12 dedicated citizens of North Topsail Beach over the past 10 months. The BEST team has one request of the Board of Alderman, and that is that the Board of Aldermen meet to discuss the report and then let BEST know when the 5 recommendations will be pursued.

VI. **MANAGER'S REPORT**

- A. **Ms. Burleson to Introduce Herself to the Town:** Ms. Burleson introduced herself to the Town. She said she was very glad to be here and thanked everyone for the opportunity and she looks forward to serving.
- B. **Update on Sand Pushing Project & Demolition of North End Houses:** Ms. Burleson reported that the sand push is concluded. The demolition of north end houses is also completed. The Town still needs to build the walk over and do some planting of sea oats.
- C. **Summary of Workshop with the Board of Aldermen:** Ms. Burleson reported that a lot of good discussion occurred at the workshop. She said that it resulted in some prioritization. With the Mayor's permission, she would like to a visioning workshop to help set priorities and sort out the many items that are on the table.

Alderman Farley asked about the meeting with Tom Jarrett from CP&E. Ms. Burleson said she spoke with Tom Jarrett and Dawn York and asked them to meet her to introduce them and give her a summary of CP&E's projects. She wanted to have an informal discussion so that she could understand the project. She said she now better understands the phasing and the overall goals of the project itself. Alderman Tuman had learned that Mr. Jarrett was going to be meeting with Ms. Burleson during a discussion that he had with Mr. Jarrett. Alderman Tuman was able to stop in and the Mayor was also in the area and he stopped in. Alderman Farley said he would like Ms. Burleson to let the Board know when meetings like that are going on. Mayor Martin explained that the meeting was just for Ms. Burleson and apologized for not letting the Board know.

VII. **OPEN FORUM – 3 minute limit**

Lenny Denittis of 126 N. Permuda Wynd – Mr. Denittis thanked the BEST team for their hard work and effort and the hours they put into present their report to the Board. It is all volunteer time and effort and he just wanted to say thank you.

Bill Horstmann of 303 Lanterna Lane – Mr. Horstmann complemented the Town on the great job that had been done on the sand push. He had been in several spots along the coast and they did a remarkable job. He thinks it is going to be a great help. He wants to find out what is next after the sand push. He asked the Board if there are any plans for installing a sand fence or plants for the dunes. He wants to relay that information back to the people that ask him. Mayor Martin Mayor as the Town approaches it the information will be given out.

VIII. **CONSENT AGENDA:** (Any item may be removed for separate discussion or scheduled at the next regular business meeting)

A. **Request for Public Hearing to Amend Section 6-130 – Building Operations:**

Alderman Farley said he wanted to pull this item out for discussion or table the issue. The Board has not had much input on this particular item. He said that the Board just received information from the Town Attorney on what other Towns are doing. Mr. Edes spoke and said that he provided the Board with the noise ordinances for Ocean Isle Beach, Carolina Beach, Emerald Isle, and Atlantic Beach. He said they all have some productive things in them and it would be in the Board's best interest to look at them and cherry pick what would work best with the Town and he will make a formal ordinance.

Alderman Peters asked if this is in concert with the working hours. Mr. Edes reminded the Board that last month the Board suspended the weekend prohibition for 60 days. He said it is time for the Town to look at an amendment. He said if you look at all of the ordinances that each municipality handled it in a different way and if you take the best of all of them he thinks the Town could come up with something that would work for everybody.

Alderman Tuman asked if Mr. Edes was in receipt of the Planning Board's recommendation. Mr. Edes said he wants something more comprehensive. He would like to balance the construction contractor's interests with the resident's interests. Alderman Tuman asked how the Board should proceed. Mr. Edes asked for input from the Board. Alderman Tuman said the Board should agree to individually provide input to the Town Manager and she can compile them and give them to the Town Attorney. Alderman Tuman questioned whether the Planning Board should have input. Mr. Edes said he would be glad to help the Planning Board. Either way it will come back to the Board. Alderman Farley said he would prefer to have input. He thinks the one he saw was a little too liberal. Alderman Tuman suggested rather than giving it to the Planning Board that individual Board members give input to Town Manager and have Planning Board give overall input. Next Thursday the Planning Board meets and can have that for the manager. He said the Board should give Ms. Burleson input by the 19th of March.

Alderman Peters made a motion to approve the Consent Agenda as amended. Alderman Tuman seconded the motion. The motion passed unanimously.

IX. **OLD BUSINESS:**

A. **Request to Award Contract for Landscaping Maintenance Services:** Ms.

Burleson said that Town put out a bid for landscape services and that the Town had quite a bit of interest, but only 8 bids were submitted out of almost 17 that showed interest. H&R Lawn Service was the responsive low bid. Staff's recommendation is to award the contract to H&R Lawn Service.

Alderman Farley made a motion to award the contract to H&R Lawn Service. Alderman Peter seconded the motion. The motion passed unanimously.

X. **NEW BUSINESS:**

- A. **Public Hearing: Rezoning Case # R-09-01 – Rezoning of 2.98 acres from Conservation District (Con-D) to Residential (R-20):** Ms. Burleson explained that the Town received a request from the applicant to postpone the public hearing. No further action is need on it this evening. Alderman Farley asked Ms. Burleson if they gave a reason why they wanted to postpone it. Ms. Burleson said they mentioned that they had some things they needed to work out. A representative for the applicant stood up and spoke. He explained that Mr. Riggs had a conflict in the situation and had more information to cover. The public hearing will be deferred until April 2, 2009. Farley asked why they couldn't present.
- B. **Public Hearing: Bridge Ordinance:** This item will be deferred until April 2, 2009. Ms. Burleson explained that Staff had some more comments about the ordinance and she did not feel comfortable bringing it forward to the Board at this time. She asked that it go back to Planning Board to review the comments before it comes back to the Board.
- C. **A Proposal Submitted to the Town of NTB by CP&E For Washbore Survey and Magnetic Anomaly Investigation at New River Inlet:**

Ms. Burleson explained that on February 10th CP&E came forward to the Board and made a presentation of two options to move forward with the Environmental Impact Statement (EIS) because clay was found in the New River Inlet channel. Option 1 was to do additional survey work and take into account that clay was found and modify EIS and submit that and move forward. Option 2 was to do more surveying to look for a clay free corridor or channel could be developed. She said Tom Jarrett from CP&E is here to answer any questions. The Board needs to look at both options tonight and proceed with one of the options. A 3rd option has come out that has some more surveying work that explores if it possible to find another channel.

Alderman Swantek asked the BEST team when they made their decisions if they knew there was clay. He said that he knows Mr. Clifton received an email from CP&E on January 10th stating that there was clay. Alderman Swantek said it was hard to believe that nobody from the BEST team new about the clay when they were writing the report. Tom Leonard said it would have had an impact on the report, but that the team did not know about it. He said the team did not know about it until the meeting with CP&E. He said nobody knows how much clay is out there. Alderman Farley said he was disappointed that it was not presented to the Board or BEST earlier. Alderman Peters said he believes that the conversation of who knew what when does not add anything to the question at hand. There is clay where we thought there was sand. What are we as a Board going to do? Are we going to authorize CP&E to do more vibracores to determine where the clay is or not? He does not think we should challenge when we knew this. Alderman Farley thinks it does matter because the Town needs to have the straight story on this whole project. Alderman Peters said that the Board has met two other times on this topic and the Board is being asked to spend extra money to determine where there is additional sand.

Alderman Tuman thinks that the Town should spend the extra \$30,000 to do the investigation. In the worst case it may reconfirm the initial results that there is clay there and it could reduce the sand available for the other phases of the program and

increase the cost of the project or it may be a false signal. He thinks it is best to have the information so the Town knows what the impact will be on the future of the project. He thinks the BEST team would have the same results in the report. In that statement Alderman Tuman made the motion for the Town to spend \$30,000. Alderman Peters seconded the motion.

Alderman Farley said he does not think that this is about getting more information he says it's about pushing the Town along. The Town keeps spending more money. He does not think the people support beach nourishment. He is concerned about how CP&E provides the Town information. He referred to a case in Palm Beach Island, Florida. CP&E is the engineer on the project and he said the model used in the project does not work. Alderman Farley read excerpts from the report which indicated that the model CP&E used was erroneous. Alderman Tuman said he read the report and thinks the model itself was not used.

Alderman Swantek said it is hard to swallow when the Town spends almost \$3 million and we find out that clay is in our channel. Alderman Peters stated that the Town is being asked to spend another \$30,000 that is less than one percent of the theoretical downside. The Board has to decide to abolish all efforts or move forward. Alderman Hardison said he has some questions and feels there is a major communication problem. He said it is strange how things come up when they do. He said the Board is supposed to working as a team. He said he would like CP&E to have a chance to respond. There were previous occasions where something came up and the Town needed to pay for it. It seems like a never ending process. Alderman Farley said there is a draft of paper being sent out by scientists and attorneys. It highlights things that should be considered when doing coastal planning. He read a comment from Stan Riggs. The comment argues against widening and deepening channels. Alderman Tuman says not everyone in that community agrees on this subject. Alderman Swantek commented that the inlet project is an experiment and they have no idea if it is going to work or not. He asked if the Town is willing to spend \$7-8 million on an experiment. Alderman Farley asked if there are going to be issues with lawsuits with this.

Tom Jarrett spoke to the Board. He addressed the communication issue first. The way the contract is written, CP&E is to report directly to one person in the Town and that is the Town Manager. CP&E cannot be responsible for the information that comes from the Town Manager. They assume that the information is shared. Once they found the existence of the clay, they informed the Town Manager. He is not familiar with the Florida case and cannot comment on it. He can say that the model that was referred to in the case has not been used for our Town's project.

He explained that they did an additional set of vibracores to comply with new State criteria. They had no idea that there were going to be any other issues with the inlet. The vibracores indicated that there is a layer of clay at the -15 foot level which is three feet above the level the channel would like to go to. It is not completely solid throughout the whole area. The \$30,000 proposal will send the guys to do the wash probes in the areas where the clay was found. If the wash probes confirm that clay is there they will expand out from that with additional wash probes to find a clay-free corridor. If they can't detect the clay with the wash probes, they will stop. If they can find a clay-free corridor that can be another path for the channel, they will also

look at the magnetic anomalies that they have located to try to clear those if the channel has to go toward them. If they do not find a clay-free channel option one can still be done. Option one would be to dig the channel to the depths that they want and skim off the sand and pick up the clay and then the phases will be shortened a little bit and sand would need to be used from offshore.

Mr. Jarrett spoke about the timeline of the project. If the Town goes ahead with the exploratory work it would push the project out to November 2010. If the Town goes with the existing corridor and moves ahead with the permit the construction could start in the fall. If the Board approves the \$30,000 CP&E will have an answer back to the Board by the May meeting. Mayor Martin asked if the Army Corps of Engineers could help. The ACE goes to a 6 foot mean low; they would not have any data.

Alderman Tuman said that the washbores will take a few months. Mr. Jarrett said the Town will have lost those two months and will not make the November 2009 construction date. If the Town does not spend the \$30,000 there is a possibility of making November.

Mr. Jarrett said that if CP&E comes up with a channel that is different than the one designed it is up to the regulatory agency what documentation needs to be done. He said they may be coming back and asking for more money but it's about the same amount of money that was in the contract. The amount of dollars that are on the line are the same amount that was in the original contract.

Alderman Hardison said that he interested in finishing up the permit and the way things are going now he thinks his vote will be negative unless there is some type of lock in, if something else comes up instead of the Town eating it up the contactors eat it. He does not want to leave it open. He wants the permit; he said that Town has spent too much money to leave it there. But the Town cannot continue to keep sending money. Alderman Hardison stated that he wanted to move forward with getting the permits but wanted to make sure there would be no additional costs to the Town. Mr. Edes said he would have to look at the contract terms. There may be an error of omission and the Town may be able to negotiate the contract.

The Board voted on the motion to spend \$30,000 to investigate clay in the New River Inlet Channel. The vote was 3 to 2 with Aldermen Farley, Swantek, and Hardison voting against and Aldermen Peters and Tuman voting for.

Mr. Jarrett reminded the Board that the Town is locked into finishing the EIS and to do that there will be additional work.

Alderman Tuman asked Alderman Hardison to make a motion that satisfies him so that the Town can get the permit. Another motion is made by Alderman Tuman for spending \$17,500 as proposed by CP& E to do the necessary modification to the EIS that recognizes the presence of clay in the channel so the permit can proceed. Alderman Hardison stated that he would second the motion if the Town did not incur expenses in addition to the \$17,500. Mr. Edes said he will look at the contract; this may be like a change order in a construction project. Now that CP&E will modify the EIS to show presence of clay in the channel the permit will be obtained by this fall. Mr. Jarrett said he thinks the Town will be able to get it in within the next couple of

months. The Army Corps of Engineers has a 30 day review period and the Town should have the permit by September. Mr. Edes asked what kind of a time delay does the clay cause. For example if the Town gets the permit in September 2009 does that push the project back? Mr. Jarrett said he is confident the EIS will be completed in time to have permits in hand to start the project in November 2009.

Alderman Hardison seconded the motion. Alderman Peters said what the Town is doing by not spending \$30,000 is immediately costing the Town \$3 million when we go into construction mode. We do not know that we would spend that until we spend \$30,000 less than one percent of the downside. He said he will vote for it to keep the project going, but thinks it's ludicrous not to spend \$30,000. The motion passed 3 to 2. Aldermen Peters, Tuman, and Hardison voted for. Aldermen Farley and Swantek voted against.

D. Request for Upgrade to Citi-Pak Software – Addition of Cash Management

Function: Ms. Burleson explained that the Town did not purchase the cash management function when it purchased the Town's accounting software. Alderman Farley said the thought that the software was not all that good and maybe the Town should upgrade to something a little better. He does not remember when the discussion came up about that. Ms. Burleson said that she has had experience with other software and this software is better than the one she had been using before. It is windows based and user friendly, while the one she used was still DOS based. The Finance Officer says it is currently doing what he needs it to do and he is comfortable with it. Migrating to another software pack would cost the Town between \$40,000-50,000 on the low end to \$200,000 250,000 on the high end. Alderman Farley asked why so much? Why can't the Town buy something off the shelf? Ms. Burleson explained that off the shelf software does well with business accounting, but does not meet governmental accounting needs which do some things differently. Alderman Farley said most software can do that and she would be surprised what it can do. Ms. Burleson explained that the current software goes through maintenance, ongoing maintenance and it changes as the general assembly makes changes. All changes are reflected in that software. The company would make sure the Town is in compliance. Alderman Tuman said that the Town has the support and fits in with our current package. Ms. Burleson said that she will look at another module that tracks the permits to see if that makes sense in adding to the current software as well. Alderman Farley said that the Town purchased something four years ago that was supposed to be the best permitting package out there and if that is not currently working for the Town the Town needs to seek support if it is needed. Ms. Burleson is going to see what the options are.

Alderman Swantek made a motion to add the Cash Management module to the Town's Citi-Pak software in the amount of \$3,850 plus \$600 yearly maintenance fee and to amend the budget accordingly. Alderman Peters seconded the motion. The motion passed unanimously.

E. Resolution Authorizing Changes to the 2009 Powell Bill Allocations: Ms.

Burleson explained that 3 streets have been added to the DOT's list of responsibility for Powell Bill Allocations. There is a corresponding resolution that needs to be passed and sent to the DOT. Alderman Peters made a motion to pass Resolution

2009-4 – A Resolution Authorizing Changes to the 2009 Powell Bill Allocations. Alderman Hardison seconded the motion. The motion passed unanimously.

- F. **Resolution Acknowledging the Recommendations of the Beach Erosion Study Team and Commending the Team Members for Their Hard Work and Dedication to the Town:** Ms. Burleson explained that the resolution was put together and there have been changes the supporting was replaced with the word acknowledging. Alderman Farley said he does not like the resolution he thinks it should be a thank you. Alderman Tuman does not want to commit the Town to anything. Some of the aldermen expressed that the changes that were discussed at the addenda workshop were not made. Alderman Hardison said he was concerned about it. There were a number of things that gave him the idea that the Board is agreeing to something that the Board has not done yet. He thinks that if we want to acknowledge the BEST team for the great work they have done the back page would give them enough. Alderman Peters said it is not support and the Board is not supporting but recognizing their recommendations. Mr. Edes said it acknowledges what they have recommended and thanks them for their work. Alderman Tuman said it is a recommendation to the Board but does not commit the Board. Alderman Hardison said he did not like the tone of it. A motion was made to dissolve the BEST team. A Board member stated that that was not on the agenda.

Alderman Peters made a motion to pass the resolution with the changes that have been made. Alderman Tuman seconded the motion. The vote was 3 to 2. Aldermen Hardison, Farley and Swantek voted against and Alderman Tuman and Peters voted for. The resolution was not passed.

- G. **Resolution Accepting and Endorsing the Solid Waste Management Plan of 2009 for the Town of North Topsail Beach:** Ms. Burleson explained that every 3 years the Town needs to make an update to the 10 Year Solid Waste Plan. Ms. Faulkner clarified that this it is required for all municipalities and is somewhat like the yearly updated made to the Mosquito Control Plan. Alderman Farley said that he had a problem with the date on the Collection page. It indicates that two pick ups per week are from May 1st to September 30th and he thinks it should be Labor Day. The Board decided that this item should be deferred so that further questions may be answered.

XI. **OPEN FORUM:**

Lenny Denittis of 126 N. Permuda Wynd - He asked since the Board has accepted acknowledgement of the BEST committee and that the permits are going to be in place so that the Town can start digging in November, when is the board going to make a decision on the 5 phases? He said he knows the Town is pushing the permits. When is the Board going to have an open meeting and discuss what the Town is going to do? Mayor Martin said, "After we get the permits." Alderman Peters said that a lot of things have to be done between now and November. Mr. Denittis said when are we going to start finding out how we are going to get the money? Alderman Peters said the Town needs to figure out what the funding will be. Alderman Tuman spoke about the recommendation made by Mr. Clifton. There are key project dates and costs have been identified and that it is basically up to the Town to secure the funding to get the projects. A meeting will take place on March 31st with the County Commissioners. And the Mayor said he is working

on getting appropriations from the State legislature. He has had conversations with Senator Brown and Representative Grady on how that may be accomplished. He mentioned the President's stimulus package. There are many things in progress but nothing you can hang your hat on. Mr. Denittis asked, but has the Board committed? Alderman Tuman said the Board has not committed to a specific plan. Alderman Swantek said that he will be going to Raleigh to talk about terminal groins. He said it is going to go out for a vote.

Deb Lanci of 2100 Heath Drive – Ms. Lanci said she would like to see the Board get together and look at the BEST report. It was a huge undertaking a lot of effort. To shelf it and not discuss it would be a travesty. She said she would like to see the discussion happen before BEST is dissolved. She thinks the members need to be present to address concerns about holes in the report. She said she wanted to thank her friends that worked on the BEST team with her. She said if the Town did not release any funds tonight would have been a mistake. The Town needs to keep pushing forward.

Ms. Lanci was asked what she thought of doing a workshop. She said she thought it was an excellent idea. Alderman Tuman said he also thought it was an excellent idea. It was discussed to see of a good time to do a workshop when Ed Dougherty BEST team chairman returns.

XII. **ATTORNEY'S REPORT:** Mr. Edes welcomed Ms. Burleson. He said that he had met with her all day today.

XIII. **MAYOR'S REPORT:** Mayor Martin said he was called by the White House last Wednesday and he met the President on his visit to Camp Lejeune. The mayor reported that Mr. Obama said he was bringing the troops out of Iraq in 2010 and that he is giving them a raise. The mayor said that he and the Board and Ms. Burleson had a good meeting with the Major General and the Colonels from Camp Lejeune and New River Air Station. They gave an update of the construction projects on the bases. Mayor Martin was invited to the Major General's dinner but he could not come because he had to attend this evening's Board of Alderman meeting. He said he will be in Washington D.C. from the 14th to 18th for meetings with the North Carolina League of Municipalities.

XIV. **ALDERMEN'S REPORT:**

Alderman Hardison thanked everyone for coming out.

Alderman Peters report the efforts that he and others are talking and meeting with legislators from the County, State and Federal with the ultimate goal of getting help with beach nourishment.

Alderman Tuman made a comment to follow up on Ms. Lanci's request and would like the Town Manager to schedule a workshop with Board before March 26th so he can participate. He said the Board owes feedback to the BEST Committee.

Alderman Swantek said he would like to apologize to the BEST team. He said March 31st is an important date because it is the joint meeting with the County Commissioners. The Town needs a lot of support out there to get some money and leverage and he wants to see everybody out so the County knows that the Town cares.

Alderman Farley said that it is a one issue Town and all everyone wants to discuss is beach nourishment. He said he does not think the Town is going to wash away. There are a lot of other issues the Town can work on to make life better for this Town.

- XV. **ADJOURNMENT:** Alderman Peters made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 9:10 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 7/2/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, March 31, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Town Manager Lara Burleson, and Town Clerk Carin Faulkner

NOT PRESENT: Alderman Richard Farley

- I. Call to Order:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. Approval of Agenda:** Alderman Swantek made a motion; he said he would like to add a discussion about the BEST team's report to the Board. Alderman Hardison seconded the motion. Alderman Peters said that it would be far more appropriate to discuss it when there is an audience rather than two people. The Mayor said that the Board can discuss it today and Thursday. It is not currently on the agenda for Thursday. Alderman Peters said that it was not appropriate to discuss it with only one member of BEST there. Alderman Swantek said that he thinks that is what the BEST team wants the Board to do, is to discuss it as a Board and decide how the Town should move forward. The agenda was amended to include discussion of the BEST team report.

Alderman Swantek made a motion to approve the agenda as amended. Alderman Peters seconded the motion. The motion passed unanimously.

III. New Business:

A. Discussion of Agenda for Thursday, April 2, 2009.

Discussion of Rezoning Case R-09-01 – Rezoning of 2.98 acres from Conservation District to Residential: Ms. Burleson explained that everything has been advertised per the request of the residents. The Board did not have any questions or comments.

Discussion of the Bridge Ordinance: Ms. Burleson explained that it was sent back last month to the Planning Board in order to hear comments from the building inspector. Alderman Swantek said that the Town's Land Use Plan states that the Town cannot rezone CON-D or disturb CON-D, but by putting bridges in CON-D the Town is doing exactly what the Town is trying to stop. He said he knows that the Town has one bridge already, but he thinks the Town should change the ordinance so that CON-D cannot be disturbed to put in a bridge. Ms. Burleson said that it would be a good thing to bring up

at Thursday night's public hearing and that he should get the Town Attorney's advice. Ms. Burleson is not certain that Mr. Edes has had a chance to review the bridge ordinance. She will double check and make certain. There are some concerns about taking and making certain that the Town does what it intends to do and not overstep. Alderman Peters asked what inherent right do residents have of access? If there is no access now, the question would be whether it would be a taking. Ms. Burleson reemphasized the importance of getting the Town Attorney's advice on this matter

Discussion of Public Hearing on Proposed Amendment to Town Code Chapter 8

Flood Damage Prevention Ordinance: Ms. Burleson said that this had gotten started two to three months ago; there was a request to get clarification for Chapter 8 of the flood ordinance. She said it is not necessarily changing the ordinance as it is in place; it is just a clarification of the application of the AE and VE Zone requirements. It had already been enacted and put into place, but this is the clarification for that. The specific verbiage is in the Board packet. Alderman Peters asked about the net effect. He asked if the Town is going to have comprehensive AE coverage of the island. Ms. Burleson said it is more stringent, VE across the island and it is already in place, but it is the clarification of the application that the Town is in the amendment, it is to clarify the language that was already there. Alderman Hardison asked why it was considered an amendment if it has been already adopted. Ms. Burleson said that there is textual change to the ordinance and that is why it is an amendment. Alderman Peters said that what the Town is doing is making legal what is already in practice. Ms. Burleson said the other public hearing that is not on the agenda is the public hearing for readoption of the Town Code. The ads did not get published so that had to be pulled off of the agenda. She said she would like to schedule at the earliest possible time a special meeting to readopt the code before the next regular meeting.

Discussion of Rezoning for Folkstone Road Property: Ms. Burleson said that the County Planning Board is having a meeting Thursday night and following that the Commissioners will have a public hearing. There have been some questions raised about what the Town was planning to do on that property, so Ms. Burleson said she has asked for a continuance so that the Town can clarify for the County what our intentions are for that property. The public hearing will start on the 2nd and it will be continued until May. Alderman Peters asked if the County was uncomfortable with what the Town wanted to do. Ms. Burleson said that she thinks it's more that the County did not completely understanding the Town's intent. She said there is going to be a meeting with her, Thomas Best, Chief Fillinger, the planners, and County Staff on next Tuesday afternoon on this subject. If there is public concern there may be a need for an information session. Alderman Hardison asked about the Town's plans for the property. Ms. Burleson said right now the Town wants to do a combination of things. One of them is use the property for off island storage for surplus vehicles and equipment that the Town uses during storms. Right now they are housed at someone else's personal property off of the island. The Town also would like to set up some training for the firefighters. It would be for the Town and regional firefighters to use. There are ideas for a training facility for the police officers, possibly a range, if it would work for the property. It is about 12 acres. It backs up against the Holly Ridge spray field. Alderman Swantek asked if letters have been sent to the adjacent property owners. Ms. Burleson said that all of the information was sent to the County and they would have sent the letters and it is her understanding that it has

been done and that is why she has asked for a continuance. Alderman Hardison asked about the density in that area. Mr. Best said that it is slowly building up. Ms. Burleson said there are four or five adjacent properties. Mr. Best said there are four homes right now. Alderman Peters asked if the Town expects neighborhood resistance. Mr. Best said that is why we are putting it forward to the County so that they can find out. Alderman Hardison said that his only thought is that he would not want to do anything over there that the Town wouldn't have here. Mr. Best said that the fire training would mainly involve smoke and if the building is built the way he wants it, it will have a fire room that will allow them to create smoke and blank out the area for visibility purposes. Alderman Peters recommended that the Board members who have not been out there go out to the property to look at it. Mr. Best said that the Town should create a buffer zone around the property with trees. Ms. Burleson said that the Town will have a better idea of what the County's concerns were after Tuesday and the Town will be able to address those.

Discussion of Unpaid Solid Waste Cart Fees: Ms. Burleson jumped ahead a little and spoke about bidding out the solid waste and recycling contract. She said it was very successful, that the Town had three bids come in and two of them were very competitive. Town Staff recommends that the Town go with Waste Industries, that is the company the Town has now and it will make the transition easier. Mayor Martin asked if the company agreed to go with the Saturday and Wednesday pick up. Ms. Burleson said they agreed to those dates and the recycling will be Friday. Service will begin July 1st.

Ms. Burleson explained that the Town has just over \$10,000 in outstanding cart fees. These fees are for extra carts beyond initial cart that is provided by the Town. The Town is having a hard time getting residents to pay the fees. Ms. Burleson is asking the Board for authority to be more stringent, to go out and get the carts if they have not paid for them. If the Town gives Waste Management the addresses they can help pick them up. Alderman Swantek asked if the Town checked with the lawyer to make sure that it is legal for the Town to go on their property. Ms. Burleson explained that the Town cannot go onto the property to get them, but if it is in the right-of-way for the collection the Town can pick them up. Alderman Peters said the Town should look into filing a lien against the property and let the residents retain the cart because it is needed if it's there. Ms. Burleson said the other alternative is doing the debt offset where the Town goes to the State and say that we have these residents who have outstanding debts and the Town gets that money through the income tax returns. She says it's a toss up right now which the Town should use first. Letters have not worked. To go out and get them would get their attention. Alderman Peters is concerned about the garbage being piled up in bags beside the one container. He thinks the Town should do the more drastic option. Alderman Hardison asked if the residents can pay in advance. Mr. Best explained that these are fees for renewals. They paid for the first year, but they are not paying for the subsequent years. Alderman Hardison asked if these are residents who are able to pay for the carts. Ms. Burleson said yes, these residents should be able to pay, many of them are rentals.

Alderman Peters said that he is not comfortable leaving it up to the discretion of the waste management company whether or not to pick up the trash left outside of the carts. He said it just tempts the residents to put more and more out when the Town has tried to set standards on that in the past. Mr. Best said that the new RFP says that there was

garbage beside the can they do not have to pick it up. Alderman Peters asked what is going to prevent a resident from putting their one cart out and five loose trash bags. The clerk pointed out the item in the RFP for the waste collection contract which refers to the fact that the waste management company is responsible for notifying the Town if a resident leaves trash beside the cart more than three times in a six week period and the Town will notify the resident that an additional cart will be needed. Mr. Best added that Barry Burke keeps on top of it as well.

Discussion Regarding NTB Sea Oat Program: Ms. Burleson explained that she had gone into the budget to see how much had been set aside for a sea oat program. She said the Town had used \$1500 for this fiscal year. Since the Town did the sand push, the Town has depleted that line item in the budget. She said what she would like to do is request a budget amendment to put another \$5,000 in there. Alderman Hardison asked how much was in there to begin with. Ms. Burleson said that originally that line item had \$50,000 for dune maintenance and that would have included the sea oats. The Town over expended that line because of the dune push. What she would like to do is set another \$5,000 aside to offer assistance with planting sea oats and fencing. That will leverage \$10,000 worth of dune maintenance. If the Town can do it now it will be in time for planting season. Alderman Hardison asked about an area on Ocean Drive where there is a continual wash out and where it is very weak, he asked Mr. Best if he knows if plants could be put there. Mr. Best said he does not know why it blows out right there. It is privately owned. Alderman Swantek asked if there is any way the Town could get the plants cheaper. Alderman Peters said that the Town needs to determine what is practical and what is dictated by regulations. He thinks this is two years in a row or two times in a row that the Town has paid well over \$100,000 more that it should. Ms. Burleson said part of doing the bid packages and doing it that way the Town gets a more competitive product.

Discussion Regarding Partnership with DOT to Patch and Resurface New River Road: Alderman Swantek asked Mr. Best if this is practical. Mr. Best said that if the Town wants something done with SR1568 it is if not the Town is looking at 10-12 years before it evens sees asphalt. The problem is Robert Vause and the area DOT has in this County \$800,000 to work on secondary roads. There are 600 miles of secondary roads in Onslow County. Western Boulevard is a secondary road. There are 60,000 cars that travel it every day. So you can tell where the money is going to go. Ms. Burleson said what Staff is recommending was a 50/50 match into the work to help it along. There are two phases, phase A will be the abutments up to the bridges as well from the North end down to Marina Way. Then from there to the corporate boundaries would be phase B. If the Town could get the DOT to do those as patching and the Town shares in the cost 50/50 to get that done and then they could come back with an overlay, not a plant mix overlay, a slurry mix overlay and do that in all one fell swoop. It will be a three year process. Ms. Burleson said she will be asking for the authority to enter into any necessary agreements to do the roadwork and a budget amendment to make certain money is in the right place. Alderman Peters asked if the Town will get Powell funds for the next fiscal year to cover this. Ms. Burleson said that she doesn't think the Town will get Powell funds for this because this will be State roads that the Town will be contributing towards. The Powell money would come for the Town roads and the Town has lined up what it wants to do for the next line of roads with the Powell funds.

Alderman Hardison asked for the cost. Ms. Burleson said that it will be \$110,000 to complete phase A and it would be \$95,000 for phase B. Alderman Peters asked if the road project and the bike path project could be done together to help minimize the cost. Mr. Best said during the fall of last year DOT spoke on 210. In that meeting they said in 3-5 years 210 will be done from Surf City to the high rise bridge. Ms. Burleson said she had misspoken earlier, she should have said from Marina Way to 210 instead of to the corporate boundary. Alderman Peters thought that the actual construction could be done on the road and bike path at the same time and possibly bid out together. Ms. Burleson said that it would take different crews to complete both places. There may be a crew that has all capabilities. The Town could see if DOT can do it.

Discussion Regarding DOT Estimate to Complete Bike Path Between Current Southern End Point and the Surf City Line: Ms. Burleson said that DOT gave an estimate of \$260,000 and it was a turn key where they would bid the project out, supervise it, write the specs, etc. The commercial estimate that Mr. Best received did not include everything. The DOT is changing the specifications from 4 feet of foundation and 4 feet of path on top, it crumbled on the sides, to a 5 foot foundation to a 4 foot cap to prevent the crumbling. Alderman Swantek asked Mr. Best about cleaning off some of the curbing and if the Town could paint the divider at 210 and 1568. Ms. Burleson said we can request DOT to do it.

Discussion on Authorization to do Feasibility Study with Onslow County Municipalities on Consolidating Building Inspections: Ms. Burleson explained that the County had put the topic out on the table to discuss with the municipalities the feasibility of consolidating building inspections. Ms. Burleson is asking the Board for the authority to enter the Town into the study. Alderman Swantek asked who gets the fees. Ms. Burleson said that is something that will be studied. The question of whether the municipalities are recouping costs will be looked at and Ms. Burleson is looking at it now for the Town. For the agreement that the Town has with the County now, the County will collect all building inspection fees, the Town will still collect the CAMA, zoning and flood fees.

Discussion of Interlocal Agreement between Onslow County and North Topsail Beach - Inspection Services: Ms. Burleson said there is a resolution on the agenda to approve the County inspections department to fill-in until the Town decides upon what to do with the building inspector position. It should be a 24 hour turnaround time on requests for inspections. The County will collect the fees. Ms. Burleson said that the County fees and Town fees are comparable.

Resolution Accepting and Endorsing the Solid Waste Management Plan of 2009 for the Town of North Topsail Beach (Resolution 2009-6): Ms. Burleson explained that changes were requested. The clerk explained that the change was not made. Thomas Best said that two times a week trash pick up occurs after Labor Day. The clerk asked the Board for other changes, but she received no response.

Discussion of Approval to Pay Tax Refund: Alderman Hardison asked about the approval to pay tax refund. Ms. Burleson said that it is an overpayment and the Town is paying the individual back.

Discussion of Finance Report: Alderman Peters requested a breakdown of the litigation and other expenses for the north end houses. Ms. Burleson said that she and Mr. Smith are working on that. He asked Ms. Burleson if there were going to be further budget amendments and Ms. Burleson said that she did not anticipate any at this time. She said that at the end of the year there will probably be a series of budget amendments.

Discussion of Request to Award Contract for Collection and Disposal of Curbside Solid Waste and Recyclables: Ms. Burleson explained that she had already spoken about it earlier. It will be the same company with the addition of recycling. Alderman Hardison asked what the company does with their recycling. Ms. Burleson said that it is carried to another location where there is not a tipping fee. She said you can put all the different types of materials in the same container and it will be sorted there. She said the carts will be different colors. Alderman Swantek suggested that the Town notify all of the realtors in the area that the Town is going to recycling so that there can be containers that can be placed in the houses. Thomas Best said that to start the Town will be using the same carts, but they will slowly be rotated out. She said something that the Town will need to address is the amount they are asking in fees with the recycling added. It is going to cost more.

Discussion of Request to Award Contract for Town Hall Building Renovations: Ms. Burleson said that the Town received 8 bids. There was quite a range going from \$29,354 to \$48,000. Staff is recommending that the Board award the contract to Diamond Contracting out of Garner, NC.

Discussion Regarding Vendors on Public Property: Ms. Burleson said that she had sent out an e-mail and had gotten some input from the Board and she passed it on to the Town Attorney. He is going to take the input from the Planning Board and the Board of Alderman and he is going to get some more guidance and bring something back in May. Alderman Peters asked Ms. Burleson about the input. Ms. Burleson said it was a combination of some saying no, nothing at all and others that warned against opening it too broad to early and having to back off. She said she can send the responses out to everyone again. There was a little discussion about the "Shrimp Lady". Alderman Swantek said that he understands that it is public property, but she is a figurehead for this Town and a permit is paid for every year. Ms. Burleson said that she understands that it helps build a sense of community. She said there are potential prohibitions to using public property for private gain and she thinks that is where the rub comes in. She does not know what DOT thinks but the Town needs to address the beach. She said it is a "sticky wicket" each way you go. Mr. Best asked about the complaint. Ms. Burleson said that there is a request to sell Italian ice again this year and they have been told they could do so. They put some investment into expanding the business. Alderman Swantek said he sees no problem with it, it is entrepreneurship. Alderman Hardison asked if the business could operate at St. Regis. Why can't it be limited to just that area? He said he does not want to see things get out of hand. Alderman Swantek said that when he goes on vacation he looks for things like that, the vendors and that he can get deals going to them. He thinks it is okay as long as they abide by the rules of the Town. Alderman Peters said the problem is that the Town does not have any laws. He said that the Town needs to be consistent. He asked Ms. Burleson to send out the input she received.

Discussion of Approval of Settlement Agreement with Charter Communications:

Ms. Burleson said that the Town had contracted with Custom Communications to audit Charter's payments to the Town as far as franchise fees. They found a discrepancy of \$10,679.15 and they have been in contact with Charter and they reached a settlement and release agreement and the Town needs to approve it. Charter will be responsible for paying the Town back and the Town will not pursue them further for any other fees. She said that yesterday afternoon she received documentation that Charter had filed bankruptcy. Staff recommendation is for the Board to authorize the Mayor and Staff to enter into the agreement to collect the fees. The aldermen discussed how the bankruptcy might effect receiving the funds.

B. Other items discussed:

Building Permits: Alderman Peters said there were about two or three accessory buildings listed on the inspections report, he said he has never noticed these before. Ms. Burleson said that one might be for a deck, with a pool and a spa. She said she can get him a better definition.

Closed Session after April 2nd Meeting: Ms. Burleson said she had two things on there. One is regarding a personnel issue and the other to discuss potential acquisition or disposition of real property.

Joint Meeting with the County: Ms. Burleson briefed the aldermen on what she would be presenting to the County Commissioners for the meeting that was going to take place that afternoon. The Board discussed the issues that they want to bring up in the meeting.

Discussion of the BEST Team: Alderman Swantek said that everyone has read the report that BEST presented to the Board. He said it was quite a lot to consume and that it was good. There was a lot of diversity and it showed both sides. He thinks right now that it would be premature of the Board to make a decision on what way the Town is going to go without first having the permit, knowing where the funds are going to come from, and knowing what the citizen's want. He said without those three factors he would not be able to make an intelligent decision. Ms. Burleson said that the Board needs to decide if discussion of the BEST team needs to be on the agenda for Thursday night. Alderman Swantek said that he does not care if it's discussed on the Thursday, but it needs to be discussed and the Board needs to let the BEST team know what the Town is going to do. Alderman Peters said that the Town cannot start the construction phase, but the Town can do every other aspect to be prepared for it. We are bringing in the Board of Commissioners today to help the Town and get on board with the proposal. Why would we bring in this County without supporting it ourselves? Alderman Swantek said that he doesn't think he can endorse something when there are unknown variables. He asked what the Town is going to do if the County says no. The Town will have to move on. Alderman Swantek says that he knows the Town has to do something. Mayor Martin said that the BEST team has worked hard and long hours for many months. Alderman Swantek says he wants to give them an answer to their report. Alderman Peters said there is only one applicable recommendation and that is finding out what the citizens want. The aldermen discussed their responses to BEST. Alderman Peters said that his

response to BEST is that they addressed the skepticism of the positive aspects of beach nourishment, they produced a well thought out and well developed summation of the tasks at hand and beach nourishment requirements of the specific CP&E projected plan. They recommended positive steps forward in the five recommendations. He commended them for their efforts and findings and from here the Town needs to move on. Deb Lanci, a member of the BEST team, said that while the Town is waiting the Town can find out what the citizens want and also start planning for the future. The Board discussed what they have already approved. Alderman Hardison said that when the last item that was approved which was to pay CP&E to modify the EIS to show the finding of clay in the channel, that he suggested that the Town Attorney should come up with an agreement that should be signed by CP&E before moving forward. He said they would be signing for making sure that the Town gets a permit and at that point they will move forward. He felt that it was not supposed to be watered down and that the comments he made was not reflected in the minutes. Ms. Burleson said that she understood it that she was to go forward with the \$17,000 to make modifications to the EIS that had already been approve and move forward. The Board agreed that they will to discuss it further on Thursday night.

IV. **Adjournment:** The meeting adjourned at 11:53 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 5/7/2009

**Special Meeting
Joint Session
Onslow County Board of Commissioners
North Topsail Beach Board of Aldermen**

**March 31, 2009
1:00 P.M.**

MINUTES

PRESENT: Chairman W.C. Jarman, Vice Chairman Paul Buchanan, Commissioner Barbara Ilkner, Commissioner William H. Keller III, Commissioner Lionell Midgett, Interim County Manager David Smitherman, County Attorney Ronald E. vonLembke, County Clerk Beth Purcell, Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

1. CALL TO ORDER: The Onslow County Board of Commissioners was called to order by Chairman W.C. Jarman and the North Topsail Board of Aldermen was called to order by the Mayor Donald Martin at 1:00 p.m.

2. PLEDGE OF ALLEGIANCE: The Board of Commissioners, Board of Alderman, and Citizens recited the Pledge of Allegiance.

3. MAYOR'S WELCOME: Mayor Martin said that he was glad that everyone could come and said the Town is honored to have the Commissioners and partners in the County with us today. Chairman Jarman said that the Commissioners enjoyed the lunch and expressed his appreciation.

4. PRESENTATION - Beach Preservation Presentation by Lara Burleson, Town Manager: Ms. Burleson thanked those in attendance for coming to the meeting to come together to talk about beach nourishment, beach projects, and partnerships. Ms. Burleson referred to a letter that was sent to the commissioners on January 12th, which was the invitation for today's meeting. She said the purpose is to "initiate discussion regarding formation of partnership between Town and County to ensure that the 'public beach infrastructure' of Onslow County is enhanced and protected for generations to come." She described the Federal beach project, who the partners are, the costs and the cost sharing amounts. She described the CP&E project and the costs.

Ms. Burleson said one way of looking at how the Town can move forward and build partnerships is looking at the resources and areas that can be tapped for funds to help with the projects. She stated that North Topsail Beach constitutes 18 percent of County's residential property tax base (\$1.5 billion of \$7.6 billion). Since its incorporation in 1990 North Topsail Beach has generated \$5 Million in tourism related occupancy tax for Onslow County. North Topsail Beach constitutes between 40 percent and 60 percent total revenue collection annually from occupancy tax (FY09 revenue projections \$1.3 million, FY08 revenue collection \$1.5

million). Forty percent of this revenue is \$600,000. The Town has an occupancy tax which is totally obligated to beach nourishment projects.

Ms. Burleson said the goal is to build a local partnership to leverage funds and action from State and Federal sources. These projects cannot happen without Federal, State, and hopefully, Onslow County participation. She said partnership means a mutual commitment toward protection of this asset (the beach). Partnership does not only mean just funding, she said it means a unified Onslow County and North Topsail Beach voice that will be heard at the State and Federal level.

Ms. Burleson outlined the Town's request. She said the Town is asking the County to consider a partnership with the Town as it receives Federal and State assistance and that the County makes a long-term commitment of a substantial percentage of the occupancy tax collected from vacation rentals at North Topsail Beach. In particular to set aside 60 percent of occupancy tax revenue collected by the County generated from North Topsail Beach properties or \$350,000 annually, which will be controlled by County. The Town also requests to split non-Federal or non-State remaining costs with 2/3 being paid by the Town and 1/3 paid by the County, with a 10 year commitment.

Ms. Burleson asked if there are any questions. There were no questions.

5. DISCUSSION: Mayor Martin asked Chairman Jarman what he thought of the proposal. He asked the Commissioners if they had any suggestions or any way that we can go forward as a partner. He said this is tourist money that comes in from beach activity and we are asking it go back to the beach to preserve the County's base. He said the Town of North Topsail Beach gives the County about \$8 million a year and for that North Topsail Beach asks nothing from schools, police, and fire, and this is a fund that is set aside strictly for the beach or activities such as soccer fields and memorials and North Topsail Beach is not asking for all of the funds. He said the Town knows that the County has other commitments throughout the County and North Topsail Beach would like to have the commissioner's recommendations on that.

Mayor Martin asked Commissioner Keller if he had anything to say. Commissioner Keller said that everyone knows that he has for years supported the beaches and he understands the economic engine that tourism is in our County and that it continues to grow. He said that our waterways and inlets and beaches are what draw people here. He said he thinks that the Town and County need do something in concert like has been talked about for a number of years. He said that the Federal government continuously tries to draw down their piece of it. He said that more and more it is going to come down to the State and local level for funding these things, particularly with respect to inlets. But having said that, he said he thinks there are people in our County who rightfully ask questions about placing sand on the beach. He said but there is a responsibility on the County's part to help in that regard. He said thinks that 60 percent is a little high given the County's commitments. But he supports the idea of doing something to move this project forward.

Commissioner Ilkner expressed her loyalty to the beach having been born just across the inlet. She said her concern and her love for the beach ranks up there of the highest of anyone in this County. But she stated that she is a County Commissioner and her obligations, duties, and

commitment are to all of the citizens of Onslow County. She said no matter where her loyalties lie, she feels that it is important to be fair and equitable to all. She said the argument that this money is generated from North Topsail Beach is not the only argument. She said when she as a commissioner goes to divide the sales tax she hears the argument from the municipalities to the north that they are the main generators of the sales tax dollars and therefore a majority of the sales tax dollars should stay in their municipality. She said the County does not adhere to that and that the County needs to be fair and equitable to all the municipalities to be beneficial to all of the County's citizens.

Commissioner Ilkner said that she has thought about the 3 percent occupancy tax that was granted to North Topsail Beach by the General Assembly in 2001. She said no other municipality in Onslow County has that. She added that one hundred percent of that 3 percent stays in North Topsail Beach. She said her opinion is that North Topsail Beach is wanting in an undue portion to come back to the Town. She said things need to be looked at. She pointed out the fact that in the past the County Commissioners have contributed money to dredging and North Topsail Beach has received the sand from those projects and then North Topsail Beach did not contribute anything to the projects. Mayor Martin pointed out that both the County and the Town have new Boards and that we will move forward. Commissioner Ilkner said that the County is looking at moving forward but that we need to look at the problem that North Topsail has in its entirety and not be blinded by the problems of the other municipalities. She said it is her opinion that the Town is asking for an undue portion of the occupancy tax to come back to it on a long term commitment. She said we know not what the future is going to be. She said we hope that this economy and the downward turn are temporary. She said her vote would be not to commit dollars that we do not know that we are going to be able to provide.

Mayor Martin explained that the funds for the projects are not taking away from education or building jails. These are tourist tax dollars and they can only be spent on the beach, soccer fields or memorials. Commissioner Ilkner said that North Topsail Beach does not pay anything to a tourism board or advertising. She said that she would not vote against the Town in getting some assistance and to being a partner and working together, she would not be opposed, but she has difficulty on the amount the Town is asking for.

Commissioner Keller said that he is concerned about opening Pandora's Box. He has already received a call from another Mayor and they will be asking for their piece of the action. Commissioner Midgett said that many hours have been spent talking about beach nourishment and his feeling is that at some point in time some reasonable amount of some funding sources of Onslow County has to go to help preserve the beach to protect the assets. He has some concerns about the State and Federal funding especially for the short term years with the economy being like it is and the deficits. Commissioner Midgett said the Town fairly easily dismissed the lack of partnerships that has been very evident the last several years. He said the County has a new Board but only 60 percent of them are new. He pointed out that we have 100 percent of the County that remembered that North Topsail Beach did not participate in the inlet dredging in the New River. He said 60 percent is absolutely too high. He also said that the presentation that Ms. Burleson did not include what load, if any, the property owners of North Topsail Beach will carry to fund the projects. He pointed out that the Town reduced its tax rate last year or the year before and that it was a slap in the face to the Onslow County Board of Commissioners. He

said there has to be something in the air to make it sellable and tenable to the rest of the population of Onslow County.

Mayor Martin said that what the Town is trying to do in the long run is to get a commitment from the State, County, and Federal government. The Town is committed to do beach nourishment and it takes a lot of money to do beach nourishment and that is why we are here today. He said the Town is not asking for anything today that is not protecting the tax base. If the Town can do beach nourishment and people can build more houses out here on the beach that is nothing but the County's tax base going up. He said the Town is not asking anything that is unreasonable. He said that 60 percent was chosen because you have to start somewhere. The Town could have started at 100 percent but the Town started at 60 percent and hopefully we can go somewhere in between and get a commitment from the County. If the State and Federal government knows that the County and the Town are willing to do this then they are more willing to give the Town money and that is where the Town needs the big money from, the State and Federal government.

Commissioner Buchanan said that the people of North Topsail Beach voted against beach nourishment and asked the Town are you not listening to your people first? Mayor Martin said that the Town just did a survey and the citizens voted 80 percent for it. Commissioner Buchanan said but the Town has not run a vote like it did last time and the citizens voted against it. He said the 60 percent is way out of the way. He said it is too high and that the County has a lot of obligations. He said education has nothing to do with the tourism money. The tourism money is something that we need to work with as a group and he doesn't mind working as a group. But the Town needs to come together and work with all of the other municipalities. Commissioner Buchanan said the Town slapped everybody with the sales tax and said he did not understand why it chose to do that when every commissioner campaigned on the blend method. He said we need to work together as a whole, the whole County not just North Topsail Beach by itself.

Commissioner Buchanan said what the commissioners are hearing from the people in the community is that North Topsail Beach is being greedy. He said the County will work with the Town and try to work with the other municipalities but the Town is not the only one in the game. He said the commissioners represent the whole County and not just North Topsail Beach. He said the commissioners understand North Topsail Beach's beach renourishment problem but the biggest problem that is there is that mother nature is going to take that sand every time it is put out there and we have to come up with a method that will work or we are going to be pouring millions and millions of dollars in that ocean out there. He said he loves this beach and he thinks the world of North Topsail, but we need to come up with something where everybody works together. He said the commissioners are taking a lot of heat from other municipalities because North Topsail Beach chose not to do the blend this last time. He said we've got to work together, all of us, but we can't be at each other, we have to try to be as equal as we can.

Mayor Martin explained that the first time the commissioners brought it, the Town voted against the blend method because it was what the Town Attorney at the time said it should do. But when the next resolution came forward the Board of North Topsail Beach voted 5 to 0 to support the blend method. He said the Town has its problems but that the Town is trying to

work with everyone right now. He said he does not want to take anything away from the other municipalities and he loves them all and he supports them all and meets with them regularly. Commissioner Ilkner recognized the mayor for what he does and expressed that she loves all the municipalities in the County the same. She said she wants to partner with the Town and help the Town preserve the beach and make sure the inlets are kept open. In regards to the 60 percent she said the Town picked a high figure and looks greedy.

Commissioner Keller said that we are all well aware of what happened before but that doesn't play in his mind that is the past. But one his concerns is the CBRA zone. He said another thing that concerns him is he thinks all the scientists agree that beach renourishment is very specific beach oriented, some beaches it works on and some it doesn't. He said it is a worrisome technical thing for him. Mayor Martin explained that the Town has hired Coastal Planning & Engineering (CP&E) and have paid them \$2 million of the Town's money so that the projects are done right. He said it is beautiful anywhere that you see beach nourishment and it is great and if the Town does beach nourishment it is not only going to protect our beach, protect our homes, our tax base, if some child is out there and the sand hits the child from the ocean and protects his life, beach nourishment is well worth every nickel we put into it. He said it is a beach town and the Town has a commitment to its citizens. He said about 90 percent of the citizens said yes to beach nourishment, there is 10 percent of them that said you are just throwing sand at the ocean, but we do not want to throw sand at the ocean we want an engineered plan and it done right. He said it is going to cost a lot of money and the Town is not going to be able to do it overnight because the Town does not have that kind of money. But the Town is trying to get as much money as it can from the County, the State and Federal government and what the Town does not get the Town has to go out and tax its citizens.

Commissioner Ilkner asked about the CBRA zone. Mayor Martin said that the State is going to help with that area. Alderman Peters said that is where you have the CP&E plan which will cover those four miles. Mayor Martin said it will be taken care of in phases one through three. Alderman Peters clarified that the Town has two districts and the two different projects cover the entire Town. Commissioner Midgett asked when the CP&E project is going to start. Mayor Martin said that if the Town gets its permits it can start in November, but if the Town does not get the permits the Town will have to wait until the following November.

Commissioner Midgett asked if the Town is planning on doing beach nourishment without borrowing money. Mayor Martin said yes, State money and Town money will do it. Phase two will be when the town will have to borrow money but the Town can still get State money and occupancy tax money will be coming in. Commissioner Ilkner asked in which phase is the Town planning on doing the property tax increase. Mayor Martin said that the property tax is going to increase every year the Town has beach nourishment, that the Town will have to raise it two or three cents. Commissioner Ilkner pointed out that the Town just reduced its tax rate and asked the mayor if he is now saying the Town is going to have to go back up on the tax rate. Mayor Martin said that Town probably would have to and that is a Board of Aldermen decision. Commissioner Ilkner said that she was pretty certain that the County is going to be moving away from the 100 percent ad valorem so North Topsail Beach is going to have to go up on its tax base for beach nourishment. She said if the County moves away from the ad valorem North Topsail Beach is going to take a pretty good hit and the Town is going to have to go back up. She asked if the Town is going to go where it originally was. Mayor Martin said the Town will

probably have to do that but will have to look at that. Commissioner Ilkner asked the Town for its bottom figure. Mayor Martin said 40 percent. Commissioner Ilkner asked if the Town will take 40 percent. The mayor said, the County gave nothing last year, and the year before that, and North Topsail Beach is a part of your county, you told us you love us! He said the Town has to start somewhere and we will work something out.

Alderman Peters said he thinks that this meeting has to be one of many conversations. He said he thinks this is tremendous progress and people have expressed disappointment with North Topsail Beach in the past and the Board hasn't all agreed with what the Town has done. He said as was pointed out, the past is the past, and having said that he thinks it is a wonderful effort at communicating with County. He also mentioned what the State is doing and he thinks that we are in a wonderful period now where the State is realizing that the local communities can't do it themselves.

Commissioner Ilkner said that if the commissioners were not interested in this topic, if they had hard feelings toward North Topsail Beach, you would not see five of them sitting here today as they have busy schedules. She said the fact that all five of them came today means that they want to be partners and they want to have a good relationship. She said they want hear North Topsail Beach's problems and they recognize that there are problems but she wants North Topsail Beach to recognize that North Topsail Beach is one problem in a handful that the commissioners look at but they are willing to listen and are a shoulder to cry on. Mayor Martin said that if every town in Onslow County was like the Town of North Topsail Beach the County would be well off and it would be buying jails and sending children to college and building schools.

Commissioner Keller said that he didn't come here to make a decision today. He said his sense is that the commissioners will have to go back and crunch this and there may be a requirement to have another meeting or two before they vote. He said that he thinks the Town and the County can work something out. He said that Commissioner Midgett had a good point about the "what ifs" and that is a real problem. But he thinks his counsel and the Town can construct an agreement that would provide some safeguards for all of us in case some things change. He said he is not too concerned about that, but that he is really concerned about what that bottom line might be and how it impacts the rest of the County. He said people have said that tourism is close to being the number one economic engine. Unfortunately in our State, that's good, we've lost so much else. So we have the blessing here in our County, but it's a big job to sell it.

Mayor Martin said that he knows its North Topsail Beach's job to sell it too and the other mayors in Onslow County have agreed that something should be done together. He has been selling it in Raleigh and North Topsail Beach has been down that road before. He even sat down with representatives in Washington. He mentioned that out of the 18 beach regions in North Carolina that all regions have received beach nourishment funds except one, and that is Onslow County. He said now is the time Onslow County gets some money from the State. So he said the Town is going after every bill and North Topsail Beach is not trying to be greedy, it is not the Town's mission to be greedy, the Town's mission is to have a nice beach and not tax our citizens out of their homes.

Commissioner Buchanan asked why jetties are not being used, is it because of the way our coast is that jetties don't work? Mayor Martin explained that they are illegal and there is a bill in the State Senate to allow their use again. Masonboro Inlet has one and it has worked. He said that the Town would like to add a jetty to the plan for the inlet. Alderman Swantek said that he hopes the bill will pass because it will control the Town's beach erosion, but it will not happen tomorrow. By the Town getting beach nourishment and widening the channel it keeps it navigational for the people of Jacksonville and the fishing community. Commissioner Ilkner said that navigation has been the justification that she has used in the past for the tourism dollars going to dredging. Many people say that it is money spent helping the commercial fishermen, but it's not that it's for the recreational fishermen and water flow to Jacksonville is very important.

Commissioner Ilker said that she has heard engineers say that once you commit yourself to a beach nourishment plan that it is ongoing forever. Mayor Martin said that the federal project will go for 50 years. We are a beach town and we get tourist taxes and we are going spend every year and we going to have to tax our people and they realize that. Mayor Martin said with a genuinely engineered beach, the Federal government will come back and replace the houses. He said the County would be protecting its tax base and the Town's tax base, and you would be protecting our citizens' homes. Commissioner Ilkner said that the Federal tax dollars and the State dollars come from the citizens of North Carolina. Mayor Martin said that the beach is not North Topsail's beach, it is America's beach. They come from Maine to California from everywhere, and that is why you have Federal dollars and why you have State dollars.

6. CLOSING REMARKS

Chairman Jarman said he hopes everybody takes the commissioners arguments today and said that they were expressing their opinions. Mayor Martin said that is what is so great about this country, everybody can do that.

Chairman Jarman said that about six or seven years ago North Topsail Beach was collecting about 100 thousand dollars on the occupancy tax and at that time the County gave all of it back to the Town. He said but it is a different time now and that he thinks a lot has been accomplished and he thinks what needs to done is for North Topsail Beach to go back to its Board and discuss it and the Board of Commissioners will discuss it and we will both partner somewhere down the line with some figure. Mayor Martin said that it was great and that he looks forward to working with the County. Chairman Jarman said that they would do that and that North Topsail Beach can carry that to the bank. The County will partner with the Town some. Mayor Martin said that it is great and that it shows the State that the County is interested and the Town is interested to the Federal government can see everyone is interested and it's everybody's beach.

A motion was made by a County Commissioner to adjourn. The motion was seconded and passed unanimously.

Alderman Peters said he would like to ask what the Board would like North Topsail Beach to do in the interim. Commissioner Buchanan said come up with a figure. Mayor Martin said that the managers can probably work that out. Commissioner Keller said that he thinks it expands

beyond that, he thinks North Topsail Beach needs to look at the concerns that the commissioners voiced today. Alderman Peters asked the commissioners to either expound or be more specific. Commissioner Keller said he thinks the Town should take what we all had to say and iron it all out with yourselves. He said his big question is what are you going to charge your property owners to go toward beach renourishment?

Alderman Peters said he thinks North Topsail Beach is trying to ascertain how much the Town is going to have before they say how much the citizens will have to contribute so it is kind of a "catch 22." He said, in other words the bottom line is we know the citizens are going to have to pay more. He spoke about a speaker that had addressed the beach and waterway program who was good at summarizing what the State wants and what the State expects to do from their partnership with local communities. He said he thinks it is a tremendous program that is going to be very beneficial to the beach communities. He asked the commissioners if they would be willing to let him come speak to them. Mayor Martin added that he is a financial guru that has worked in Texas and Florida helping towns finance beach nourishment. Alderman Peters said he thought the commissioners would benefit from seeing what the State is going to do with this partnership and the State is recognizing that the local communities can't do this alone; he said it really is impossible, without the County's help and without the State's help the Town may as well retreat. He said there is only two ways to handle a beach, renourishment or retreat. He added, and retreat is what the Town is fighting against here and it's the result of the loss of the tax dollars that the Town contributes to the County and both from a taxing standpoint as well as the gross value. He said obviously a retreating beach is not going to be a very good beach for recreation.

7. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. The motion was seconded and passed unanimously. The special meeting was adjourned at 2:07 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 5/7/09

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, April 2, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

NOT PRESENT: Alderman Daniel Tuman

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Youth Pastor Josh Watts of New River Community Church of God gave the Invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Larry Hardison said there are omissions in the minutes from March. The Town Manager said that it can be discussed when the consent agenda is presented. Alderman Peters made a motion to approve the agenda as presented. Alderman Hardison seconded the motion. The motion passed unanimously.
- V. **COMMITTEE REPORTS:**

PLANNING BOARD: Paul Dorazio, Vice Chair reported on the regular meeting which took place on Thursday, March 12, 2009 in the Town Hall meeting room. He said the following actions were taken:

1. A Public Hearing was held on Town Code Article I, Section 4-1, Selling Goods on Public Property, whether to allow itinerant vendors to operate on public property.
2. Planning Board members decided by consensus to individually submit their input regarding selling goods on public property to the Town Manager by March 19, 2009, so the Town Manager and Town Attorney can develop a proposed amendment.

3. Tyler Bray, RPO Coordinator for the Triangle Area of NCDOT, Transportation Planning Branch presented his draft Comprehensive Transportation Plan for our comments or concerns.
4. At the last BOA meeting this Board deferred any decision on changes to Section 7-132 regarding private bridges to allow our Board to review further comments by the Town Building Inspector and any needed changes could be consolidated. Motion to forward the Planning Board's previous recommendation with clarification of the Code and definition to Town Manager and Town Attorney for presentation to this Board passed 4 to 1.
5. Staff reported that Chapter 7 Planning and Zoning Ordinance has now been updated and sent to Municode. Our Board continues to hold workshops every Monday evening on further updates needed.
6. Staff reported that Chapter 8, Flood Damage Prevention, was also sent to Municode to have their attorney work with our Town Attorney to develop and write the ordinance for the Town Code.
7. Staff reported that the current Chapter 9 Environmental Control also needs the Planning Board's review as the Second Article is a repeat of the CAMA program already now included in Chapter 7.
8. Staff reports that the revisions to our Land Use have been completed by Holland and Associates for review.
9. The Hazard Mitigation Plan group will be meeting in April. Staff continues to work with Onslow County on this.
10. Motion was made and passed unanimously to thank all Town Staff for their hard work.
11. Members of the Planning Board attended Staff's second training session, "Making A Decision", on Thursday, March 19.

Alderman Peters asked in regard to the vendors, if there was a diverse number of opinions and if that was why the board could not narrow it down. Mr. Dorazio said that the board needed input; he said they needed the public hearing to get input from the public for the board to make a decision. He said it is very controversial. There are vendors that have been here for years and then there is an influx of new ones, he said the board just felt that it needed more input and it needs further conversation. He said there was a big range of opinions and it was hard to vote on something like that.

Alderman Farley asked about the comment about sending Chapter 8 to Municode and working with their attorney. He asked if that was accurate. Mr. Edes clarified and said it was to discuss with Municode how to get the Chapter published and not about the substance of the chapter. Alderman Farley was concerned that the Town was hiring the Municode attorney.

BOARD OF ADJUSTMENT: Deb Hill reported for the Board of Adjustment. With no variance requests, the Board of Adjustment had the “Making a Decision” training session on March 19th. There is a variance request for the month of April so there will not be training this month, the training will be deferred until May.

VI. PUBLIC HEARINGS AND PRESENTATIONS:

Public Hearing: Rezoning Case #R-09-01 – Rezoning of 2.98 acres from Conservation District (CON-D) to Residential (R-20):

Charles Riggs of 502 New Bridge Street, Jacksonville, NC, authorized agent speaking on behalf of Gwynn Builders - Mr. Riggs said Mr. Gwynn is in attendance and also Mr. Marshall Dotson, his attorney. He said the rezoning application was submitted several months ago and it is a completed application. The rezoning fee was submitted and the application was complete and the proper envelopes were provided. Everything is in order with the application. The property is 2.9 acres. It is on New River Inlet Road, on the sound side of the highway. The property at this time is zoned conservation by the Town. To the east it is zoned R-10. To south it is R-10 and R-20. To the west it is R-20. To the north it is conservation and RA. He said he believes it is the first zoning that the Town has the chance to review concerning accretion of land. This was originally Old Sound Way/Old Sound Channel and was water. The water which was in North Topsail Beach’s limits was never zoned. This land was accreted slowly and by hurricanes. He said it is now uplands except for the northern boundary of the property. He expressed that it is their opinion that because it is accreted land it should be treated as the definition of accreted land in the Town’s zoning ordinance, which is that accreted land should be zoned similar in nature to the adjoining properties. He said they are asking for R-20 (single family). He said that with the size of the property there will be a maximum of 6 family homes on the property. He said in a normal rezone situation, you do not consider sewer availability, water, wetlands, etc. however, with this rezone it is a different situation because it is accreted land. It is important that there are uplands here. He said if you look at the site you can see that. It is a compatible zone with the adjoining properties. There are duplexes to the east and an approved planned residential development to the west which would have 15 single family homes. It is their opinion that based on zoning ordinance and the subdivision regulations that this will be a proper zoning. He made a comment concerning a review made by Town staff that the rezone did not match the land classification of the CAMA land use plan. He said at the time the land use plan was approved, which was in 1996, this was water. That classification would have been proper at that time. But he said now that it is uplands that classification, in his opinion, is not correct.

Marshall Dotson 107 Brookview Drive, Jacksonville, NC, Mr. Dotson said in addition to representing Mr. Gwynn, he is an adjoining property owner. His property is directly to the north of this affected property. He said this matter has been before the planning board twice. The land use maps and the classification were studied by the board and this parcel was designated as conservation. He said he understood part of it but he was disappointed that they did the 2.9 acres as conservation. Mr. Gwynn owns 9 acres. Six acres of it is still conservation. He said they are asking that 2.9

acres be considered as uplands, which it is and has been designated by such not only by surveyors but by the Army Corp of Engineers and CAMA. He said the property east of this is owned by Gwynn builders and was part of Sea Dragon Subdivision. There is a duplex located on that piece of property now. There are two lots on the back of it that are owned by Mr. Gwynn. Sewer is available.

Mr. Dotson said in his experience conservation is not meant to prevent development, it is meant to study the area and see if it is consistent with land around it. In this case the difference is that it is accreted land. He said he has been on island since 1974. He showed on a map where Old Sound Way is and said that it was once navigable and said that the submerged land belonged to the State and was never zoned. He said he was an adjoining property owner and was never notified of any rezoning of it. He said the report by the planning director indicated two concerns, that rezoning the property would increase the density. It will lose some of the conservation aspect. He said that the remainder 6 or so acres that's there and the perimeter would still be zoned conservation.

Mr. Dotson said all other comments by the planner shows that it is compatible with the adjacent properties. He said one being R-10 which is what the duplexes are built on. And to the west is R-20 which is Orchid Development. He said part of Orchid and La Costa is accreted land. Previous boards have approved those for R-5 and R-20. He said that they are asking to allow the rezoning of this. H said when he read the Town's ordinance it recommends on CON-D that you apply for a rezoning. The reason it is in the ordinance is that CON-D is not always meant to stop development. He said as it stands now you can put a government building, a parking lot or farm the land in CON-D.

Mr. Dotson reemphasized that the main comment made by the planner about this case is density and that it is not in accordance with the land use plan. He said the land use plan won't supersede CAMA. He said this property has been tested and it is suitable for development. He said the land use plan is not designed to stop development. It is designed to let the Board look at it and the surrounding property to see if there are any adverse affects. He said it is uplands, it has been surveyed and tested and they objected to the classification when it was first placed before the planning board. He said they feel the property is suited for development and that the classification of CON-D adversely affects the land owner's investment.

Ms. Deborah Hill presented her staff report. Staff has received no protests, in accordance with North Carolina zoning law for a protest petition, G.S. 160A-385(a). As no qualified protest petition has been received, approval of the proposed Zoning Map Amendment will require a simple majority approval by the Board of Aldermen. Analysis of this application is organized around the policy guidelines outlined in Section 7-93 and presented as Finding of Fact (A-E).

- A. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories. Staff's comment is that the proposal will result in placement of the subject property in a category that is "appropriate" with other similarly situated properties.

- B. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group. Staff's comment is that CON-D to R-20 zoning is an increase in density and loss of 2.98 acres of CON-D.
- C. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved). Staff's comment is that the proposed zoning to R-20 would allow for construction of single family homes and is denser than the current CON-D zoning. Accordingly, the proposed change in use from CON-D will result in an increase in use and a decrease in conservation district and an increase in density.
- D. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change. Staff's comment is that the surrounding properties are zoned R-20, R-10 and CON-D.
- E. The proposed change is in accord with any land use plan and sound planning principles. Staff's comment is that the proposed rezoning is not in accordance with the 1996 North Topsail Beach Land Use Plan Land Classification Map p. III-6, which classifies the property as "CONSERVATION."

Staff's recommendation is that the Board of Aldermen denies the request as the proposed rezoning is not in accordance with the 1996 North Topsail Beach Land Use Plan Land Classification Map p. III-6, which classifies the property as "CONSERVATION." Ms. Hill presented the Board with a proposed motion granting the rezoning request and a proposed motion denying the request along with the findings for denial.

Alderman Peters said that Mr. Dotson stated that the land use plan will not supersede CAMA and asked for Ms. Hill's comment. Ms. Hill said that the CAMA Land Use Plan may and does exceed CAMA's regulations and if there is a statement in the Town's zoning ordinance, and an example is in the zoning ordinance it addresses R-10 property and that you can have a duplex. But in an inlet hazard area with the CAMA Land Use Plan you can only have a single family home, that is an example where the CAMA Land Use Plan supersedes the Town's zoning ordinance. It cannot be less strict what CAMA regulations are but it can be stricter and the Town's.

Alderman Farley asked if CAMA reviews the Town's Land Use Plan before it is finalized. Ms. Hill said that CAMA and the CRC (Coastal Resources Commission). He said that it is something he has always been concerned about in the Town's analysis of some the rezoning. He quoted Finding of Fact B. "There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group." He said it seems to him that this rezoning does not meet that standard. Ms. Hill said that it does not meet that standard. Alderman Farley asked if this property abuts Mr. Dotson property. Ms. Hill said she believes he stated that it did. He said the concern he has is that this is the third time he has seen this property and each time it is something different. The question that has not come up yet is who the

land accretes to and why this land accreted to a particular spot and not to Mr. Dotson's property. Ms. Hill said she can answer from a planner's perspective and that a lot of attorneys have made money on accreted land. From a planner's perspective, she does not know how one doughnut got accreted by its own lot without any access to a main road. She said, "As if a pond fills in so now I own the pond." She said she is not an attorney so she cannot argue it one way or another. It is peculiar to her as a planner. She gave the definition of accreted land is "the slow gradual increase of sediment upon the lot to where the lot expands due to the accretion and the opposite is erosion." She said she does not know how that lot was created.

Alderman Swantek asked if land accretes like that isn't it supposed to revert to the zoning of the adjacent properties. Shouldn't it be three different classifications? Was this lot owned by three different people? Ms. Hill said she didn't think it ever was a lot. She said typically when accretion occurs it is a parallel lot and it becomes part of the lot next to it and follows the zoning of the lot it has accreted to. Alderman Swantek thinks that part of it should be R-20, part should be RA, and part should be R-10. Ms. Hill said that when this was placed before the Board previously, the Board made the decision to designate it CON-D. Some aldermen believed that it was CON-D from the beginning. She said the owners appealed the zoning map, which they had a right to do and they have the right to come back to the Board of Aldermen and petition for a rezoning. There are two different processes and they are taking advantage of both processes which they have the right to do.

Alderman Peters had a question about the origin of the property. He said that the land is accreted and by accreted that means it slowly developed, he asked about the ownership record of the land. Ms. Hill said she did not do a title search. Alderman Farley said he does not think the property was owned by the county. Mr. Riggs said the property accreted from the ocean. He said there is no doughnut. There is high ground from the ocean on the ocean side and then the highway and then uplands across the property. The accretion occurred from the ocean direction. East side is R-10, west side is R-20 and the back side is RA. On the east side there are platted subdivision lots (Sea Dragon). On the west side you have an agreed line, Orchid Bay. It was an accepted line therefore any accretion went to that one property owner.

Mr. Dotson spoke about Sanford Island which is north which is on the north side of Old Sound Way, the description of Sanford Island runs to Old Sound Way. The property that is now Orchid Development which is zoned R-20 was what is called a row property. The row property went to Old Sound Way. Sea Dragon went to Old Sound Way. Mr. Dotson said when the accretion occurred the dividing line would be the center of Old Sound Way. That occurred when the accretion occurred the developers of Orchid; Sea Dragon there was an agreed line. The people on the island did not want to develop. They did an agreed line so that the only thing that is left at Old Sound Way is what he calls the forested area that borders Old Sound Way. The rest of the property was uplands. When it accreted those boundaries moved to the center line of Old Sound Way. He said that is consistent with the law of accretion in North Carolina. It is consistent with the Town's accretion policy that is in the ordinances. In that the zoning would take the zoning of the adjacent property owners. He said that the Town is stopping development of 2 acres from being developed and

allowing the other side to be developed when part of that is accreted land anyway that the Town has already approved.

Alderman Swantek made a motion to open the public hearing. Alderman Hardison seconded the motion. The motion passed unanimously.

Mike Yawn of 207 Tamarix Ct. – Mr. Yawn said he was chairman of the Planning Board when a lot of the discussion Ms. Hill just had and he agrees with a lot of the discussions. He said this apparently used to be a body of water and there were three lots adjacent to the body of water. One was zoned CON-D. One was zoned R-10 and one was zoned R-20. He said there are some complexities here. The Town's ordinance on accretion of land post-dates the accretion of this land. The Town's '82 and '92 zoning maps which were used to develop our current zoning map are not very specific for the zoning of water. Some seem to indicate that water is zoned CON-D or RA and some where water was not zoned at all. His view is that as this land accreted there were three adjacent property owners and the ownership of the land should have gone to the three adjacent property owners and should have been zone that way as well. He showed a drawing of how the land should have been divided (triangle-shaped). The land is land locked, there is no road frontage. Every subdivision of property in the Town is supposed to have road frontage. It should not be platted as an individual lot. He urged the Board to lean on the Town Attorney for this matter. He said the thinks the entire parcel should not be zoned R-20 and that is what they are asking for. In any case, when they do something with this property it should be part of the parcel that is adjacent to it.

Alderman Farley made a motion to close the public hearing: Alderman Swantek seconded the motion. The motion passed unanimously.

Alderman Swantek said he would like to hear what the Town Attorney has to say. Mr. Edes said he would have to research the issue and speak with Mr. Dotson and look at the chain of title. He would think that if the "new lot" just popped into existence there would be a subdivision issue.

Alderman Farley thinks it should be left. CON-D. This has been before the Board several times in different formats and it is CON-D land. It was land that, while may *now* be a little dry, it may run across real problems if we think this is going to be permanent. He believes it has always been CON-D and he would like it to stay CON-D. He said it might open a "Pandora's box."

Alderman Swantek said he would like to put it on the Town Attorney for now. He personally thinks it should be CON-D. But he said in fairness to the applicant; see what the attorney comes up with. Alderman Peters said that as it is the Board needs to fall back on the Land Use Plan which prohibits building in a CON-D. He doesn't want it to go to R-20. He would defer it to the attorney or deny the request. Alderman Hardison said he would like to defer it to the planning board. They have done a lot of work on it and he would like the board's opinion on it.

Alderman Farley made a motion to deny the rezoning request. Alderman Hardison seconded the motion. The motion passed unanimously. Mr. Edes asked if he should

still look into the ownership issue. The Mayor said Mr. Edes did not need to look into it. Ms. Hill asked for clarification on the motion to deny. In the motion to deny, which reason is the Board citing? Alderman Farley said that it is “incompatibility with the CAMA Land Use Plan.” Alderman Farley restated the motion. He moved that the Board deny the request for rezoning based on the findings of the Planning Board. Alderman Hardison seconded the motion. The motion passed unanimously.

A. Public Hearing - Bridge Ordinance: Alderman Peters made a motion to open the public hearing. Alderman Swantek seconded the motion. The motion passed unanimously.

Ms. Hill read the Staff report beginning with the background. On January 8, 2009, the Planning Board held a public hearing on a proposed amendment to Town Code Section 7-132 *Accessory uses. G. Bridges, private*. The Planning Board recommended that the Board of Aldermen approve the amendment as it was presented to the Planning Board with the changes in item 7 (the owner of each bridge shall submit a certification by a licensed professional engineer to the NTB Building Inspector and have a yearly inspection on the anniversary date of the final inspection) and reword 2d to read that plans to be reviewed by NTB Building Inspections Dept. and that the Fire Marshal signs off on each bridge.

On February 13, 2009, Randall Moudy, Building Codes Administrator sent Thomas Best a copy of the amendment with additional comments, requesting his review.

The public hearing scheduled for the Board of Aldermen’s meeting on March 5, 2009, was deferred until April to allow the Planning Board to review comments by Randall Moudy and consolidate any changes to the proposed amendment.

The Planning Board reviewed the subsequent comments by Randall Moudy and revised their recommendation, for the Board of Aldermen’s public hearing on April 2, 2009.

The Staff recommendations are to:

1. Conduct a public hearing as advertised to consider public comments on proposed amendment to the Zoning Ordinance regarding private bridges.
2. The Planning Board recommends that the Board of Aldermen approve the proposed amendment: Sec. 7-132. Accessory uses. G. Bridges, private.

Ms. Hill said that Mr. Best was there to answer any questions. Alderman Swantek said the Town does not allow building in CON-D but the Town allows bridges? Ms. Hill explained that the Town allows accessory uses in CON-D and the intent of bridges is that you cannot have an accessory use without a principal structure. So you cannot just build a bridge. There has to be a structure near it. The driving force behind the ordinance is that there was a policy and procedure on bridges but the Town did not have an ordinance tied to a fine if inspection reports were not submitted. The ordinance is to gain enforcement capability with policies and procedures.

Alderman Farley asked Ms. Hill, an accessory structure needs to be on the same lot as the building? You cannot have your bridge on one lot and your building on another? Ms. Hill agreed. He asked if the bridge on 23rd Street goes through CON-D. Ms. Hill said that it was all zoned R-20 but the uplands zoned R-20 and the surrounding 12 acres was supposed to be CON-D but it all lumped together as R-20. As the zoning maps were being corrected, the owner applied for permits and received vested rights and property was frozen R-20, it was in wetlands though. Alderman Farley asked if Ms. Hill envisions bridges cutting through CON-D property. Ms. Hill said yes, she could think of one area. You cannot deny access to a person's property. Mr. Edes said right now the Town's policies are not enforceable because there is not an ordinance. He said he understands Alderman Farley's concern but the Town needs to have an ordinance to be able to enforce. Alderman Peters asked if there was precedence for other communities in this regard. Mr. Edes said he has seen bridge ordinances before but does not know whether they consider CON-D. Alderman Hardison asked the size of the bridge on 23rd Street. Ms. Hill said it was 500 ft long and 18 feet wide. Ms. Hill said in the Town ordinance it specifies that private bridges be at least 20 feet wide to allow for the fire trucks and rated a minimum of 25 tons. It is a safety issue. The bridge needs to be large enough for fire apparatus.

Public Comment:

Paul Dorazio of 131 Old Village Lane – He said he wanted to remind the board that the Town's very own high rise bridge starts in CON-D and ends in CON-D.

Mike Yawn of 207 Tamarix Court – Mr. Yawn said that the Town is talking about private bridges. He believes the Town should restrict and control them. He said the Town should ban them entirely, but that may not be legally possible. He said the draft ordinance for the Planning Board goes one step in the right direction, in that private bridges are to be required to adhere to certain DOT and Fire Code standards, and to be inspected by engineers annually. He said however, the draft ordinance does NOT go far enough in controlling the impact of private bridges on our land that is zoned in conservation district. Construction of private bridges in CON-D areas will result in destruction and contamination of these protected areas. CON-D areas, which are typically wetlands, exist to buffer the Outstanding Resource Waters in our estuaries from runoff and pollution. Unlike the now-polluted waters near Wilmington, the Town still has waters that produce shellfish of great quality and great abundance. He said the Town needs to continue to protect these ORW's by keeping our CON-D areas protected and undisturbed.

Mr. Yawn said it seems counterintuitive that the Town would ban construction of a house with 1000 square feet of surface area in CON-D, but would allow the construction of a bridge with 100,000 square feet or more of surface. And remember, one of the themes of the Town's new CAMA Land Use Plan is to preserve and protect the Town's CON-D areas. Also our Town mission statement and our latest Town newsletter state that saving ORWs is a priority.

Mr. Yawn said he would encourage the Town to approve the draft ordinance from the Planning board with one ADDITION, which is that an added entry is made in Chapter 7, Section 128, Table 1, the Table of Permitted and Conditional Uses. In that table he

encourages the Town to add a line-item for Private Bridges, with designation “C” in every column EXCEPT for CON-D, which should be blank. This would mean that in zoning designations other than CON-D, the applicant for a permit for a private bridge would be required to come before the Board of Alderman for a public hearing and Board of Alderman approval via a Conditional Use Permit. That gives the Board of Alderman more control in where we allow private bridges. AND it bans private bridges in CON-D land.

Mr. Yawn notes that this is just a slight extension from what is currently in the ordinance; currently, bridges are accessory structures, meaning that they cannot span multiple lots of record, nor can they be the only structure on a lot’ there must be a primary structure as well (a house, duplex, commercial building, etc). AND our current ordinance’s table of Permitted and Conditional Uses allows accessory uses in all zoning areas EXCEPT CON-D, where it is conditional, meaning that all bridges in CON-D TODAY require approval by the Board of Aldermen. He said strengthening this as he has outlined, by requiring all private bridges to get Board of Aldermen approval, and banning Private Bridges in CON-D, just makes sense.

Mr. Yawn said to the Board that they can do this tonight; there is no reason to send it back to the Planning Board. He urged the Board to take action ASAP to protect the Town’s CON-D lands, and to get town control of private bridges.

Alderman Peters asked Mr. Yawn if he was aware of any specific areas where this would be practical or necessary. Mr. Yawn said if he had a map he could show several places where there is buildable land that you have to go through CON-D to get to and a lot of it is wetlands. Alderman Peters asked if the Town denies access to property, is it a taking? Mr. Edes said it could be considered a regulatory taking but if the Town made it a conditional use it can be looked at on a case by case basis.

Charles Riggs of 502 New Bridge Street, Jacksonville, NC – Mr. Riggs said he did not come to the meeting prepared to speak about this, he said that he wanted to commend the Town for wanting to regulate bridges for the safety of the general public, but at the same time he is worried that the Town would ban bridges that are necessary to get to land which is zoned for development. He said if the Town goes in that direction it would be taking property rights away from taxpayers. He has met with land quality, water quality, Army Corp of Engineers and Division of Coastal Management on several situations involving bridges across wetlands. He knows of clients that have property that is zoned residential. He is getting green lights from every one of the agencies he has met with. He said the Town is looking at 300-400 acres of land zoned for development that you would have to go over CON-D to access. It is good to regulate safety but if you try to take it away it will be taking property rights away.

John Cassidy owner of Pilings and More – Mr. Cassidy said he constructed the bridge at 23rd Avenue. He went through the Army Corp of Engineers. There were numerous inspections by the ACE, CAMA, and Marine Fisheries and there were no noted violations after many inspections. Mr. Cassidy strongly urged the Board to think about it. People pay taxes on that land and it is not right to take it away.

Alderman Swantek made a motion to close the public hearing. Alderman Hardison seconded the motion. The motion passed unanimously.

Alderman Peters asked Mr. Edes to comment on the conditional use aspect. Mr. Edes said that it would constitute a zoning amendment and that the Town has not advertised for that. If the Town wants to take Mr. Yawn's suggestion the Town would have to advertise the proposed amendment and then make the bridges conditional use particularly with CON-D and then take it on a case by case basis. He said he would prefer the Town do that rather than nothing or stopping it in CON-D.

Ms. Burleson said that this does not prohibit construction in CON-D. It is not in the bridge ordinance right now. Mr. Edes said that it would be cleaner for the Board if the Town does it all at one time so that you can see what the end result is going to be instead of piece by piece. He suggested that the Board table it and have the public hearing on Section 128 and then take action on both items at the same meeting.

Alderman Farley asked if the proposal would be to restrict bridges in CON-D areas. He thought they were conditional use already. It is an accessory structure and is automatically a conditional use item and would have to go before the Board.

Aldermen Farley and Peters discussed accessory structures and conditional use. Mr. Edes said the Town should make it clear that a bridge is a separate individual use and make it all conditional and take it on a case by case basis. If the Town does not prohibit them and make it a conditional use and act rationally to grant or deny the application then it greatly decrease the Town's liability.

Alderman Peters made a motion to table the proposed bridge ordinance and to have a public hearing at a later time. Alderman Farley seconded the motion. He said he would hope that the Town would keep the idea that the bridge needs to be on the same lot. It would restrict the number of bridges the Town will have. He thinks there is a serious issue about putting them in CON-D and run off is a big issue. The motion passed unanimously. Ms. Burleson said that the timing for the two advertisements for the public hearing would push it out until June. She asked if this is acceptable.

B. Public Hearing: Proposed Amendment to Town Code Chapter 8 Flood Damage Prevention Ordinance: Alderman Peters made a motion to go into public hearing. Alderman Hardison seconded the motion. The motion passed unanimously.

Ms. Hill explained to the Board that she had received several requests both individually and through a representative of the area realtors to either postpone the public hearing or continue the public hearing. She said she hopes to address the concerns or issues that they have. Ms. Hill read the Staff report.

Effective September 7, 2000, the Town modified the Flood Damage Prevention Ordinance with the following new construction requirements:

- All construction shall meet V-Zone specifications and standards, in accordance with CFR-44, Section 60.3 (Code of Federal Regulations). This requirement applies throughout the Town limits, regardless of A-Zone or V-Zone designation.
- The Town has established a 2' freeboard requirement, which establishes the lowest horizontal structural member and /or piece of equipment at least 2' above base flood elevation. (Service equipment such as electrical meters busses and HVAC equipment

are not exempt from this requirement.)

- All submitted structural plans shall be reviewed and approved by a NC Licensed Professional Engineer.
- All Elevation Certificates, V-Zone Certifications, documents, letters and any other data submitted from Licensed Professional Engineer shall bear an original seal, current date and signature. (Must be address specific.)
- All construction below the base flood elevation shall be designed to break-away wall specifications, and when located within an A-Zone, flood vents shall be included.
- All propane tanks shall be anchored to resist flotation.
- Concrete driveways are not permitted in the Town Limits. (Exception porous/impervious concrete with special permit.)
- All homes, including Manufactured homes, are to be elevated on wood pile foundations. Designed by a licensed NC professional Engineer and pile tip depth set by Design Engineer, based on wind & embedment calculations.

On September 1, 2005, the Board of Aldermen conducted a public hearing on the Flood Damage Prevention Ordinance. Alderman Godwin moved, seconded by Alderman Smith to Adopt the New Flood Damage Prevention Ordinance by November 3, 2005. The motion passed four to one with Alderman Duane voting nay. Recently, an owner and her engineer seeking to relocate a single family residence questioned Staff's enforcement of V-Zone requirements in the AE flood zone. Although the text in the 2005 FDPO is not concise, Staff has relied on guidance from NFIP.

Frank Clifton addressed the issue of town-wide V-Zone requirements at the Board of Aldermen meeting on February 5th. Frank Clifton directed staff not to enforce V-Zone standards in AE-Zone, citing the lack of specificity in the ordinance.

On February 12, 2009, Staff requested that the Planning Board make a determination whether or not they recommend that V-Zone standards be enforced throughout the Town or hold V-Zone property to V-Zone standards and AE-Zone property to AE-Zone standards.

The Planning Board unanimously supports a text change in the definition of the coastal high hazard area to allow V-Zone building standards to apply to AE-Zone plus any modifications needed to the Town's flood ordinances to apply V-Zone standards to AE-Zones.

The Board of Aldermen called for a public hearing to be held on April 2, 2009, to consider proposed amendments to NTB Town Code Ch 8 Flood Damage Prevention to clarify the continued enforcement of V-Zone standards town wide, including AE-Zones. In compliance with State statutes, a notice of the public hearing was published in the Jacksonville Daily News on Sunday, March 15 and again on Sunday, March 22, 2009. Staff received a request on March 27, 2009 from Cameron Moore, Governmental Affairs Director of Business Alliance for a Sound Economy (BASE), to postpone the public hearing and conduct a community meeting with the local realtors and contractors.

Recommendations: 1. The Board of Aldermen should conduct a public hearing as properly advertised on Sunday, March 15 and again on Sunday, March 22, 2009 to consider public comments on proposed amendment to Town Code Ch 8 Flood Damage Prevention, as recommended by the Planning Board.

2. The Board of Aldermen should adopt the proposed amendment to Town Code Chapter 8 Flood Damage Prevention Ordinance.

Ms. Hill said that in addition to the proposed Chapter 8 she provided the Board with a booklet titled CRS Credit for Coastal A-Zone Regulations. She said she also provided the Board with copy of the "Community Ordinance View" which includes the synopsis of NFIP and FEMA when they reviewed the 2005 ordinance. She continued that as they reviewed it included in their notes is revisions to adopt V-Zone standards throughout the Town as a higher standard and also includes the verbiage that is already in the ordinance and it remained as a higher standard. Ms. Hill also provided an e-mail from Milton Carpenter from NFIP who has reviewed the ordinance and his comments on it. His comments reflect that the ordinance meets and exceeds the minimum of 60.3e and is compliant. Ms. Hill said that one of the critical factors that the Town has is that now that Onslow County is assisting with inspections one of their first questions was clarification of the Town's V-Zone standards in the AE-Zones so they would know how to direct their inspections. All this ordinance does is clarify that requirement.

Alderman Farley says that he wants to continue it to get input from builders and realtors. Ms. Hill said the county wants clarification. It was FEMA and NFIP's understanding upon review of the ordinance in 2005 that the Town was enforcing V-Zone standards in the AE-Zone. She said it was Staff's understanding as well until it became an issue recently. The 2005 ordinance lacks the specificity to support enforcement. Alderman Farley said that he thought that the Board already discussed that the 2005 ordinance said that anything adopted prior to this was null and void and that is why the Town does not have the V-Zone overlaying the AE-Zone. Ms. Hill said that it was the interpretation of Mr. Clifton (Interim Town Manager) and the Town Attorney. She said it was poorly written and there was a conflict in the language. She said there is a simple fix and that is to rewrite the ordinance in plain language so that everyone can read it and understand. If the Town adopts an ordinance with more concise wording, the insurance is not going to go up. The insurance is not dictated by construction standards. The insurance rate is determined by the elevation certificate. By having a higher standard, houses in the A-Zone get a decrease. The Town also gets points on the Community Rating Service. Right now the Town has a CRS rating of 7, which directly corresponds to a 15 percent discount on flood insurance.

Alderman Farley said that his concern is that the discount is being paid by people having to pay more for the construction of their home. Ms. Hill said that the concern should be public safety. Building the homes to a higher standard insures a safer product. Ms. Hill referred to the CRS booklet. Alderman Farley is concerned that the Town is reducing the cost of something at the expense of someone else. Alderman Peters stated that the Town has been implementing this since 2005 and its not like the Town is now going to increase the cost, the residents have already been incurring

them since 2005. Alderman Farley said this issue arose and it was going to be a considerable amount of money to use the V-Zone overlay where it was not necessary.

Cameron Moore – Governmental Affairs Director for BASE – He stated that he was there on behalf of the Topsail Island Association of Realtors. He has spoken with many of the Town staff and the manager. He said it is clear that once you look at the timeline there is a general consensus as far as the building and real estate community that there is some uncertainty of when it was adopted and how it was captured in the ordinance. He said interpretation in ordinance is 9/10 of the battle. It helps all parties and in the end it helps the property owner. He stated that BASE has submitted a letter of continuation to the Board. They are not asking for postponement. If it is continued the Town is looking at roughly 35 days for folks to take a look at it. The letter also expressed a need for a public workshop. He said folks who are buying and selling property need to be able to represent their clients. There is general obligation to clarify how the ordinance is going to be applied and the standards. Homebuilders need to know what they are applying for and the realtors need to be able to represent their clients.

Alderman Farley said he is concerned that A-Zone people may lose some of their rights and things that they can do if they have a V overlay, he asked Mr. Moore if he was aware of that. Mr. Moore said he was not aware of any but that others who may address the Board might know more. Alderman Peters asked Mr. Moore about the workshop, how he would like that coordinated and if Mr. Moore is a participant in it. Ms. Hill said that she had contacted someone from the FEMA Atlanta regional office and he will come and participate in a workshop. Mr. Moore said that he would be willing to work with the Town's schedule and that they would be there.

Alderman Hardison said that his understanding is that the practice will be the same. Ms. Hill said he is correct. He said that he has no problem with the workshop. He asked if that is what we are practicing now, there is nothing that is going to be occurring with any of the decisions that the Board makes that will affect that practice, is that correct? Ms. Hill said that Mr. Clifton directed Staff to cease the practice because there was a lack of specificity in the ordinance and that she did not have anything she could "hang her hat on" when it came to enforcement. She said that she and Mr. Dorazio discussed the issue and he remembers when he had to do his first V-Zone certification for property that was in an A-Zone and that was in 2005. Mr. Dorazio said that it was even earlier, he thought, maybe as far back as 2000. Ms. Hill said that for more than 9 years this has been the practice of the Town code enforcement and building inspectors. Alderman Peters asked Ms. Hill what the impact has been since she has been directed not to enforce it. She said that it is inconsistent and there is now confusion with Onslow County. The ordinance went through a review with FEMA and NFIP and they thought it was being enforced. Alderman Peters asked if there is a moratorium on enforcement. Ms. Hill said she was directed not to enforce V-Zone standards in the A-Zone by her boss at the time and she is currently not enforcing them. Alderman Peters asked the attorney if the Town is getting in trouble. Mr. Edes said no, but that the ordinance is not very clear, it could be enforced as written but that it is better for everybody to make it more concise and unequivocal. He said right now the Town is in a "never never land".

Recommends acting on it tonight and not foregoing a workshop and amending the ordinance in the future if needed.

Chris Rackley – President of Topsail Island Association of Realtors - He said that his association looks to him for leadership on things like this to gauge the impact on their industry and he said that he does not have any leadership on the matter. He said he was unable to get information on it. The website was down. He came to Town Hall and asked for an agenda and was told it was not ready. He said he got information from Cameron Moore. He said that there are a lot of questions. He asked about fairness. He asked if North Topsail Beach was the leader on this because there is no other town on the coast that is doing it. Is there a reason why other towns are not doing it? He would like to have more time to get answers. Alderman Farley said that he was glad Mr. Rackley mentioned that NTB was the only town, because he had heard that as well. Ms. Burleson said she has heard that too, and she is trying to find out if it is true or not from NFIP and FEMA. Alderman Farley thinks our Town is the only one on our island. Alderman Peter said all of this can be work out at a workshop. Mr. Rackley said we are not here fighting and he expressed that they want to make this Town as great as the Board does and that the workshop is a great opportunity to figure something out that works for everybody.

Hiram Williams of Hampstead – Mr. Williams said that he is in the real estate and construction industry. He knows Figure Eight Island, Topsail Beach, and Surf City do not have these requirements. He said he has built many houses on North Topsail Beach since 2000 and fact that he was doing it with an ordinance that did not work...He said millions of dollars were spent that didn't have to be because we took somebody's word for it. The new ordinance as proposed has significant changes. Most of them have to do with placing the AE-Zone under the V-Zone category. He picked out the new things that are in it. In the finding of facts it does not say that the Town has to do it. FEMA does not require it. He asked why the Town needs to do it. He spoke about the high costs of complying with it, the engineering of homes, and the processes that are necessary to go through. He said it could take years to pay for the extra cost. He pointed out that on page 2-6 repetitive loss is not in alphabetical order. He question whether "riverine" was in the ordinance on page 2-7. He had an issue with the definition of sand dune. Alderman Farley asked Mr. Williams, "going back if you didn't have the V-Zone overlay in the AE-Zone could you move sand in the AE-Zone?" Mr. Williams said yes, if it is landward in the toe of the dune. Ms. Hill said that if you are in an ocean dune that has sand you will be in a V-Zone at NTB. She said there are other ordinances and regulations that regulate the treatment of dunes on this island. He pointed out on page 4-18 about if a variance is granted the increased premium amount and explained that this would have been a bad error. Mayor Martin said that these issues can be addressed at the workshop. Alderman Peters said that the workshop should discuss savings.

Patsy Jordan of 7902 7th Avenue – Ms. Jordan said she has been a resident of Onslow County since 1985 and has also been a real estate agent for 21 years. She said she had never heard of this ordinance. She was chairman of the planning board of NTB for 5 years. She said this ordinance is not known by every citizen of this Town. She asked the Board for support in postponing the passage of this ordinance tonight so that there can be a workshop and so that citizens can understand the process.

Alderman Farley asked Ms. Jordan to quantify what it costs her to be in a VE zone versus A-Zone. She said it costs her quite a bit more because she had to have engineered plans for everything she did. When she was told she had to tear out downstairs, it was astronomical. Alderman Farley asked Ms. Jordan how far away she is from the ocean. Ms. Jordan said that the ocean is 500 feet away from her house.

Jean Brown of Surf City – Ms. Brown has been a realtor on the Topsail Island for 24 years. She said it had always been her understanding that the VE zone was a higher risk zone than the AE-Zone and that the VE zone was always more costly for insurance than the AE-Zone. She does not think a lot of people understand that until they are about to buy property. Realtors have been telling buyers that the insurance rate was determined by the elevation and the zone. She said that these issues need to be clarified. She said it would be a detriment to sales if it is more costly. She said that if the Town decides to put all of NTB in a VE zone we have a problem. She respectfully requested that the Board hold the workshop first and then decide what to do. She thinks that insurance agents, realtors, and builders all need to have an understanding this issue.

Alderman Farley asked Ms. Brown if insurance is any higher in Surf City than here. Ms. Brown no, it's based on the zone and does not matter what town the property is located in. Alderman Peters said that if the VE overlay goes into effect it would have an insurance ramification, but it is very clear that the zone remains in the same zone. She said we don't know that it affects the insurance.

Mr. Cameron Moore – Clarified that his organization does not want a moratorium. He said we do not need a moratorium because of the state the economy is in right now. He said what we are talking about is applying V-Zone standards if you pass ordinance. If the Town does not pass the ordinance people can still be able to build and there will be more time for people to look at it. There are a lot of questions. There would be 1-2 houses built in the window of time available to have a workshop and work on the ordinance. Alderman Farley clarified that the Town was not considering a building moratorium, just in implementing the VE overlay.

Alderman Swantek made a motion to close the public hearing. Alderman Peters seconded the motion. The motion passed unanimously.

Ms. Burleson wanted to clarify that when the idea of the workshop came forward the Town asked FEMA and NFIP to come to do a workshop. They have a couple of dates in place and will be moving forward with it. There is an issue with consistency and consistency of enforcement and that was the driving force behind staff bringing this forward at this point. It has been adopted and implemented since 2000. By not adopting this ordinance this evening she said she has a concern that the Town might be putting our CRS rating of 7 in jeopardy. Currently FEMA and NFIP think the Town is enforcing it. VE overlay does not change classification; it just puts the building standards on top of the AE classification.

Alderman Peters asked if the Board should defer it to counsel for overall guidance. Mr. Edes said from a legal perspective, the Town has been having builders build to

VE standards in AE-Zone and Mr. Clifton found the inconsistency. He would like the Town to go back to the way it was doing it or decide not to do in now. The Town needs to be consistent in whatever route it takes and as soon as possible.

Alderman Swantek made a motion to approve the ordinance with the stipulation that the Town has a workshop and that coming out of the workshop there may be amendments to the ordinance. Alderman Peters seconded the motion.

Mr. Edes stated that this is a readoption of the ordinance for clarification purposes and is not a true amendment of the ordinance. Alderman Farley asked why the Town would want to readopt an ordinance if everybody agrees that this is our ordinance and if it is not a good ordinance, why would the Town want to adopt it. He is very concerned about why NTB is the only town on the island that has it. He has always heard about how expensive it is to build at NTB and he thought it was just a grumbling business person. Alderman Peters said he understands his concern but hopefully the workshop can help resolve it. Mr. Edes said he would like to see consistency as soon as possible. Alderman Hardison asked Mr. Edes if his concern is what the Town does between now and next Board meeting. Alderman Swantek said the Town cannot put in anything temporary; it has to be one or the other. Mr. Edes said he does not know how many applications have been put in since enforcement stopped. Alderman Swantek said that if there is something wrong with the ordinance he would like to get it changed so that it can be consistent and he thinks the Board needs to do something tonight. Mr. Edes said what is telling to him is that a builder that builds on this island says he has been doing it like that.

The motion passed with 3 to 1 with Aldermen Peters, Swantek and Hardison voting for and Alderman Farley against.

Mayor Martin said that the Town is certainly going to do the workshop. The Mayor repeated the motion and the vote for the audience. Alderman Hardison said that the Town is not going back to anything, as much as the Town is continuing the practice that the Town has been doing. Alderman Farley said that he doesn't think the public wants an opportunity for the Town to educate them on the issue, but that they would like to have input.

VII. **MANAGER'S REPORT:**

Rezoning of Folkstone Road Property: Ms. Burleson reported that the Town owns approximately 12 acres on Old Folkstone Road and a rezoning application is in at the County. The Town has asked for a continuance on it, there were some questions and the Town is going to address those next Tuesday. The planning commission is meeting this evening to consider it; it will be started and then continued until next month. Alderman Farley asked for clarification. He asked if the Town is going to notify the adjacent property owners. Ms. Burleson said yes, the Town has done everything on its end.

Collection of Unpaid Solid Waste Cart Fees: Ms. Burleson reported that there is over \$10,000 of outstanding cart fees, not for initial cart but for additional cart. Residents are not coming in to pay after notice and letters. Ms. Burleson said she is seeking Board approval to do more intensive retrieval of the funds using the debt offset the State has in

place to get the fees and if she can't do that she wants permission to take up the extra carts. The residents will come in and pay what is in arrears and they will get their cart back.

Alderman Farley said that he pays his cart fee every year and it concerns him that people are not doing it, it's not that much money to have an extra cart and it is to your own benefit to keep the animals out of the trash. Ms. Burleson said and as the Town gets into this further there may be some other administrative things that she does, maybe change the time that the bill goes out for the cart and go from there. Alderman Farley asked if there is any way to get it on the bill for the property taxes. She said she had not looked into that and she thought about it recently and does not know if it can be added on. Mr. Best explained that some people return the cart after the summer. Ms. Burleson said that these are carts the Town has been paying for over the course of time. The Board was in consensus that the manager should be more aggressive.

NTB Sea Oat Program: Ms. Burleson reported that in the past the Town had a sea oats program that matched funds to plant sea oats. Ms. Burleson asked the Board to approve a budget amendment to move \$5,000 into the dune maintenance line in order for the Town to do a matching for planting of sea oats as well as sand fencing. The dune maintenance line is where the Town tracks the expenditure for the sand push. This will leverage \$10,000 of protection for the dunes. She said she feels it would be a good investment. Alderman Peters wanted to add one stipulation. He said he has reported numerous instances of incorrect sand fencing to staff. It has supposedly gone to CAMA and nothing has ever happened. He will insist that there is a stipulation that these be installed correctly according to CAMA requirements and if not done so then the Town will be responsible for taking them up. Alderman Farley thought that the Town did not have a fence ordinance. Ms. Burleson said that there is a regulation with CAMA because Barry Burke does inspections. Alderman Farley said that what he is getting at is can the Town go on people's property and start ripping their fences down. He said CAMA has refused to act when his neighbors improperly installed their sand fence. Ms. Burleson said she will work with staff to make certain that the Town has a good mechanism in place to ensure that the fences are installed properly. She also said that this time she is going to make certain that the plants do not end up in another jurisdiction, like they had in previous years.

Partnership with DOT to Patch and Resurface New River Road: Ms. Burleson reported that she has been in communications with DOT. She had gotten a couple of inquiries about the roads in our Town, especially the bridge abutments, having those patched or things that the Town could do. The DOT has said that if the Town is to wait until DOT does the patching and the paving the Town is looking at a 6-12 year interval before they will have the patching done. The DOT has it broken up in two sections, Part A, which would be the bridge abutments and everything from the north end of the island down to Marina Way. Part B is from Marina Way all the way down to the intersection with 210. What DOT offered is that if the Town will partner with them, at whatever level the Town is comfortable with, they will try to get it done faster. DOT will move it up at a 3 year cycle instead of 6-12 year cycle. DOT will not use a plant mix, but instead a slurry mix and get all of New River Inlet Road. Alderman Peters asked how long it would take to get the refund. For Part A the projected cost is \$110,000 and Part B is

\$95,000. The Town will match it and had discussed doing a 50/50 match. DOT would push DOT along. Alderman Peters was under the assumption that the Town would be reimbursed in the future for our share. Ms. Burleson said that is not correct. Alderman Hardison asked if there was a possibility of getting stimulus money for it. Ms. Burleson said it would be nice but she has not heard of any money for roads. Alderman Farley asked if the Town is paying the whole amount. Ms. Burleson said no, that the Town will pay a portion and that earlier discussions with the Board indicated that the Town is willing to do a 50/50 match and she thinks that would help DOT keep things moving, but it would be at whatever level the Board is comfortable with. Alderman Farley asked what kind of roads the Town is getting for our money. Ms. Burleson said that the Town is getting patches and the approaches to the bridges. He asked if that has a significant impact. DOT is patching the roads regularly. Mr. Best explained that the milling and patching would be done first and then the DOT can use a different fund of money to cap the road from the stop sign to the north end. Alderman Farley asked if there is any guarantee that DOT will do it in 3 years. Ms. Burleson said that DOT could not give the Town a dead set guarantee, but if the Town does not partner then it will be a 6-12 year cycle. By the Town partnering in with DOT it would push the Town ahead in the cycle. Alderman Farley said that there will be \$35,000 in Powell Bill Funds. Mr. Best said a little over \$31,000. Ms. Burleson said that Powell Bill money is for Town maintained roads. Alderman Farley asked if there are any projects that needed to be completed on the Town roads. Mr. Best mentioned a few capping projects and some paving and Goldsboro Lane will cost around \$14,000. Alderman Farley said he moves to spend up to 50 percent of the cost. Mr. Best said all the DOT needs right now is a letter of intent. Ms. Burleson asked for authority to enter into any agreements needed to keep this process moving forward. Alderman Farley asked if the funds are available. Ms. Burleson said yes. Alderman Farley said he will make that motion then that the Town partner with DOT for up to 50 percent of the cost. Alderman Swantek seconded the motion. The motion passed unanimously.

DOT Estimate to Complete Bike Path Between Current Southern End Point and the Surf City Line: Ms. Burleson reported that she worked with DOT to come up with an estimate for the continuation of the completion of the bike path from where it stops to the Surf City line. DOT said that the specifications that were used for the first section was a 4 foot wide foundation with a 4 foot wide cap. What DOT will require in the future is a 5 foot foundation with a 4 foot cap; this will prevent the crumbling on the edges. DOT has given the Town an estimate on a turn-key process where they will draft the specifications, get all of the necessary agreements to use the easements and right-of-way and inspect and install it for \$260,000. Alderman Peters asked Mr. Best how that estimate compares with the commercial price. Mr. Best said the commercial estimate he received was \$250,000 and it was on a 4 foot foundation. Alderman Swantek asked if the Town is getting a 4 foot bike path when all the Town had before was a two foot bike path. Alderman Peters said the one the Town has is currently four feet. Ms. Burleson asked the Board to give Staff authority to enter into any agreements with DOT to keep this project moving forward. Alderman Farley said he would like to discuss it more when the budget is discussed to see where the Town is and where the money will come from, maybe from the Capital Reserve fund. Mayor Martin said it will be discussed at the budget workshop which may be held on April 16th or 17th. Alderman Peters asked if the road project and the bike path can be done at the same time. Ms. Burleson recommended that the Town suggest to DOT that if they can do it at the same time as a cost savings, they should do it

at the same time, but her understanding is that the two activities require different skills. Alderman Peters suggested that in the interim the Town could look into applying for grants.

Authorization to do Feasibility Study with Onslow County Municipalities on Consolidating Building Inspections (Resolution 2009-5): Ms. Burleson reported that Onslow County put out an invitation to all jurisdictions in Onslow County to participate in a feasibility study to consolidate building inspections operations. It is a good time to do this since it is budget time and all the jurisdictions are looking at efficiencies. The invitation came out 3-4 weeks ago and Ms. Burleson attended a meeting on it and she said it seemed that all the jurisdictions seemed interested in at least putting the topic out on the table and looking at it. She asked for authority to participate in the study and go from there. There is a resolution giving her authority to participate. Alderman Peters made a motion to adopt the resolution as presented. Alderman Swantek seconded the motion. The motion passed unanimously.

Interlocal Agreement between Onslow County and North Topsail Beach - Inspection Services: Ms. Burleson reported that the Town has requested Onslow County to provide building inspections services in the interim while the Town makes the decision on how it is going to move forward with the building inspections. Alderman Farley made a motion to authorize the mayor or town manager to enter into agreement with Onslow County to provide building inspections services until such a time as the Town either hires someone or decide to move to that situation full time. Alderman Peters seconded the motion. The motion passed unanimously.

VIII. **OPEN FORUM:**

Paul Dorazio of 131 Old Village Lane – Mr. Dorazio said he was speaking as a resident of NTB and wants to plead with Board to please start interviewing and putting out an ad for a building inspector. He said he is a taxpayer and it is a service that he demands. From what he understands he thinks the Town actually came about because residents couldn't handle dealing with Onslow County doing the inspections and they wanted their own building inspector and their own police department. He mentioned in his 20 years in the Town, the Town has had a problem keeping building inspectors. He said the Town has been through about six. He said most of them end up coming from Onslow County and it is very different inspecting coastal homes. He said it takes a minimum of 2 years to learn the process of how to properly inspect coastal homes. He said there are only two class three inspectors at Onslow County which means you are going to have to have four different inspectors to do a house (heating and air, electrical, framing, and plumbing). The point is they don't have the experience and it is a 2-3 year learning process. He said Randall just finally got it down. There is a learning curve. He said if we have a storm we don't have a qualified knowledgeable building inspector to help us. He said the last thing the Town is going to get is help from Onslow County after a storm. He said the Town needs a level 3 inspector and the Town cannot afford to have someone who is in the process of getting qualified for the job. He said there are probably several building inspectors available who have been laid off. He asked the Board to move rapidly on this. Alderman Hardison asked Mr. Dorazio if he thought that the Town

should not make this a permanent thing. Mr. Dorazio thinks that it is a major mistake. He said it a service that the residents need full time.

Tom Leonard of 218 Coastal Drive – Mr. Leonard said he has two things to talk about. The first is the bike paths. He said as tax payer and a citizen, before the Town spends a dime, the Town needs to see how well and how much they are used. He thinks it's a huge waste of money. He is all about safety. People are still riding their bikes in the road, why are we going to have a bike path if we are not going to use it? Next he addressed the agenda item to discuss the BEST report. He said the last time that the Town had a beach erosion related issue that was to be discussed by the Board, which was back in February, it was decided by the Board members that were present that it was advantageous to have all Board members present before that issue was discussed. That meeting was scheduled and rescheduled a couple of times in order to accommodate the work schedule of one of the aldermen. Mr. Leonard pointed out that Alderman Tuman is not present tonight. He feels that it is only proper to delay the discussion of the BEST report until all Board members are present. This is the fair and equitable thing to do. This will preserve the integrity of the process. The same standard should be applied tonight as was back in February.

Mike Yawn of 207 Tamarix Ct. – Mr. Yawn said he would like to agree with Mr. Dorazio, he thinks it is absolutely imperative that the Town hire its own building inspector. He said he would like to disagree with Mr. Leonard about the bike paths. He said he sees people on them all the time. He thinks the Town should put it in next year's budget and pursue grants to complete it. He encourages the Town to pass something to include recycling. He understands the need to delay the bridge ordinance but he has a slight concern with people that are going to try to get in under the wire. He said he would like the planning board to be invited to the workshop on the flood ordinance. He mentioned the roadwork that was just approved and hopes that it can be taken from our capital budget but mentioned it is the State's capital and not the Town's. He said he would personally like to thank the BEST team for all the work they did, they did a great job on the report, and he encourages everybody to take a look at it. It is a good thorough piece of work.

John Cassidy of Sneads Ferry – Mr. Cassidy said he wanted to reiterate what Mr. Dorazio said about the need for a building inspector. He said if anyone were to ask Jeff Holland what he went through after Fran, you would understand. He thinks it is a mistake going through the County. He mentioned all of the contractors coming out of state after a hurricane and that it will be out of control.

Lenny Denittis of 126 N. Permuda Wynd – Mr. Denittis said he agrees with the others. He said the biggest things after a hurricane is how are residents going to get back on the beach and who is going to be in charge of a disaster plan. He said if the Town is waiting for someone from Onslow County to come down here to tell us the houses and streets are safe we are doing the Town a big...are we doing this to save money? He asked if the Town has put out an ad for the job. He asked if the Town is going to run an ad. He said the Town is going to suffer especially if we get an early storm. Ms. Burleson said she has not been given direction to run an ad and she has not been told not to run an ad. Mayor Martin said the Town will work on it.

Jean Miller of 4452 Island Dr. – Ms. Miller said she just got caught in this as of today. She is trying to replace windows on the front of her house. She has talked to Randall and Jean down at Surf City and the director of insurance of NC. Her contractor spent the morning in Jacksonville trying to figure out who he is going to report to and he hates to think he will be up there trying to get somebody down here. She thinks it's going to be a real mess.

Ed Borden of 110 Tiffany Place, Jacksonville, NC – Mr. Borden is the general manager for Gideon Heating & Air and he worked with an Onslow County inspector (level 3) today. He said the inspectors are not aware of what the flood elevations are and they have to defer to another department. To pull a permit you have to request it, so it goes to a flood division to determine the flood level. He said it holds up his process. He had to go back and build a stand higher because the information he got the first time was wrong. He is concerned about what this will do to the people around here. It may hold up the process of someone getting air conditioning that really needs it.

Gary Williams of 31 Osprey Drive – Mr. Williams said he wanted to discuss Section 10 C – Discussion Regarding Vendors on Public Property. He and his wife JoAnn are the owners of Bada Bing original Italian ice. They approached the Town last summer about operating a mobile Italian ice business on the beach. He said they were well received. He said Town Staff said it was great idea and he was issued privilege license. They operated last summer. He said he wanted to share with the Board the wonderful response they had from vacationers and property owners in regards to the operation. He said that the product they serve is a high quality product, it is hand scooped from the insulated containers in the specially made cart. The cart is small in size; it is only 25 inches square and is equipped with specially made tires to be mobile on the beach. They use a low key approach; there use no bells or chimes. They would rather people approach them. They are in one area for 10-15 minutes and then move on. The company is professionally managed and is licensed with the State and insured for up to \$1 million. It is a good summer job to provide for individuals. It is a great convenience for beachgoers because they don't have to leave to go to Surf City or Sneads Ferry. He said he appreciates the opportunity to address the Board.

IX. CONSENT AGENDA:

- A. Approval to Pay Tax Refund**
- B. Resolution Accepting and Endorsing the Solid Waste Management Plan of 2009 for the Town of North Topsail Beach (Resolution 2009-6)**
- C. Approval of Minutes**
- D. Department Head Reports:** Reports from Finance, Fire, Inspections, Planning and Police Departments were submitted to the Board of Aldermen. There were no presentations made by department heads at this Board of Aldermen meeting.

Alderman Farley asked Ms. Burleson about item 10-410-61 from the Finance Report. She said that the Town is in the process of moving some of the funds around. Alderman Farley said it does not add up. She said that the \$548,641.35 is a journal entry and it was moved from litigation to acquisition. The Board had approved that change.

Alderman Peters made a motion to approve the Consent Agenda as amended without the March 5, 2009 minutes. Alderman Swantek seconded the motion. Alderman Farley asked Ms. Burleson to take a look at the comp time; it is rising again after having dropped. The motion was approved unanimously.

X. Old Business

- A. Request to Award Contract for Collection and Disposal of Curbside Solid Waste and Recyclables:** Ms. Burleson said to answer the question to when the Town is going to start recycling; the answer is the first of July. Staff had put out a request for proposal and advertisement. The Town had three companies that showed interest in providing the Town's solid waste and recycling services. Staff has reviewed the application they submitted and Ms. Burleson said that the recommendation is to accept the proposal provided by Waste Industries. Waste Industries is the Town's current providers and they came out as the low bid. Ms. Burleson asked for the Board's authority to enter into an agreement with Waste Industries to provide the services to NTB. They can start on the first of July. The pick up days are Wednesday and Saturday for the solid waste and Friday pick ups for the recycling. The recycling cans will be blue and similar but slightly smaller than the cans the Town is currently using. All of the items go into the one container to be sorted later. Ms. Burleson went over the costs with the Board. She suggested that the Town go with the alternate bid that Waste Industries provided the Town; it comes out as a better price over the year.

Alderman Farley asked about the costs. The representative from Waste Industries, Norma Yanez, explained that the monthly charge per month includes two pick ups a week in the summer time and once a week for off season. She said right now the charge is \$6.65 a month per cart. The Town is considering their proposal of \$8.95 per month and this adds the recycling cart to be picked up once a week in the summer and every other week in the off season. Alderman Farley asked if a percentage of the recycling does not get recycled. He was directed to speak with the facility manager at the landfill to get information on the percentage of contamination of recyclable materials. Alderman Swantek made motion to approve Waste Industries as our provider of solid waste collection and recycling and to authorize staff to go into agreement with them for the alternate bid amount. Alderman Peters seconded the motion. Alderman Farley asked why the charge is \$8.95. Ms. Yanez explained that the RFP asked for new carts. Waste Industries made an original bid based on providing new carts, but the \$8.95 is the alternate bid using new recycling carts only. She explained for \$2.30 more the Town is getting the recycling and the days it wants. Alderman Farley looked at the total estimates for the year based on Waste Industries prices. He asked about the fuel surcharge. When gas goes over \$3.25 the previous contract had the Town paying some more based on the amount of fuel used and was charged to the town. He also asked about the cost of living charge that was in the previous contract. Ms. Yanez said that is another item that is usually in the contract and it has been negotiated. The motion passed unanimously.

- B. Request to Award Contract for Town Hall Building Renovations:** Ms. Burleson reported that Staff prepared and RFP, advertised, and held a pre-construction

conference for a renovation project for the Town Hall. Eight contractors submitted bids that were anywhere from \$29,354 to \$48,000. This is for the work to move the electrical near the police department. Staff reviewed the bids and recommends that the Town award the contract to Diamond Contracting Inc. to complete the project. Alderman Peters made a motion to award the contract to Diamond Contracting Inc. for \$29, 354. Alderman Swantek seconded the motion. Alderman Farley asked if the project is strictly electrical. Ms. Burleson said that the electrical panels need to be moved outside and some other work that needs to be done. There is more to it than just electrical. Alderman Farley said the reason he asked that is because Alderman Tuman had previously questioned the need to spend \$48,000 on electrical work and he was assured that it was absolutely necessary; now the bid is \$29,000. The motion passed unanimously.

- C. Discussion Regarding Vendors on Public Property:** Ms. Burleson had resent an e-mail earlier this week which contained the information she had gotten from the planning board. She has not had a chance to discuss it with the Town Attorney. She said the Town is looking for input from board. Mr. Edes said his recollection was that the Board was going to provide input to him. He had given out 3 or 4 town's versions of ordinances dealing with vendors at the last meeting. He was waiting on direction from the Board. He said that if the Board will allow him to, he will draft one himself. Alderman Farley had submitted his comment and he said he does not support any vendors on the beach. He said nobody is clamoring for vendors to be on the beach. He wants the ordinance to stay the same. Alderman Swantek submitted that he disagrees with Alderman Farley, that the Town should not disallow them. People expect to get an icy and a hot dog, some restrictions are necessary. Alderman Peters said vendors on the beach are okay. He thinks something needs to be done about the Shrimp lady on the right of way.

Ms. Burleson does not know how DOT has addressed or not addressed having the vendor in the right of way. Alderman Peters said he does not think they could do it legally there. He would be fine with grandfathering them. You cannot let them do business and then not let have others do what they want. Alderman Peters suggested because there are diverse opinions that there should be a subcommittee to get it done. Mr. Edes said that he just needs the initial direction to draft an ordinance or not. He said he has one person that wants none at all and two that want to see some of it.

Alderman Hardison said he would not support it at this point. He thinks it will turn into something that is going to be uncontrollable. He would not hold too solidly with that if there were some guidelines or restrictions built in, but he said the strangest thing is that you had the Shrimp lady and the fruit place and the guy before Surf City, someone comes along and requests to sell on the beach and all of those other people are kicked out and moved aside. He said you can look at it as kicked out to let this guy move in. He said it's something that he couldn't support at this point.

Alderman Swantek said he must bring this up that the Town allowed the Italian ice people to do this last year. The Town told them that they can do it again this year. They invested money into this business and our planning department said they could not do it. Alderman Farley said that it is not the Town's issue. Alderman Swantek said it is the Town's issue. Alderman Hardison said he doesn't have a real serious

problem with something happening with vendors but it he wants it controlled. He asked why we have to go to changing laws and making laws for individual people. Alderman Swantek said that we need to bring this community into the 21st century. Many of the Town's ordinances were written years ago and things have changed over 10 years. Alderman Farley said that vendors are the answer to bringing the Town into modern government? Alderman Swantek said that it does not hurt anybody. Alderman Farley said he sees no need for having things sold on the beach and then put restrictions on it and who can be there is extremely subjective. Alderman Hardison said that people have already been hurt by the way the Town has done things. Alderman Farley said that some people have paid for access to use the County's concession facilities. This would hurt their business. Mr. Edes said that he could draft a proposal for the Board to look at. The Town Attorney will draft ordinances by the next meeting.

- D. Discussion of BEST Team Report:** Mayor Martin announced that a comment from a citizen was made to move this item to next month. Alderman Farley said the reason the aldermen put it off before was because there was a vote, not because there was a discussion. He said he thinks the Board can discuss it. Alderman Swantek said that several factors are involved here. He said that he spoke with the chairman of the BEST Team, Mr. Ed Doherty, about what kind of meeting he wanted. The meeting was scheduled by Lara. The mayor cancelled the meeting. Then the mayor received a call to schedule a meeting and when he tried to, someone said that is not what they want. He said he does not know what they want. He thinks that since all have read the report, and knowing what the report has said, the BEST team has five recommendations and the Board has to decide how the Town is going to move forward from this or if the Town is going to move forward. Alderman Peters said he would like to do this when Alderman Tuman present and that is his motion. The motion failed for lack of a second.

Alderman Swantek said that the BEST report was a good report and very in-depth, he said to make a decision now would be premature. The Town needs to know where the financing is coming from, without financing the Town does not have a project. The Town doesn't even have a permit. He said the Board does not know what our people really want. He said some have said that the Town can put a survey out. How can you do that without knowing where the money is coming from and if you have a permit in hand? He said right now he thinks until the Town gets permits in hand or until the Town gets some financing the Board will have to go up to Raleigh and Washington to see what else the Town can get. With those three variables going right now he doesn't think the Town can do anything without these things.

Alderman Peters asked, No permit? What does that have to do with the BEST team? He said that the Board has been asked to discuss the findings of the BEST team. He said that they wanted a response from us and we never gave them a response. He said not knowing where the money is coming from is irrelevant to the findings of the BEST team. He said the fact that they don't know what people want is also irrelevant to discuss the findings of the BEST team. He said those are not the findings of the BEST team. The BEST team recommended the CP&E program and getting the permit and moving forward with that. Alderman Swantek said that the Town is already doing that. Alderman Peter asked, "Is that what you did last month?"

Alderman Hardison said that it's difficult for him to pinpoint what people want and when they want to do it. There have been a series of suggestions and requests to respond and questions as to whether or not the BEST team has done their job and it is time now for the Board to make some kind of response to what BEST has presented. He feels that if the Town can clear all of that stuff up and take first things first it does not have to get to where we are going back and forth. He said let's make some decisions and move on. There are a lot of things that have been out there. There has been no decision on any of it.

Alderman Farley said that he is in agreement with Alderman Swantek. There is no funding there. The projects and permits are moving along. He feels there is no reason to meet with the BEST team. He said the report is in the Board's hands and the ball is in our court to decide what needs to be done. He said there is nothing new under the sun. These are the same arguments were heard years ago. It is the responsibility of the Board to decide what they want to do and where they want to go. He said Alderman Swantek is right that the Town keeps pushing this like the Town has a lot of money. He heard that the meeting with the County Commissioners was not as fruitful as we would like and the numbers we have been given are the best case scenario. He thinks the funding for this thing is really up in the air. He said Alderman Swantek mentioned the referendum. If you ever want to have any credibility on this project the citizens have to step up and pay the lion's share of the cost. He said we have the report and we are moving along with the project. He is happy with things the way they are.

Alderman Hardison said he has heard quite a lot about projects we have approved and recommendations that have been made in terms of things beyond the money. He said the Board accepted the package and he thinks the BEST team was looking for something more than that. The BEST team was looking for the Board to say yes and no right now on the recommendations and the Board has not gone beyond that point. He said with the projects and everything, he cannot recall the Board approving any project at this point.

XI. NEW BUSINESS:

- A. Approval of Settlement Agreement with Charter Communications:** Mr. Edes explained that an audit was performed of Charter and Charter fell short to the tune of \$10,679.15 and a settlement agreement was prepared by the auditor. Mr. Edes said the agreement looks fine to him but explained that Charter filed has Chapter 11. He said that Charter agreed to that number. Ms. Burleson said she believed that they had negotiated with Charter and had and agreed with this figure. The Town would be an unsecured creditor. It would not hurt the Town to sign it and send it on. Alderman Swantek made a motion to approve settlement agreement with Charter Communications. Alderman Farley seconded the motion. The motion passed unanimously.
- B. Minutes of March 5, 2009:** Alderman Hardison said his question about the minutes is the motion that was adopted last month to spend \$17,500 to do the necessary modifications in terms of looking at the quality of clay or sand, his concern was that

we were continually giving money to CP&E and there was always something more. He said he suggested or pleaded to the Board and was probably looking at the lawyer and letting him know that he could go along with a motion that was made by Alderman Tuman, if in fact certain things were done. One thing was to have them to sign a contract giving the Town confidence that at the end of this particular job for \$17,500 that the Town would get a permit in its hands. As he read the minutes afterwards, there is absolutely nothing in there that includes those stipulations that he made. He would like to know what happened to it and why it is not there. He thinks he is usually soft spoken but he thinks what he was expressing then, he was speaking loud enough that people could hear him. He said it is very disappointing and upsetting that this motion was passed without the inclusion of the things he had asked for and it produces a lot of curiosity in his mind as to why and how something like that could have happened. He said it is no reflection on the clerk or anyone else, but it is not fair and he wonders if there is some explanation for it.

Ms. Burleson said that the only thing she could offer is that during the discussion there was a lot of interaction through the motion. There was a motion that failed and another motion that came forward that she does not know if she understood that Alderman Hardison had intended those comments to be as stipulations on the motion that had been made. She knew that he had concerns about it and she had been talking to CP&E about costs and control even prior to that meeting but she did not understand it as stipulations on moving forward with the contract with CP&E for that \$17,500 to modify the EIS.

Alderman Farley said that it was perfectly clear that Alderman Hardison was putting stipulations on that; in fact he believes Alderman Tuman alluded to that and he said is there something we can change here? Alderman Peters said that this issue with making stipulations before a motion is totally irrelevant. What was said 3 or 5 minutes before the motion was made have nothing to do with the motion? He said do not try to read into the motion something that you said want done before. A motion is a motion and if you do not like it you should talk to counsel. Alderman Farley asked about manipulating the minutes. Alderman Farley said that Alderman Hardison made it clear that he would accept it with conditions and that was the motion that the Board voted on. Alderman Peters asked Alderman Farley why he didn't vote for it then. Alderman Farley said that he did not agree with those conditions. He understood what was going on at the meeting.

Alderman Hardison said it is only a matter of fairness that if something is unclear if you do not understand what someone has said or if it sounded confusing, then you would ask them. He referred to a portion of the meeting where the Town Attorney said that he may have to look at the contract. Alderman Hardison asked Ms. Burleson if she directed Mr. Edes to look at the contract. Mr. Edes said his understanding of it was that the concern is that CP&E keeps coming back to the well for more money. He might have mentioned that every contract of that magnitude with have an unforeseen circumstance clause. He recalls Alderman Hardison saying that he is agreeing with this on the condition that they are not coming back to the well to get more money. Alderman Farley said that is what Alderman Hardison voted on. Alderman Hardison said that it is clear. Alderman Peters said he remembers that statement was made several minutes prior to the motion that came up, he said

Alderman Hardison stated those prior to the first motion that was made. Alderman Hardison asked if he would like him to rescind the motion. Several aldermen and the manager said that Alderman Hardison did not make the motion, he seconded it. Alderman Hardison agreed that he seconded the motion and from what he gathers he can rescind it. Mr. Edes said he can make a motion to rescind it. Ms. Burleson said it can be brought back up for discussion and can be rescind or amend the motion. There was discussion about the appropriateness of doing anything in Alderman Tuman's absence. Alderman Hardison said that rescinding it is an option, but not what he is recommending. He said he just doesn't know how what he expressed did not make it into the record. He said he questions it puts a lot of suspicion in him on how it could happen and why. Alderman Farley asked if the minutes should be changed to reflect what the actual motion was and shouldn't the Town then act upon that? Alderman Hardison said that is the point of him bringing it up.

Mr. Edes said the issue is these minutes and whether they are going to be approved. That needs to be address. He referred to the audio. The clerk said that she is not certain that that portion of the meeting is on the audio. The sound system had to be turned of at some point because the speakers were not working properly. Mr. Edes said whether the minutes are changed or not the Board can direct him to look at the contract and at least interface with CP&E with that concern and our expectation is that the Town get the permit and they will not be coming back for more money. Alderman Hardison said that is the point, he does not think they should do anything towards that \$17,500 until they sign something or agree to get that permit in hand. Ms. Burleson said that based on her understanding of how she was directed from the motion from that when CP&E drafted up a proposal or agreement to go forward with us spending the \$17,500 so that they could modify the EIS, when that came in Ms. Burleson signed it.

Alderman Hardison said they can't do anything if we don't approve the minutes. Mr. Edes said yes they can. Ms. Burleson said the motion was made and seconded and voted on to spend the \$17,000 to modify the EIS. Mr. Edes said he would be happy to look at a contract and draft a letter or sit down with them and attempt to get them to sign something; he can't promise that they will now. The Town can let them know that the Town's intentions are to not pay any more money until the Town gets a permit in hand and move on to the next phase of the project, if the Town moves on past the permits. Alderman Hardison said this has been done twice before, we have sat down with CP&E and said no more and it continues that way. Ms. Burleson said there might be an issue. She said everything that the Town has paid so far for the EIS development to the stage it is now has been under an original contract which may have been signed years ago. She thinks there may have been some other expenditure that has been incurred by the Town not associated with the EIS, but potentially associated with BEST. There may be two separate things that have been happening side by side. She had some discussions with CP&E about expenditures. She told them she wants all of the expenditures to go through her so she can say no. We have not spent anything above the contract up until the \$17,000 and but then there are other expenditures for CP&E have been for things associated with something like the BEST team.

Alderman Farley said that discussion about this occurred previously. He said the Town had gone over what the contract was. CP&E said that the Board voted to spend more than that. He thinks that the Town has gone over the contract amount. Ms. Burleson said she wants to go into the financial records to see how much the Town has spent and how it was spent. Ms. Burleson also said that she, the clerk and the Town Attorney will ask for clarification if we think the motion or a second or some part of a discussion has modified a motion, so that it can get on the record and confusions don't have that in the future. She said if we as a Staff can pipe in when we do not understand something we will do so.

Alderman Hardison does not think that this is something that a brief explanation would satisfy because funny things happen around here and he can't help from feeling that this is another one of those funny things and he would prefer that if there is any checking is done that maybe the attorney can do that. He just doesn't trust anymore. Ms. Burleson said that she wants to address these things and make sure that the Town is operating with integrity and operating with consistency. Alderman Hardison said this is not integrity. Ms. Burleson asked for him to tell Staff how it can be fixed. She said it is not a verbatim transcript, but it is trying to accurately reflect the proceedings of the governing body and if that has not been achieved we need to know how to fix it so that we can. Alderman Hardison said that you have to move out from the ones that are closest to you. He said that if he said it and other people here heard it...he wanted to leave it at that.

Mr. Edes said that the Board has to address the approval or disapproval of the minutes as they are. He said he can take a stab at taking the existing minutes and amplifying the portion where Alderman Hardison talked to him and it can be considered at the next meeting. Ms. Burleson said that she would like to share all of the contracts the Town has with CP&E with Mr. Edes and map out exactly what the Town has done and haven't done and the expenditures and make sure the Town has been charged in accordance with those contracts. The March 5, 2009 minutes were pulled out and the February 25 and March 3 minutes were accepted. Alderman Hardison asked what will happen if the motion is rescinded. Mr. Edes said he does not think CP&E is going to hand back the money unless they haven't done anything yet and he had not seen the agreement. He said the Board should discuss litigation issues in closed session. Alderman Hardison asked if they have not started if would it be possible to have them to hold off on it.

XII. OPEN FORUM:

Tom Leonard of 218 Coastal Drive - Mr. Leonard stated that he was at the last meeting and recalled the motion and that Alderman Hardison began the discussion on the motion and that it was ultimately Alderman Tuman who made the motion after the discussion. He said he wanted to approach the Board this evening to remind everyone what BEST had asked from the Board of Aldermen and the Mayor. He read a few excerpts from last month's BEST report. He said BEST encouraged the Board of Aldermen to have a thorough discussion about the content of the report as soon as possible and a timely decision regarding accepting, implementing the report's recommendations. He said BEST encouraged the Board of Aldermen, Mayor, and Town Manager to hold a special meeting as soon as possible to discuss recommendations of the February 5, 2009 BEST

report. He said NTB officials should decide at the special meeting if the BEST recommendations will be accepted and if they are accepted, ownership of each recommendation should be assigned to an individual Board of Alderman member to ensure action is taken to implement each recommendation. He reminded them about discussion of the potential reconstitution of the BEST team and the possibility of adding new members and some potential missions for the team since the mission was to study the beach and provide report, which has been accomplished. Mr. Leonard said speaking from a citizen's perspective, a number of folks put hundreds of hours into the report. He said they want to make sure "the can gets kicked down the road." One way or the other whatever happens they do not want to see what they did sit on a shelf and get stale. He said if the Town does not want to do beach nourishment as a Town, that is fine, but the BEST team spent a lot of time and effort putting the report together and the team just wants to make sure that it does not rot on the vine.

XIII. ATTORNEY'S REPORT:

Mr. Edes said he did not have a report. Alderman Farley said the Board had talked a number of months ago about the issue with the lady who had people digging up in front of her house and claimed that they had a community boat dock on one of the streets. He asked if anything had been done with it. Mr. Edes said that he had talked with Lara about it and he needs to put it on the front burner. He said where he had left it is that the Town needs some type of survey to see where the right of way is. Alderman Farley said the issue is that they tore up her yard and should they be able to gravel the right of way? The people adding the gravel said it is community owned property but an HOA does not exist. Alderman Farley said he does not know who is right. Ms. Burleson said that it sounds like it may be a civil matter. Alderman Farley said that the citizen contacted the aldermen and hopes she gets an answer. Mr. Edes said that he will put it on his "to do" list.

XIV. MAYOR'S REPORT: Mayor Martin reported that he had an opportunity to go to Washington to meet with the other mayors and the President's cabinet, Senators and Congressmen. He said it was very productive. He reported that there was a very lively discussion with the County Commissioners when they came here for the joint meeting. He said since the meeting he has had contact with them and they plan to move forward and are trying to work out among themselves how much of a percentage they will give the Town. He reported that they said they are definitely going to be on board to give the Town some money to do beach nourishment.

XV. ALDERMEN'S REPORT:

Alderman Hardison said he would like to thank people for coming out. He said as one citizen to other citizens he apologizes for whatever rage that came out of him.

Alderman Peters said the thinks this meeting was "a sad spectacle of democracy."

Alderman Swantek said he had nothing.

Alderman Farley said that the meeting was a great spectacle of democracy. He said where else in the world could people express themselves they way we do here? He said

particularly in this Town, it is one of the things he always liked about it. Democracy may not be pretty but people here actually say what they mean, you know where they stand, he says he thinks it is great. He said "I don't think you can walk in here and have people say that they all decided where they were going with this beforehand. You see it played out here warts and all." He reported said the Town met the other day, there was a hearing concerning new buyers for the sewer system. He and the Mayor gave testimony and it is still up in the air. He said, "Happy Easter everybody!"

XVI. CLOSED SESSION:

- A.** To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged, as provided by **North Carolina General Statute § 143-318.11. Closed sessions. Section (3)**, to discuss potential claim regarding compensation.
- B.** To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in (i) the price and other material terms of a contract or proposed contract for the acquisition of real property or purchase, option, exchange, or lease, as provided by **North Carolina General Statute § 143-318.11. Closed sessions. Section (5)**, to discuss potential acquisition of property.

XVII. ADJOURNMENT:

Alderman Swantek made a motion to adjourn. Alderman Hardison seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 5/7/09

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting April 29, 2009 9:00 AM

PRESENT: Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Clerk Carin Faulkner. Also present were Interim Finance Officer Breck Smith, Police Chief Casey Fillinger, Fire Marshal/Public Works Director Thomas Best, Jr. and Deputy Fire Marshal George Moore.

NOT PRESENT: Mayor Donald Martin

- I. **CALL TO ORDER:** Mayor Pro Tem Larry Hardison called the meeting to order at in the North Topsail Beach meeting room.
- II. **PLEDGE OF ALLEGIANCE:** Mayor Pro Tem Larry Hardison led the Board and those present in the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. The motion was seconded by Alderman Peters. The motion was approved unanimously.
- IV. **NEW BUSINESS**

- A. **Introduction: FY 2010 Budget Presentation:** Ms. Burleson said that Staff has been working very hard on the budget. She went through the packet of information that was provided to the Board that morning which included the schedule of fees, pie charts, operating budget (the 10 accounts), and the last two pages on ledger sized sheets are is the beach fund (the 20 accounts) which she expanded out to 2028.

She commented on the budget as a whole. She said that what the Board has in front of them is not a balanced budget at this time. She said there are several reasons. One is that Staff has been able to get good look at the real estate numbers and they will be able to get those a little tighter and that number might be adjusted up. She said that Staff has been very conservative as far revenues and expenditures to give an accurate reflection. Staff tried not to boost numbers up really high but gave solid numbers.

She guided the Board to the revenue sheet, the first page; she explained again that it is not a balanced budget. Alderman Farley asked why not. She said that Staff is still

working on the real estate figures from the County and she thinks Staff can tweak those a little bit more with the County. She said the number that is in yellow on the revenues page, the \$300,000, is that number since the Town does not know at this time what the County is going to do for the ad valorem, or per capita or a blend. She said it sounds like it has gone through the State House and Senate with the blend so that is still a possibility. She put the number at \$300,000 for now, because that is the lowest possibility; it is the per capita number.

She made some other overall comments about the budget process. She said she worked with the department heads very closely to put the departmental budgets together. They tried to make certain that it is a lean budget knowing that we are facing hard economic times.

She said the budget includes expenditures for the road patching and the bike path. She said there are also rotations for things that are normal that are included in the budget such as vehicles and computers. Those expenditures are in there and are nothing out of the ordinary. She pointed out that she included the building inspections department in the budget and has included projected revenues and expenditures. She said the Town is still deciding the best route to go. She said that the Town is accommodating solid waste and recycling and that it will be an increase in service and increase in fees.

Alderman Tuman commented that what Ms. Burleson was doing now is giving highlights of this budget. He said he thinks it will be very helpful to document these highlights and include it as part of the package. He said that he wants the benefit of that information so that it can be looked at later. He said that he hates budgets that are a raw submission numbers and he wants to know what is behind them. He said the reason why the manager writes a budget message is to present the Town's plan, it is a verbal description of the Town's plan and behind the plan is the numbers. He said it is difficult to take the numbers and translate that to what the Town is going to be doing. Ms. Burleson explained that those documents would be coming out of the work sessions.

Alderman Farley asked if this is the proposed budget. He said he sees within the documents current amended versus what we actually have. He asked why they don't have the actual approved budget as of 7/1//08. He said right now we are going to create an original budget that ultimately will be amended, so he likes to compare apples and apples. Ms. Burleson said that she has that information available but that she hid those columns to make enough space in the documents. Alderman Farley said he thinks what they approved is much more important than what we have amended, because you have to anticipate that there will be amendments later on.

Alderman Tuman made more suggestions on how the budget should be presented. He said that it would be extremely helpful if there was a pie chart of what the Town did last year. He said that the Town is going to key off what is new in this budget, expenditures, revenues, and graphically you can hone in on things that look at what is a difference. He said it is better to bridge to what was done last year. He said if there

are major changes from year to year, we want to focus on them. If it is business as usual then we can gloss over those things. Alderman Farley said he wants to see where the Town started in each period as opposed to what the changes were and where we are in relation to that.

Ms. Burleson said that it has been frustrating to unravel some of what has happened in the past. She said she wanted to give the Board what the actual expenditures have been for those past years so that those ideas are in place knowing that things change over the course of time so that the Board has a better feel for what those actual expenditures were. She is also trying to undo some of the past things, not that anything was bad or inappropriate, but try to streamline the budget and put things in the right place. She said if it is an expenditure that needs to go under materials and supplies than it needs to go under there so the Town has an accurate reflection. She said she cannot change anything for the past but she can do that into the future.

Alderman Farley asked if the final budget numbers are the actual expenditures and why they are called budget. Does the Town ultimately adjust our budget to meet our expenditures? Ms. Burleson said that it includes each of the budget amendments that had happened, for example, penalties and interest for 2006 was \$5,253, the Town may have budgeted \$7,000 but you only brought in \$5,253, she is going to show what the Town really brought in on that line item so that she can show what has really happened. Alderman Farley said that we are calling it a budget, but it means something different to me, if you say that is the budget, that is what we budgeted, we may have spent more we have spent less, so if nothing else I would change that to be actual. He asked if the Town adjusts our budget to our actual. Ms. Burleson said she does not know what has happened in the past. Alderman Tuman said he did not understand the question. Alderman Farley said, do we say we overspent so let's change our budget, let's do a final budget amendment so that our financial statements look great and we are in budget. Alderman Swantek said he thinks that is what the Town has been doing. Alderman Tuman said that is the practice. Alderman Farley said he has a problem with that, what is the point of a budget when you can just wait until the end of the year? Alderman Tuman said that the Board has had this discussion before and it is a philosophical one, he said a budget is a forecast. It is what we know today that we are forecasting over the year and we make our best guess effort and it also has a certain number of dollars in it and it is a ceiling on our spending. He said over the year we may make a conscious decision to change that and those decisions are made and you adjust and you make budget amendments, which reflects what the Town has done. He said to keep in mind that we are not going to exceed our revenues and our reserves. One thing is our budget and the other thing is our actual spending actions. Alderman Farley said that he is not supporting overspending. He said that is what it seems like Alderman Tuman is supporting. Discussion continued on the budget amendments and what should be done over the year and what information the Board should receive.

Ms. Burleson pointed out that the solid waste and recycling increase in fees is in the budget, it is an increase in the level of service. She also included a Cost of Living Adjustment for employees of 3 percent. What is not included in the budget is merit

pay. She said she is sorry that it is not there because it is a good tool, but she could not come up with any way to bring that forward. There is not an increase in fees as far building and planning.

Alderman Farley asked about the increase in the solid waste and recycling fees, it is an increase of \$55 a year. He asked how much of that is related to recycling. Ms. Burleson said she does not have the number, she has not split those out. Ms. Burleson spoke about retirement. She said it was discovered that according to State law, employees are supposed to be contributing 6 percent of their salary to the retirement system. She said that the Town was been paying some of the six percent. The Town had put into place a system where the Town would contribute an increasing amount of the required 6 percent on behalf of the employee as the years of service increase, until at some point the Town pays the entire employee portion. The Town was told that this should no longer occur. Alderman Farley asked for clarification and Mr. Breck Smith explained in further detail. Ms. Burleson explained that the remedy will be that whatever the Town is paying of the employee's share will go straight to the employee's salary which will affect their gross but that will come off the top and go to the State. She explained that it is a wash and that it is budgeted. She said that this is the best way to do this so that it is not detrimental to the employee or the Town. If the Town does not do it, then it will affect the employees. If the Town fixes it now the State will not look to the past.

Discussion continued on the subject of retirement in regards to how employees are compensated and how much the Town had been paying on behalf of the employees. Mr. Smith was asked to provide the amount of money that the Town contributed over the years on behalf of the employees.

Ms. Burleson spoke about the revenues. She said that what is there is the actual for the previous four years. The current amended and the year to date is as of two days ago, the 27th. The last two columns are the proposed budget, she said what she did on the second column is show the revenues with a 14 cent property tax, not that she is recommending it, but to indicate what a penny did for the Town. The first line shows the difference, it is \$144,000. She said that once the County makes the decision then the figure can be changed. She said Staff projected the revenues based on past history and the information Staff could bring in from the County. One of the items went to zero because the State is phasing it out and the Town put in zero. Mr. Smith explained that the Town received \$25,000 in this fund in 2007 and \$13,000 this year and the Town will probably receive half that this year and then it will be totally phased out. Alderman Swantek pointed out the revenues for the building permits, which the County is currently collecting. Ms. Burleson said she put that in the budget but projected them down by 25 percent. She said that the revenue that the Town gets for building permits receive in general is substantially lower than what the expenditures are for the department. There was discussion on the current process the Town has for building permits mainly concerning whether or not contactors have to go to Jacksonville to receive the permit.

Ms. Burleson brought attention to the revenue section which includes the revenue to collection fees for vacant lots and solid waste. What the Town is looking at as far as a bottom line fee for what it is going to cost the Town for the solid waste contract plus the tipping fees, the Town is looking at \$373,300. By raising the fee to \$135 the Town covers the cost for the increase in service which is the recycling. Ms. Burleson said that the solid waste contract has not been signed. It was sent to the Board for review. Discussion continued on the details of the contract.

Ms. Burleson said that the transfer in for the capital reserve fund is to take care of the capital expenses, which include the bike path and the road patching project. Alderman Farley asked about moving the funds in the capital reserve fund to the general fund. Ms. Burleson said that she would caution the Town not to move the funds because it depends on how those money were designated, if all of it is designated you can move the funds, if they are restricted in some manner, they cannot be moved. The auditors are going to come and speak with Ms. Burleson and Mr. Smith to make certain that they know what is restricted and what is designated. She does not know right now. Discussion continued on the formation of the capital reserve fund and explanation of what is restricted and what is designated.

Ms. Burleson explained one last item for revenue. She directed the Board to look at a blue box in the document that gives an overview where the revenue is right now.

V. DEPARTMENT HEADS:

Fire Department: Ms. Burleson explained that the Fire Department is requesting the addition of one full-time and one part-time firefighter position. Mr. Moore explained that there are six paid firefighters one is part-time and that include Mr. Best and Mr. Moore. The Town currently has staff that covers both stations 80 percent of the time. For the other 20 percent of the time, the Town is short a firefighter. Mr. Moore gave a synopsis of a fire at Topsail Reef fire where there was only one firefighter on duty and the firefighter was located at the station at the south end. There was nobody at the north end fire station which is closest to Topsail Reef. . He said everything turned out okay but if the Town had a firefighter at the north end the response would have been timelier and they would have been able to get water upstairs. He said with the addition of the one full-time and one part-time position the Town will have two firefighters on duty 24 hours a day 7 days a week. He explained the two in two out rule and that the Town is making it right now. He described another situation in which it would have been better if there were two firefighters available to come together on scene and make progress enough so that when Mr. Best or he arrived at the scene entry could be made to the building. Alderman Peters asked about the insurance and the Town's rating. Mr. Moore explained that the Town will remain at an ISO rating 6. Mr. Moore discussed mutual aid from other Towns and volunteer departments. Alderman Swantek asked about stimulus money for grants for fire departments. Mr. Moore said that these are not anything different than what the Town has applied for in the past. Alderman Peters asked if there are any grants that would cover these positions. Mr. Moore said that the money is being given to larger cities. Ms. Burleson said she knows that Mr. Moore and Mr. Best have been

watching for grants. She spoke about a managers and mayors meeting where she was given information about a task force concerning all of the Marines coming into the area and that something may come from that. Alderman Farley said that from what he has seen that they have already submitted to the State the things that they will need for the expansion. Mr. Moore explained that the base and the localities are now working together in ways they haven't before. For example the City of Jacksonville and Camp Lejeune have entered into a mutual aid. Mr. Moore said the only other major thing in the department budget is the replacement vehicle for Mr. Best. It is in the six year cycle. Alderman Tuman was thinking of using the Code Enforcement truck for Mr. Best's truck. Mr. Best described the condition of his vehicle. Mr. Moore said most of the numbers are the same, there were a couple of changes due to the insurance rates going up. The fuel cost went down from last year; he took it down from \$13,000 to \$9,000. Mr. Best explained that the Town received notification that the Town has not been denied for the \$30,000 Federal fire grant, but if other departments decide not to take the grant that the Town will be put into a second chance pool to receive the funds. Alderman Farley asked why it couldn't be added to the budget if the Town gets it instead of leaving it in the budget. Ms. Burleson stated that it is better to leave it in there as a management tool and an indication of where the Town wants to go. The Town staff will then have the knowledge that they should keep submitting for them and then if the Town gets them they should keep on moving with them. Alderman Farley thinks it should be taken out. Alderman Tuman made the argument that it should be in the budget if it is part of the Town's plan. Mr. Moore explained again that there is not much difference in the budget, but that there was a purchase of a service truck last year that is not in this year's budget. The last payment was made on another truck this year. There are still payments on the new pumper truck which was purchased in 2007. Alderman Farley asked Mr. Moore what equipment is at the south end fire station. Mr. Moore said there is the 2007 pumper, the tanker (1800 gallon), brush truck (Humvee). The north end has the ladder truck, the other pumper truck and the new service vehicle and then Mr. Best's truck and Mr. Moore's truck. Alderman Peters asked about capital improvements or spending that extends the life of capital improvements. Mr. Moore said that will be discussed during Public Works' budget time. Alderman Hardison asked if Staff has considered purchasing smaller vehicles. Mr. Best said that the new Explorer is an 8 cylinder and it was cheaper than the 6 cylinder. Alderman Hardison said he is thinking about the gas. Mr. Moore said the biggest thing is having room for equipment. He says that they are conscious of not over using the vehicles.

Police Department: Ms. Burleson said that the Police Chief and his staff have worked to make the budget as lean as they possibly can. They have done a lot of research on fuel economy. There is no change in staffing. The only big change in the budget is the vehicles. Chief Fillinger explained that the department usually rotates vehicles out at the five year mark and typically that ends up being five or six years because of the budget year. He said the Town has two 2004 Crown Victorias that are aging. They need repairs. He said he looked at the diesel concept cars and they are still at \$40,000 - \$42,000 so they are not feasible. He said that with the Dodge Chargers, he gave an overview of how they increased the department's fuel economy. He said they did comparisons with some of the low mileage vehicles and with one of the

Dodges they did approximately 13,266 miles in comparison with two other Crown Victorias in which they did just under 10,500 miles, even with the Dodge netting more miles, the fuel economy was right at 20 mile per gallon and the department experienced a savings of about \$357 with doing more miles than the Ford did. He said he has gotten information from other towns. They are not using our program, we use a standard vehicle not a police modified vehicle, but they are realizing savings as well. The averages for the price per gallon, if we had to replace the whole patrol fleet with Dodges, we would have saved close to \$8,000 just in fuel, because the Town purchased the 100,000 mile warranty in theory the Town could have saved in repair maintenance. He is asking this year is to the same thing with the Dodge, purchase one 2009 Dodge Charger 6 cylinder and replace one of the 2004 Crown Victorias, that will come with a 100,000 mile 5 year warranty. Another thing that was mentioned to the Chief was if he needed a Crown Victoria or if Major Doug Freeman needed a Crown Victoria and he said the truth is they don't, other than being able to supply them to the patrol line. He said his Crown Victoria has 21,000 miles on it and it is still under warranty. If the Town were to take Major Freeman's vehicle which was purchased at a reduced rate, and transfer it to the Town Administration for the Manager's use etc and take his vehicle and put it onto the road, with just painting it, the Town could effectively replace those 2004 Crown Victorias. He said that he and the Major have also been looking at the Ford Fusion. It is a four cylinder vehicle it gets approximately 28 miles to the gallon highway. He said he was able to secure a quote from Capital Ford in Raleigh for \$14,495 a piece. It would not require any equipment; they could take the equipment out of their Crown Victorias and put it in them. The department would be getting 3 new vehicles, but the total price of the Ford Fusion would be about \$28,000, which is nearly the price of a Crown Victoria outfitted and the department would be able to put another Dodge on the road. He imagines that the Town could continue with the Dodge program and the Fusions would carry their five year life out with the Chief and Major driving them.

Alderman Hardison asked if Chief Fillinger was confident that the Fusions will not jeopardize officer safety. Alderman Tuman asked how the Fusions would be used. Chief Fillinger explained that they use them for general purpose, response around the Town; they are used for law enforcement. He has not test driven one. He has read about another Town using them and having good fortune with them. He does not recommend them being placed on patrol. The Crown Victorias will be placed on GovDeals.

There was further discussion about the vehicles. Discussion was concerning the take home program where officers are able to take vehicles home. Chief Fillinger said that this is one of the best recruiting tools the Town has. He also said that the resale value of the vehicles is higher because the officers take better care of the vehicles. There was discussion on insurance, worker compensation, taxes, and driving vehicles home.

Chief Fillinger pointed out that the difference in salary is from staff vacancies. There were also compensation differences from the moving of monies from retirement to salary line items. The year to date would not accurately reflect what

should be budgeted. Discussion continued about the compensation of employees and the error in the retirement policy.

Alderman Swantek asked about Town revenue from tickets. Chief Fillinger explained that the Town gets a small percentage, he does not know what percentage the Town gets but that most of it goes to the school board. Whatever funds the Town gets goes to the General Fund. Chief said that there is not a monetary incentive for the Town to write tickets. Alderman Farley discussed a program that was proposed by a previous police chief in which the Town considered writing Town tickets so that the Town could collect fines.

Alderman Hardison directed the Board to limit their comments and questions to budget related issues.

Public Works Department: Mr. Best explained cost on fuel went down. Mr. Best explained the costs associated with doing the cutting and milling of SR 1568 which will be \$55,000. The next year the Town will be doing another \$45,000 to finish SR 1568. The third year would be capping of the whole road. Alderman Farley asked about the quality of the capping material and made comments about the drainage on the roads. He explained the cost of paving Goldsboro Lane. Alderman Farley discussed the possibility of cost sharing with ONWASA when making repairs to a road where utility lines need replaced.

Mr. Best moved on with public buildings. He explained that there is about \$51,000 general work to the Town buildings. There is about \$19,000 of work that needs to be done to the north end fire station, where repaneling needs to be done where rust is showing through the bottom. Line 10-500-15 covers all of the building and all of the grounds. There is \$8,000 budgeted for a chain link fence at Public Works. Alderman Farley asked about the ordinance requiring buffers between commercial and residential property. Ms. Burleson said she would have to look into it. Alderman Tuman asked if the dumpsters will be inside the chain link fence. Mr. Best said that they will be outside of the chain link fence and currently are not on Town property.

Alderman Swantek asked about the 6 mile rules for fire ratings. Mr. Best said that the six mile rule does not apply to the Town of North Topsail Beach.

Alderman Hardison said that the meeting is coming to the 12:00 time limit. He said the Board can move to extend the time or move to adjourn.

The Board briefly discussed the snowflakes that the Town puts up during the holidays. There is an amount budgeted for repairing them. He said if the Beautification Committee wants to purchase more from donation money they can. Alderman Swantek said he would like to see \$10,000 in that fund. Mr. Best said they cost \$250 a piece and about \$30 to mount. Alderman Peters is concerned that the donations are made specifically for the snowflakes and the money should be spent that way.

Park maintenance went up due to work done on the tot lot. Bike path maintenance was provided by DOT. Alderman Farley said he would like to see more scraping done to make the road wider.

Ms. Burleson said she would like to take the comments from today and the information from the County and have a final budget ready by the 15th. She said if the Board wants to set a time and date. Alderman Tuman asked what is left of the budget that she did not cover today. She said that Sanitation, Governing Body, Planning and Zoning, Building Inspections and the Beach Project is still left.

The Board decided to continue the meeting on Monday, May 4th from 9:00 to 12:00. Alderman Tuman made a motion to continue the meeting until Monday, May 4th.

**Board of Aldermen
Continuation of Special Meeting
May 4, 2009
9:00 AM**

PRESENT: Mayor Donald Martin (left at 10:00 AM), Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Clerk Carin Faulkner. Also present were Interim Finance Officer Breck Smith, Police Chief Casey Fillinger, and Fire Marshal/Public Works Director Thomas Best, Jr.

- I. **CALL TO ORDER:** Mayor Donald Martin called the continuation of the special meeting to order at 9:02 a.m.
- II. **CONTINUATION OF DISCUSSION OF FY10 BUDGET:** Ms. Burleson made updates to some of the handouts she gave at the previous meeting. She made changes to the revenue information. She added the proposed budget for FY09. She added more information about the tax rate. She updated the blue box with the revenue based on the decision the County made on the sales tax to do the 60 ad valorem/40 per capita split. She explained that the budget the Board now has before them is a balanced budget. The Board and Ms. Burleson discussed how she arrived at the revenue numbers based on the change. Mr. Smith explained that the collection rate was decreased to be more realistic.
- III. **DEPARTMENTAL BUDGETS:** Ms Burleson went through the budgets of the departments that were not covered last week.

She said the numbers used for the Governing Body budget were historical numbers. There were not any major changes. Alderman Swantek pointed out the negative number in the salary line. Ms. Burleson said that she is still working on it. Mr. Smith explained what it was. Alderman Peters asked what Professional Services referred to. Ms. Burleson said that is for the Town Attorney. Aldermen Hardison said that there have been many changes in salary for Staff. Ms. Burleson said that it would not be in the Governing Body budget. The Board discussed compensation for Staff who were

given other titles in the absence of a permanent Town Manager and if the salaries were still in effect.

Ms Burleson said that Staff is still working on getting all of the figures on the cost of the North end houses. So far the amount is \$1.14 million. Mr. Smith explained that the Town has about \$50,000 in invoices that he is looking at now that he cannot tell what cases they are being billed for. There are four or five different sets of attorneys.

Alderman Hardison asked if the information is there to get the budget done. Ms. Burleson said that the information is scattered. It may have made sense at that moment in time. Mr. Smith said there are different ledger codes over different fiscal years. There was further discussion of the attorney invoices.

Ms. Burleson discussed the budget for Administration. The only change from last year is that there was quite an outlay of money for advertising and mailing. Ms. Burleson said that a majority of that is for the Planning and Zoning department so she decided to reduce the number in the Administration budget and added a line item in Planning and Zoning so that the costs can be tracked. Alderman Farley discussed using specific line items in each department to better reflect the costs of each department.

Alderman Farley discussed the COLA increase of 3 percent. He said that the cost of living is not 3 percent; he does not know why the Town would want to do it. He said that the annual cost of living has gone down over the year; he said it is now at 1.48 percent, so the Town would be giving double the cost of living. He thinks it should be tied to the cost of living and not a set percent. Alderman Peters think that it is a good number and that it reflects inflation. Ms. Burleson said that she thinks that costs have gone up across the board. Alderman Farley said that he wants the Town to use a number that the Town can verify. Ms. Burleson said that she would research it.

Ms. Burleson looked at the Planning and Zoning budget. She pointed out the new line item for the postage and advertising. She explained that in order to keep the CRS rating the Town has to do a regular newsletter. Alderman Peters asked how much it costs to mail the newsletter. Ms. Burleson said it was almost \$2,000. Alderman Peters pointed out that the budget needs to be increased to pay for the newsletter. Ms. Burleson said she is going to back and look at those numbers.

Ms. Burleson looked at the Building Inspections budget. She said she pulled the number straight across. Since the Town has not made the final decision of whether or not to bring in a building inspector or stay with Onslow County. She said that the revenue projection is \$40,582 that would go directly into supporting that department. She said as the Town moves forward in making the decision about what to do about building inspections, she wanted the Board to have that information. Alderman Swantek asked how it is going with the County inspector. She said that it is going well, it is not perfect. She has personally not received any complaints. Staff has worked to find a solution to any problems. Discussion continued about details regarding the permit process and the arrangement with Onslow County. Alderman

Farley said he would like to remove the salary for the building inspector from the budget. He thinks working with Onslow County is a good arrangement and that he does not think duplicating services is a good idea. Alderman Tuman asked Ms. Burleson how she would make the decision on whether or not the Town should get another building inspector. He said that she should look at the details of what should be included in an extended agreement with the County. Alderman Tuman recommended that Ms. Burleson update the Board on building inspections during the Manager's Report at the monthly Board of Alderman meeting.

The Board discussed snowflakes and Beautification Committee. There is \$4,200 in the budget for the maintenance. Alderman Tuman said that it should be increased to \$10,000. Ms. Burleson asked what it should be spent on. Alderman Tuman said for new snowflakes. Alderman Farley said that this was started by the Beautification Committee and people donated money for them and it was not a taxpayer expense. He does not think the taxpayers should have to pay for them. Alderman Tuman thinks that they have a positive effect. The Board discussed what makes a community and that the Town needs to stimulate citizen interest in the community.

Ms. Burleson discussed the budget for Elections and Committees. She said the Town received an email from the registrar and the estimated cost election for this year is \$6,500. The previous election was \$7,000. Ms. Burleson said that there was \$725 in the budget for the Beautification Committee which is now defunct. She left \$600 in there because there might be something that might fall into that category. Alderman Farley asked where the money is going that is being collected for the books and the dining guides. She said that around \$600 came in last year. She said that the money has been going under the snowflakes. Alderman Peters said that just because is not an active committee now does not mean it will not be again. Discussion continued on making the committee active again and doing more for the volunteers of the Town.

Ms. Burleson spoke about the Condemned houses and Transfers. She pointed out where things are grayed out on the spreadsheet are line items that were one time expenditures or she suspected they were and she is looking to eliminate them out. There are some lines that have no expenditures over the past 5 years and a couple that have a little. She wanted to show that those expenditures are in there. She pointed out a transfer out to the capital reserve fund from the general fund for proposed FY10 budget. She thinks that the Town should put the money aside for future expenditures like police cars and other capital expenses that will be coming along. Alderman Farley said that there is money already in there. He does not think more money should be in there because there is more flexibility in the General Fund than the Capital Improvements Fund. Ms. Burleson said that she thinks the Town should pay off some of the existing loans. There was discussion about doing a Capital Improvement Plan looking at maintaining the Town buildings and other projects that will need to be done in the future.

Ms. Burleson said that she put \$10,000 in this year's contingency fund. There was \$20,000 in the previous year's budget. It was removed in a budget amendment. Alderman Hardison said that he had raised questions before about a contingency

fund. Alderman Tuman recommended increasing the amount \$15,000. He said that the insurance keeps going up and he said about 15 percent a year. She explained that the Town received a letter indicating that the premiums are going to increase.

Ms. Burleson said that was all she had for the departmental budgets.

- IV. **CAPITAL BUDGET:** Ms. Burleson discussed the Beach Nourishment fund. She went through the revenues. Alderman Peters asked where the \$3 million was coming from the State is coming from. Ms. Burleson said that the Mayor is going to get from the Governor. She said that as you look across the horizontal in green that is the north end of the project. The teal blue is the southern project. She coordinated the expenditures and revenues. The accommodations tax money is a solid number and she put in the \$300,000 that was asked from the County. Ms. Burleson discussed reimbursement from the State on projects of between 25 and 75 percent. Alderman Farley asked when this has happened. Ms. Burleson said that the Town has received two invoices from the Army Corp of Engineers. The invoices were sent to the State and the first one came back at 50 percent. The second one came back at 50 percent less \$9,500. Alderman Farley said that it has always been stated that on the Federal project and possibly the CBRA project that the Town was going to get a reimbursement from the State. It seems to him that while the Town has had expenditures, the Town has not been reimbursed. Ms. Burleson does not know if the Town has been reimbursed in the past or not. The Aldermen discussed putting travel and related expenses for beach nourishment in this fund.

Alderman Swantek reminded Ms. Burleson to get the letter to the Army Corps of Engineers for putting sand in front of the beach near where the North end houses were. Alderman Farley said that the Town should not limit itself to where the sand should be placed. There was a lot of previous discussion at to where the sand should go.

Ms. Burleson said that she will have a complete document that balances and will make adjustments as discussed. In that will also be the narrative and explanation of the line items. She said she will be sending the budget and ordinance will be submitted to the Board on the 15th. She said she could do it in a meeting or have it delivered to the Board. The Board said agreed that they would like a hard copy.

Ms. Burleson said the Public Hearing will be during the next regular Board of Aldermen meeting on June 4.

Alderman Tuman advised Ms. Burleson to work more on the Beach Nourishment plan and he suggested that she discuss it with the Mayor because he is the Town's adversary to raise money. He needs to understand it. He can take that with him when he goes around knocking on doors. It needs to make more sense.

Alderman Peters asked why the retirement current amended amount for the Public Works salary was amended at \$5,237. Ms. Burleson explained that in the past the understanding is that Mr. Best's salary had been split 50/50 between Fire and Public

Works, but the benefits package was not, so that was correcting it. He said the Fire Department is showing about the same thing. Ms. Burleson said she would look into it and make sure that it is correct.

- VI. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Farley seconded the motion. The motion passed unanimously. The meeting adjourned at 11:55 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 6/4/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, May 5, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Town Manager Lara Burleson, and Town Clerk Carin Faulkner.

NOT PRESENT: Alderman Richard Farley

- I. **Call to Order:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **Approval of Agenda:** Alderman Tuman made a motion to add discussion about the beach nourishment portion of the budget to the agenda. Alderman Peters seconded the motion. The motion passed unanimously.

Alderman Tuman made a motion to take Item X. B. Thank You to BEST Team and Motion to Terminate Committee off of the agenda. Alderman Peters seconded the motion. After further discussion among the Board, Alderman Tuman amended the motion to remove Item X. B. and add a discussion having a joint meeting with the BEST Team to discuss the recommendations and the future of the BEST team. Alderman Peters seconded the motion. The motion passed unanimously.

III. New Business:

A. Discussion of Agenda Items for Thursday, May 7, 2009.

Discussion of Presentation by Tyler Bray of NCDOT Regarding Comprehensive Transportation Plan for the Topsail Area: Ms. Burleson said that Mr. Bray is coming to present the plan he was supposed to come last meeting. Alderman Tuman requested that Staff contact him to shorten his presentation to three minutes.

Discussion of Public Hearing: Readoption of the Town Code of North Topsail Beach: Ms. Burleson said that this is a readoption of the code "as is". It was supposed to come before the Board last meeting, but the ad for public hearing did not make it into the paper. Ms. Burleson said that it is not perfect, but the Town has a procedure of making sure that it will be updated properly in the future. Alderman Tuman said that "not perfect" would not be the proper term, he thinks that it is solid. He said in the past that Municode placed the original Town Code from 1990 in the appendix and that it remained there.

Manager's Report:

Discussion of Committee Vacancies: Ms. Burleson explained that there are two vacancies on the Planning Board and the alternates will be going in. There are three vacancies on Board of Adjustment.

Discussion of Update on Sales Tax Distribution via Onslow County: Ms. Burleson said she said she wanted to let the Board know what was going on.

Discussion of Call for Joint Workshop with Planning Board RE: Zoning Ordinance: Ms. Burleson said this meeting is scheduled at 5:00 pm on Monday, May 11th

Approval of Contract for Collection & Disposal of Curbside Solid Waste & Recyclables: Ms. Burleson said that the Town Attorney will review it and will notify the Board of any changes. The Board discussed the days that the pick ups will be. Ms. Burleson said that the Town would probably not be able to get Saturday as the year round pick up day. It will be Tuesdays.

Old Business:

Discussion of Approval of Bridge Ordinance: Ms. Burleson explained that this was on the agenda last month, during the public hearing the discussion centered on CON-D. The purpose of the ordinance is to impose standards for safety...Alderman Tuman explained that building a bridge is a big deal. He would rather leave it up to CAMA to take care of the CON-D issue. He said the Town can make bridges conditional use.

~~Thank You from Board to BEST Team:~~

Presentation of Draft Ordinance for Public Vendors at North Topsail Beach: Ms. Burleson explained her view of the issue. She said that she feels that if the privilege license was given in good faith to a business owner that it would not be appropriate to tell a business that it cannot operate. Alderman Swantek wants the Town to investigate the charge for the privilege license to see what other Towns charge.

Approval of Health and Safety Plan for the Town of North Topsail Beach: Ms. Burleson explained that this it to make certain that our employees are safe and that the Town has a policy in place.

Transfer of Unallocated Funds from the Capital Improvement Fund to the General Fund: Ms. Burleson explained that Alderman Farley requested that it be added to the agenda. Alderman Peters made a motion to remove it. Alderman Tuman seconded. The motion passed 2 to 1 with Alderman Hardison voting against.

B. Other Items Discussed:

Porta-Potties at Crossovers: Alderman Swantek asked if Mr. Best has provided Ms. Burleson with some figures on renting porta potties for the beach accesses. Ms. Burleson said that Mr. Best is looking into the cost of it. Alderman Swantek wanted figures before he brought it to the Board.

Discussion of the Beach Nourishment Part of the Budget: Alderman Tuman said that what has been presented so far represents the Town well for when it goes to funding sources. He suggested bringing Frank Clifton back in to help with a plan that the Town would adopt and take back to the citizens. It will establish a credible document that says that the Town has a plan. This is how the Town will get started and plans change over time. It will be a living document and a start. Mr. Clifton kicked it off and he said he was available to us. Beach nourishment is the decisive issue in the community as a whole and that is why there has not been a formal adoption of what the Town is going to do. His recommendation is to bring Mr. Clifton in to help. Alderman Swantek said that he could go along with it as long as the Board was not stepping on the Town Managers' toes. Ms. Burleson said that she does not have a problem with it and thinks that Mr. Clifton has a great amount of knowledge.

Alderman Peters said that he has suggested to the Mayor before that when they look at the BEST Team's recommendations that there should be a Mayor's subcommittee to cover the objectives to help the Town reach our goal to get sand on the beach. Mayor can appoint the committee so that the Town can move on.

Alderman Tuman made the motion that the Board authorize the Town Manager to bring Frank Clifton in to finalize the beach nourishment plan for the FY10 budget cycle and provide proposals of what ongoing activities he could be involved in for the following months including authorizing the Mayor to form any committee he sees fit to support Mr. Clifton with the beach nourishment projects. Alderman Peters seconded the motion. The motion passed 3 to 0.

Alderman Swantek made a motion to adjourn. Alderman Tuman seconded the motion the motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 6/4/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, May 7, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Mayor Martin gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Alderman Swantek led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Tuman seconded the motion. Alderman Farley said he would like to add a couple of items to the agenda that were apparently removed during the agenda workshop. He would like to add back a resolution thanking the BEST team and calling for the disbanding of that committee. He said he would also like to present a resolution for discussion and possible voting to transfer the balance in the capital reserve fund back to the general fund. Aldermen Hardison seconded the motion.

Alderman Farley said he was confused about what they were voting on, is it the amendment to the agenda or is it the agenda as a whole? Mr. Edes stated that he feels if the agenda items were requested two days or more prior to this meeting they should be on this agenda and it does not require a vote. The Board would be voting for the agenda as a whole with the inclusion of Alderman Farley's items. Alderman Tuman said the circumstances were that the Board had a meeting on Tuesday and the Board discussed the agenda and voted unanimously to remove those items from the agenda. Alderman Hardison said that it was not a voting meeting. Mr. Edes said he reviewed Fleming Bell's book on procedures and if any Board member or elected official asks for an item be put on the agenda two days or more prior to the meeting then it is on the agenda. He does not see anything in Fleming Bell's rules or is aware of any mechanism where if someone asks for something to be put on the agenda that it can be taken off whether it is unanimous or not, unless the person that asked it to be put on the agenda asks that it be taken off and there is a vote then.

Alderman Tuman asked for clarification, so if it was requested to be put on the agenda two days or more before the meeting, there is no mechanism for having it taken off? Mr. Edes said only the person that requested the agenda item can take it off. If the items were legitimately placed on the agenda there is no vote. The vote now would be two approve the agenda as stated in the agenda packet with the addition of the two items that were requested previously. The discussion of the BEST team would go under Old Business. The moving of the capital reserve fund would be in New Business. The agenda was passed 4-1 with Alderman Peters voting against.

Alderman Hardison said he would like to add a new item to the agenda. Mr. Edes said that he would be able to add something to the agenda as long as it had a unanimous vote. Alderman Hardison said in regards to the length of time we spend here at the meetings he thinks last month it was 12:30 a.m. when he got home and there were two people still in the audience, which was very nice and gracious of them, but he thinks that it is really overbearing to spend that much time in the meetings. He said some things can carry over to the next day. He says he would like to put a cap on it from 7 p.m. to 10 p.m. Mr. Edes said you cannot limit any discussion to less than 21 minutes but if you can't get to everything on the agenda you can set a time frame for the meeting and carryover what the Board did not get to at another time.

Alderman Hardison said his second item was to move the March 5, 2009 minutes from the Consent Agenda to Old Business. Mr. Edes said that because this item does belong in the Old Business for this meeting and was placed in the wrong part of this agenda it does not require a vote. Alderman Swantek seconded the motion to add discussion of the length of meetings to tonight's agenda. The motion was not carried because it was not a unanimous vote. The vote was 4-1 with Alderman Tuman voting against. Alderman Tuman asked for clarification on how he should fix his agenda. The Town Manager said Alderman Farley's items were added back on the agenda, Thank You to the BEST team and Discussion to Disband BEST will be Item B of Old Business. The second one would be New Business Item B Transferring Capital Reserve Funds to General Funds.

V. **COMMITTEE REPORTS:**

A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. She said the most important item in the report is the information that the Planning Board is losing two members as of this meeting. The Planning Board has two alternates that can be appointed to fill those positions but it leaves the Planning Board with no alternates. She said this Town has a very limited pool of volunteers who are willing to apply for any Board. The Town must find a way to get more applications and must work to find good candidates.

She said she has instructed Staff to take on the Hazard Mitigation Plan without any volunteers. Once the Town's draft is complete a public hearing can be scheduled. She said it is hoped that the Board can progress towards the timing goals set by the County. She said with the change the Board has really fallen behind and if the Town has a public hearing everyone will be able to change the draft as reached by Ms. Hill. She said one of the things that is going to work into this is that residents could save

money on insurance if more of the CRS (Community Rating System) credit check-offs are in the plan.

Mrs. Tuman read the Planning Board report. The Planning Board's regularly scheduled April meeting was canceled as there was no immediately pending business. The Board is continuing to hold the Monday evening workshops on proposed Chapter 7 ordinance updates. At our Monday, April 27th Planning Board workshop the Board discussed how best to present Town Code Chapter 7 to the Board of Alderman. Consensus was that the Board should not wait until the entire Chapter 7 has been reviewed because there are 24 sections. So the Planning Board will give it to the Board of Aldermen in sets so the aldermen will have more time to review the sections. She said the Board of Aldermen has the first six sections of Chapter 7. Holland and Associates has forwarded the Town's Land Use Plan and the Board members should all have their copy with the last revisions so it can be forwarded to the State for their final review before adoption. Mrs. Tuman asked the Board if they would like to set a meeting with the Land Use Plan committee for final review before approval. Alderman Swantek said that there's already a meeting scheduled for Monday. Mrs. Tuman said that is with the Planning Board but if the Board wants to add the Land Use Plan it can be added on. Mayor Martin said that would be the easiest thing and do. There was discussion and a decision was made to add discussion of the Land Use Plan to the May 11th meeting. The purpose of the meeting is to have a discussion about the first six articles of Chapter 7.

Alderman Tuman made a suggestion to have somebody read through it and confirms that in fact all of the changes per the Board's last meeting had been incorporated into the document. Mrs. Tuman said she believed they had been. Alderman Tuman suggested that the Board proceed with the public hearing on the Land Use Plan and leave the recommendations to the Land Use Committee and the staff because basically the last meeting the Board wrapped up everything on the Land Use Plan as he recalls and that it was all incorporated into that the document. He does not see why the Town can't move forward. Alderman Farley said he understands there were some changes that were needed to be made and they should be in this copy we need to make sure they are there. Alderman Tuman said everybody should have a copy of the Land Use Plan.

Alderman Farley said he thought that a joint committee was established by the Board of Alderman to work on the Hazard Mitigation Plan. Mrs. Tuman said the trouble is that time is passing. The committee was started, but they never met. Aldermen Farley said that he has been asking about this for a while and he knows that the Planning Board has had time to discuss peddlers on the beach and he feels that the Hazard Mitigation Plan is much more important. Mrs. Tuman said she didn't think the whole Planning Board was going to discuss it that it was actually going to be worked with the joint committee. Mr. Farley said the way it started out was that it was going to be two members from the Planning Board and one or two members from the Board of Alderman and he volunteered. Ms. Hill said it was Alderman Farley, Paul Dorazio and Carol Evans who volunteered. Carol Evans' term expired this month and Paul Dorazio said that he has too much work to do so he won't be able to participate. Mr. Farley said that the Town needs to get other volunteers. He feels that it is important

that the Town has a good Hazard Mitigation Plan and not a boilerplate thing that just tells people how to get off the island in case of an emergency. He says he is disappointed and he would have thought that he Staff would have come back to the Board and notify it of this plan. He said he did not think that Staff could unilaterally decide to do away with the joint committee. Mrs. Tuman said she was the one that made that decision and she made it with the thought in mind that anybody on this Board including Alderman Farley will be able to make any change at their wish. She said that Town has to work with Onslow County because the way that they are doing it this time is that they have somebody devoted to the Hazard Mitigation Plans across the county.

Ms. Hill said she sent out an email to try to get more volunteers and she said right now it is just she and Alderman Farley who are left. She said she does not have a problem with scheduling a time to meet with him. She said she has two concerns, one is the time crunch with Onslow County and the other is that she really does want to follow the format to pick up those extra points in the CRS. She said that the Town is going to have to do it anyway so we may as well get credit for it. Alderman Farley said there is no reason why the Town cannot be more stringent than what the CRS requires. Ms. Hill said it is not a matter of strictness, it is more of a procedural and policy issue and she wants to make sure that she can get it into the CRS and pick up those extra points. Alderman Farley says he thinks it is a unique opportunity to put this Town's face on a Hazard Mitigation Plan and potentially look at some ideas on saving property. Ms. Hill said it was originally a poorly written document. Alderman Farley says he has no expectation that something written in Jacksonville is going to address some of the Town's unique situations. Ms. Hill explained the Jacksonville is not going to write it, the Town is going to write the annex and the Town is responsible for the remainder of the work. All of the localities are responsible for writing their own annex. Alderman Farley told Ms. Hill that he is at her disposal as soon as they can get together.

- B. BOARD OF ADJUSTMENT:** Gary Miller, Chairman, reported to the Board of Aldermen. On April 16, 2008, the Board of Adjustment by a 4 to 0 vote approved the variance V-09-01, submitted on behalf of the owners Stuart M. and Marianna H. Harness by Paul Dorazio, a request for a variance from Section 7-129 to permit placement of a single family home at 3539 Island Drive. The Board of Adjustment came to this conclusion based on six findings of fact. Those six findings of fact are in the Board packet along with the order granting the variance.

Mr. Miller asked if there were any questions. Alderman Swantek said he was confused, when we got the agenda the other day he said it said there was no meeting. The Clerk explained that the first draft did say there was no meeting that the second and third drafts indicated there was a meeting. Alderman Swantek said it was brought to his attention by several people that there may have not been a quorum. Mr. Miller indicated that there was a quorum. He said there were four members there. Alderman Swantek said he understands that one of the members had already turned in their resignation and it was accepted. Mr. Miller said that she did not turn in a written resignation. Alderman Swantek asked if she turned in a written resignation in April. Ms. Hill said Mrs. Leonard had discussed it with her. Ms.

Burleson said there had been discussions but there had never formally been an actual written letter of resignation. Alderman Swantek asked if she has now resigned. Mr. Miller said yes. Alderman Swantek asked if she put this one in writing. He said if the Town is going to do procedures the Town needs to do right. Ms. Hill said that she would request for Mrs. Leonard to put it in writing. Mr. Miller indicated that there are five members on the Board of Adjustment and that they need some alternates. He requested that the Board take some action on that. Alderman Tuman asked Mr. Miller to brief the Board on the active members on the Board of Adjustment. The roster is in the Board packet. Alderman Tuman said that the Board has some applications and will be taking action on them later this evening.

- C. **BEACH NOURISHMENT:** Tom Leonard reported for the BEST Committee. He said he was there to present this report for Mr. Ed Dougherty he was out of town. Mr. Leonard read the report as follows:

The BEST Committee has repeatedly encouraged the Board of Aldermen to meet to discuss the BEST report's five recommendations. BEST now suggests a way to get started ... by initially addressing just one of the report's five recommendations.

Everyone agrees that outside funding is required if NTB is to implement Beach Nourishment (BN). At your March 31, 2009 joint meeting with the Onslow County Commissioners, you were asked if NTB property owners are committed to financially supporting Beach Nourishment. The State of North Carolina will surely want the same assurance. It is a reasonable expectation. For without the financial commitment of NTB's citizens to BN, there is little incentive for the County or State to commit funding, especially in today's economic climate. It is suggested, therefore, that the BOA determine the level of financial commitment of NTB's property owners to Beach Nourishment as quickly as possible.

Here is a suggested way to "get started": Promptly approve BEST's recommendation to send a letter, fact sheet and feedback form to every NTB property owner to determine their level of financial commitment to BN. BEST can provide the BOA with a draft of such a letter, fact sheet, and feedback form for your consideration if you wish.

Mr. Leonard said subject to your questions that concludes my report. There were no questions.

VI. **PRESENTATIONS & PUBLIC HEARINGS:**

- A. **Presentation by Tyler Bray of NCDOT Regarding Comprehensive Transportation Plan for the Topsail Area:** Mr. Bray introduced himself to the Board and those in attendance. He said he works in the Transportation Planning Branch of the NCDOT. He said there is no official public hearing associated with the plan he is presenting this evening. He said they have been working on a Comprehensive Transportation Plan for the entire area for years now and in March they came before the North Topsail Beach Planning Board and presented the draft plan for comment. He said that DOT is asking for consensus from the Planning

Boards and the elected officials to move forward and to take this draft plan to the public. The DOT has already scheduled four public involvement sessions. Two will be on June 10th. One will be at NTB Town Hall from 1:00 to 4:00 and the other one will be in Holly Ridge Community Building from 5:00 to 8:00. The other two are on June 11th. One is from 1:00 to 4:00 at the Topsail Beach Fire Department and the other one is from 5:00 to 8:00 at the Surf City Welcome Center. There will be advertisements for these sessions in the Topsail Voice, on television, and written notices will be posted in local town halls.

Alderman Peters asked if there will be a presentation during the sessions. Mr. Bray said that they will have informational packets for everyone who comes to attend and comment forms will be available, but there will be no formal presentation, it is just for the public to drop in and ask questions.

Mr. Bray went over the major recommendations and said he would answer any questions the Board may have. He discussed the plan for making U.S. 17 a freeway. He said that DOT looked at nine different alternatives. He spoke about a bypass going around Holly Ridge and that there have been discussions with the military because it would go through their land. At this time everything that DOT has worked with them on has been good with them. Mr. Bray said one of the purposes of having the bypass there is for people that are traveling through the area and not stopping at Holly Ridge or have a desire to get to Surf City. He said this will give a direct access route so that they can miss all of Holly Ridge and get to Wilmington for their goods and services as fast as possible. He said that this freeway will not connect with the current Jacksonville bypass.

Alderman Tuman asked if there will be a bypass around Hampstead. Mr. Bray said that it is outside of the scope of this plan but as far he knew it is continuing to be worked on. He said that along NC 210 as it approaches the island from U.S. 17 to the bridge in Surf City it is proposed to be a multi-lane divided facility with four lanes two in each direction. He mentioned a recommendation to improve the existing bridge. He said there will be no more specific information from this plan regarding the bridge and that DOT is actually currently working on it with the environmental resource agencies to develop the ultimate alternative for that improvement. There will be a citizen informational workshop held in Surf City at the end of June regarding that specific project.

He spoke about improvements that were suggested for roads in Surf City such as a few roundabouts at intersections and a realignment of N.C. 210. He said Surf City is on board with the roundabouts and that they had a consultant do a separate study and they came up with the same recommendations as DOT did. He said the proposal is to make a part of N.C. 210 going out of Surf City three lanes including bike lanes until you get to New River Inlet Road. Along New River Inlet Road and through North Topsail Beach it is recommended to keep it as two lanes.

There were no recommendations to do anything to the bridge in North Topsail Beach because it was fairly new. It was recommended to improve N.C. 210 to a four lane divided facility when you get over the bridge. He said it is his vision not to end the

four lanes after N.C. 210 crosses N.C. 172, but to continue all the way to the intersection with U.S. 17 and there would be an interchange at that location.

N.C. 172 is slated to exist as is; there may be an improvement for three lanes he does not know. He said one thing that he will inform the Board about is that the Onslow County Commissioners and the County Planning Board made comments and one is to make N.C. 172 a four lane facility. He said there were no plans for Old Folkstone Road; the only recommendation is to make sure they have adequate cross-sections and 12 foot lanes with 2 foot paved shoulders. He said there are no improvements for N.C. 50 as part of this plan.

Alderman Peters asked about having a roundabout in NTB where New River Inlet Road meets N.C. 210. Mr. Bray said that that was not recommended as part of the plan and but that DOT can certainly make that comment and consider it. He said Ms. Hill had expressed concern about it. Alderman Peters asked about N.C. 172 through the base. He thinks it is counterproductive make it four lanes and not be able to go through the base. Mr. Bray said that when he started this project that people could travel through the base. He is not familiar with why that was put in place. Alderman Peters says he thinks they should drop it as a highway if they are not going to allow access. Mr. Bray said he can put the Board in touch with the person he works with at Camp Lejeune and that he would probably not have a problem coming to speak. Alderman Peters explained that the Board members have already talked to the Colonels and the General and they said that they would not reopen N.C. 172 through the base.

Mr. Bray went on to discuss the bike plan. He said one of the recommendations that came out of this plan was Surf City and Pender County have began preserving right of way along the power line easement that goes through Pender County with plans to make it into a multi-use path for bikes and pedestrians. He said that there are needs for improvement throughout the area. DOT is just making sure the bike lanes are adequate and there are some places where they are missing. He said Ms. Hill provided him with the North Topsail Beach Bike and Pedestrian plan and there were recommendations to have on road bike lanes along New River Inlet Road and there were also recommendations to have the bike path parallel to the existing facility. DOT decided that it was best to choose one kind of path and it was decided to extend the off road path throughout the Town. Alderman Farley asked who would be paying for it. Mr. Bray said that anybody can fund it, but what this plan will do is allow the Town to say that this plan is in place and Town can use this as a tool to ask for funding through anybody. Alderman Tuman said we should presume that unless the Town asks for it will never happen. Mr. Bray said yes, and that I would request it yesterday.

Alderman Farley asked about the timeframe for the plan. Mr. Bray said the design year is 2035 but that is the ultimate plan, different recommendations may be needed in five or ten years. But the ultimate vision for the entire area to handle all the transportation deficiencies, this is the plan that needs to be in place as our CPT committee has put together.

Alderman Peters asked if the bike path has to meet specific specifications. Mr. Bray said it does. He said he is not familiar with the actual requirements.

- B. Public Hearing: Readoption of Town Code:** Alderman Peters made a motion to open the public hearing. Alderman Hardison seconded the motion. The motion passed unanimously. Ms. Burleson said what you have before you for the public hearing is that the Town had used Municode to reprint the Town Code. What Staff is asking for is for the Mayor and the Board of Aldermen to consider a readoption of that reprint of the Town Code.

Mayor Martin asked if there was anyone in the audience who would like to come up and speak. No one came forward. Alderman Swantek made a motion to close the public hearing. Alderman Tuman seconded the motion. The motion passed unanimously.

Alderman Swantek made a motion to readopt the reprint of the Town Code of North Topsail Beach. Alderman Tuman seconded the motion. Alderman Farley said he had just seen this now and asked what changes were made. He said he would rather have some time to look at it. Alderman Peters asked Ms. Burleson to give the public some more information. Ms. Burleson said she does not know the timeframe, but the Town had gone back to Municode and asked them to do a reprint, but through that process the reprint was never readopted, so that is what the Town is doing. There are not any changes to the code and what had been adopted previously is there. Alderman Tuman said this is just procedural, the Town is saying that we are officially adopting the Town Code that we are asking it to be codified by Municode. Mr. Edes said the Board is readopting. Alderman Peters said this is basically certifying the validity and accuracy of the ordinance at this point. Mr. Edes said it is basically a safeguard to start fresh and incorporate everything that is been done piecemeal over the years and from this point forward the Town has this as an anchor date that the entire code has been adopted. It is a formality more than anything else.

Alderman Farley asked what happens if it does not get adopted. Mr. Edes said if you do not readopt it tonight, it has already been adopted, but if you recall while Frank Clifton was acting as the Interim Manager he found some things that he was concerned about with respect to what the ordinance read versus and what the minutes read. He said there may be some potential issues with respect to that but he believes everything in the code that is up for readoption has been adopted and that this is to clean up clerical errors and things of that nature. Alderman Farley said the one he has includes some changes. He was looking at the Chapter Seven that the Planning Board was going to meet with the Board of Alderman to discuss on the following week. Alderman Farley said he was concerned that the Town is readopting some of the things that should not be there. Ms. Burleson said that is one of the things that have been discussed and that there might be some things that the Town needs to readdress but what the Town wants to achieve is a foundation or platform on which to start from. She said what has been happening is that things had been done piecemeal and there was not a good continuity of the Code and by doing this the Town adopts what we currently have in place knowing that there are some things that we want to change and update but this gives the Town a place to start. Alderman Hardison asked if the

code that the Board has already has all of the information in it. Ms. Burleson said all except for Chapter Seven and Chapter Eight which was just passed. Ms. Burleson said when changes need to be made it will go before the Board, the Board will take action and Staff will send it to Municode and they will upload it onto the web site so it will be an accurate and up-to-date code. She said then when the Town thinks it is necessary Staff will ask them to print a supplement that we will physically put into the code book. The motion passed unanimously.

VII. **MANAGER'S REPORT**

- A. **Committee Vacancies:** Ms. Burleson said the Board needs to address some vacancies in the Planning Board and the Board of Adjustment. She said the Board packet includes a list of who is going off the Planning Board. Carol Evans' term has expired and also Michael Yawn's. She said the Planning Board has two alternates and that historically the Board has taken the alternates and pulled them up as regular members. She said the Board may appoint them regular members. She said on the Board of Adjustment Karen Rose-Justice's term expired and Terry Leonard has resigned. Mr. Milligan's term expired also. Ms. Burleson said that there are three vacancies and the Board can bring one alternate up as a regular member. She pointed out that there were four applications, one from Thomas Leonard for the Board of Adjustment, one from Marsha Hamilton who is also interested in serving on the Board of Adjustments, one from Hanna McCloud who is willing to serve on the Planning Board and one from Gary Rowland who is interested in serving on the Board of Adjustment.

Alderman Tuman said he would like to make a motion to make regular members of the Board of Adjustment the following individuals: Deborah Swantek who is an alternate, Marsha Hamilton who submitted an application and Tom Leonard who submitted application and he added appoint as alternate Gary Rowland. Alderman Peters seconded the motion. Alderman Farley said he would prefer not to have Gary Rowland and his wife Paula serving on the same board. He said he appreciates Mr. Rowland's service but he thinks there should be different points of view. He then asked if Mr. Leonard had any actions before the Board of Adjustments. Alderman Farley said he knows at one time he did. Mr. Miller said he does not think that Mr. Milligan realized that his term expired. Alderman Tuman said he said he would prefer Mr. Milligan to serve as an alternate and said that someone should remind him that he needs to reapply. Alderman Hardison asked Mr. Edes if there is anything illegal about a husband and wife serving on the same board. Mr. Edes said unless the Town has an anti nepotism policy that would prohibit it. He said the only potential problem would be that if someone did not achieve what they wanted from the board they can argue that the husband and wife team was biased if they voted together, but that is a very high burden of proof. He said he does not think there is anything illegal.

Alderman Peters asked if the Town can make it a requirement that they receive appropriate training. Mayor Martin said that this board really needs training. Ms. Burleson explained the Town has a training on tape and that they can watch those tapes. Alderman Tuman said the hardcopy training package is excellent and that they should be given out.

Alderman Swantek said that the question that Alderman Farley had about Mr. Leonard needs to be addressed. He asked Mr. Leonard if he has a judgment against him from the Board of Adjustment that has never been satisfied. Mr. Leonard said that he has spoken with Ms. Hill about this and said it is no longer in front of the Board of Adjustment. Ms. Hill said since that time the matter has been resolved. She said she discussed it with the Town Manager and asked her to discuss it with the Town Attorney. Mr. Swantek said according to the Board Adjustments rules and regulations if there is a judgment against somebody they have to do it within 90 days or they are against the ruling of the Board of Adjustment. Alderman Swantek maintained that the Board of Adjustment is a quasi judicial group and what they say goes. Mr. Leonard said he would like to withdraw his application from the Board of Adjustment.

Alderman Tuman said that people cannot be disqualified because they had a matter before the Board of Adjustment. Mr. Edes said as he understands it that the variance was denied and that would be the end of the Board of Adjustment involvement and then it becomes a code enforcement issue. Alderman Tuman added that a code of enforcement procedure against a person does not by law disqualify them from applying to the Board of Adjustment. Mr. Edes agreed. Alderman Swantek said that if he was a citizen and he came before the Board of Adjustments and he had an appeal and it was denied he thinks that he would be automatically prejudiced. Discussion continued on Mr. Leonard's case that came before the Board of Adjustment.

Mayor Martin said that Mr. Leonard has withdrawn his application so there is no further discussion. The motion was amended to remove Mr. Leonard who withdrew his application. Alderman Tuman said that if someone wants to amend the motion to remove Mr. Rowland they can. Alderman Peters seconded Alderman Tuman's amended motion. The motion passed 4-1 with Alderman Farley voting against.

Alderman Farley asked if one person can stand on two committees. Mayor Martin said that one person can be on no more than two committees at a time. Hanna McCloud was the only applicant for the Planning Board. Alderman Peters made a motion to appoint Hanna McCloud to the Planning Board. Alderman Tuman seconded the motion. Ms. Burleson said that there are two alternates on the Planning Board and asked if the Board would move them up as regular members. Alderman Peters made a motion to make the two alternate members of the planning board regular members with the addition of new member Hanna McCloud. He explained that this is an amended the motion. Alderman Swantek seconded the motion. Alderman Tuman said he assumes that the alternates June Doherty and Deb Lanci are receptive to those appointments. Ms. Lanci was in the audience and was receptive. Alderman Tuman asked the Planning Board chairman if she thought June Doherty was receptive. Mrs. Tuman stated that she thinks Mrs. Doherty is an active member as an alternate and she does not think that Mrs. Doherty would mind. The motion passed unanimously.

Alderman Tuman said that after these appointments, the Planning Board is short one alternate and the Board of Adjustments is short one alternate. Ms. Burleson said that

the Board of Adjustments is short one regular member. Alderman Tuman said he thinks that the Town should take the initiative and request that people consider appointments to the Planning Board and Board of Adjustments and encouraged anyone to apply.

- B. **Update on the Budget Process:** Ms. Burleson reported that the Board has had two work sessions and the plan is to have a third work session on the 15th at 9:00 a.m. At that point Ms. Burleson will deliver the finalized budget that will be advertised in anticipation of the Public Hearing on June 4th.
- C. **Update on Sales Tax Distribution via Onslow County:** Ms. Burleson said that the Aldermen received a copy of the ordinance as it was adopted by the General Assembly. She and Alderman Farley had a discussion on ad valorem and how that is calculated and it is spelled out in that ordinance. To go on the record she said the General Assembly adopted it and then the Onslow County Commissioners had a meeting where they adopted the blend method, 60% ad valorem 40% per capita. Alderman Farley asked about their discussion the other day about the email that all of the Aldermen received which said that the Town would be getting roughly \$900,000. He asked why the budget said \$760,800 and if there has been any change to that. Ms. Burleson said no, she said that they looked at those numbers again and the way they did the calculations, they did not use this year's numbers because they know that the number they would be getting this year is going to be skewed because the next two months will be affected by the blend method. They used the \$1.1 million that the Town received in FY08 because it will be a very similar number. They used those numbers to base the number for the ad valorem and the \$110,000 that the per capita would have generated to generate 40 percent and when they did that it came to the \$760,800. Alderman Farley said that the story in the newspaper the other day said that Onslow County is experiencing better than expected collections in sales taxes or at least as much as they anticipated. Ms. Burleson said that if we stayed on track the Town would have received \$1.4 million in collections for FY09 but since they will be adjusted in this next two months we are looking at \$1.2 million.
- D. **Update on Building Inspections:** Ms. Burleson said that she just wants to give everyone a brief update on building inspections. Currently Onslow County is still doing building inspections for the Town. She said the Town is going through the budget process looking at the potential revenue streams and expenditures in that department. With this current budget season we are going to leave it in the budget, so that if the Town makes the decision to go ahead and hire a building inspector we have it in place. She will not be coming back before the Board with the recommendation until she has participated with feasibility study with Onslow County which last month the Board gave her authority to participate in with the other Onslow County municipalities. Through this process they will vet out all of the different possibilities and it might be the recommendation comes back that it will work with Onslow County or it will not. Alderman Swantek asked why it was taking so long for Mr. and Mrs. Miller to get windows. Ms. Burleson said she does not know the specifics of the situation. One of the things this has forced the Town to look at is the process by which building inspections had been issued and how the appropriate reviews were carried out in respect to zoning, flood and CAMA and the Town found out that some

things that have been coming in historically just for a building permit should have also been receiving zoning, flood and CAMA reviews. She said Staff is now reviewing the process of how permits are being issued and making sure that the Town is going by all Town, State and Federal codes. She said from now forward things are going to be done appropriately. Ms. Burleson reviewed the process as it happens currently.

E. Update on Informational Workshop Regarding Flood Damage Prevention

Ordinance: Ms. Burleson reported that last month there was a lot of discussion surrounding flood insurance when the Town was readopting Chapter 8 of the code. The Town had an information session which Staff coordinated with real estate professionals, insurance professionals, and the NFIP (National Flood Insurance Program) to help answer questions. The information session was done using a charette model for input and discussion and Ms. Burleson said it was a very positive experience.

Ms. Burleson also reported that the Town has received information from U.S. Fish and Wildlife that there are new maps for the CBRA zone. Citizens have pointed out that there are changes to our Town. U.S. Fish and Wildlife is asking for public review and comment and will be accepting input until July 6th. Ms. Burleson said it is imperative that the Town make known what the new map designations are and that people should find out if they are affected positively or negatively by the changes. She said the Town should react appropriately. Ms. Burleson said that Staff can do a community input session. Alderman Tuman suggested that the Town Manager look into the possibility of pursuing appeals.

- VII. **OPEN FORUM:** Ed Tunnet of 105 Village Lane said he wanted to talk about bike path at the southern end of the Town. He asked the Town what the plans are for extending the bike path on the south end to Surf City. He said he also wanted to comment about Beach Nourishment. He said it seems like everyone he talks to is for it. The real question comes down to how much the citizens are willing to pay to fund it.

VIII. **CONSENT AGENDA:**

Ms. Burleson asked the Board to consider the Consent Agenda knowing that the March 5, 2009 minutes are not included. Alderman Tuman made a motion to approve the Consent Agenda. Alderman Peters seconded the motion. Alderman Farley said that he wanted to mention the COLA and diesel fuel adjustment that is in the Solid Waste contract. He asked why the Town paid \$30 a month fuel surcharge and then it got up to \$500-600 a month he said that was a big jump. He is concerned about what is in the contract. He said that the number of carts is a considerable increase over the last 3 years. He thinks it is an increase of about 500 carts. Alderman Hardison asked about number of carts. Ms. Burleson explained how the Town tracks carts. He asked about the fuel surcharge. Ms. Burleson said that in the conversations with the contractor she learned that as long as the fuel stays below \$3.25 a gallon there is no surcharge. The Board voted 3-2 to approve the Consent Agenda with Alderman Farley and Mayor Pro Tem Hardison voting against. Mr. Edes said that if the vote is not unanimous then the aldermen have to remove items. Alderman Farley did not make the request to remove an item.

- A. Call for Joint Workshop with Planning Board RE: Zoning Ordinance:
- B. Approval of Contract for Collection & Disposal of Curbside Solid Waste and Recyclables:
- C. Approval of Minutes:
 - March 31, 2009 (Agenda Workshop)
 - March 31, 2009 (Joint Meeting with County Commissioners)
 - April 2, 2009
 - April 2, 2009 (Closed Session)
- D. Department Head Reports

IX. **OLD BUSINESS:**

- A. **Approval of Bridge Ordinance:** Ms. Burleson explained that this is the same ordinance that was discussed last month. There have been some significant conversations about CON-D and bridges in the CON-D and there was concern that the Town was trying to address that inside the ordinance. Staff went back and reviewed it again and it has nothing to do with CON-D, it is strictly for public health and safety and making certain that the Town designates a standard for the bridges to be built by. It does not address CON-D which can be addressed in the zoning ordinance if the board so desires. This was strictly for health and public safety.

Alderman Tuman made a motion to approve the Bridge Ordinance. Alderman Peters seconded the motion. Alderman Farley asked about the bridges in CON-D. Ms. Burleson said that it is a whole separate issue and if you would like the Staff and the Planning Board to review it you can. Alderman Tuman said when he looks at the existing ordinance accessory buildings and uses in CON-D it is a conditional use and requires a conditional use permit that would be issued by the Board of Aldermen so there is protection in that sense. He said plus you have CAMA requirements. If someone wants to build a bridge in a conservation district a flag goes up. Alderman Farley said he would prefer to see them tied together and not to see bridges in CON-D. He said he is not comfortable with the idea that the Town can accept bridges, it can be very expensive to maintain bridges. The motion passed 4 to 1 with Alderman Farley voting against.

B. Thank You from Board to BEST Team & Motion to Disband Committee:

Alderman Farley passed out the resolutions he drafted. He read the BEST resolution aloud and moved that the Board adopt the resolution. Alderman Swantek seconded. There was discussion as to whether this item was supposed to be on the agenda. It was presented as a motion to disband BEST and according to Mr. Edes a resolution is essentially a codification of a motion. Alderman Tuman said he has an issue with the resolution. He said nobody has a problem with thanking the committee for its report but he does not like the tone. Going from there and then disbanding the committee is a disservice to this Town and to the people who sincerely accepted the responsibility to do a study for the Town. He said BEST prepared a substantial report and made specific recommendations and continuously requested that the Board provide extended courtesy or show some diligence comparable to their efforts and respond to the work that put forth.

He thinks it would be premature to say thank you and goodbye without spending some time in feeding back our individual assessments to their recommendations. He thinks the Board should look at other things that may require their assistance. He does not like it, he thinks it is abrupt and he will not support it. It sounds like a discourtesy in light of BEST's repeated requests to respond to their report and recommendations.

Alderman Peters said agrees with Alderman Tuman's comments. He said that BEST, as staffed, was completely hand picked by members of this Board with a predetermination as to their inclination of what they thought about beach nourishment. He said it would appear to a reasonable observer that based on the conclusion of the report presented that they are unsatisfied by the conclusion presented after a thorough analysis of all of the issues of beach nourishment and that they now tend to want to reject those proposals. He thinks it is a reflection of the discourteous way that this Board will treat members of committees. It is a thank you and good bye. There are numerous tasks that this committee can be drawn on to work on in the future. They have willingly submitted their request for this Board to consider asking them to help determine whether this Town wants beach nourishment or not. He finds this extremely undesirable and it will not benefit this community. The only thing he agrees with is that the BEST committee needs a thank you.

Alderman Farley said that the BEST team reported out to the Board and the Board was told that people support beach nourishment and now it is up to the Board to come up with funding. He said it is the Board's job to move forward. Alderman Peters said that we as a Board or the Mayor should appoint a subcommittee in lieu of BEST. He said he feels that the Board does not have the right to take away the opportunity of citizens to participate in their community.

Alderman Tuman said he sent an email to the BEST team and he read the email. The email said that the Board will be discussing having a joint meeting with BEST to discuss their report and recommendations this evening. He wrote that he hopes the team would be receptive to having a meeting and he wrote about what may be accomplished at such a meeting.

Alderman Tuman read Ed Doherty's response. Mr. Doherty wrote that he was pleased that the Board is considering inviting the BEST committee to a workshop to address the recommendations of the report. He said that he hopes that the meeting would address if the Town is willing to adopt any or all of the reports recommendations. He thanked Alderman Tuman and said he hopes that the Board accepts the recommendation to have a meeting. Alderman Tuman continued to express his dissatisfaction with the way this matter is currently being handled.

Alderman Swantek said he wanted to tell it the way it is and he said that he personally tried to set up a meeting with the BEST team and he said that Mr. Doherty did not want to meet. He said another attempt was made to set up a meeting. He said that without the permits the Board does not have anything to discuss right now.

The resolution passed 3 to 2 with Aldermen Farley, Swantek, and Hardison voting for and Aldermen Tuman and Peters voting against.

Alderman Tuman made a motion to have a joint meeting with the BEST committee for the Board to respond to the recommendations and the contents of their report. Alderman Peters seconded the motion. Alderman Farley asked if there is anything in the report that is different from what CP&E has told the Town for the last ten years. He said didn't BEST just adopt the CP&E plan. He said there is nothing that the Town has not done already. The motion failed 3 to 2 with Aldermen Farley, Swantek, and Hardison voting against and Aldermen Tuman and Peters voting in favor.

C. Presentation of Draft Ordinance for Public Vendors at North Topsail Beach

Mr. Edes said that he has surveyed various coastal towns that have mobile vendor ordinances. He drafted two different ordinances based on piecemealing the best parts of existing ordinances. The first one is mobile vendors, a copy was provided to the Board. He hit the highlights of the draft, on the fourth page it gives a description of the business and is the contents of the application. He mentioned the proposed time frame that he used from another town, which is 10 a.m. to 6 p.m. from Easter Friday through September 30th. He said the permit would be issued by the Town Manager at his or her discretion and can be revoked for any reason. He said they are not allowed to stay in any one place for more than an hour and he said that there will be liability insurance requirements. He said most of it is self explanatory and that some beaches are more liberal than others and he tried to go with something in the middle. Alderman Swantek asked if the hot dog stand would be a mobile vendor. Mr. Edes said he would fall under itinerant merchant.

There was discussion about the appropriate property for use by itinerant merchants. Alderman Farley asked how many people have requested privilege licenses. Ms. Burleson said that there are a small handful of peddler permits and one permit for selling on the beach.

There was discussion of vending in a right of way how it is going to address the Shrimp Lady. Alderman Tuman said that privilege licenses have been given out and asked how that affects the existing vendors. There was discussion on the difference between mobile and itinerant vendors. Mr. Edes said that if the Shrimp Lady is in right of way it is prohibited. Alderman Farley is concerned that if we restrict the right of way that the vendors will go onto the beach.

Ms. Burleson said that she asks that the Board extend the expiration date for the current peddler's license holders. The Board achieved a consensus on extending it through to the calendar year at the workshop meeting. Alderman Tuman asked for direction from the Town Manager. Ms. Burleson said that what she has seen from what the Town Attorney has provided she is very comfortable with the limitations that would be put into place. She likes the way he identified the itinerant merchants as one group because they act slightly different than the mobile vendors. It does not open up everything, but it opens up possibilities. She recommended that the Board extend the peddler's licenses until the end of December to make certain that the Town gets something in place that is appropriate. Alderman Tuman said that the Town Manager has discretion. Ms. Burleson says that she does not have authority to extend it. Alderman Swantek said that the Board should give input to the Town Manager by the next meeting to the Town Manager and she can pass

them on to Mr. Edes and something can be adopted at the next meeting. The Board was given by the 21st of May to submit their comments.

NEW BUSINESS:

A. Approval of Health and Safety Plan for the Town of North Topsail Beach:

Ms. Burleson explained that Deputy Fire Marshal George Moore has prepared this plan for the Town. It indicates how the Town should respond to blood borne pathogen exposures. This applies to all Town Staff. She thinks that Town has had something like this in place but that this brings it up to date. Alderman Hardison asked if there is a cost to it. Ms. Burleson said that the cost for the shots and the vaccine is already included in the budget. She does not think there are other costs. Alderman Farley said that some of the plan looks like it is labor intensive. He is concerned about burdening the taxpayers. Ms. Burleson said that Mr. Moore is the safety officer and has already been given these additional responsibilities. This is merely a clarification of the responsibilities and not an addition. Alderman Tuman made a motion to adopt by resolution the Health and Safety Plan for the Town of North Topsail Beach. Alderman Peters seconded the motion. Alderman Hardison asked if this puts the Town in a better standing. Ms. Burleson said that it does. Alderman Hardison asked if the Staff at Town Hall should be involved in it. Ms. Burleson said that the fire and police are prioritized and everyone is included. The motion passed unanimously.

B. Transfer of Unallocated Funds from the Capital Improvement Fund to the General Fund: Alderman Farley read the resolution aloud. Mayor Martin asked the Town Attorney if the Town can do this. Mr. Edes said yes. Alderman Farley moved that the Town adopt the resolution. Alderman Hardison seconded the motion. Alderman Farley said that the Town loses nothing from this and the Town gains flexibility. The money goes into the General Fund and can be taken out for any purpose. It helps the Town in that the General Fund balance will now be higher. Ms. Burleson clarified the amount in the capital improvement fund, it is around \$700,000.

Alderman Tuman said that this accomplishes nothing and there is no merit in making the change. Alderman Farley disagreed. Ms. Burleson explained that there was discussion in Raleigh about the fund when it was originally set up. She does not know what that discussion was, but when she spoke with the auditors he said it was reserved monies and not restricted monies so it could be used to offset the General Fund. The information that Mr. Best had provided her about Raleigh worries her enough that if there are some sort of restrictions in place that the Town is doing something wrong, she does not want the audit to show prejudice for doing this. Alderman Farley said that he remembers setting up the fund and this is not getting rid of the fund. Alderman Tuman said that Staff should look back to June 2007 when it the fund was created for the purpose of funding beach nourishment and other moneys were put in the general fund. Alderman Peters said he would not advocate it. He said the Town needs to get advice from an expert.

The motion passed 3 to 2 with Aldermen Farley, Swantek and Hardison voting for and Aldermen Tuman and Peters voting against. Ms. Burleson asked for a

clarification on the motion and verified that the motion was to move all of the funds. Alderman Swantek said that he would leave \$315,000 in the fund for the planned capital project. It would take a majority to rescind the last motion. He made a new motion to rescind the last motion taking all money out of the capital fund and instead leave \$315,000 in the capital reserve fund and move the rest of the money to the General Fund. Alderman Farley seconded the motion. The motion passed 3-2 with Aldermen Farley, Swantek and Hardison voting for and Aldermen Tuman and Peters voting against.

X. OPEN FORUM:

Thomas Leonard of 218 Coastal Drive - Mr. Leonard presented himself as the former vice chair of BEST and said that he wants to set the record straight. He said that Mr. Doherty did not call the original meeting off, Mayor Martin did. The issue with the meeting was that BEST didn't necessarily want to have a meeting with the Board of Alderman without an agenda, without a purpose, or stated goals. What BEST has wanted all along is to encourage the Board of Aldermen to meet to discuss BEST's five recommendations. He said we wonder why the Town cannot get anyone to volunteer. He said Alderman Peters was right when he said the Board thought they knew what they were getting, but they saw that they didn't get what they thought. They got about a dozen people who really got into the issue and tore it apart. He thanked Alderman Peters for his support and his insight. He thanked Alderman Tuman for his support and insight. He said when Myrtle Beach was going through the whole issue of whether or not to do beach nourishment, one of their elected officials said, "Nobody goes to Myrtle Beach to visit Myrtle." Mr. Leonard said they are a beach town, we are a beach town, do you really think people come to North Topsail to visit North Topsail? They come here to visit the beach, they sure as heck don't come here to get a meal or to shop, they come here to go to the beach. He said the Board needs to do their homework. He said he seriously questions whether a few of them even read the BEST report.

X. ATTORNEY'S REPORT: No report

XI. MAYOR'S REPORT: Mayor Martin reported on his trip with the Town Manager and Aldermen Swantek and Peters to Raleigh for Town Hall Day. He stated that they found out the State is broke.

XII. ALDERMEN'S REPORT:

Alderman Hardison thanked everyone for coming out and said have a good evening.

Alderman Peters said this Board needs to recognize how it is treating its committees he said it is pretty evident why the Town is struggling to keep a full committee. He said in reference to Mr. Tenet's comments regarding the bike path, that item is on the agenda for this year's budget and he hopes that it passes. He appreciated Mr. Tenet's comments in support of beach nourishment and thinks that the citizens are willing to contribute more than what the Board is giving them credit for.

Alderman Tuman said he wants to go on record as offering his personal and sincere thank you to the BEST team and their efforts. He said he thinks the report was professional and it exceeded his standards and that he is disappointed that this Board would not take the time to sit down and go over the details and respond to them.

Alderman Swantek said that there is not much to say except that he knows what went on with the BEST team.

Alderman Farley said that he feels there are some doomsayers and that nothing done tonight will subject this Town disaster. This Town will continue to grow and that the sky will not fall whether there is a BEST committee or whether the money is in the capital fund or in the general fund, there was nothing significant done here tonight. Hopefully we will continue to bring good people into our Town and a good place to raise our children and to live. He thanked everyone for coming out.

- XIII. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Hardison seconded the motion. The motion passed unanimously. The meeting adjourned at 10:09 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 6/4/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting Joint Workshop with Planning Board May 11, 2009 5:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Clerk Carin Faulkner. Also present were Planner Deborah Hill, Planning Board Chairman Sue Tuman, Paula Rowland, Gary Rowland and Gerald Rigglesman.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at in the North Topsail Beach meeting room at 5:08 p.m.
- II. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Peters seconded the motion. The motion passed unanimously.
- III. **REVIEW DRAFT OF CAMA LAND USE PLAN:** Ms. Hill said that revised copies including changes from the previous joint meeting have been distributed. She said she hopes the Board has had a chance to look over it to make sure that the changes that you wanted have been made. They have also been sent out electronically and a Draft of the Land Use Plan will be posted on the website. She said the overall game plan is to discuss the plan and pose any questions and concerns. She said that the Board may call for a public hearing to be held at the June 4th Board of Aldermen meeting. That gives Staff time to do the advertisements twice. If we have a public hearing in June it will go into effect and make it to the CRC meeting for their review in July.

Alderman Tuman comment said that he has reviewed the plan and he thinks that the latest draft captures the changes from the last meeting. He said Mike Yawn has also reviewed it and was present at the last meeting and feels that it is satisfactory. He said unless someone has specific objections, he moves that the draft be placed on the website and the public hearing be scheduled. Alderman Swantek seconded.

Alderman Peters said he would like to make a few points and would like to go through it. Alderman Tuman asked Alderman Peters if his are issues in detail or are they significant in detail. Alderman Peters gave the example that there are numerous places in the document where the Town is going to do something from 2008 to 2010 and that time is long gone and those edits need to be made.

Alderman Farley said that he has a few comments to make as well. Ms. Burleson advised the Board that they can continue with this discussion and once those items have been discussed the Board can amend the motion if needed.

Alderman Peters continued with specific suggestions of changes to be made to the document. There were several references that referred to dates that have already passed. Mrs. Tuman said that she is not sure if the changes will be able to be made to meet the public hearing date. Ms. Hill said it will depend on how many changes are made. It is prudent to have a draft copy for those who wish to review the document because once the hearing is advertised; the public must have access to review the document. A draft will not be available for review if Ms. Hill is still working on it. The Board and Manager discussed that if there are mainly small changes that it will not change the content of the plan.

Alderman Peters continued to suggest changes and ask questions about the document.

Alderman Farley asked about the document's reference to inland hazard areas, is there a discrepancy between what is here and what the Town allows. Don't we have a separate set of regulations? Mrs. Tuman stated that the Town would meet CAMA and where the Town exceeds CAMA it will be noted. Alderman Tuman said that it is made clear in the table of contents the section that applies to Policies and Regulations and the Town is specific about the limitations as they apply to the Town. The real requirements are captured in the ordinance and the ordinances need to be in compliance with the Land Use Plan.

Changes for the fire department staffing and the solid waste collection were suggested.

There was discussion on wording on shoreline stabilization structures. The suggested change was to make it that the Town supports legal alternative shoreline stabilization structures.

There was discussion on cluster development.

Alderman Peters pointed out that the Town needs to develop a capital improvement plan.

There was discussion regarding duplexes and the definition of them. It was suggested that the different types of houses should be listed with each of the zones and match what the Town has currently and is specified in the zoning ordinance. They discussed making it more general and less specific.

Ms. Hill said that she would edit the plan to reflect the changes made tonight. Most of them are editorial and not changes in content. She said she will call Landon and see if they can advertise on Wednesday for the June public hearing.

Alderman Tuman's motion passed unanimously.

V. **DISCUSSION OF CHAPTER 7: ZONING ORDINANCE**

Article one of Chapter 7.

Mrs. Tuman said that there were no changes except for numbering on Article one and Article two had no changes. Article three is the definitions.

Alderman Farley had a question about Section 1-11; it talks about updating the zoning maps. He read it. He asked if the Town is saying that it will be done by hand or it will be changed next time the zoning map is updated.

Ms. Hill explained that there is a table on the zoning map and she will enter in the table if it was a rezoning case or an amendment and put the date of the Board of Aldermen's decision. Even if the BOA declined or disapproved the rezoning then there will be a "D" to keep the numbers straight. Every 6 to 12 months the zoning map will be reprinted. The last time the zoning map was done it was checked against Onslow County GIS. There will be a record on the map every time a change is made. Onslow County will not change the zoning map unless they have a letter signed by the Mayor or Town Clerk. Alderman Tuman asked who can make changes to the zoning map. Ms. Hill said in other localities that the zoning administrator has the authority to make changes, but she would rather bring it before the Planning Board and Board of Alderman to approve the correction. The change or correction will be processed. She would show the Mayor the minutes noting that change was approved by the Board.

Alderman Farley asked about the definition of accreted land. There was discussion about how it can be interpreted. Alderman Tuman said that accretion does not affect any of the zoning in this Town and he does not think it is relevant. A suggestion was made to delete the word slow and blue, red, and green. Ms. Burleson recommended getting the legal definition and asking Brian Edes for the definition.

There was a question on why buildable lots were highlighted.

There was discussion about building height (Page 3-3)

There was discussion on flag lots. Alderman Tuman requested an all inclusive set of definitions for a lot and when you look at all aspects of it that it prohibits the creation of a flag lot. Ms. Hill said our present ordinance will not allow the creation of a flag lot.

There was discussion about condo/hotels and whether the Town should continue to permit them.

Mrs. Tuman said that the discussions bring out points we want need to fix.

There was discussion on Article 7. There were changes on special and conditional, there was a change of terms. There was discussion about developmental standards and where they come from. The Board will have to agree to the developmental standards.

The Planning Board made a recommendation for the Board to allow Bed and Breakfasts with the stipulation that there are developmental standards for them. Alderman Tuman asked if this is something that is manageable or that it will take years to get done. He said that the Planning Board wants direction and is asking the Board if it is amenable to new uses with developmental standards. The Board is not approving anything.

Alderman Farley said he does not like the idea of having them. There was further discussion on the possible developmental standards that would exist for a bed and breakfast.

Alderman Tuman said the question is if the Board should give up some of the conditional uses and replacing them with developmental standards so that the Board does not have to see everything. Alderman Tuman made a motion to give direction to the Planning Board to establish developmental standards for various uses. The developmental standards will need to be approved by the Board of Aldermen. The motion passed 4 to 1 with Alderman Farley voting against.

Alderman Swantek made a motion to continue the meeting until next Monday, May 18th at 5:00 p.m.

**Board of Aldermen
Special Meeting
Continuation of Joint Workshop with Planning Board
May 18, 2009
5:00 P.M.**

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson. Also present were Planner Deborah Hill, Planning Board Chairman Sue Tuman, Paula Rowland, Gary Rowland and Gerald Riggelman, Paul Dorazio, and Deb Lanci

- I. **CALL TO ORDER:** Mayor Martin called the continuation of the special meeting to order at 5:17 p.m.
- II. **CBRA DIGITAL MAP PROJECT:** Ms. Hill wanted to have a community meeting to get public input on the new CBRA digital maps. She would like to schedule it for Tuesday, May 26th at 6:30 p.m. and asked if it would work for the Board.
- III. **CONTINUATION OF DISCUSSION OF CHAPTER 7:** Ms. Hill said that the group left off on Article 3-3. Discussion began with the definition of building height. There was discussion on whether or not to include the 45 feet, which is not a definition, but a regulation.

There was discussion on setbacks.

There was discussion on temporary residences. Alderman Swantek read the definition of RVs (recreational vehicle).

There was discussion of vehicle accommodation area.

There was discussion on fire walls.

There was discussion on parking.

The Board of Alderman directed the Planning Board to provide examples of developmental standards. Another special meeting will be scheduled when the changes discussed are ready for review by the Board.

The meeting was adjourned.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 6/4/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, June 2, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Richard Farley Daniel Tuman, Town Manager Lara Burleson, Interim Finance Officer Breck Smith and Town Clerk Carin Faulkner.

- I. **Call to Order:** Mayor Martin called the meeting to order at 10:05 a.m. in the North Topsail Beach meeting room.
- II. **Approval of Agenda:** Alderman Peters made a motion to approve the agenda. Alderman Swantek seconded the motion. The motion passed unanimously.
- III. **New Business:**

A. Discussion of Agenda Items for Thursday, June 4, 2009:

Discussion of Public Hearing on Proposed 2009-2010 Budget: Ms. Burleson said that the budget has not changed since the last workshop. There were questions about changes in the tax levy and the ad valorem. She said Mr. Breck Smith has been working on it and doing calculations to see what it means for the Town. She said that they can give the Board a number and that it is the best educated guess they can make. She said they know there will be some changes from the State such as Chapter 44 has been eliminated and Chapter 39 (she thinks that is the number) is going to be cut in half. There is some reducing that is coming down from the State level so the Town has to keep that in mind as they are working on the numbers. She said the bottom line is that it comes out to be about a \$44,000 - \$45,000 for one penny that would come back to the ad valorem, however that is based on numbers from the past and not knowing what the future will be like. She said it is not a rock solid number, but it is the best they can give the Board. There was further discussion on revenues and the County tax rates.

Ms. Burleson directed the Board to the Budget Ordinance which gives the Board three options. The first option is 13 cents to the General Fund and one cent going to the Beach Fund, which is currently in effect, the second option is 13 cents to the General Fund and 2 cents to the Beach Fund, the third option is 13 cents to the General Fund and 3 cents to the Beach Fund. She said that the Board needs to decide on one of the 3 options. She has received emails from citizens and most of them have been advocating for an increase and

electing for option 2 or 3. There was a citizen who could not be present at the meeting who requested his comments to be read at the meeting. Alderman Farley said that he objects to that. Ms. Burleson said that she is going to consult the Town Attorney on this matter.

Ms. Burleson stated that there is fourth option as well. She reminded the Board of a letter the Town received in December 2008 regarding the fund balance. The fund balance is low because of past expenditures. She said Town is down to 29 percent. The State's recommendation is that the Town gets the fund balance up closer to 100 percent. She said other similarly located jurisdictions have 99.01 percent. She stated that option four would be a raise of the tax and leaving it in the General Fund.

There was discussion about the letter and how it was distributed to the Board. Alderman Tuman asked Ms. Burleson if she addressed this issue in the budget. She said she did, and it was by paying off the capital debt so that money will be freed up next year. That way the Town does not have those expenses into the future. Alderman Farley was concerned about the Town spending taxpayer's money. Ms. Burleson said that the interest rates the Town is paying on those loans are significantly higher than what the Town is getting with the money in the bank. Alderman Farley asked what debt the Town has. Ms. Burleson said that the only item the Town is not going to be able to pay off is a fire truck, which has a 10 year loan. Alderman Tuman said the important thing is that the Town received a letter from the State and the Town needs to respond to it. There was further discussion on the fund balance and what the Town should do in response to the letter from the State.

Ms. Burleson stated that her comments about the budget are covered in the budget message and asked the Board for questions. Alderman Farley said that he would like to adopt the budget and not the budget message. He said that in the past it has been used as a way for the Town to commit to certain things. Ms. Burleson said that she is asking the Board to adopt the budget through the budget ordinance. Alderman Tuman said he disagrees and feels that the budget message is the plan for the Town for the coming year and the plan needs to be adopted. Ms. Burleson read the N.C. General Statute regarding the budget message. Alderman Farley says that the statute does not lock the Town into it. Alderman Tuman said it gives the citizens and idea of what they are getting taxed for. Alderman Hardison said if the Board is going to adopt the budget, just based on the message itself he would not vote for it. He said if the recommendation is to split the message and the ordinance and that the message is not required, then it should be split. He has said several times that the Board has a lot of work to do and that the Board is not going to solve a lot of the backed up problems. Ms. Burleson read more of the statute. She said what the Board is asked to adopt is the budget ordinance. She said she did not draft the budget message until the after the budget workshops. In her opinion, the budget message is a management tool and the message gives the rationale so there are no understandings on how the numbers are arrived. It gives her the go ahead on what to accomplish over the next year. Alderman Tuman told Ms. Burleson to make certain that the Town is meeting the requirements of the law. Ms. Burleson said that she thinks that the budget ordinance is what will be adopted, but she said that as a public official she is to submit the budget message, ordinance, public notice, and conduct a public hearing. She said she will make sure what is required. Discussion continued on the budget message.

Manager's Report

Discussion on Committee Vacancies: Ms. Burleson explained that an application from Jim Milligan was received. Mr. Milligan wants to be an alternate on the Board of Adjustments. She announced that June Doherty resigned from the Planning Board. Ms. Burleson said she recommends that Ms. Hanna McCloud stay an alternate and that the Board should continue to seek regular members. Alderman Peters said that she should be a regular member, that she will get just as much experience either way. Alderman Tuman said he would have the Planning Board Chairman find out if Ms. McCloud is interested in being a regular member.

Discussion of Report on CBRA Digital Mapping Project: Ms. Burleson reported that they had a successful work session and it looks like the Town has an opening to give input on the modification of the CBRA zones. It is going nicely and the input will need to be turned in by July 6th. Alderman Tuman asked Ms. Burleson to talk more as to what the Town is doing and what the Board is to expect and when. Alderman Farley asked about the issue with the conservation land. Ms. Burleson explained that the Town can get it modified and changed to OPA (Otherwise Protected Areas). Those areas will be eligible to receive Federal funds.

Ms. Burleson said that she has contacted the utility companies to get proof of what was in place in the Town in 1982. The U.S. Fish and Wildlife Service is digitizing the maps for CBRA we are part of the digitized mapping project and they are correcting the technical errors in the mapping itself. Ms. Burleson said that she and the others looking into it think that there are those problems besides the ones that U.S. Fish and Wildlife have identified and that the Town is going to identify and report them as changes that need to be made. She said that they do not know when the changes will be made because the schedule is not available. Alderman Tuman suggested getting input from the DOT and thinks that the Town should have a face to face meeting with U.S. Fish and Wildlife to put them on notice as to what the Town is planning to do. The Mayor suggested speaking with Senator Jones. He mentioned that he has spoken with Congressman McIntyre and the Town has his support.

Discussion of Update on Building Inspections: Ms. Burleson said that she is working with the County on the potential consolidation of building inspections. She said they are looking at how building inspections are done county wide with individual jurisdictions and to see if there is a way to consolidate it in a way that would benefit the jurisdictions, the citizens and community as a whole. They are going to start a process of getting input from the community. Teams will be put together of active developers and builders and the governing bodies to give input and have work sessions to give everyone the chance to say if it was done, what they would want it to look like.

Alderman Farley asked why building inspections are going slow. He asked if there are some standard things that need to be done and if there was a way that they can go through faster. Ms. Burleson explained that some reviews were not getting done before and she had to reevaluate the whole process. Now everything now has to be reviewed. Permits are taking longer because of that and the process is still getting streamlined. For instance plumbing work can go through faster because it does not need CAMA and flood.

Ms. Burleson added that she received an e-mail from Waste Industries which confirmed that the first pick up date for recycling will be July 10th and the first Saturday for solid waste is the 11th. Alderman Farley asked about those citizens who pay for two cans, and said that they are paying for two recycling cans. He feels there is some inequity in there. Ms. Burleson said that the additional can is \$135 per year, the same as the original price and an additional recycling cart is \$80. She said the Town can to change to another pricing strategy if it is necessary.

There was discussion on sick time and comp time for Town employees; Alderman Swantek noticed that those were getting high.

Alderman Tuman asked the clerk to review the minutes from the last meeting. He felt as though his motion to add the item about discussion a meeting with the BEST team was not reflected in the minutes.

Alderman Peters asked why there are so many permits in the planning department report. Ms. Burleson said that this has to do with the planning department doing reviews that were not done previously.

Alderman Swantek asked about the Fire Department Report. He noticed that Thomas Best, the fire marshal, had only reported to 2 out of 24 incidences. It should be Mr. Best or George Moore and Mr. Moore reported to 4. Alderman Peters said that it depends on the type of the call.

Old Business

Discussion of Approval of March 5, 2009 Minutes: Ms. Burleson said that she has not received any input from the attorney. She added that she asked for input from the Board but did not get anything from the Board either.

New Business

Discussion on the TISPC Charter: Ms. Burleson explained that the Topsail Island Shoreline Protection Commission has asked for the Towns to review and approve their new charter. Alderman Hardison asked for the old charter. The Town Clerk said that she will e-mail it to the Board. Ms. Burleson added that staff recommendation is to appoint a citizen at large to serve on the commission. She recommended that Deb Lanci be the community representative to fill that slot. Alderman Hardison asked who should be making the recommendation and asked if it was Staff responsibility to make the recommendation. Ms. Burleson said that she saw it as an opportunity for her to make a recommendation. Alderman Hardison thinks the charter needs to be checked on that and that it may need to be a Board decision. There was further discussion on the issue. Alderman Tuman suggested that Ms. Burleson add a request for volunteers to the Managers' Report. Alderman Tuman asked if Duncan Heron needs to be reappointed. Alderman Peters said that he has resigned.

Discussion on the Budget Amendment: Ms. Burleson said at the end of the fiscal year the Town needs to make an accounting of the items where the Town went over budget in

our revenues or expenditures. Mr. Breck Smith presented the information to the Board. He said that the Beach Fund added four new revenue line items that were not budgeted for last year which includes the Army Corps of Engineers money that the Town was reimbursed for. He said in the General Fund, in the expenditures, only 30 line items went over budget. He said that the Town was able to run the amendment by the auditor, and the auditor said this is a good way to approach it. Mr. Smith asked for both budget amendments to be passed.

Discussion on Agenda Workshop Sessions: Alderman Farley said that the Town decided to have two public forums before and after the Board making decisions, but he feels that it makes the meetings longer. Ms. Burleson directed the Board to Fleming Bell's book and said that one is required. Discussion continued. The Board gained consensus that no one in the audience shall speak until recognized. Ms. Burleson asked the Board if they would like staff to draft a resolution for reaffirming the Fleming Bell rules as the procedures. Alderman Hardison said that the Board has always gone with those rules. Alderman Farley said that the Board has talked about not commenting to anyone that makes a statement during the public forum. He said Onslow County has a resolution for it. He said it should not be a dialog. Alderman Swantek said that there should be a time limit on the meeting and if they are not done, it will be continued to another day. Alderman Tuman asked the mayor to maintain the meeting. He said that two things the mayor and Town Manager can do is to correctly plan the agenda and the materials that the Board has been asked to consider so that they don't invite a lot of extraneous discussions. He said they need to keep moving things along. Alderman Farley said that the Town should be managing the agenda; he said sometimes there will be 3 or 4 public hearings in one night, and maybe they could be put on another month. Ms. Burleson said that when we know we have a heavy public hearing night, we will limit the other items, because sometimes there is a time window on public hearings. Alderman Farley asked if we have painted ourselves into a corner where the Town has to do it at this meeting, but the Town may have been able to do something differently. Ms. Burleson said there is nothing that she knows of where the Town has sat on something that we keep things moving through. She has looked at one meeting where there were four public hearings, so Staff limited the other items on the agenda. Alderman Tuman suggested where there are a number of public hearings, that the Town should schedule a special meeting just for public hearings.

Alderman Tuman asked about the Land Use Plan and if the public hearing has been advertised. Ms. Burleson said that it has been advertised and it will be on July 2nd. Alderman Swantek said that this meeting is supposed to be where a majority of the discussion occurs. He said the Board does not need to be up there fighting back and forth with each other. He wishes they could be more civilized in front of the public. Alderman Hardison said that he wants clarification about the minutes from last meeting. He said when the issue came up about the time of the meetings; he said the minutes said that the motion failed for lack of unanimity, he questioned whether there was a motion. Ms. Burleson said that there was a motion to amend the agenda and the vote was not unanimous so therefore the agenda was not amended.

This item was taken off of the June 4, 2009 agenda.

Discussion on Length of Meetings: This item was taken off of the June 4, 2009 agenda because the Board had an understanding. There was consensus among the Board and the mayor to limit the meeting, with 10:00 p.m. being the goal.

Discussion of Budget Amendment for End of FY09: This item was already discussed.

Discussion of Identification of North-End Property Acquisitions & Associated Easements: Alderman Tuman said that when the Town demolished the north end homes the Town paid someone for use of an easement the Town had acquired during the settlement. He feels the Town built the resident a crossover when we should not have. He is asking if it should now be a public crossover. There are other easements that are the Town's that the Town has not turned over to the property owners. He wants to know which easements the Town owns and wants the Town to take appropriate action, with advice from the Town Attorney. Alderman Farley was concerned that this was a legal issue that needs to be discussed in closed session.

Ms. Burleson showed a plat of the area from 1979 that showed the Reef, she showed the parcels that the Town owns and ones the Town does not own. She said through this record, there were public accesses that were developed. She indicated two notes on the second page that refers to those specific crossovers dedicated to the public. She does not know the status of those. There is still some research that needs to be done. Now that the Town owns these, the easements are walking access from those parcels that are on the landward side to the ocean. She said where the crosswalk hits on publicly owned property; she wants to find out what is the responsibility of the Town. Does it become a public walkover? She said the Town does not own them fee simple and the Town only owns them to gain access back and forth. She said there are specific questions for the Town Attorney. Alderman Farley said that there are several issues. Discussion continued on property rights and uses. Ms. Burleson said that the Town owns several properties and it is worth looking into and possibly surveying some of the properties. She said she and the Town Attorney have been working on how to identify the Town owned properties. She would like to move it up on the priority list. She wants to know exactly what the Town owns, what privilege does the Town have with the properties, what are the rights and responsibilities of the Town. Alderman Farley suggested taking this item off of the agenda. Alderman Tuman said he wants it to remain on the agenda. He does not want to sweep the issue under the rug.

Alderman Hardison asked about Interim Town Manager Frank Clifton and the Board approving a study of all of the properties the Town owns. Alderman Swantek said that it was discussed and the Board told Mr. Clifton to go ahead with surveys. There was a discussion about ECC (Eastern Carolina Council) doing a complete set of demographics of the Town properties. Ms. Burleson said that she had received something recently about that and they had compiled information from the County and other places and they have started the analysis of it. It will not produce the kind of survey that the Town is looking for. Alderman Tuman discussed the appropriateness of surveying properties. Alderman Peters made a recommendation to put it on the agenda for next meeting to approve and analysis of everything the Town has. Alderman Tuman said that the Town should find out the status of the ECC report.

Other Items Discussed

Ms. Burleson said that Alderman Swantek wanted to add an item to the agenda for next meeting.

Alderman Hardison asked about doing something for Mr. Newsome, who was part of the first group of aldermen from Ocean City, in July or maybe Labor Day.

Alderman Peters made a motion to adjourn. Alderman Hardison seconded the motion. Alderman Swantek made a motion to go into closed session. Ms. Burleson said that this item is not on the agenda and that this item should have been added at the time of approval of agenda. She read excerpts from Fleming Bell's Suggested Rules of Procedure for a City Council regarding the meeting agenda and closed meetings. There was discussion among the Board. The motion passed unanimously. The meeting adjourned at 12:55 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 7/2/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, June 4, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Alderman Farley gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Alderman Swantek led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Swantek stated that he would like to add an item to the agenda. He said he wanted to add Port-a-Johns at the beach accesses to the agenda under New Business. Alderman Swantek made a motion to approve the agenda as amended. Alderman Tuman seconded the motion. The motion passed unanimously.
- V. **COMMITTEE REPORTS:**
 - A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. It read as follows:
 1. Our Land Use Plan was reviewed again by a joint session of the Board of Aldermen and Planning Board. Additional changes have been made, mostly regarding updating tables and other information with more current charts, etc. The Plan is now ready for a Public Hearing which this Board will be authorizing at tonight's meeting. The hearing advertisements have already been published, but because a Land Use Plan requires a 30-day window for the public to view, the Hearing is not scheduled until your July regular meeting, July 2nd.
 2. Our May Planning Board meeting was cancelled as there was no town business on the agenda. We are continuing our Monday workshops and have met with the BOA May 11 and May 18. Joint meetings w/ BOA on Chapter 7, Articles 1- 7 have begun. Articles 1 and 2 have been completed. Review of Article 3, Definitions has started. As we will continue to have new definitions added as the Planning Board works its

way through the rest of the Articles in Chapter 7, I would suggest that, if this Board would like to continue working on Article 3 a little at a time with the Planning Board, we could also move on to take care of Article 7, Table of Permitted Uses at our next joint workshop. That will allow the Planning Board to work on Articles 8 and 9 which will cover the Development Standards the Board of Aldermen will need to approve for our town Staff to use this method of operation. Staff is working to collect some sample Development Standards used by other towns and will distribute them to both the BOA and the PB for review and use in devising our own Standards.

3. The Planning Board will be holding a Public Hearing for comments on telecommunications towers, wireless at our June 11th regular meeting. Notice of this hearing has been published twice and we are hopeful we will have some residents, property owners and renters attend the meeting to comment. These comments will provide us with input to create the needed proposed amendments to Chapter 7.
4. Staff is continuing to work with Alderman Farley and to attend the work sessions with Onslow County Staff on completing our Town's Hazard Mitigation Plan.

Mrs. Tuman added that she has heard that June Doherty has resigned from the Planning Board. She said she wanted to say that Mrs. Doherty was a hard worker, she researched things and the Planning Board will miss her input greatly and that she is sorry to see Mrs. Doherty go. Mrs. Tuman stated that Hanna McCloud is going to be considered for the regular member vacancy. She said that the Planning Board needs alternates. She said that alternates are allowed to comment and she hopes that someone in the audience or someone they might know would volunteer for those vacancies.

Alderman Peters asked for clarification, he asked if the alternates can vote if there are absences on the Board. Mrs. Tuman said yes, alternates do get to vote if they need to fill-in for a regular member. She stated that if the Board does not have at least four members present, they cannot have a meeting. Alderman Farley asked if another joint session has been scheduled. Mrs. Tuman said that another meeting has not been scheduled. The Planning Board is going to meet to work on the developmental standards and definitions. Alderman Tuman suggested that she work it out with the Planning Board and Town Manager.

- B. BOARD OF ADJUSTMENT:** Gary Miller, Chairman, reported to the Board of Aldermen as follows: He reported that at the May 21st Board of Adjustment meeting the Board approved the April minutes and welcomed two new members, Marsha Hamilton as a regular member and Gary Rowland as an alternate. He said that Jim Milligan has an application that will be considered by the Board later on tonight. The Board is short one regular member. He said a Variance request (V-09-02) by Judy Hooks for 2402 Island Drive will be presented at the regularly scheduled meeting on June 18, 2009. He showed the audience a binder that was created from training sessions which includes all of the information in it regarding zoning and the Board of Adjustment and planning, he said anything you want to know is available in the book. He thanked Ms. Hill for the tremendous work she did in putting the book together.

VI. PRESENTATIONS & PUBLIC HEARINGS

- A. **Public Hearing: Proposed 2009-2010 Budget:** Alderman Peters made a motion to open the public hearing. Alderman Tuman seconded the motion. The motion passed unanimously.

Ms. Burleson explained that the Board has the budget ordinance in front of them. She said that it is a balanced budget. She said that in Section 3 of the ordinance she provided four options for the Board to consider for the tax rate. Alderman Tuman suggested that Ms. Burleson read the budget message aloud to the Board and public. Ms. Burleson read the budget message.

Russell Proctor of 2314 New River Inlet Drive – Mr. Proctor will have owned his property at NTB for 25 years this August. He complimented Ms. Burleson for the wording on the first page that says to work on building a sense of community. He asked about the Topsail Island Shoreline Protection Commission and what it is. Ms. Burleson explained that it is a commission that is comprised of all of the towns on the island as well as Pender and Onslow County. He said that we just pledged allegiance which he assumes represents some sense of democracy. He said if the Board is going to organize a committee for beach nourishment, he encouraged the Board to act on their recommendations and primarily encouraged the Board to seek public input in the form of a survey. Mr. Proctor asked about the fourth option which was just added to the Budget Ordinance. He encouraged the Board to pass Option 2 or 3 which is the additional one or two cent property tax for the Beach Fund. It strikes him that 51 percent of the budget revenues come from taxes, that is a reflection of the value of the properties and he thinks beach nourishment substantially increases the value of the properties and directly increases the tax revenue, he asked the Board to consider that.

Wayne Pace of 2000 New River Inlet Drive at St. Regis – Mr. Pace pointed to Page Two of the Manager's Report where the Town Manager recommends that the Mayor and Board of Aldermen consider an increase to go directly to the Beach Fund. He said Ms. Burleson gave the details of what would be done with the money. He said he is asking the Board to act affirmatively on that recommendation. The Town has a critical problem having to do with beach nourishment and that problem is particularly acute in the north end where he lives. There has been much work done by many people in Town who have learned how to alleviate that problem. He said the Town is nearly there now and it would be a travesty to back away from the plans that have been properly engineered and now ready to be approved by the government and appropriate agencies. He would like the aldermen to consider and act affirmatively on the Manager's recommendation and even in the long term perhaps consider additional money. Now is not a good economic time, but the Town must fund this project. Mr. Pace said the Town has had a committee which has studied and learned and have become experts on the needs of beach nourishment and they have made a recommendation and he would like to see the Board of Aldermen consider it, hear it, and act on it.

Deb Lanci of 2100 Heath Drive – Ms. Lanci said that she would like to see the increase in the tax rate of two cents in order to fund beach nourishment, whether it is CP&E's plan or the Federal plan or whatever plan ends up coming into place. She said she would also like to remind the Board that the BEST team submitted their report and the most important part of the report was recommendation number five whereby the citizens of NTB are surveyed. She said she gets e-mails on a daily basis from concerned citizens and to say that people don't want beach nourishment is a fallacy and a new survey would definitely be in order.

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said that he urges the Board of Aldermen to raise the tax two cents to fund beach nourishment. He said as vice chairman of the BEST team that has been disbanded, when Myrtle Beach was going through the same issue with their beach and deciding whether or not to have beach nourishment, one of their elected officials made the comment that "nobody goes there to visit Myrtle, they go there to visit the beach." He said he submits to the Board that nobody comes here to visit North Topsail; they come to visit the beach. He said, "Without a beach, we don't have a Town."

Lenny Dennitis of 126 N. Permuda Wynd – Mr. Dennitis stated that building is starting to pick back up on the island and if the Town does experience a hurricane, without a building inspector we would not be able to get back on the island. He asked if the Town has a plan to get back on the island. He said it usually took a building inspector to go on the assessment team. He said that the Town has tried this before with a CAMA officer in Wilmington and the Town had a hard time getting CAMA's approvals up here and the Town had to reinstate the CAMA officer. We are doing the same thing with Onslow County, trying to save a few dollars. He said the people in Jacksonville are not going to run down here to allow us back on the island until the Town has an assessment team. He said, we pay our taxes to have a building inspector and CAMA officer to have immediate response, we need it.

Carol Evans of 209 Seashore Drive – Ms. Evans said she would like to concur with the statement about the building inspector, she said she gets very nervous when she thinks about not having one. She said she knows that if the Town does not have a building inspector things are going to slip through the cracks and then there will be big problems. She said she would also like to address the people who are probably not here. Those are the ones who are worried about whether they can keep their house. There are a large number of citizens that she knows of who are really hurting financially. She said she would like to speak to their dilemma. Some of them are sweating whether or not they can keep their house some of them are going to lose their houses; some are going to other places just trying to stay alive. They would have a tremendous hardship with any increase in taxes. She asked the Board to consider those who are not as well-to-do and to have a heart.

Alderman Swantek made a motion to close the public hearing. Alderman Peters seconded the motion. The motion passed unanimously.

Alderman Peters made a motion to approve the budget as presented with the option of raising the tax levy one cent to 15 cents with 13 cents going to the general fund and

two cents going to the beach nourishment fund. Alderman Tuman seconded the motion for discussion.

Alderman Swantek said that he can't go along with the two cents. He referenced the 8.7 cent raise in Onslow County taxes. The Town just got hit with the ad valorem and per capita where the Town lost about \$600,000. He said that is a 34% raise that the County has given in three years. He said ONWASA (Onslow County Water and Sewer Authority) is looking to raise their rates. He mentioned the insurance rate increase. He said that we are in a recession and we are all hurting and we cannot afford a lot of this stuff. He said there is no money from the State and Federal government. He said there won't be for quite a few years. He said in his opinion the Town needs to tighten its belt. He said the Town should stay right where it is and still be able to provide a good infrastructure for our people.

Alderman Hardison said that he supports some of the things Alderman Swantek stated. He said he also feels that the Board needs to spend more time looking at the budget to find areas that the Town might find that need to be looked at a second time. He said the meetings that the Board has had were not work sessions that were looking at the guts of the budget as much as it was a presentation going over the needs of the departments. He said that last year the Board took time to go through certain areas page by page and discuss things. He said he does not feel that it has happened this year. He thinks there are a lot of things in the budget that he feels uncomfortable with until there is a bit more clarification made.

Alderman Farley said that he agrees with Alderman Swantek and Alderman Hardison, he is not in favor of a tax increase. He said the penny raises \$145,000 and the Town is talking about a several million dollar project. He asked about \$3 million from the State and if that is what the Town is still projected to receive. Ms. Burleson said that it is and that it is realistic if the Town worked hard enough. Alderman Farley said he does not think it is realistic, that he has spoken to representatives in Raleigh and it does not look like there is money for this in the coming year or the year after. He feels that the \$145,000 raised is just tying up money. He said the Town needs to see the State realistically paying for beach nourishment. He said he agrees with Alderman Hardison about cutting costs and looking at costs. He said that the Town needs to look at expenditures to increase the fund balance. He said maybe the Town could look at the bike path and that it is worth more than a penny increase. He thinks there are things that could be reduced to tighten our belt.

Alderman Tuman said that the ongoing issue with beach nourishment is whether the Town is serious about a beach nourishment program. There is a lot of skepticism and a lot of negativity on the Board and from some individuals who support them. He said he receives a lot of correspondence indicating that there is support for beach nourishment. He mentioned the BEST team's report and the survey they did. He said the survey two years ago that indicated that 80 percent of the people were positive toward the idea of addressing beach erosion. He said that the Board needs to keep in mind that there needs to be a ceiling on the amount of money that the Town asks people individually to spend toward it. He said bottom line there is interest in beach nourishment and it is expensive and unless the Town gets outside funding, it is not

going to happen for this Town. He said there is only so much taxing that we can do on our citizens. He said that those who participate in the local professional organizations and go to meetings and hear representatives from the State and Federal government know that the trend is positive where the State will assume the responsibility for the beaches. He said someone threw out that if the State would fund \$3 million a year, it could maintain the State's beaches at the present level of condition. He said that \$20 million a year is being asked for beach and the money will come back to communities who do projects. He said someone said the State would handle 65 percent of the funding with 35 percent from local and county sources. He thinks that it is very positive and he thinks it is an opportunity and the Town should participate with these organizations and involve our Congressmen and that it is the way to go, especially since there is reduced Federal support for such projects. He said it would be foolish for the Town not to keep a beach program upfront in this community as it is in other coastal towns. He said the Town should keep it on the front plate and go forth and ask for our share and to keep pressure on State officials to make beaches a State funded responsibility. He asked if the Town is ready to support a beach nourishment program. He said it is not supported on this Board. He said he thinks the community wants it and he does not know how to move it along except that there will be an election in November with three board seats and a mayor up for election. He addressed people who are civic minded and of good will and said that the Town needs candidates and said that maybe with the right kind of Board the Town can move beach nourishment along. He said this Town hemorrhaged \$2.2 million to purchase those destroyed properties and got nothing in return except some unbuildable land and some easements. That is a forewarning of what the Town's future will be if the Town does not do anything with the beach problem, and that was a beach problem. He said that this Town is at risk and the risk is in significant dollars and you have to weigh that consideration. He said other communities recognize that and they are moving along. He said the County Commissioners are looking to see that the Town is serious about beach nourishment and if it is not, not to expect funding from the County. He said an increase, while it doesn't raise a lot of money is a symbolic statement that the Town is serious about the beach. We have a project plan we are increasing additional funding, but at least it is a statement that gives this Town credibility when we go forth to get the project moving.

Alderman Peters said he wanted to make clarification to early comments. It was indicated that the Town lost 34 percent from the changes in sales tax; he does not think that is correct. He explained that the County needed a more equitable way of distributing sales tax, per capita or ad valorem, the difference was extremely significant between the two and the State legislature allowed them to do a 60 percent ad valorem and 40 percent per capita split. He thinks to say that the Town lost that amount is erroneous. He refuted the statement that the Town will not get money from the State. The State has still allocated funds for beach nourishment; he mentioned that Bald Head Island has been approved for \$5 million. Our Town has been told as soon as the Town receives an EIS (Environmental Impact Statement) the Town will receive funds. He also refuted the fact that the budget items need to be looked at again. He said the budget statement is dated May 15, 2009; the Board had one meeting after the budget was presented and this is the second or third revision of this budget. He does not think that it needs to be looked at again. He said that the Board

and Staff went through the budget page by page and item by item this year. He said he has spoken to people in Raleigh and funds are available and the Town has been committed to getting funds. He said as far as looking at items to remove from the budget such as the bike path, the citizens think that it is a positive step the Town can take. He said that the primary benefit of beach nourishment is that the Town will have a beach to bring in tourists, but it is the foundation of our real estate values of this community and without beach nourishment property values will continue to decline. He spoke about the financial impact of the tax increase. He said it is roughly a \$58 increase for individuals. He said that the Town does not want to put people out of their homes. He said we do not need to sacrifice the goals of the community. He said he does not think that amount would force someone out of their home. He said what the Town is talking about is two cents to show our County and State officials that we truly want beach nourishment and need it and are willing to stand up and put some money to that cause. He said he agrees with Alderman Tuman that the Town is at risk and if we follow this path he can only see a diminishing real estate value for our Town and continued dissention among our community.

Mayor Martin asked how much comes back to the Town for each cent increase. Ms. Burleson said the Town gets back about \$46,000 per cent. She said that the number can fluctuate and that number is an educated guess.

The motion failed. Aldermen Farley, Swantek and Hardison voted against. Aldermen Tuman and Peters voted for.

Alderman Swantek made a motion to approve the budget and keep the tax levy the same at 14 cents with 13 cents going to the General Fund and one cent going to the Beach Fund. Alderman Farley seconded the motion. Alderman Farley said that if there are issues with fund balance the Town needs to look into things and maybe postpone some items until our fund balance is raised. He said if the Town has an immediate need to raise the fund balance the Town cannot afford to pay the interest on the debt. He suggested that the Town could have a discussion on the fund balance and then amend the budget to bring those numbers back in.

Alderman Hardison said that the Town has until the end of this month to approve a budget. Alderman Tuman said the fund balance is a concern and the Town received a letter from the State about it. The reason the Town's fund balance is in bad shape is because the Town paid about \$1.3 million to pay for legal settlements. He said the Town could raise taxes to restore the fund balance. The State's concern is that the Town needs to be financially viable in an emergency. He suggested a one time raise of 6-7 cents to restore the money that went out. Those funds would give the Town insurance and protection to use for beach projects, which is the insurance for the Town. He said the proposal that Alderman Peters made would give the Town some measure to respond to the State and also restore financial responsibility to the Town. If the Town has the good fortune not to have a storm, then the money goes back to the reserve for other purposes.

The motion failed 3 to 2. Aldermen Tuman, Peters, and Hardison voted against. Aldermen Farley and Swantek voted for.

Alderman Hardison made a motion to meet next week to work out the issues people have about the budget. Alderman Swantek seconded the motion. Alderman Peters asked what Alderman Hardison meant by people.

Mayor Martin and the Town Manager discussed their schedules to determine a day for a special meeting. Alderman Tuman said he does not understand the motion, is it to have a meeting? Alderman Hardison said that it is his idea that the budget needs to be discussed to a point where it gets to a point of approval by the Board. He said it provides us with another opportunity to be more specific. Alderman Tuman asked if Alderman Hardison wants to go through the detail of the budget like we did with the Town Manager previously. Alderman Hardison said if that is what it takes. His intent is to get the budget passed. He said he thinks there are five different opinions up here and they should be on the table for discussion. He doesn't want to do it tonight because we will be here all night. Alderman Tuman said as a procedural thing, we can recess to continue instead of calling a special meeting.

Mr. Edes suggested that the Mayor seek consensus from the Board to recess this meeting and that Alderman Hardison withdraw his motion. Alderman Hardison withdrew his motion. There was discussion among the Board about what date to recess the meeting to. Alderman Tuman said he was not interested in having another meeting to discuss the details of the budget he said he feels that such a meeting should have been requested prior to this meeting if there were issues with it. Alderman Farley says he does not have a problem with meeting that there have been many other meetings on other less important subjects. Alderman Tuman said he will withdraw that. He doesn't think there is anything that stands out that Mayor Pro Tem Hardison is concerned about. He feels that it would be unproductive and that the Board has had plenty of time to examine the details. Alderman Peters said he would like to clarify that this budget message was dated May 15 and the Board had a meeting to go through it. He cited several opportunities to discuss the Budget and bring up issues. He said he finds it unacceptable.

Alderman Hardison asked if anyone could tell him one meeting the Board has had to go through the specific items beyond the message. He said he previously stated that the Board has a lot of work to do and the work we needed to get done is what we have right now. He said the meetings that the Board had were for department heads and they didn't get into questions and answers and discussions with the Board about the spending.

Ms. Burleson said that it was her understanding that Mayor Pro Tem Hardison has withdrawn his motion to have another meeting. She said she wants to know what the Board can gain consensus on so that we can move forward with the budget. She gave the different options.

Alderman Tuman asked the Mayor for his opinion on what budget proposal best serves needs of the Town. Mayor Martin said that the fourth option that Ms. Burleson presented would be best; it is the one with 15 cents with one cent to go to the General Fund because our fund is low. Alderman Farley said he does not want to raise taxes.

He said he understands where the Mayor Pro Tem is coming from and he thinks there are ways we can save and increase the fund balance. He said that he was not thrilled with some of the things in the budget and he expressed that and had not changed his opinion. He questioned whether the letter from the State needed a response from the Town. Ms. Burleson said it did.

Alderman Tuman made a motion to keep the tax at 14 cents and ask the Town Manager to keep the General Fund at 12 cents and 2 cents for beach nourishment. He explained that this will not be an increase in taxes and will add a penny to beach nourishment and the Town will need to find a penny for the General Fund. He said the whole purpose is to send a message to the Town and to everyone we go to with the tin cup that this Town is serious about funding beach nourishment. He said we have heard from a number of citizens specifically asking to increase the tax for the Beach Fund. He said that Town has heard people who are worried about the overall tax levy and the Town knows realistically that it will not have a beach nourishment program without substantial funding. He said the question that continues to loom with the people we are talking to is whether or not the Town is serious about beach nourishment and the Town needs to show it in that regard. He said that the Interim Town manager spoke with neighboring towns and that beach nourishment is possible here. NTB would make the other towns happy by not doing beach nourishment because they will have a better chance at getting funds. He asked his fellow Board members to bite the bullet and decide whether or not they want beach nourishment for this Town.

Alderman Swantek said that he has been to meetings with our Senators and Congressmen, meetings that Alderman Tuman was not at, and he said the money is not there. Alderman Tuman said that he heard at a meeting in Surf City that John Southerland said that this is a lean year and that there were millions of dollars. Alderman Swantek said that that was referring to Federal programs and not the CBRA (Coastal Barrier Resource Act) areas that the Town would have to pay for.

Alderman Peters seconded the motion. The motion failed 3 to 2 with Aldermen Farley, Swantek, and Hardison voting against and Aldermen Tuman and Peters voting for.

There was further discussion about budget options and recessing the meeting to pass the budget.

VII. **MANAGER'S REPORT**

- A. **Committee Vacancies:** Mayor Martin read the resignation letter submitted by June Doherty when she resigned from the Planning Board. Ms. Burleson suggested that new alternate member Hanna McCloud be moved into Ms. Doherty's place, Ms. McCloud has agreed to do so. Alderman Peters made a motion to appoint Hanna McCloud as a regular member of the Planning Board. Alderman Tuman Seconded the motion. The motion passed unanimously.

Ms. Burleson said that the Board of Adjustments received an application from James Milligan to become an alternate member. Alderman Tuman made a motion to appoint James Milligan as an alternate member of the Board of Adjustment. The motion was seconded by Alderman Peters. The motion passed unanimously.

Ms. Burleson addressed the audience and asked for those interested in volunteering to please fill out an application, they are available online and at Town Hall. There are quite a few vacancies as alternates and regular members.

- B. Report on CBRA Digital Mapping Project:** Ms. Burleson explained that the Board requested that the Town hold a public input session for this subject at the last meeting. The U.S. Fish and Wildlife Service have requested public input on their report. They are working on digitizing the maps of these zones and have allowed for suggestions to be made to correct errors that go back as far as 1982. The Town is impacted by the CBRA zone. The public information session offered a lot of insight and the Board has authorized Ms. Burleson to put together a packet to take to U.S. Fish and Wildlife to make the argument that they need to adjust the CBRA zone. Several areas need to come out of the CBRA zone and be included in the exclusion zones and some areas that are currently identified as conservation could be designated as OPA (Otherwise Protected Area). Much information has already been compiled. The utilities have provided information on what was here back in 1982.

Ms. Burleson explained that she received a proposal and scope of services from Mr. Keith Harris to assist the Town in compiling and finalizing the response to U.S. Fish and Wildlife. She asked for the Board to give her authorization to enter into a contract with Mr. Harris. She sent the contract to the Board via e-mail today. The contract has since been negotiated down to below \$5,000, with increases only if mutually agreed upon. Ms. Burleson answered questions from Alderman Hardison regarding the CBRA Mapping Project. Alderman Swantek asked about Mr. Harris and how he came to the Town. Ms. Burleson said she met him recently. She said when Mayor Martin, Ms. Hill, Alderman Peters had gone to a presentation in Morehead City regarding the information U.S. Fish and Wildlife was requesting, he was there and gave the Town some information. Alderman Swantek asked about an invoice that was with the contract. Ms. Burleson said that it was a surprise to her. He asked why Alderman Peters was involved in two of the meetings without anyone knowing about it. Ms. Burleson said that the Mayor and Alderman Peters requested Mr. Harris to come and sit in on a meeting that happened last Friday. Alderman Peters explained that a meeting was called by Harry Simmons for most of the Towns on the eastern coast concerning CBRA. Keith Harris was in the audience. Alderman Peters said he asked about Bald Head Island and Figure Eight Island and if those communities got exempted from CBRA because of infrastructure in place at the time of the assessment. Alderman Swantek repeatedly asked Alderman Peters why he was at the meetings. Alderman Tuman said that he doesn't have to have permission from the Board to be at certain meetings. Alderman Swantek said that when it has to do with spending the Town's money that the Board has to know. Mayor Martin said that it is the Town Manager spending money and not Alderman Peters. Alderman Swantek said that he feels that it was sneaking around.

Ms. Burleson said that it was a surprise to her that Mr. Harris was going to include the meeting on the invoice. He was invited to come listen in and hear what the Town was talking about and offer his expert opinion of assistance, knowing that he would probably try to contract with the Town to offer services. She said she has no intentions of paying for that meeting, because she feels that he was here on good will. She has not had a chance to speak with him about it. She said there is an invoice, but no money has been spent. She further explained that because there is such a short period of time to get a response together and that this issue is of high importance to this Town that she thinks the Town needs someone else to get it done and get it done right, so we don't lose this opportunity. The Town has lost this opportunity at least twice in the past. Once this door closes on the Town it takes an act of Congress to make changes to the CBRA zone.

Alderman Tuman asked what exactly Mr. Harris was doing for the Town. Ms. Burleson explained that he is going to help the Town approach U.S. Fish and Wildlife appropriately and he is also working with the other jurisdictions to make sure that we do not contradict one another. Alderman Tuman expressed that he thought this was very important to the Town; it is a hardship and a real financial impact to the Town. Alderman Hardison said that he doesn't know why this was not dealt with more appropriately. He does not know if this is the only person that can help the Town. He said he did not think this was going to be as complicated as it is. He does not want to pursue it at this time. He is reluctant to even vote on it.

Alderman Peters made a motion to approve the contact to Keith Harris and Associates for consulting services regarding CBRA. Alderman Tuman seconded the motion. The motion passed with Aldermen Swantek, Tuman, Peters voting for and Aldermen Farley and Hardison voting against. Mr. Edes said there are a few changes that need to be made to the contract that does not affect the price, just so the Board is aware that it will be changed.

Mayor Martin announced that a meeting with Congressman Mike McIntyre is likely to be scheduled soon to address this issue. He announced that the Town needs all the help it can get since it is under a deadline. Ms. Burleson said that the Town will have a draft on June 15th. Alderman Peters explained that the Town has \$50,000 in the budget for this exact purpose, of getting help from outside.

C. Update on Building Inspections:

Ms. Burleson said that she is working on the feasibility study with the County and they are going to make sure they get input from as many stakeholders as possible. She has spoken with a few of the Town's developers and builders that have been on the island for a long time to make certain that the group gets the right input. She pointed the Board to a document that showed what the consolidation study group will be doing. They have started working on stakeholder focus groups and will soon start on coordinating with the elected officials. She said she will also be looking at the community for input to help them decide if it is the right thing to do for the County and municipalities. Alderman Swantek asked about the time frame. Ms. Burleson said that she knows that the stakeholder meetings will be within the next thirty days.

Ms. Burleson added that she wanted to mention that the Town received the operations plan from Waste Industries as far as the pick-up days. The Town will have 3 pick-ups through the summer. On Tuesdays and Saturdays solid waste will be picked up. On Fridays the recycling will be picked up. In the off season the solid waste pick up day will be Tuesday and recycling will be every other Friday. The Town will get the word out. The first pick-up for recycling will be July 10th and the first Saturday pick up of solid waste will be July 11th.

VIII. OPEN FORUM:

Buddy Godwin of 4110 Island Drive – Mr. Godwin said he is a native North Carolinian, he was raised in Raleigh. He said he has never been in a city that had a property tax as low as 12 cents. He said that is extremely low. He had never heard of it and arguing over two cents for a Beach Fund. He said the Board has a fiscal responsibility and the Town needs this money to use it for hurricanes. He said he also wants to comment on the CBRA. He said he is disappointed with the people who did not vote on it. The CBRA zone is the biggest thing on this island, it affects the flood insurance, and the flood insurance is \$10,000-\$15,000 if you are in the CBRA zone. He said the Board was talking about two cents and then when the CBRA zone issue comes up you don't embrace it. This Town has fought this issue for years and for this Board not to work on it is a disgrace. He urged the Board to get behind it. There is 7 miles worth of property owners who pay thousands of dollars for flood insurance. He said two cents is nothing compared to the thousands of dollars that could be saved.

Wayne Pace of 2000 New River Inlet Drive – Mr. Pace said that he heard something that disturbed him greatly during the exchange between Alderman Swantek and Alderman Tuman. He pointed out the statement made by Alderman Swantek about the fact that there will be State money for the Federal project in the south and he referred to "our beaches". He asked Alderman Swantek if he thought the Town money spent in the Federal zone is different than money spent in the CBRA zone. Alderman Swantek said he saw it as the same. Mr. Pace said, so you will not spend in the Federal zone. Alderman Swantek said that if he didn't spend it in the CBRA zone he won't spend it in the Federal zone.

Deb Lanci of 2100 Heath Drive – Ms. Lanci said that she received an e-mail during the meeting from a citizen, Mr. Billy Sandland from 40 Sailview Drive, a person who lives in Cape Island. He suggested cost sharing based on property location with the highest rate for the oceanfront graduated to the lowest on the sound. Bald Head Island has a similar approach to their cost sharing. She said it just goes to show that the Beach Erosion Study Team is disbanded, but she is still getting this stuff, people care. To think that we didn't vote for the two cent tax and now we have this opportunity with the CBRA zone? She has seen this Board devolve. She is watching what has been going on at these meetings and she sees slander, defamation of character, attempted public ridicule and humiliation, gross negligence, derelict of duty, and abuse of office and she is really disappointed.

Thomas Leonard of 218 Coastal Dr. – Mr. Leonard read a note from Jerry Heid of 2310 – 2 New River Inlet Road:

My name is Jerry Heid. My wife, Maryann, and I are property owners and part time residents at 2310-2 New River Inlet Road, North Topsail Beach, N.C.

Until recently, I was a member of the Beach Nourishment (BEST) committee and my opinions as well as those of the entire committee are on record and available in our report available on the town website (www.ntbnc.org) or the BEST team website (www.ntbbest.com).

Many months ago I, along with several other citizens, made a commitment to the leaders and town of North Topsail Beach. The commitment I made was to work towards a Beach Nourishment plan that would be acceptable to the committee and then work towards town and board approval.

This commitment was not taken lightly. There was a tremendous amount of time and energy spent on this task. As some of you know, I traveled quite frequently from my home in Cincinnati, Ohio to North Topsail Beach for meetings, presentations, etc... This was not an inexpensive undertaking. However, I knew going in that the commitment was such.

What I did not know going in was that this would be a colossal waste of time, energy and money on my part. I presumed that if I (we) made a commitment to do our job as asked by the Board of Aldermen; they would do their job and review our report. I see that I was mistaken. Apparently the Board (by vote of 3-2) felt that these efforts were not to their liking and that not only would they not let our report see the light of day, they would disband the team with no further action outlined.

I find it unconscionable that a body of government, those elected to represent ALL the people of North Topsail Beach, would take this action. The elected officials have a responsibility to listen to and review all information affecting the entire town, not just personal preferences.

I am requesting that the Board of Aldermen reverse their earlier course of action and hold a public hearing on the BEST report during the month of June.

On a separate issue, we would also strongly urge the Board of Aldermen to approve either option 2 or 3 in the budget, increasing the tax rate by \$0.01 or \$0.02 for Beach nourishment.

Then Mr. Leonard addressed the Board. He said that the Board has heard from us (BEST Team) and you have heard from the people out here today about two cents for the beach. Many people have asked for the Board to approve that in the budget tonight. The Board represents us. He said one of the Board members even ran on a campaign platform that he was for the people. He said, "The people spoke, you didn't listen. You need to go back to Civics 101 and understand that you sit up here and you vote on this budget and you represent the citizens of this Town the taxpayers of this Town and not your petty perspectives or what you think is right and wrong, you represent us."

IX. CONSENT AGENDA:

Approval of Minutes:

April 29, 2009 (Special Meeting)

May 5, 2009 (Agenda Workshop)

May 7, 2009 (Regular Board of Aldermen Meeting)

May 11, 2009 (Special Meeting)

Department Head Reports

Request to Approve Tax Refund

Call for Public Hearing: NTB Hazard Mitigation Plan 7/2/09

Alderman Peters made a motion to accept the Consent Agenda as presented. Alderman Tuman seconded the motion. Alderman Farley asked for the date of the Hazard Mitigation Plan Public Hearing. Ms. Burleson said it is July 2nd. Alderman Farley asked if this was going to be a problem being so close to the holiday. Ms. Burleson said that there will be no conflict with the Staff's schedules. The motion passed unanimously.

X. OLD BUSINESS:

A. Approval of March 5, 2009 Minutes: Mr. Edes explained that at the April 2009 meeting Alderman Hardison discussed the March 5 meeting minutes and some dialog that he felt should have been included in the minutes. He specifically asked Mr. Edes for his recollection. He said he recalled Alderman Hardison asking about the Town's ability to ensure that there will be no tack-ons or change orders to the contract with CP&E. He said he looked back at his notes and he passed out what he believes to be what reflects the two areas where that subject came up, his changes are on pages 3 and 4 and are highlighted. He said the Board will need to approve or disapprove these revisions.

Alderman Hardison asked if the figure in the next to the last paragraph should that be 17. Ms. Burleson said that her recollection is that there was an original motion to spend \$30,000 and it failed and then the second motion was for \$17,000. Alderman Hardison said that he read it and said that the next move would be to make a motion to approve the minutes, but what he would suggest is that the Board carries it over to next month. He can accept it, it is close enough to what he said, but he would like to include a statement to go in there and he would have it at the next meeting. Mr. Edes said for clarification, if it is a statement that you think reflects what was discussed at that meeting, that would be fine, but told Alderman Hardison if it is a statement that he feels he needs to make as a consequence of what he felt to be an omission from the original minutes, that would not be in those minutes. Alderman Hardison agreed. Alderman Hardison made a motion to move the adoption of the March 5, 2009 minutes to the next Board of Aldermen meeting. Alderman Farley seconded the motion. Alderman Tuman commented that the additions to the minutes were not in fact stated. The motion that he made was, what it was, for spending the additional \$17,500 to do the necessary modification of the EIS that recognizes the presence of clay in the channel so the permit can proceed. He does not think there was an issue with that particular motion. He addressed Alderman Hardison and said despite the additions of the wording that he believes should be included in the minutes; he

seconded the motion with no other stipulations. Mr. Edes said that was his recollection. The motion passed 4 to 1 with Alderman Peters voting against.

XI. NEW BUSINESS:

- A. **New Charter for Topsail Island Shoreline Protection Commission:** Ms. Burleson explained that the Topsail Island Protection Commission has updated its charter and each of the member jurisdictions has been asked to review and adopt the charter by resolution. Alderman Swantek made a motion to adopt the new TISPC charter. Alderman Peters seconded the motion.

Alderman Hardison said he would like feedback and background on how this came about and how it compares with the original charter. Mayor Martin said that Alderman Peters may be able to comment. Alderman Peters said it is an update to what TIPSC does and the role that it plays with beach nourishment for the three towns. The shoreline protection commission is a group; there is one elected official from each town and one beach nourishment committee chairman and one citizen at large, along with a representative from Onslow and Pender counties. He read the mission which is to actively support and promote plans and programs to restore and maintain wide sandy beaches and strong protection dunes through beach nourishment for all of Topsail Island's oceanfront and to support and promote development and execution of the N.C. beach and inlet management plan, a plan that the state is in the process of getting approved right now by the legislature. He said it is where the state is looking to coordinate beach nourishment needs of the whole state and divide it up into the primary regions and within those regions they are encouraging cooperation and partnership and this committee is one forum we are using to promote that partnership and mutual needs. The revision of the charter just brings us up to date to what the goal and needs of our communities are.

Alderman Hardison asked if the new charter allows for the addition of voting members. Alderman Peters said yes, the number of members that can vote has increased. Alderman Hardison said right now the people who are voting are elected officials that represent the towns and asked where the other voters will come from. Alderman Peters said from the commission. Alderman Hardison asked about committees and if they were under the commission. Alderman Peters said yes, that a subcommittee can be established if needed and he does not think it is new. Alderman Hardison said that he gets the sense that the commission is asking for is to move further away to be independent. He thought the major idea for the commission was for elected board members to come together and form a collaborative to do things that are common to the three towns and those representatives will report back to the individual towns to get whatever vote is needed. He said it seems to him that it is really stretching things out. He has been on the commission before and thinks it is important but he does not want to see it get to a point where it is an entity in itself.

Alderman Tuman asked if Alderman Hardison means that the decisions are too diffused between elected officials and non-elected officials. Alderman Hardison said that what he is saying is to keep it simple, he thinks there does not need to be another institution. There was more discussion on membership. Alderman Tuman asked if

we adopted the charter how many people would the Town need to identify as members. Alderman Peters said that the beach nourishment committee chairman and a citizen at large, and the Town does not have a beach nourishment committee so there would be only one to identify. Alderman Farley said he thinks the commission is getting away from the citizens of the town. He also said he does not see in the charter any other measures to look at our coast. He suggested that there should be best practices for where to build included in the mission.

The motion passed 3 to 2 with Aldermen Swantek, Tuman and Peters voting for and Aldermen Farley and Hardison voting against.

~~B. Discussion on Agenda Workshop Sessions~~

~~C. Discussion on Length of Meetings~~

- D. Port-a-Johns:** Ms. Burleson explained that Alderman Swantek had asked several months back about the cost to put port o lets at several of the public beach accesses. The Town was able to get a quote from TNT for 21st Avenue, Myrtle Drive, Jeffries' Access and Jenkins Way. The quote was for installing them and pumping them for a 3 month time period. Also included was the cost for fence enclosures the total will be \$4,757.54. She said that she would like to get a quote from another company but she is fairly confident that the bid will be fairly similar. Alderman Swantek said he recommended that the funds come out of the Recreation and Appearance line item.

Alderman Swantek made a motion that the Board approves it to be included in the proposed FY10 Budget for consideration. Alderman Farley seconded the motion. He had concerns with approving something in a budget that has not been approved. Ms. Burleson said that she has not had a chance to check the CAMA and flood regulations to make sure that it is proper to erect those structures. There was discussion on what should be done in case of a hurricane. Alderman Tuman said there are upsides and downsides to having them. The motion passed unanimously.

- E. Budget Amendment for End of FY09:** Ms. Burleson explained that this is the budget amendment and it is being done at this time because it is the end of the fiscal year. She said the auditors looked at it and were comfortable with the amendment.

Alderman Peters made a motion to approve the budget amendment as presented. Aldermen Swantek seconded. The motion passed unanimously.

- F. Identification of North End Property Acquisitions and Associated Easements:** Ms. Burleson explained that some questions had been raised about the north end properties that the Town had purchased. Alderman Tuman explained further. He said that in the settlement with the property owners at the north end which resulted in the demolition of the damaged homes, part of the settlement is that the Town acquired the lands and the platted lots and easements that go along with it. He requested that the Town update its map that shows the Town's properties and easements and the entitlements that go along with it and any associated restrictions.

Mr. Edes had a map of the properties and had the easements acquired marked on the map. He indicated the ones that are designated as public accesses. There are two that are not public accesses.

Alderman Tuman asked that if the Town owns them are they public easements. Mr. Edes said no, he explained that the Town of North Topsail Beach is a distinct legal entity and they are not complete public easements, they are Town owned easements and the description on the plat is that they are for the benefit of the property owner. He read the law which stated that once an easement has been established the easement holder may not change the use for which the easement was created so as to increase the burden on the serviant tract.

There was more discussion on ownership of the property and use of the property, including the definition of burden. There was more discussion on Town owned property in general.

Alderman Tuman asked to have the Town's rights to the easements in writing, including the one that the Town built a crossover for. Ms. Burleson said that the Town owns quite a few pieces of property and it would be good to do an inventory of the properties. She is going to continue to work with Mr. Edes to develop the inventory and identify what parcels that may need surveyed so that we as a community know what the Town owns and what our rights and responsibilities are for those lots. There was further discussion of the easements.

XII. OPEN FORUM: No one came forward.

XIII. ATTORNEY'S REPORT: No report.

XIV. MAYOR'S REPORT: Mayor Martin said that he will be going to Raleigh to meet with people about CBRA (Coastal Barrier Resource Act).

XV. ALDERMEN'S REPORT:

Alderman Hardison thanked everyone for coming out and expressing their opinions and told everyone to have a good evening.

Alderman Peters said he wanted to reiterate a portion of the letter that Mayor Martin read from June Doherty who resigned from the Planning Board. He repeated the following: "I could not in good conscience continue to be part of an organization that shows such little regard for the volunteers that were asked to contribute so much time only to discover that the officials that asked for their input refused to meet and discuss the very report that they asked for." Alderman Peters said that he finds this an incredibly regrettable letter that Mrs. Doherty had to write and he thinks it is regrettable that she interprets this as she did, but that it is interpreted correctly. It is one of the many areas that this Town's Board has to correct. He thinks the Board needs to reflect on where it is going for the future. He does not see any resolution but another election.

Alderman Tuman stated that the Town has an election next November and there are three seats on the Board of Aldermen and a mayor that is up for election. He thinks the Town

needs a makeover and he said any of you who are civic minded and want to send a little time, people of good will, there is a need in this Town and asks the citizens to consider running. He said talk to your neighbors; he encouraged people to get involved. He said he Town took some serious hits that could have been avoided in the past and the future is dark unless the citizens take back this town.

Alderman Swantek said he has nothing to say right now.

Alderman Farley said, "As long as we follow Dan Tuman and Dick Peters we are on the right path, I do not buy into that one bit." He addressed his friend Buddy and expressed that has the utmost respect for him. He explained that the Board was not voting against CBRA, he said he didn't vote for it because he didn't like the vendor and that is what he was voting against. He said that what they are thinking of is a limited amount of change. Ms. Burleson clarified; she said what it being proposed by U.S. Fish and Wildlife are those structures at the very north end of the island. What the Town is trying to accomplish with Mr. Harris' assistance is to extend that exclusion to a much broader area of the island if not, the entire island, or at least more than what U.S. Fish and Wildlife identified, to make that exclusion much larger than what it is now. Alderman Farley stated that he would still like to have more people have the opportunity to look at it.

Ms. Burleson told Mayor Martin that she would like to take one more opportunity to see if there is any compromises that the Board can make that would see them through to adopting the budget tonight. The Mayor said no.

Alderman Swantek made a motion to go into closed session. Alderman Farley seconded the motion. The motion passed 3 to 2 with Aldermen Tuman and Peters voting against.

- XVI. **ADJOURNMENT:** Alderman Swantek made a motion to go into recess to Monday, June 8, 2009 at 6:30 p.m. Alderman Farley seconded the motion. The motion passed unanimously.

**Board of Aldermen
Regular Meeting Continuation
Monday, June 8, 2009**

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 6:35 p.m. in the North Topsail Beach meeting room.
- II. **FY10 BUDGET:** Alderman Swantek made a motion to approve the budget ordinance with the tax levy 14 cents with 13 cents for the General Fund and one cent for the Beach Fund with a revision to the Budget Message the following changes:

Beach Fund Expenditure:

It is anticipated that the Environmental Impact Statement (EIS) will be complete and permits will be in hand in early FY2010. After the permits are in hand the Town will need to ~~draft construction documents and specifications, advertise and bid out Phase I of the beach project. Construction can not start until this process is complete; this should take several months. Due to the sensitive nature of the ecosystem on our island we are limited to the turtle “off season” of November through March. Depending on how long the bidding process takes construction, which should take between 60-90 days, could start as early as November 2009, but no matter when construction starts all construction must be completed by March 2010. If this window of opportunity is not met then construction would have to wait until the next fiscal year of FY2011. Funds that are collected but not expended will remain in the Beach Fund and will be available when construction is started.~~ consider funding and the desires of its citizens.

Alderman Tuman said he disagreed with the statement and said that the Town Manager and Interim Town Manager proposed a project plan and submitted it as part of the budget. He does not see any problems with it because it is a proposal. Alderman Farley seconded the motion. He said he is confused about it, and asked what the Town is committed to from the Budget Message. Ms. Burleson said the Town is committed to nothing. Alderman Farley said that is not what has been said before. Ms. Burleson said that it is a divisive issue but that funding needs to be in place and then the Staff will come back to the Board and ask for permission to get construction documents, and then come back and get permission to go out to bid, after the bids are in the Board will evaluate the bids and Staff will bring back a recommendation. She said it is assuming at each of those steps the Board says yes. It is such a big expenditure and such a divisive issue that it would be fool-hearty of her to move forward without having everything in line and that she needs to have permission of the Board at each step. There was discussion about whether the Board has to adopt the Budget Message. Ms. Burleson said that the Board has to adopt the Budget Ordinance only. There was discussion whether or not the Budget Message should be revised as it is signed by the Town Manager.

Alderman Farley asked what the commitment is with the Beach Fund. Ms. Burleson said there is not a commitment, she said it is basically a plan to give the Town enough in our back pocket to go to the State and County and anyone else so the Town can move forward with the project. Nothing will be expended from the Beach Fund without Board approval. Alderman Tuman clarified that it is really an umbrella fund; it has been used for recovering after storm events. There was discussion on spending on beach nourishment particularly in regards to the CP&E project. Alderman Farley asked Ms. Burleson if she has heard anything from the County as far as what they are willing to contribute. Ms. Burleson said that they are receptive to a proposal. They would like Ms. Burleson and the Town Attorney to talk to the County Administrator and the County Attorney to see if they can hammer out something that would be acceptable to both boards.

The motion passed 3 to 2 with Aldermen Farley, Swantek and Hardison voting for and Aldermen Tuman and Peters voting against.

Alderman Tuman made a motion to adjourn the meeting. Alderman Hardison seconded the motion. The motion passed unanimously. The meeting adjourned at 6:53 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 7/2/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Tuesday, June 30, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Richard Farley Daniel Tuman, Town Manager Lara Burleson, and Town Clerk Carin Faulkner.

- I. **Call to Order:** Mayor Martin called the meeting to order at 10:03 a.m. in the North Topsail Beach meeting room.
- II. **Approval of Agenda:** Alderman Peters made a motion to approve the agenda. Alderman Swantek seconded the motion. The motion passed unanimously.
- III. **New Business:**

A. Discussion of Agenda Items for Thursday, July 2, 2009:

Committee Reports

Ms. Burleson pointed out that she added two new items to the Committee Reports, reports on ONWASA and TISPC so that Aldermen Farley and Peters can report on the actions of those committees.

Presentations & Public Hearings

Discussion on Public Hearing: NTB Hazard Mitigation Plan: Ms. Burleson said that it is time for the 5 year update on this plan and that the county's public hearing is on July 15th so NTB has to submit ours to them. All changes have been made by Ms. Hill. There was discussion on what the document includes and that it is required by the Federal and State government.

Discussion on Public Hearing: NTB CAMA Land Use Plan: Ms. Burleson explained that the Board has met previously to look at this plan. The Board was given copies of the changes made. The full version is available online. The public hearing was properly advertised. Ms. Burleson suggested that the agenda note that the items need to be considered for adoption.

Manager's Report

Discussion on Committee Vacancies: There was discussion on the committee volunteers that are under review for appointment. Alderman Tuman suggested that the need for board action should be noted on the agenda.

Discussion of Update on CBRA Digital Mapping Project: Ms. Burleson announced that U.S. Fish and Wildlife extended the public comment period to August 5th. There was discussion on having a possible meeting with U.S. Fish and Wildlife. Ms. Burleson explained the details of what the Town will be requesting. The Board discussed who would be receiving a copy of the Town's response.

Discussion of Update on Building Inspections: Ms. Burleson reported that the meeting with the local contractors went well. She said one of the main concerns they had was about how the Town will operate building inspections after a storm. The Board discussed after storm plans in more detail.

Discussion of Update on ECC Land Use Build Out Analysis: Ms. Burleson will be meeting with Mr. Will from ECC to discuss where he is in the process. He will be coming to present his findings at the August Board meeting. There was further discussion on several properties in Town.

Discussion of Solid Waste and Recycling Services: Ms. Burleson reported that recycling cans are being delivered. She met with Eric Caraway from Waste Industries and he said that they will empty regular trash out of recycling carts. There was discussion about Waste Industries finding a sticker that can be applied to the new carts that indicate these cans are for recycling only.

Discussion of End of Fiscal Year Update: Ms. Burleson announced that today is the end of FY09. She said the Town is now preparing to change out from FY09 to FY10. They have scheduled meetings with the CPA to come in and help us close out the books and have set up for the auditors to come in August and October. It is all lined up.

Discussion on Surf City Bridge Replacement Info Sessions: The DOT had a public information session back on June 25th in Surf City. The Town is going to put up the information they provided on the website and have hung the map on the wall. The public is urged to view the information and provide input to NCDOT.

Other Discussion: Alderman Hardison asked about the orange flags that are on Ocean Drive. He explained that the owner on the corner lot had created a boundary line to prevent people from going in the driveway and using the bathroom under the house.

Consent Agenda

Discussion of Change Order for Town Hall Renovation Project: Ms. Burleson explained that the original plans in the contract did not include additional lattice work.

She said they also discovered the engineer did not make a design feature to tie the horizontal boards to the band board for the deck structure. These were the two items that are on the change order for Board approval. There was some discussion about the Town getting a generator for Town Hall. Since this project required the power to be down it brought up some issues that could occur during a storm. The Town has a disaster recovery contract and will need to look at what agreements are in place in regards to providing a generator.

Discussion of Approval of Roadside Mowing Agreement with NCDOT: Ms. Burleson explained that the Town has a contract with DOT to maintain the right of ways and that DOT reimburses the Town. It is the same agreement the Town has had in the past.

Other Discussion: There was discussion on who regulates the signs in the Town. Ms. Burleson explained that some are DOT and some are the Town. If the sign is in regards to a specific Town ordinance the Town regulates the sign.

Old Business

Discussion of Approval of March 5, 2009 Minutes: Alderman Tuman made the suggestion to make the length of the minutes shorter, he prefers a boiled down set, that it does not need to be a transcription of the meeting, it should say what the topic was, the motion and who seconded it and what the votes were. There was discussion of the March 5, 2009 minutes.

Discussion of Proposed Amendment to Town Code RE: Mobile Vendors and Itinerant Merchants & Peddlers: Ms. Burleson read the recommendations from the board packet cover sheet on this topic: Adopt a policy by resolution that states:

1. The Town allows a limited number of food vendors to operate on the beach – 5 total licenses to be permitted each year.
2. The Town does not allow vendors/peddlers/itinerant merchants to operate on the State or locally maintained and controlled roads.
3. The Town does not allow vendors/peddlers/itinerant merchants to operate on the privately maintained and controlled roads contiguous to State or locally maintained and controlled roads.
4. The Town does not allow vendors/peddlers/itinerant merchants to operate in public parking lots.
5. The Town does allow vendors/peddlers/itinerant merchants to operate on privately owned lots only if all proper Zoning requirements are met.
6. Grandfather in the following list of peddlers/vendors: **(need further guidance from Town Attorney on this element of the policy statement)**
 - a. Shrimp Lady's family
 - b. Fruit Vender
 - c. Hot Dog Vender
 - d. Concession Stands at County access points
7. Authorize Town staff finalize an implantation plan of the above adopted policy.]

There was discussion on this topic and the items recommended by Staff. There was discussion about whether the Town Clerk has discretion to give privilege licenses.

Discussion on Proposed Amendment to Town Code Section 6-130, Building Operations: Ms. Burleson gave the background on this topic. She believes the Town will be out of the time period for the moratorium of enforcement of this ordinance. There was discussion on the days and time revisions that need to be made to the ordinance.

New Business

Discussion on Approval of New Municipal Records Retention and Disposition Schedule: The Board decided to move this item to the Consent Agenda of the July 2, 2009 agenda. Ms. Burleson said that the Town is looking more closely at digitizing the records to make sure they are safe and secure.

Alderman Swantek made a motion to adjourn. Alderman Peters seconded the motion. The motion passed unanimously.

The meeting adjourned at 12:45 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 9/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, July 2, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:07 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Alderman Farley gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Alderman Peters led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Hardison made a motion to add an item to the agenda, he wanted the Board to discuss the parking issue in the Town and an incident at Gray Street. Alderman Farley seconded the motion. The motion passed 3 to 2. Alderman Tuman and Alderman Peters voted against. The item was added to the agenda.

Alderman Swantek made a comment concerning the committee applications. He said there are 3 candidates and only 2 applications. Ms. Burleson said she was not aware that an application was needed for the Topsail Island Shoreline Protection Commission at-large member. Alderman Peters agreed and said one was not needed in the past.

Alderman Peters made a motion to approve the agenda as amended. Alderman Tuman seconded the motion. The motion passed unanimously.

V. COMMITTEE REPORTS:

A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. It read as follows:

1. The Planning Board held a public hearing on the issue of telecommunications towers, wireless at our regular June meeting. Unfortunately, no public came forward to speak. The Board decided to individually review the information received from our Planning and Zoning Administrator and return our comments and reviews to her by June 19. Ms Hill will return the collated material plus other information received

- through inquiries by her to other planning associates in other towns for discussion at our regular July meeting next week. The Planning Board plans to send our proposed amendments to the Town Attorney for his review to determine compliance with Federal Communications Act of 1996 and the N.C. General Statute Sections 160A-400.50 to 400.53. We will then send them to the BOA for your consideration.
2. Our Board is continuing to hold Monday workshops from 5:00 p.m. to 7:00 p.m. on revisions to Chapter 7 of the Town Ordinances.
 3. In our Board and Staff Discussion at our June meeting, Staff suggested we consider rezoning "Manufactured Home Residential" locations, probably needing to rezone them R-5. There are locations in our town where a Manufactured Home cannot be placed because of being in a High Hazard Area. We must also consider that the Town adopted the Flood Ordinance. Two properties to be auctioned on June 19 had been advertised as MHR in an area where MHR housing cannot be placed. Planning Board will review and discuss our recommendations for the Board of Aldermen at our regular July meeting.
 4. You have in your meeting package an application from Suzanne Grey to join our Board as an Alternate. I urge you to approve her application. Suzanne came to our workshop on 6/22 to become familiar with all of us and our operation. If she is approved for the 1st Alternate position, we will still have one opening for 2nd Alternate. Finding people willing to volunteer for positions on town committees remains a serious problem. Please do all you can to encourage our citizens to volunteer to serve our town.

B. BOARD OF ADJUSTMENT: Gary Miller, Chairman, reported to the Board of Aldermen as follows:

The Zoning Board of Adjustment met at their regularly scheduled meeting on June 18, 2009. The Board of Adjustment members welcomed Mr. Milligan, who is continuing as an alternate.

The Zoning Board of Adjustment voted unanimously to suspend the Public Hearing on a variance application by Judy Hooks for 2402 Island Drive (CASE # V-09-02) until the next regularly scheduled meeting on July 16, 2009.

Board of Adjustment and Staff discussed Zoning, Variances and the responsibilities of Staff and Board of Adjustment in the Town of North Topsail Beach. There are no applicants for the Board of Adjustment at this time.

Alderman Peters asked why the Board of Adjustment suspended the public hearing. Mr. Miller said their spokesperson was not present so it was cancelled.

C. ONWASA (Onslow Water and Sewer Authority): Alderman Farley reported that ONWASA has made an increase in the water rates. He reported that recent lightning strikes effected water pressure in Holly Ridge and Sneads Ferry. ONWASA took actions to correct it. He reported that some individuals have an action against North Topsail Utilities. Proposals were submitted, but they have not heard back on them. ONWASA is moving along with projects, most water projects, some sewer.

- D. **TISPC (Topsail Island Shoreline Protection Commission):** Alderman Peters stated the purpose of the commission. He summarized a recent report from Marlowe Company regarding an appropriation bill. He said that TISPC is trying to get some important representatives to come speak in August. He reported that Topsail Beach received their permit for their beach nourishment project. He gave an update on the Federal Project.

VI. PRESENTATIONS & PUBLIC HEARINGS

- A. **Public Hearing: NTB Hazard Mitigation Plan:** Alderman Tuman made a motion to open the public hearing. Alderman Peters seconded the motion. The motion passed unanimously. No one from the public came forward to speak. Alderman Tuman made a motion to close the public hearing. Alderman Peters seconded the motion. The motion passed unanimously. Alderman Tuman made a motion to adopt the North Topsail Beach Hazard Mitigation Plan. Alderman Peters seconded the motion the motion passed unanimously.
- B. **Public Hearing: NTB CAMA Land Use Plan:** Alderman Tuman made a motion to open the public hearing. Alderman Peters seconded the motion. The motion passed unanimously. Mr. Dale Holland of Holland and Associates was introduced by Ms. Deborah Hill. Mr. Holland and his associates had worked on the land use plan with the Town since February of 2006. Mr. Holland gave background on the preparation of the plan. The plan will go to the Coastal Resource Commission to get certified at the end of August. Alderman Tuman made a motion to close the public hearing. Alderman Peters seconded the motion. The motion passed unanimously. Alderman Tuman made a motion to adopt the North Topsail Beach CAMA Land Use Plan. Alderman Peters seconded the motion. The motion passed unanimously.

VII. MANAGER'S REPORT

- A. **Committee Vacancies:** Ms. Burleson presented three candidates for committee appointments to the Board. Suzanne Gray as an alternate for the Planning Board, Jim Milligan for regular member of the Board of Adjustments, and Deb Lanci as at-large member for the Topsail Island Shoreline Protection Commission (TISPC). Alderman Tuman made a motion to appoint Suzanne Gray to the Planning Board as an alternate. Alderman Peters seconded the motion. The motion passed unanimously. Alderman Tuman made a motion to appoint Jim Milligan to the Board of Adjustments as a regular member. Alderman Peters seconded the motion. The motion passed unanimously. Alderman Tuman made a motion to appoint Deb Lanci as at-large member for the TISPC. Alderman Peters seconded the motion. The motion failed 3 to 2 with Alderman Tuman and Alderman Peters voting in favor.
- B. **Report on CBRA Digital Mapping Project:** Ms. Burleson announced that the deadline for submitting feedback to U.S. Fish and Wildlife has been extended to August 5th. There was discussion on who should receive the response from the Town and who the Town should sit down with. Ms. Burleson said that the Town will post the response on the website.

- C. **Update on Building Inspections:** Ms. Burleson reported that they had a good focus group meeting with the building inspectors from our Town. She said they discussed what a building inspections department should look like if they could build it from the ground up. She said that there will be another focus group with elected officials.
- D. **Update on ECC Land Use Build Out Analysis:** Ms. Burleson announced that Mr. Robert Will from ECC will be coming in August to give an update to the Board of Aldermen. There was discussion on what the Town is going to gain from the report.
- E. **Update on Solid Waste and Recycling Services:** Ms. Burleson said that Waste Industries will be coming back through to place stickers and placards on the new recycling carts. Alderman Tuman suggested that the Town provide another sticker that lists what items can be recycled. Alderman Peters suggested that a flyer be available in Town Hall and that an announcement should go on the CTY.
- F. **End of FY09 Budget:** Ms. Burleson announced that June 30th was the end of FY09 and that the Town is working on closing out the books and has scheduled time for audits and reviews. There was discussion on the need for a 3rd party to help with this process.
- G. **Update on Surf City Bridge Replacement Public Information Session:** Ms. Burleson announced that NCDOT is in the beginning stages of this project. She said there is a link on the Town website to the project information and a comment form is on that site. NCDOT needs to hear from the public now. It is clear that they will have to accommodate vehicles, bikes, and pedestrians with this project.

VIII. **OPEN FORUM:**

Gene Graziosi of 2392 New River Inlet Road – Mr. Graziosi announced the extension of the feedback to U.S. Fish and Wildlife on the digital mapping project. He said that there will be an online virtual meeting on July 14th at 1:00. He said that he has received 5 e-mails from Congressman Jones and Kay Hagan's office will be on board. He expressed that this is a great opportunity for the Town.

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said that he was dissatisfied with the votes on the budget. He said that the Board works for guys like him. He said he has lost confidence in the Board collectively and as individuals in their ability to govern the Town. He said he thinks the Board only listens to each other and their circle of friends and supporters.

Sue Tuman of 3944 River Road – Mrs. Tuman spoke about solid waste and recycling. She reminded the audience that money cannot be made from recycling any more, but said that we need to cutback what is going into the landfill, taxes will go up because the County will have to ship the waste to other places. She said that recycling will work here we just have to get the word out.

IX. CONSENT AGENDA

- A. Change Order for Town Hall Renovation Project**
- B. Approval of Roadside Mowing Agreement with NCDOT**
- C. Approval of Minutes:**
 - June 2, 2009**
 - June 4, 2009**
- D. Department Head Reports**
- E. Approval of New Municipal Records Retention and Disposition Schedule**

No items were removed from the consent agenda. Alderman Tuman made a motion to approve the consent agenda. Alderman Peters seconded the motion. The motion passed unanimously.

X. OLD BUSINESS:

- A. Approval of March 5, 2009 Minutes:** Alderman Swantek made a motion to approve the minutes of March 5, 2009. Alderman Hardison seconded the motion. The motion passed 3 to 2 with Aldermen Tuman and Peters voting against.
- B. Proposed Amendment to the Town Code RE: Mobile Vendors and Itinerant Merchants and Peddlers:** Town Attorney Brian Edes presented the Board with updated versions of the draft ordinances he prepared. There was discussion about grandfathering in the existing vendors and Mr. Edes said that it was not allowed because they are illegal under the current ordinance and the Town cannot selectively enforce. Alderman Swantek suggested that the Board do a workshop on this issue. It will be added to the agenda workshop that will be held on August 4th.
- C. Proposed Amendment to Town Code Section 6-130, Building Operations:**

Alderman Tuman made a motion to approve staff's policy recommendation to change town code section 6-130, building operations that 1) defines building operations as those activities that require a building or zoning permit 2) allow building operations on Saturdays between 9 a.m. and 6 p.m. and 3) allow building on Sunday between 10 a.m. and 6 p.m. provided that the person submit a request with compelling reasons issued to the Town Manager or designee. Alderman Peters seconded the motion. The motion was amended by Alderman Tuman to add "Town Manager or designee". The motion passed 3 to 2 with Aldermen Farley and Hardison voting against.

XI. NEW BUSINESS:

- A. A. Discussion of Parking on Gray Street:** Alderman Hardison read a statement which he said was regarding "process and due process." He described the events that observed on Gray Street. He said that a neighbor of his (on Gray Street) had installed a post rope restraint around their home. This simple fencing was removed and placed on the south side near the house by Town Staff. Town Staff placed flag stakes in the ground with "right of way" written on them. A no parking sign was removed from Gray and Ocean Drive. Alderman Hardison said he thinks the property owners were not treated properly and did not get due process and that the Town needs to apologize.

He thinks the fence needs to be reinstalled. Nobody has a right to go in someone's yard and pull up fence in their yard as though it was nothing. He feels that something must be done about the way it was dealt with and feels as though it will continue.

Ms. Burleson said that a survey will be done to determine where the right of way is; she thinks the fence would have been in the right of way. The no parking sign was not installed by the Town or DOT and it was removed. There was discussion on selective enforcement. Mr. Edes thinks property owner should be allowed to put fence back until survey is done. The Town Manager will continue to work on the issue with the property owners.

XII. OPEN FORUM: No one came forward to speak.

XIII. ATTORNEY'S REPORT: Mr. Edes submitted a memo detailing the rights and obligations of the property that the Town owns. Alderman Tuman did not think that the memo was satisfactory. He thinks the Town should look at the covenants.

XIV. MAYOR'S REPORT: Mayor Martin thanked Gene Graziosi for his hard work. He reported that he introduced his grandchild to President Obama. He reported that he and Mayor Pro Tem Hardison were invited to the Pentagon to be there with the Marines as they as they receive an award.

XV. ALDERMEN'S REPORT:

Alderman Hardison thanked everyone for coming out.

Aldermen Peters said good night.

Alderman Tuman said Happy 4th, celebrate it safely.

Alderman Swantek thanked the police department. He reported that a road block that was done on the island resulted in several DWIs. He asked about his porta potties and the yellow paint he requested. He also thanked Mr. Graziosi.

Alderman Farley said that he likes everyone who comes out and said that they will vote the Board out and that he loves the freedom of speech. Good night and happy 4th.

XVI. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Peters seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 8/6/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting July 16, 2009 9:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Clerk Carin Faulkner, and Thomas Best, Public Works Director. Alderman Peters adjourned unexcused at 9:30 a.m.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at in the North Topsail Beach meeting room at 9:00 a.m.
- II. **PLEDGE OF ALLEGIANCE:** The Board and audience recited the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:** Alderman Tuman made a motion to remove Item 4 A from the agenda. Alderman Peters seconded the motion. Alderman Tuman questioned whether this meeting was necessary. Aldermen Tuman and Hardison discussed the purpose of the meeting. Ms. Burleson stated that according to the "Suggested Rules of Procedure" that an alderman may not remove an item from the special meeting agenda unless it was requested by the person that called the meeting. Alderman Tuman's motion was out of order. Alderman Swantek made a motion to approve the agenda. The motion was seconded by Alderman Hardison. The motion passed 4 to 1 with Alderman Peters voting against.

IV. NEW BUSINESS:

A. Discussion of Issues on Gray Street in the Town of North Topsail Beach:

Alderman Hardison said that he called the meeting because he said that when he brought up issues on Gray Street and he laid out the expectations of what the Town should do at the last Board meeting there were new issues that came up. He said there may possibly issues of larceny. He thinks the Town is going along humming expecting things to smooth themselves out. He thinks the Board needs to come to a decision on how to handle the problems.

Alderman Hardison said that one issue is the destroying of the property owner's fence. He questioned whether the property owners were given due process. He thinks they need an apology for the violation. He said the fence was removed by an employee of the Town and he does not think that kind of behavior is consistent with the code of ethics. Alderman Hardison cited several passages in the personnel chapter of the Town Code.

There was discussion about what took place with the fence and whether or not it was a criminal offense to go on the property and remove personal property.

Ms. Burleson gave her recollection of the events. A previous Town manager authorized staff to remove any obstructions on that street. She thought when she first got out there that it may have been a surveyor that had left the stakes but she spoke with the Public Works director, Thomas Best and he said had gone out there and staked it. He had been given direction to remove obstructions. Parking is allowed but limited in that area. Only one area has parking. She said Mr. Best knows that he was in error by not telling her about putting down the stakes and moving the fence. She said that he had been counseled and it has been handled on the personnel level. She said that the street has now been surveyed and that it is worse than she thought it was and that there is a 70 foot right of way.

There was discussion on whether or not the town was going after individual property owners. There was further discussion on the possible larceny of the no parking signs. There was discussion on the survey and the fact that an employee did not go on private property to move the fencing.

Alderman Swantek said that the property owners should have been notified prior to removing the fence. Photos of the surveyed area were passed around and the Board discussed property lines. Alderman Swantek suggested making the parking handicapped only. There was further discussion on what happens in the right of ways around the town.

Mr. Best gave his account of the issue. He said the fence was put up 4 feet from the asphalt and a no parking sign was placed there. He told his staff to remove it and he apologized for not notifying the manager. He said the fence was not damaged and placed in the yard. He pulled GIS and all of the properties out there and he put stakes down.

There was discussion on the Town's inability to change property lines. Ms. Burleson made the recommendation that now that the Town knows where the right of way is, if we have a way to make it more equitable, we can go back and address it at a future time.

Alderman Swantek made a motion to make parking on Gray Street handicapped only and look at making parking available on the other side of Island Drive. He said the Town should give the courtesy of writing a letter to the property owners. Ms. Burleson said she would like to meet with all four property owners.

Alderman Hardison said that the Town Manager has a problem on her hands regarding the destruction of property. Ms. Burleson stated for the record that she did not know what the employee did beforehand, but she would have given the authorization to do what was done. Alderman Hardison requested that she not speak with property owners at this time.

Alderman Tuman seconded Alderman Swantek's motion. The motion passed 3 to 2 with Aldermen Swantek and Hardison voting for, Aldermen Tuman and Farley voting against and an affirmative vote was cast for Alderman Peters as he left the meeting unexcused. Alderman Hardison said it is a good idea. He thinks the Town needs to do more.

Alderman Hardison made a motion to cease with all plans structures until a well put together plan is presented to the Board of Alderman. Alderman Farley seconded the motion. The motion passed 3 to 1 with Alderman Tuman voting against.

Alderman Farley made a motion to make Alderman Hardison a point man for the activities of the manager and he will be responsible for relaying the information to the Board. Alderman Swantek seconded the motion. The motion passed unanimously.

V. **OPEN FORUM:**

Mr. Thomas Leonard of 218 Coastal Dr. – Mr. Leonard said he thought this item was ineffectively brought before the Board of Aldermen and ineffectively articulated before the Board. Alderman Hardison strongly disagreed.

VI. **ADJOURNMENT:** Alderman Farley made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting was adjourned at 11:02 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 12/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Minutes Tuesday, August 4, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

NOT PRESENT: Alderman Daniel Tuman

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Swantek seconded the motion. The motion passed unanimously.
- III. **NEW BUSINESS:**
 - A. **Discussion of Town Code RE: Mobile Vendors and Itinerant Merchants:** Ms. Burleson presented the background on the issue. The Town has been wrestling with the issue since before she got here. Her hope for this morning is to be able to have a discussion and a consensus built for a policy on merchants. Then Staff will be able to draft a policy. Alderman Peters asked about the fruit stand. Ms. Burleson said that it is in a residential zone and that it is precluded. Alderman Peters said he was comfortable with the ordinances Mr. Edes presented. Alderman Swantek said he would like to hear from the audience. Alderman Farley asked if the audience was made up of merchants or citizens. Ms. Burleson said both.

Alderman Swantek made a motion to let the people speak. Alderman Peters seconded the motion recognizing the 3 minute time limit. The motion passed 3 to 1 with Farley voting against.

Open Forum

Joseph Roberts, owner of the Beach Wagon – Mr. Roberts said that he did the concessions at the Onslow County Beach access for many years and he said he recently bought a new beach wagon. He said he is opposed to people selling on the beach. He does not feel it is fair that he did not get a permit to sell on the beach. It cuts his business in half. He said he did not want to get into the sanitary aspect of it.

He mentioned how much he spent on his business. He said he wants to go on record as being against selling on the beach. He said he was told to stay on his wagon and not go on the beach. He does not think it is fair.

June Doherty of 169 Old Village Lane – Ms. Doherty said that she is opposed to having people selling on the beach. Not because it has never been done before but because she wants to keep the beach the way it is.

Frank Rochelle, owns commercial property in Roger's Bay – Mr. Rochelle said that he pays property taxes on \$2.2 million worth of property here. He does not want anyone to bother him on the beach selling stuff. He has a kayak rental business at Roger's Bay and business is taking off. He wants to enhance his business. He said that the hot dog lady is in jeopardy of not getting her license renewed. He said it is an asset to the community that nobody can get a hot dog without going over the bridge or to Surf City. He does not see how selling a hot dog or ice cream is going to make the Town look bad, this Town will never turn into a Myrtle Beach. He wants the Town to vote to have vending. He said he gets positive comments on being able to get a hot dog and not having to cross the bridge.

John Gardner, owns property in Roger's Bay – Mr. Gardner said his biggest fear is if the vendors come here on a Friday night and have a beer tent and there is a bunch of drunks on the road. He said if you have vendors they should be regulated. He emphasized no alcohol. His vision is Sneads Ferry where there was a back corner with the beer stand. He would hate to come down here and see that in front of Roger's Bay. It needs to be regulated. He said visitors don't come here to shop.

Joann Williams of 31 Osprey Drive – Ms. Williams introduced herself as owner of Bada Bing Italian Ice and explained that her business has the carts on the beach. She said they are getting wonderful responses from the people. She has not heard anything negative, sales are good, and there is a demand. She said they don't approach customers, they do not use bells or chimes and they do not call out. She said she was asked by people to please let the Board know that they enjoy it and like it. She asked the Board to approve vendors to be out on the beach and asked that it not be just them.

Mary Sylvain, business owner in the Sneads Ferry area – Ms. Sylvain said if you let her (Ms. Williams of Bada Bing) on the beach with her 5 trailers and everyone else with their five trailers there will be 100 trailers on the beach infringing on people.

Doug West, runs the two County concession buildings at public access #2 and #4- Mr. West said he gets negative comments about the Italian ice carts. He has observed the kids who worked for Bada Bing. He said the males were working with no shirt and the girls were in bikinis. He said they would serve cups with sweat dripping down and saw one person serving after licking their fingers. He said it is a safety concern. He said he is against having anything sold on the beach.

Mike Yawn of 207 Tamarix Ct. – Mr. Yawn said if you look at the Town's ordinance the Town does not allow vendors on the beach, and businesses are allowed in residential areas if it is a home business. He said the problem the Town has right now is that we have a lot of businesses that are violating the Town ordinances. Even the Onslow County beach accesses are in violation, because they are zoned residential. He said the Town has a lot of mismatches. He said the problem is the privilege license was not tied to the planning and zoning department like it should be. He advised to allow the vendors to end their period of their license and then the next time period should go to the Planning Department. He said for example, allow 10 vendors only. He said do not grandfather. He said it is a tough issue. There is a laundry list of things that are illegal and the Town is letting it slide. He said the Town needs to change the code.

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said there are three issues here and people have presented whether or not it should go through. Some are business owners who look at not wanting competition. He said the Board needs to look at what is best for the Town. He said let the licenses run to the end of the period and then maybe throw it back to the Planning Board. He said a little business here will be good for the Town of North Topsail Beach.

Andrea Recla of 104 N. Permuda Wynd and President of HOA for the Village of Stump Sound - Ms. Recla brought attention to a zoning issue which she believes is not being enforced. She said there is one lot that belongs within her development that goes into Surf City Campground and the campground is trying to use it. She said she had tried addressing it with the owner. She said she feels that the vending needs to be in a limited way. She told the Board to think about it carefully. She provided a picture of the lot that is part of the village that is being used as part of Surf City Campground.

George Howard, owns surf shop at NTB – Mr. Howard said he does not have dog in this fight. He said the Town does not want to be another Myrtle Beach and that he has been here for a long time. He said this island has grown in leaps and bounds and what we have to regulate is the commercial, to a point, but we have to have commercial. You have to provide the visitors with something to do or they will not come here. He said everybody has a right to be in business.

Ms. Burleson asked the Board to give her direction to enforce the code or make modifications to the code, for example limited vending. She said that as soon as she came aware of the problem with the privilege licenses she suspended the issuing of them. They were supposed to expire at the end of June or beginning of July but are now extended through the end of September.

The Board discussed the various businesses that currently exist on the island. There was further discussion on the example ordinances from Mr. Edes. Alderman Peters said that in the ordinances the Town Manager has discretion, he asked Ms. Burleson if she was comfortable with that. She said she was.

Alderman Swantek said he thinks the residents do not want vendors. He wants the Board to sit down and have a workshop and modify the ordinance. Alderman Hardison said he does not think the Board has an answer for the Town Manager today. Mayor Martin said that the Town needs to enforce the code. Alderman Peters said if the code is enforced it would not allow any of the enterprises that we have right now.

Ms. Burleson said what she is hearing is that the Board wants to go back to the code as it is written. She said that will mean that the Town will look at each of the businesses and determine how the code affects them. Alderman Farley said that he would be more comfortable with a consensus from the Board and he does not think this meeting should be used to make a decision.

B. Discussion of Agenda for Thursday, August 6, 2009

Presentations and Public Hearings:

Discussion of Public Hearing: Proposed Comprehensive Transportation Plan for the Topsail North Carolina Area: Ms. Burleson reminded the Board of the previous presentations of this plan. The Planning Board was presented with it, our Board of Aldermen and a public information session. She said the Town's bike plan is in there. She said when it is time for us to get money to do our bike plan, since it is on this plan it will help the Town get the money.

Manager's Report

Discussion on Update on CBRA Digital Mapping Project: Ms. Burleson reported that the Town has submitted comments and analysis and we have an appointment with U.S. Fish and Wildlife Service to have a dialog with them. There are also appointments in the afternoon to meet with the staff persons of our Congressional representatives. She said Marlowe and Company helped put the appointments in place.

Discussion on Update on Land Use Build Out Analysis: Ms. Burleson reported that she had a good meeting with Robert Wills. She explained that the Town started this process a while back and it has taken some time to get it accomplished. The Town should have a draft report by sometime in November. This report will give the Board some tools to do long term planning.

Discussion on Update on Gray Street: Ms. Burleson reported that a withdrawal of dedication was provided by one of the property owners. She said the Town needs to find out what the withdrawal of dedication means to the Town. She said that the Town paved Carver Street and the Town has been acting as if those are public right of ways, she said if they are not, the Town does not have responsibility to maintain them. She said the property owners have an attorney and they were talking with the attorney in general terms, not in pursuit of litigation, but to get information. She said the Town Attorney should be in contact with their attorney. She said it is an issue in progress. Alderman Hardison said by word of mouth that Ocean City, boundary wise is an association and that Ms. Burleson should look into that.

Discussion on Dedication of 15 ft. Easement Across from Osprey: Ms. Burleson reported that Charles Riggs has sent over a plat and that Mr. Jeffries is interested in dedicating an easement to the Town. It is a 15 foot easement across from Osprey. Mr. Riggs sent it to the Town Manager and she does not know how many months ago it was received. Mr. Edes reviewed it and said that we can move forward in the process if it is something the Town would like to accept. This will be a template on getting it through to recordation. She is not convinced that things have been properly recorded.

Discussion on Update on Environmental Impact Statement for Beach Project: Ms. Burleson reported that Coastal Planning and Engineering is finalizing the seven sections of the EIS. She said that they have submitted some of them and they have been returned for more comments. CP&E is hoping to be done within the next week or so. The expectation is that the Town will have the permits in hand by the end of the calendar year.

Consent Agenda:

Discussion on Approval of Engagement Letter with Accounting Firm: Ms. Burleson explained that this is in addition to the audit and is required by the State. She said that Mr. Urban is good to work with.

Discussion on Resolution Authorizing the Disposition of Certain Personal Property by Private Sale: Ms. Burleson reported that Turkey Creek VFD has shown interest in the truck. Alderman Farley asked why the Town doesn't just give it to them. Ms. Burleson said that she is going to double check to make sure that the Town is not counting on that money. She said that Turkey Creek VFD responds for the Town. She said regardless of how the truck is to be sold we are going to keep the same language in the resolution.

Discussion on Resolution Supporting Development of a Community-Military Cooperative Planning Process: Ms. Burleson said she went to the Onslow County managers and administrators meeting. She said that Camp Lejeune and Camp Geiger have approached the county on working with the county on planning efforts. She explained that a while back the Air Station was purchasing extra property near Stone Bay at same time the school board was looking at the same property to build the middle school. The base got the land ahead of the school board. This signified a break down in communications. This cooperative planning process will open the lines of communication.

Old Business

Discussion on Need for a Building Inspector for the Town: Alderman Swantek reported that he has been getting a lot of complaints about the timeliness of receiving permits. He said that the county has lost stuff. He said that Onslow County said they would not put an inspector here if there is a hurricane. Ms. Burleson said that is not true, she says it depends on the scope of the storm as to where the county will dedicate staff. Alderman Swantek said the money is still in the budget to hire one. He thinks it will

benefit the Town. There was a discussion about hurricanes. Ms Burleson said she is not ready to make a recommendation to the Board on whether or not to hire a building inspector. She said the feasibility study is not completed.

New Business

Discussion on Appointment of Board Member to ONWASA Board of Directors:

Ms. Burleson explained that the clerk received an email from ONWASA saying tat Alderman Farley's term is up. Alderman Farley said that he will be willing to serve again.

Discussion on Increasing Mayoral Term to Four Years: Ms. Burleson reported that there has been discussion on increasing the mayoral term to four years. She asked the Board to give Staff the direction to work toward getting it changed. Alderman Hardison said that the mayor is not an impotent person and he can be a great leader.

- IV. **ADJOURNMENT:** Alderman Farley made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 12:22 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 9/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, August 6, 2009 7:00 P.M.

PRESENT: Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

NOT PRESENT: Mayor Donald Martin

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Alderman Farley gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Alderman Swantek led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Ms. Burleson asked to add a closed session to the end of the meeting for a litigation update.

Alderman Tuman made a motion to add the litigation closed session per the request of the Town Manager. Alderman Peters seconded. Alderman Hardison asked to remove a set of minutes. The Town Attorney said that the Board can approve the agenda now and then when they get to the Consent Agenda it can be pulled out at that time. The motion passed unanimously.

V. COMMITTEE REPORTS:

A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. It read as follows:

1. At our July regular meeting the Planning Board, Staff and Town Manager Burleson discussed some of the problems occurring with sunrooms and decks at Rogers Bay Campground. There have been an increasing number of these that are gradually becoming more and more illegal: larger, more permanent in design, etc. All construction has been halted and the town is waiting for a decision from the Department of Insurance as whether the "commercial" or "residential" NC State Building Code applies.

2. Last year, the Planning Board had discussed changing the presentation of Chapter 7 into a Unified Development Ordinance (UDO) format which combines zoning and subdivision authority into one ordinance. At the time we decided that since we had already started work on Chapter 7 in the previous method, we should continue with that method. As time has gone on and our progress has continued to be very slow, we have had time to reconsider the wisdom of that decision.

Using a Unified Development Ordinance to combine zoning, subdivision and development regulations into one ordinance is authorized by the State under Section 1 of SL 2005-481 which is a revision to NC General Statute 160A-363. Some nearby examples of towns that have already converted to the Unified Development Ordinance method are Southport, Jacksonville, Emerald Isle and Atlantic Beach as well as Brunswick County and Wake County, the 2 fastest growing counties in North Carolina.

This will provide a better method of presentation, consolidating all regulations that govern development in North Topsail Beach into one user-friendly document. The UDO will include tables, charts and other graphics that will make its provisions more accessible. It represents the first major overhaul of our Town's development regulations in more than 5 years and will work in tandem with the newly adopted CAMA Land Use Plan and Flood Ordinance to strengthen the Town's development regulations. The UDO will replace NTB Town Code Chapter 7 Planning & Zoning, making it easier for a layperson to interpret. It is not a way to alter ordinances. So, we have decided to work with a UDO format for our town. We are now receiving weekly sections emailed by Staff for consideration and review with our comments to be emailed back to Staff also on a weekly basis. At our regular monthly meetings we will discuss all the weekly sections reviewed for the previous month. We expect to complete the entire Ordinance by the end of October.

3. The Planning Board discussed the need to address cell towers. Staff will incorporate "Telecommunication Facilities" as a section in the proposed NTB Town Code Chapter 7 Unified Development Ordinance. This section will largely follow the Onslow County Wireless Telecommunications Ordinance, but will reflect the most recent 2007 legislative changes.
4. The Planning Board unanimously agreed for Staff to encourage Onslow County to seek Hazard Mitigation Grant funding to obtain a professional consultant to update or develop the next Multi-Jurisdiction Hazard Mitigation Plan which would specifically address – on behalf of the Town – CRS requirements and repetitive loss properties. The purposes of this are twofold: (1) to improve the Town's CRS rating, resulting in an increased discount for flood policy holders and (2) develop strategies to mitigate severe repetitive loss properties and seek state and federal grant funding.
5. We still have one Alternate Member position open for our Board and ask again that all of you encourage town residents to consider serving on our Town Boards and Committees.

Alderman Farley asked how the Unified Development Ordinance came about. Ms. Tuman said that it was probably because of her, she says it is a better format and easier for someone who does not have knowledge to find what they need. It does not change the content, just the format. He is concerned that this is a decision the Board should have input on and he has not been shown anything. He does not think it is right for them to do the work on this without anyone looking at it. Ms. Burleson said she would have Ms. Hill provide an example to the Board members.

Alderman Peters asked about Roger's Bay Campground, he asked if they are becoming more and more illegal. He asked if not having a building inspector has made it worse. Ms. Burleson said we had a building inspector when most of this happened. Ms. Burleson said the Town is waiting on input from the department of insurance to determine how the Town should be interpreting the regulations and she is hoping to have an HOA meeting to educate them on the rules and regulations so everyone knows what they are.

B. BOARD OF ADJUSTMENT: Gary Miller, Chairman, reported to the Board of Aldermen as follows:

The Board of Adjustment met at their regularly scheduled meeting on July 16, 2009 and conducted a public hearing on the variance application by Judy Hooks for 2402 Island Drive (CASE # V-09-02).

The Zoning Board of Adjustment voted unanimously (5-0) to approve the variance.

Gary Rowland recommended that the Planning Board develop a proposed amendment to address the repetitive variance requests for the number of +/- 5,000 square foot lots that have been zoned R-10 since before the Town's incorporation. They should be zoned R-5 instead of R-10.

The Board discussed the R-10 lots.

C. ONWASA (Onslow Water and Sewer Authority): Alderman Farley said there wasn't much to report from the last meeting. He reported that effective July 1st if you have an irrigation system you will have to have a separate meter for it and you will have to pay an additional tap fee which could end up being \$4,000. He said if you are doing it for a new home it could end up being \$8,000. He thinks that seems to be quite high, he thinks they should look at changing the fee.

He spoke about the decision that came down with Floris purchasing North Topsail Utilities. He said the Board gave them everything they wanted and asked that they set a time frame for doing the work they promised. He said he sees a rate increase coming. He said there is a proposal is to buy back some of the taps that are not being used such as taps on lots that are unbuildable. If they can't find the owner they will donate the money to charity.

D. TISPC (Topsail Island Shoreline Protection Commission): Alderman Peters reported that TISPC met on the 25th or 27th and that he was not present, but was given an update. The main topic was an update on each of the town's nourishment projects.

The highlight was Topsail Beach's project. They have received the final cost estimates and the board has taken measures to postpone the project until November 2010 season. He said hopefully the cost of the project will be reduced. It came in at \$12.7 million which was about 20 percent over their projections. It will require additional planning and efforts to get funding.

He said here in NTB we will get our permit for the CP&E project at least by the end of the year. He said the Federal project keeps getting delayed and the Town is looking at a permit as late as summer of next year. He said funding continues to be uncertain from the Federal standpoint. There was discussion on funding and the timing of the start of the project.

He said TISPC is still trying to bring in Senator Hagan, Senator Burr and Representative Jones to come speak in August and they continue to be indecisive about coming. He said Representative Mike McIntyre will come to the island on August 27th to be given a tour of the beaches and to talk and answer questions. He said Mike Curley is still looking at making presentations to the town boards and the county commissioners.

VI. PRESENTATIONS & PUBLIC HEARINGS

A. Public Hearing: Proposed Comprehensive Transportation Plan for the Topsail Area of North Carolina: Ms. Burleson announced the public hearing. Alderman Tuman made a motion to open the public hearing. Alderman Peters seconded the motion. The motion passed unanimously. No one from the public came forward to make comments.

Tyler Bray came forward and highlighted the changes that were made to the plan. Alderman Farley asked Mr. Bray to explain the change for Highway 210. Mr. Bray clarified that it is Highway 172 to US 17 that is proposed to be a four lane median divided facility. Alderman Peters asked if the military wants it. Mr. Bray said NCDOT worked with military so that there is a straight shot. Alderman Farley asked about the time frame. Mr. Bray said this is a plan that goes through 2035. The Board discussed funding. Alderman Peters asked about roundabouts. Mr. Bray explained where roundabouts are recommended in the plan.

Alderman Swantek made a motion to close the public hearing. Alderman Tuman seconded the motion. The motion passed unanimously.

Alderman Swantek made a motion to adopt the proposed Comprehensive Transportation Plan for the Topsail area of North Carolina. Alderman Peters seconded the motion. Alderman Tuman clarified that the Board is passing Resolution 2009-13: A Resolution Adopting a Comprehensive Transportation Plan for the Topsail Area of North Carolina. Alderman Swantek agreed. The motion passed unanimously.

VII. **MANAGER'S REPORT**

- A. **Update on CBRA Digital Mapping Project:** Ms. Burleson thanked Mr. Graziosi and said that he helped the Town put together a fantastic infrastructure analysis. She said that the report has been delivered to U.S. Fish and Wildlife Service. She added that the Town has an appointment to meet with the Service on August 17th to present our findings and request that they re-evaluate the CBRA zone and shrink or completely eliminate the CBRA footprint. She said this will not happen immediately. She added that in conjunction with the meeting with the Service, Marlowe and Company has scheduled appointments to meet with our representatives. She said our representatives have received our letter and infrastructure analysis. We have not received any responses back. She said she, Mayor Martin, Gene Graziosi and Town Clerk Carin Faulkner will be going on the trip to D.C. She said the Town will appropriately recognize Mr. Graziosi for his efforts.
- B. **Update on Land Use Build Out Analysis:** Ms. Burleson reported that the process is going slower than the Eastern Carolina Council had originally thought. She and Ms. Hill went through what Mr. Wills has completed so far and are expecting a draft in October. She said she thinks it will be useful for the Town. We should be receiving a final report in December or January. She said this will tell us if we were to be build out completely what the Town would look like and what our demand on infrastructure will be. She said Mr. Wills cannot give us a projection of how long it will take the Town to build out. Alderman Tuman clarified, the final report will give a statement on the way the town looks today and what is available for development and what the demand on infrastructure will be.
- C. **Update on Gray Street:** Ms. Burleson reported that she had several conversations with property owners on or around Gray Street. They were good conversations. She said in the process of speaking with property owners, a Deed of Withdrawal of Dedication was provided by one of the owners and turned over to the Town Attorney for his review. The property owners have also consulted an attorney about the Deed of Withdrawal. She said now the Town has to discover what the implications are from this Deed of Withdrawal.

Ms. Burleson also reported that she is now aware of the historical significance of Ocean City and that there has been an influence across North Carolina. She said she would like to help the historical preservation society as best she can.

Alderman Hardison said he was still concerned with the issue of the fence being removed. Ms. Burleson said she wants to make certain that she meets with the families on-site before something is done to best determine a solution. She is working directly with the families involved. Alderman Farley asked how much this issue is costing the Town. Ms. Burleson said the Town has not received an invoice but the initial estimate for the survey of Reeves and Gray Streets was \$2,000.

- D. **Dedication of 15 ft. Easement Across from Osprey:** Ms. Burleson reported that Town Attorney Brian Edes looked at the offer to dedicate the easement and said that the Town can move forward if it wished to do so. She said Mr. Jeffries had contacted

the Town to dedicate the easement and she does not have the date of when she received it. She said this was brought to the Town with the understanding that the Town will have the dedicated easement and eventually build a crossover. Alderman Swantek asked if there are existing crossovers nearby. Ms. Burleson thought that there are, but she is not sure if they are public or private. Alderman Swantek said that the Town needs to check for sure and table this item until the Board has all of the information to make a decision. This item was tabled for next month's Board of Aldermen meeting.

- E. **Update on Environmental Impact Statement for Beach Project:** Ms. Burleson reported that the Town should have a permit in hand by the end of the calendar year. She said that the Town has received the geo tech survey and part of the engineering report.

There was discussion on who on staff is doing CAMA (Coastal Area Management Act) work for the Town and the duties and responsibilities of staff in the Planning Department.

VIII. **OPEN FORUM:**

Jean Miller 4452 Island Drive - Ms. Miller indicated that she wanted to make comments related to the discussions on licensing vendors. She said he had noticed people enjoying the Italian ice carts. She said that the vendors scurry past and do not hassle people to make a purchase. She suggested that the Town decide on a number of vendors the Town wants to have and keep the ones we have now. Once the licenses are issued no more will go out. Licenses should only be available by attrition. She also realizes that zoning is a big problem.

Ray Ortt - Mr. Ortt is a resident of NTB and does home repair in the area. He said he wanted to make a comment about Roger's Bay and warned people that if they don't watch out that all of NTB will be like that. He said the inspector from Onslow County is doing a fine job, but they are not necessarily a fresh pair of eyes. He made a comment about a job he was doing for someone on the island that only costs \$125 but that the Town making it difficult for him. He explained that there were several fees related to the permits that were needed for the work. He said that to make up for the money the Town is losing to Onslow County it seems as though the Town has come up with this zoning compliance. He asked if the resident know that the Town does not have a building inspector here. He asked who makes these changes and does not let anyone know about them.

Paul Dorazio of 131 Old Village Lane – Mr. Dorazio urged the Town to hire a building inspector. He said he did some research over the last three months on what has been going on. He said Onslow County has issued 80 building permits and there have been 156 building inspections. He is estimating 8 brand new houses, and a range of \$20,000 - \$25,000 has been lost to Onslow County. These numbers are being passed over to the residents of the Town and he feels it is not fair because they are paying taxes for this service already. He said that the Town has a disaster on its hands if we have a hurricane. He said that in a meeting which included staff from Onslow County that they could not

guarantee that a building inspector will be provided to NTB if there was a storm. He said if the Town does not have a building inspector residents cannot come back over the bridge after a storm. He said that NTB has not had meetings like the other towns. He suggested that the Town have a meeting with Onslow County. He thinks the Town is unprepared and that we need a building inspector to head the emergency effort.

He said that he has been observing the vendors over the last 4-5 weeks and he has noticed the vendors that are out there and that they are getting good results with the tourists. He said it's a service we are providing for the visitors and residents. He feels it is important for our Town and a quaint thing that people really like.

He said he noticed on the agenda that there is going to be a discussion on increasing the mayor's term to four years, he asked if this will go into effect before or after the election.

Gary Williams of 31 Osprey Dr. – Mr. Williams operates Bada Bing Italian ice and commented that the Town has been discussing the vendor issue since January and every time we talk about it, it's as if we came out from the dark of night. He said his business operated last year to great success. He said before he started this year there was a meeting with the Town to make sure they can operate because it was going to be a great expense. He said he has had great success. He mentioned that you are going to have people who oppose something that is new, he asked just because it is new, is it bad? He said that the townspeople have supported his business and that they have sold 19,500 units and have received positive responses from people.

Orrin O'Quinn from Sneads Ferry – Mr. O'Quinn said that the Town needs a building inspector. He was on the emergency response team after Fran, and the people who volunteered never got paid and never wanted to be paid. He said they do it for the Town. He said that we are in a bad position since there is nobody in an official capacity to lead. He said there is nothing more important than life and limb. He has helped all of building inspectors in the past. He said his main concern is that the Town needs to be a part of the team that helps the local residents, it is vital to take care of this.

Joseph Roberts runs the Beach Wagon at NTB - Mr. Roberts said he is opposed to commercializing the beach. He said he has operated the public beach accesses and never had anybody on the beach selling or vending and does not understand why it is a great idea to have someone soliciting. He said this Town does not want to be like Myrtle Beach. He said the only thing he knows is that there is one permit for 20 miles of beach and he thinks that the Town should have to sell other permits to other people, or it will have law suits. He said that the vendors on the beach approach people and that if he was on commission he'd try to sell as hard as he can too. He said that he is thinking of retiring and has no dog in the fight and no personal interest in it. He said that the Town may open up a can of worms.

Mike Yawn of 207 Tamarix Ct. – Mr. Yawn said that in respect to vendors the town code is specific that there is to be no sales on the beach and no sales on residential property. He said state statutes don't let people sell on right of way. He provided examples of the vendors in the Town and the problems with them. He said there is a mismatch between privilege licenses and the zoning process. His biggest concern is the

residential areas and businesses cropping up there. He said the current vendors should operate until their license expires and if the Town wants them, we need to change code. He suggested limiting the number and bidding for licensing. He advised against grandfathering.

He said that the small lots in R-10 were looked at 2 and ½ years ago and it came to the Board of Alderman and they rejected rezoning to R-5. He thinks they could have been illegally subdivided before the Town was incorporated. He does not think they should rezone it and that research needs to be done on each individual case. He pointed out that in regards to the area near Gray Street, that the Town just paved Carver Street. In regards to the permit fees, he said the Town publishes a fee schedule and there is a public hearing on it every year and that citizens can argue it then.

IX. CONSENT AGENDA

- A. Approval of Engagement Letter with Accounting Firm**
- B. Resolution Authorizing the Disposition of Certain Personal Property by Private Sale**
- C. Resolution Supporting Development of a Community-Military Cooperative Planning Process**
- D. Approval of Minutes:**
 - June 30, 2009 – not approved**
 - July 2, 2009**
 - July 16, 2009 – not approved**
- E. Department Head Reports**
 - Finance Department - pulled**
 - Fire Department**
 - Inspections Department - pulled**
 - Planning Department - pulled**
 - Police Department**

Alderman Peters had some questions about the planning department report and the benefits accrual report (finance department report). He also indicated a correction that needed to be made to the June 30th minutes where it shows that Alderman Swantek both made and seconded the motion to adjourn. There was discussion about the permits for HVAC and why there is not a fee indicated.

Alderman Swantek said he wanted to make sure that everyone is aware that the Expedition that is included in the Resolution Authorizing the Disposition of Certain Personal Property by Private Sale will be given to the Turkey Creek Volunteer Fire Department for \$1.00.

Ms. Burleson clarified which items on the consent agenda need to be removed and brought back for approval during the September Board of Aldermen meeting which is the following: The July benefits accrual report, the July planning department report, the July inspections report, and the minutes for June 30th and July 16th.

Alderman Tuman made a motion to approve the consent agenda with the items identified by the Town Manager to be removed and addressed at the September meeting which includes: the minutes of June 30th and July 16th, and the finance, inspections and planning reports. Alderman Peters seconded the motion. There was discussion on possibly adding some items back if the aldermen are satisfied. The items remained off of the consent agenda because staff needs to be consulted to answer questions. The motion passed unanimously.

X. OLD BUSINESS:

A. Discussion on Need for a Building Inspector for the Town: Alderman Swantek listed reasons why the Town needs to hire building inspector. He said that the county has lost paperwork and found it two weeks later. He said that the Town needs one if we have a hurricane. He said it is necessary for the Town to hire a building inspector. He said that there is money in the budget for a building inspector. He said Topsail Beach has talked about cost sharing it with us to help their inspections.

Alderman Swantek made a motion for the Town to advertise the hiring of a building inspector. Alderman Farley seconded the motion. Alderman Peters said that he feels that it is premature; he suggested scheduling another work session to find out what Town Hall is not doing and address the issues. Alderman Farley asked if the Town is prepared for a hurricane. There was discussion on hurricane preparedness.

Ms. Burleson said she has been pushing the county on doing the feasibility study for consolidation of building inspections. NTB is leading the way in pushing for the focus groups to be done. She said the feasibility study is not done yet. She is going to be scheduling a focus group for NTB elected officials in the near future.

The motion passed 4 to 1 with Alderman Peters voting against.

B. Mobile Vendors and Itinerant Merchants: Ms. Burleson reported that the Board had a work session on Tuesday and heard a lot from the citizens and vendors. She said there was a consensus from the Board to reaffirm the town code.

Alderman Swantek made a motion to have a workshop in September to finalize a policy. Alderman Hardison asked if the time of meeting could be moved up so that the Town is not doing it at the last minute. There was no second.

Alderman Swantek made a motion to have a workshop at the earliest possible time to go over our ordinance for our itinerant and mobile vendors. Alderman Tuman seconded the motion. There was discussion about whether or not the Town should change the ordinance or keep it the same and what the public wants.

Alderman Tuman suggested that the workshop be a public meeting with public comment. There was further discussion of what the public wants and the difference between what is in the code and what is taking place. Ms. Burleson said that she had heard from a vendor who indicated that his season goes past September so she suggested an amendment to extend it at least through mid November.

Alderman Swantek amended his motion to extend the privilege licenses for vendors and itinerant merchants through the end of November and to have a public meeting at the earliest possible time. He said that he wants to hear from the public and urged them to send emails. Alderman Tuman seconded the motion. The motion passed 4 to 1 with Alderman Farley voting against.

XI. NEW BUSINESS:

A. Appointment of Board Member to ONWASA Board of Directors: Ms. Burleson reported that Alderman Farley's term on the ONWASA Board of Directors ended at the end of July. Alderman Swantek made a motion to reappoint Alderman Farley to the Board of ONWASA. Alderman Peters seconded the motion. The motion passed unanimously.

B. Discussion on Increasing Mayoral Term to Four Years: Ms. Burleson reported that there has been discussion on increasing the mayoral term to four year. She said that Mr. Clifton had mentioned it to her before he left as well as the Mayor and Alderman Swantek. She said this would not affect the current term and will not affect the seated mayor when it passes in the General Assembly, that this will affect the term of the mayor two elections from now. She asked that the Board, via motion please give Staff direction to move forward. Alderman Swantek made a motion to leave it the way it is. Alderman Tuman seconded the motion. The motion passed unanimously.

XII. OPEN FORUM:

Ed Cramer of Roger's Bay - Mr. Cramer said that he wanted to make comment on the Town Manager's statement about the decks and sunrooms at Roger's Bay becoming more elaborate. He said that screen rooms are limited to 200 square feet. Some of them were built before town was incorporated. Since that time more decks have been built and have been approved by the building inspector. He said that we would not be having this discussion if they stayed with the policy of manufactured screen rooms only not exceeding 200 square feet.

XIII. ATTORNEY'S REPORT: Mr. Edes said he will present his report in closed session.

XIV. MAYOR'S REPORT: Mayor Pro Tem Hardison announced that Mayor Martin is out of town this weekend.

XV. ALDERMEN'S REPORT:

Alderman Peters thanked those present for their perseverance.

Alderman Tuman thanked the audience for their attendance and reminded them that there is an opening on the planning board.

Alderman Swantek thanked everyone for coming out. He said that his email is always open and said that Board needs to know what the people want.

Alderman Farley emphasized that the decision on the four year mayor term is not a reflection on Mayor Martin or what has been done. He said that the two year term was set up for a specific reason and he feels that it isn't broken so it does not need to be fixed.

- XVI. CLOSED SESSION:** Alderman Swantek made a motion to go into closed session to discuss and update on a litigation matter in compliance with N.C.G.S. 143-318.11. Alderman Peters seconded. The motion passed unanimously.

N.C.G.S. 143-318.11

Closed sessions.

- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

- XVII. ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Farley seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 9/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Minutes Tuesday, September 1, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Town Manager Lara Burleson, and Town Clerk Carin Faulkner.

NOT PRESENT: Alderman Richard Farley

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Swantek seconded the motion. The motion passed unanimously.
- III. **NEW BUSINESS:**

A. Discussion of Agenda for Thursday, September 3, 2009

Manager's Report

Discussion of Update on CBRA Digital Mapping Project: Ms. Burleson reported that she and those who went to D.C. had a good conversation with U.S. Fish and Wildlife Service. She said the branch chief set a tone for the staff of a willingness to discuss it and consider our request. She directed the Board to look over the notes of the meeting. She said it was a good meeting and she was impressed.

Board members discussed the information that was provided to the service, when the county adopted zoning for West Onslow Beach and the timeline for the U.S. Fish and Wildlife Service to make a decision.

Discussion of Storm Preparedness: Ms. Burleson reported that several Town Staff and Town officials completed the NIMS (National Incident Management System) 700 & 800 courses. She said that there are other courses that Staff need to take and some that can be taken online. She said this will get the Town prepared for a storm. She explained that the courses are a way to get all parties responding to emergencies to use the same language. She explained that FEMA requires the training and that they can withhold funding if elected officials do not receive the training.

Ms. Burleson also discussed that there is grant money available to build a joint EOC (emergency operations center) and talked about the possibility of the four towns (Topsail Beach, Surf City, North Topsail and Holly Ridge) pursuing building one. Ms. Burleson said she would like to pursue it if she has consensus of the Board. There was further discussion on what FEMA can do for the Town in the event of an emergency and that the Town needs to have its disaster preparedness plan updated and approved by the State and FEMA.

Ms. Burleson reported that Norm Bryson from the county came to the Town and trained most of their assessment team members.

Discussion of Update on Building Inspections: Ms. Burleson reported that staff has placed job ads for a Building Inspector as directed by the Board during the last regular meeting. Applications are due on September 11th. Ms. Burleson said she would not look at the applications until that weekend or the following Monday.

Discussion of Ocean City Beach 60th Anniversary Celebration: Ms. Burleson reported that the celebration will be taking place this weekend. She said she distributed the schedule of events. She discussed that she and Mayor Martin provided letters for the program and a proclamation was also prepared and will be presented during the celebration.

Discussion of Update on Gray Street Parking: Ms. Burleson reported that she spoke with Dr. Davis and gave him Mr. Edes' contact information to talk about the deed of withdrawal. There was discussion about a backhoe being in the area of Gray Street.

Discussion of Update on Recycling Services: Ms. Burleson reported that she spoke with Eric Caraway from Waste Industries. She said he estimated 3 tons of recycling a week and the Town is producing 5.5 to 6 tons. She said overall the Town is doing well. She said the Town has a list of people who have repetitively been putting trash in the recycling bins and the Town will be sending letters to those residents. There was discussion on how the recycling effects the Town financially (decreases tipping fees), about the "Recycle Only" stickers, and how best to get the word out on recycling and what materials can be recycled.

Discussion of Update on Beach Vitex Program: Ms. Burleson reported that NTB received a grant for the eradication of beach vitex. The Town contracted with Andy Cavender Landscaping to do the work to eradicate the plants. There was discussion about the list of property owners. Ms. Burleson reported that Town Staff (Ryan McAllister) will keep a list and will be trained to go back and spray again for areas that were missed. There was discussion on whether there is an existing Town ordinance to prohibit the installation of the plant.

Discussion of Ethics Training for Elected Officials: Ms. Burleson reported that a new state statute was passed which mandates that elected officials must receive ethics training and that towns establish a code of ethics. The NC League of Municipalities is putting together a guide to help towns establish a code of ethics and we will use that guide as we work on ours. She said the ICMA also has a good example of one.

Discussion of Report on CAMA (Coastal Area Management Act): Ms. Burleson discussed the changes in the CAMA regulations and how it affects our Town. She said NCBIWA always has CAMA representatives at their conferences to update municipalities. She said that this information must be communicated to the Planning Board.

Consent Agenda:

The Board discussed the minutes that are to be considered for approval. Alderman Peters indicated on page 3 of the August 6th minutes that he asked if things at Roger's Bay were becoming more illegal, that it was not a statement but a question. Mr. Williams indicated that on page 7 of the August 6th minutes the dollar amount should be changed to number of units sold. There was discussion about the regulations for RVs and how the town needs to enforce them. Ms. Burleson said that staff is slowly making their way into that

Old Business

Discussion of Dedication of 15 ft. Easement Across from Osprey: Ms. Burleson directed the Board to look at pictures of the site that were included in the Board Packet. The Board discussed asking Osprey to allow public parking. They discussed that the Town may be able to get a grant for parking such as the grant that was received for parking on Carver Street. They discussed the possibility of purchasing more land to put in a parking lot. Ms. Burleson said that Mr. Jeffries' attorney was contacted to discuss working it out with Osprey instead of donating the easement to the Town. If they come back she will pursue getting parking in Osprey to make it more public accessible. Alderman Tuman suggested seeing if Mr. Jeffries would go to 30 or 40 feet instead of 15 feet. The Board discussed the need for it to benefit more citizens. The Board discussed zoning and a buildable lot that is near the property.

New Business

Discussion of NCBIWA Sponsorship for Annual Conference: Mayor Martin said that the Town donates to this conference every year. He said it benefits the Town because we get a lot of information from them. The sponsorship comes with two conference registrations.

Other Items Discussed

Alderman Swantek said the company that made our Town Hall sign will replace it if we pay for the shipping and installation. He expressed his concern about trash that was left in an area of Town in which a film crew came to film. He said the Town needs to make sure that the area is cleaned up prior to filming. He said he is still waiting for his road paint for the median. Ms. Burleson said that the DOT did not get back to her and she is not comfortable painting it because it opens the Town up to liability. She said staff will keep needing DOT.

Alderman Swantek said that since he did not get his port-a-potties, the money should go to purchase shirts, hats, and license plates. Ms. Burleson said that Staff has looked into putting in an order and that the Town can use money from that fund to get shirts to be sold. She explained that as far as the port-a-potties went, there are rules and regulations on the CAMA side and the Town has to get a permit for it and take it down each year. The Town cannot do it internally so we have to go to the state to do it. She will have to get this process started in time for next season.

Alderman Peters asked if anyone has tried to resurrect the appearance committee. Alderman Swantek said he would like it to reform. There was discussion about getting former board members to serve.

Ms. Burleson announced that September 9, 2009 at 9:00 is when the workshop on vendors will take place. There was discussion about the meeting. It will include Board discussion and a decision on what to do about vendors. There will be an open forum to get comments from the public.

Mayor Martin invited the aldermen candidates to the Four Town Meeting that was taking place on the evening of September 10th. There was discussion about allowing non-elected citizens to this meeting. Mayor Martin withdrew his invitation.

- IV. **ADJOURNMENT:** Alderman Tuman made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 12:13 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 10/1/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, September 3, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Town Manager Lara Burleson, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Reverend Pamela Stringer of Holy Trinity Episcopal Church in Hampstead gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Tuman made a motion to approve the agenda. Alderman Swantek seconded the motion. The motion passed unanimously.
- V. **COMMITTEE REPORTS:**
 - A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. It read as follows:

At our regular August meeting Staff gave a general overview of the Unified Development Ordinance (UDO) and brought copies of samples from other towns and counties. Planning Board members gave feedback on the layout and Articles 1 and 2 of the UDO. Articles 1 and 2, having been completed, will now be prepared by Staff for a final review by the Planning Board. Articles will continue to be delivered to Planning Board members for their review each week with all Articles delivered up to the September meeting to be discussed at our regular meeting on September 10th.

Staff reported that a CD of the final Land Use Plan has been sent by Holland and Associates. Planning Board members are now able to get a hard copy and/or a CD of the LUP for their use.

Staff reported there are three new rules changes which became effective on July 1, 2009. They deal with changes in Division of Coastal Management General Permits

for the construction of bulkheads and rip rap revetments, the construction of piers and docking and changes in the use standards for emergency sandbags. There are also new rules which will initiate significant changes to our oceanfront setback rules. These are the changes which will implement graduated building setbacks for structures 5,000 square feet and larger, eliminate cantilevering designs over the setback line and establish the regulations for the static line exception, which is now available to qualifying local governments with large-scale beach renourishment projects and permanent static lines.

In our annual review of the zoning map Planning Board and staff discussed a few discrepancies between Onslow County GIS and the Town's Official Zoning Map. Previous Planning Board Chair, Mike Yawn, has also reviewed the Zoning Map with staff. The consensus of the Planning Board was to continue the discussion of the Zoning Map at their September meeting.

Alderman Tuman reported that the Coastal Resource Commission formally approved the Town's CAMA Land Use Plan.

- B. **BOARD OF ADJUSTMENT:** Gary Miller, Chairman said the Board of Adjustment did not meet in August. There was no report.
- C. **ONWASA (Onslow Water and Sewer Authority):** Alderman Farley reported that ONWASA entered an agreement with Pender County to have interconnectivity between the two systems to sell water to Pender County for three years. They did this because there is extra capacity at the Dixon Water Plant. Alderman Farley said they are hiring a consultant to do a rate study and he thinks this is a precursor to a rate increase. He said the work on the study will go on for the next year.
- D. **TISPC (Topsail Island Shoreline Protection Commission):** Alderman Peters reported that TISPC had their regular meeting. He said that TISPC is a consolidation of the representatives from the three towns who jointly meet with the objective of coordinating or planning shoreline protection for Topsail Island. He said they gave updates on the status of the projects going on at Topsail Island. Topsail Beach let their contracts for their private beach nourishment project and should start construction in early 2010. He said that with our own private project with CP&E that we hope to get a permit by the end of the year. There have been delays in continuing to get that but we have been promised to get it this year. He reported that the joint project with Surf City, the Federal project, continues to be critiqued by the Army Corps of Engineers' oversight committee.

Alderman Peters said one of the most significant things that occurred was the meeting with Representative Mike McIntyre. Representative McIntyre came to the island and gave a presentation. He toured the beaches and spoke with the mayors. He emphasized how much revenue the beaches provide for North Carolina and it is an extremely good return on investment.

VI. **MANAGER'S REPORT**

A. **Update on CBRA Digital Mapping Project:** Ms. Burleson reported that NTB representatives were able to visit U.S. Fish and Wildlife Service. The presentation to the Service was well received. She reported NTB representatives also visited congressional staff and had good conversations with the staff members. The NTB representatives met with staff for Senator Kay Hagan, Senator Richard Burr, Representative Walter Jones and Representative Mike McIntyre. She said Senator Burr and Representative Jones will go back to U.S. Fish and Wildlife to get an understanding from the Service about the project, not just how it affects NTB, but the overall project. She indicated that there are notes from the meetings and a copy of the PowerPoint presentation available.

B. **Storm Preparedness:** Ms. Burleson spoke about keeping an eye on Tropical Storm Erica. She said she is forwarding the information from the EOC (Emergency Operation Center). She reported that in order to get ourselves prepared for storms Staff and elected officials have had some training. Key staff members as well as elected officials have attended NIMS (National Incident Management System) 700 & 800 courses. She said trainings for NIMS 300 and 400 are being coordinated now.

Ms. Burleson reported that the assessment team has had meetings and they received updated training on the assessment tool. Norman Bryson from Onslow County came and gave the training, it was successful. They were trained on an electronic version of the assessment tool. Staff is working on pre-filling out names and addresses so that everything is in place and ready. She reported that property owners may change but the addresses will be the same and this will keep the Town ahead.

C. **Update on Building Inspections:** Ms. Burleson reported that Staff submitted an ad for a building inspector. She said the application deadline is next Friday, September 11th. Alderman Farley asked about the title of Project Coordinator. Ms. Burleson said that there are some things that the building inspector can do for the Town facilities, the Town has to build to the same standards we are enforcing. She said this will not take responsibility away from the Public Works director.

D. **Ocean City Beach 60th Anniversary Celebration:** Ms. Burleson reported that the Mayor and Board received invitations to participate in the celebration. The Town has a proclamation that will be presented Friday evening at the kickoff.

E. **Update on Gray Street:** Ms. Burleson reported that she was not able to meet with Dr. Davis. He has informal relations with the attorney that was consulted about the deed of withdrawal. Mr. Edes explained that in the mid to late 80's Ocean City withdrew public dedication to the county. Ms. Burleson said Staff is still working on finding out what the deed of withdrawal truly means and once that happens, the Town can move forward. There was discussion about the process of finding out about the document and doing the title search. Ms. Burleson said that it is a lengthy process and will expend a lot of money and time.

- F. **Update on Recycling Services:** Ms. Burleson reported that the Town has had its recycling program since July and overall the program is going very well. She said the Town is producing tonnage that is over Waste Industries' projections. The Town is producing between 5 ½ and 6 tons per week and sustaining it. The Town received a new list from the MRF (Material Recovery Facility) and it will be distributed. There was discussion on getting the word out about the new ban on plastic bottles. Ms. Burleson said that the Town will be placing recycling containers throughout the Town to help citizens comply with the ban. Containers will be in place prior to next summer.
- G. **Beach Vitex Program:** Ms. Burleson reported that the Town had received a grant to eradicate beach vitex a few years ago and the Town contracted with Andy Cavender Landscaping last year to do the work. The landscaping company will start working in October. Letters went out to residents for permission to enter their property and more letters will be going out. She said she can't emphasize enough how important it is to get rid of this plant. It deteriorates dunes and the only recourse is to get rid of all that we can. She said the Town passed a resolution on beach vitex in 2006 and changed the Town code in 2009 to prohibit the installation of the plant. She announced that Ryan McAllister is going to receive the training to apply the chemical after this season. He will go back and get the areas that were missed. Ms. Deborah Hill stated that Staff is trying to borrow a GPS so Mr. McAllister can go through and mark where beach vitex has been identified and monitor the project.
- H. **Ethics Training for Elected Officials:** Ms. Burleson reported that ethics training and establishment of a code of ethics is now required for elected officials. Training must be in place by January 2011. She said the League of Municipalities is working on a basic code of ethics for towns to go by and is working on getting training sessions in place for elected officials.
- I. **Report on CAMA (Coastal Area Management Act):** Ms. Burleson reported that there were recent changes made to CAMA regulations which will affect the local residents. She said the NCBIWA November meeting will discuss the changes. She said that the Board Packet includes the statutes, what the changes are, and what the Town needs to do to implement the changes.

VIII. **OPEN FORUM:**

Richard Hardison from the Turkey Creek Volunteer Fire Department: Mr. Hardison said he would like to take this opportunity on behalf of the members of the Turkey Creek Volunteer Fire Department and the citizens that they serve to thank the Board for making it possible to acquire the NTB Fire Chief's retired vehicle. He presented a letter of appreciation to the Mayor. He said it takes a joint effort these days to be able to provide the citizens the safety they deserve.

Sue Tuman of 3944 River Road – Mrs. Tuman said she would like to thank the people in public works. She said that they do such a great job taking care of the sides of the road, it did not look like that when others were taking care of it. She said she spoke with

a public works employee and he suggested that the Town put up signs to tell people, “When you leave the beach just leave your footprints”. She said they do a wonderful job.

IX. CONSENT AGENDA

A. Approval of Minutes:

June 30, 2009

July 16, 2009 – not approved

August 4, 2009

August 6, 2009 (Regular Meeting)

August 6, 2009 (Closed Session)

B. Department Head Reports

Finance Department (August & September)

Fire Department

Inspections Department (August & September)

Planning Department (August & September)

Police Department

Alderman Peters made a motion to approve the consent agenda. Alderman Swantek seconded the motion.

Alderman Hardison commented on the minutes of July 16th. He said he requested that a portion of the minutes be removed from the record. He was told that what was written could not be written in a different way and should remain as part of the record. He feels this is not consistent with what is described by the State as what is to be included in the minutes. He does not want the item to go as is and he cannot approve of the minutes until that piece is taken out.

There was discussion between the Town Manager, Town Attorney and Board on the comment in particular and public comments in general and whether or not they should be included in the minutes. Ms. Burleson advised against striking the particular comment. Mr. Edes said that it has been his advice that you do not need to have them verbatim but that you accurately record the substance of anything that occurs both in open session and closed session. He thinks that there may be a legal requirement that you capture the essence of what the person said. He asked that he be given some time to look into the matter and will send a memo to Ms. Burleson on what he finds out. He said that if it is optional, the Board needs to have an official action to remove public comments from the minutes. He said that since he has worked with the Town there has always been a public comment period and minutes of it.

Alderman Hardison requested that the July 16th minutes be pulled from the consent agenda.

There was clarification that the Board will be voting to pass the consent agenda with the July 16th minutes removed. The motion passed unanimously.

X. OLD BUSINESS:

- A. **Dedication of 15 ft. Easement Across from Osprey:** Ms. Burleson directed the Board to view the photos of the property and the surrounding area that are in the Board Packet. She said she contacted Mr. Jeffries' agent and asked him if he or Mr. Jeffries would contact Osprey HOA and see if they could coordinate transfer of the property without the Town. She said if they come back to the Town that the Board has given her direction to pursue options to make the property more public accessible.

XI. NEW BUSINESS:

- A. **NCBIWA Sponsorship for Annual Conference:** Mayor Martin explained that the Town has been asked to sponsor this conference and that the Town sponsored it last year. Alderman Swantek made motion to approve \$1,000 for the sponsorship of the NCBIWA Annual Conference. Alderman Peters seconded the motion. Alderman Farley asked if the Town pays dues to the association. Ms. Burleson said that the Town pays \$1,000 in dues. This \$1,000 is for the sponsorship of the annual meeting. The motion passed 4 to 1 with Alderman Farley voting against.

XII. OPEN FORUM:

Mike Yawn of 207 Tamarix Court – Mr. Yawn addressed the Board and said that they did not state what budget line item the NCBIWA sponsorship money will be coming out of, he suggest that it is a good idea to include this in the motions in the future.

Sue Tuman of 3944 River Road – Mrs. Tuman said she wanted to remind the Board of the importance of minutes. They are very important because years from now we will want to go back. We have found out recently that they were not clear enough. She added that they are important for zoning issues. She said they reflect what the meeting is.

- XIII. **ATTORNEY'S REPORT:** Mr. Edes said he will present his report on pending legislation in closed session.

- XIV. **MAYOR'S REPORT:** Mayor Martin thanked everyone for coming out tonight.

XV. ALDERMEN'S REPORT:

Alderman Hardison said he had no comment.

Alderman Peters said thank you and that it looks like we are getting out before 8:30 that is a miracle in itself

Alderman Tuman thanked everyone for coming and said that this the last big weekend of the season for Topsail Island and it is usually heavily trafficked. He expressed his regrets for not being able to attend Ocean City Beach's 60th Anniversary Celebration.

Alderman Swantek thanked everyone for coming out and said that NCBIWA is the reason why we got groins and jetties passed in North Carolina. He said the Town is spending the taxpayers' money for a good cause.

Alderman Farley said he disagreed with Alderman Swantek and said happy Labor Day, enjoy, and be safe.

Alderman Tuman made a motion to recess for five minutes. Alderman Hardison seconded the motion. The motion passed unanimously. The meeting recessed at 8:15 p.m.

XVI. **CLOSED SESSION:** Alderman Swantek made a motion to go into closed session to discuss and update on a litigation matter in compliance with N.C.G.S. 143-318.11. Alderman Peters seconded. The motion passed unanimously.

N.C.G.S. 143-318.11

Closed sessions.

- (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged. General policy matters may not be discussed in a closed session and nothing herein shall be construed to permit a public body to close a meeting that otherwise would be open merely because an attorney employed or retained by the public body is a participant. The public body may consider and give instructions to an attorney concerning the handling or settlement of a claim, judicial action, mediation, arbitration, or administrative procedure. If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded.

XVII. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Peters seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 10/1/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Lara N. Burleson, MPA
Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting September 9, 2009 9:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Town Manager Lara Burleson, Town Clerk Carin Faulkner

NOT PRESENT: Alderman Richard Farley

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at in the North Topsail Beach meeting room at 9:00 a.m.
- II. **PLEDGE OF ALLEGIANCE:** Those present recited the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Hardison seconded the motion. The motion passed unanimously.
- IV. **OPENING COMMENTS:** Town Manager Lara Burleson said that the purpose of the meeting is a second workshop to discuss the privilege license and the vendors. She said the Town has two codes regarding vendors. She provided a copy of excerpts from the code to the Board and had a few copies available for the public.

The first excerpt was Section 4-1 selling goods on public property. Ms. Burleson read the following:

It shall be unlawful for any person to expose for sale, offer to sell, barter or exchange, or sell, barter or exchange any goods, wares or merchandise within the street and highway rights-of-way of the town, or on the ocean beaches of the town, or on parking lots (and other areas open to the public) which are contiguous to the state highway and town street rights-of-way.

The second excerpt was Section 10-21 - Solicitation on beaches. Ms. Burleson read the following:

Certain activities on beaches prohibited. It shall be unlawful for any person, organization, society, association or corporation, or any agent, member or representative thereof, directly or indirectly, to, in a bothersome and obnoxious manner: solicit property, to [solicit] business or financial assistance of any kind; to distribute free product samples, admission passes, or entry tickets; to conduct any sales or rental business; to sell or offer to sell any article, good, publication, subscription, or other thing of value, in the area previously defined in this chapter as the public beach.

Ms. Burleson said that this is the Town's current state. She said privilege licenses are issued to people who want to do business in the Town. The Town Clerk is the issuing agent. The Deputy Town Clerk has been issuing the permits most recently because she is in the building inspections department and most of the privilege licenses are for contractors.

Ms. Burleson pointed out that there are some exemptions for issuing privilege licenses but those exemptions only refer to the paying of the privilege license fee itself. She said they are listed in Chapter 4 – 16. She said there are some state exemptions that address those persons who are selling their own catch and own produce and those are not for the practice of selling but for the paying of the privilege license fee itself.

Ms. Burleson said if the Town was to follow the code as it is written right now, no vendors will be allowed to have any sort of privilege license unless they are conducting business in a business zoned district. She said these zones are scattered throughout the Town. She said if the businesses want to continue they can relocate to those areas. She said the zoning requirements are not as extensive as she thought they would be.

Ms. Burleson said the only sites that are a special case scenario are the County beach accesses. They are currently zoned R-10 and R-20 but are allowable for concession because there is an allowable use of governmental facilities. The County has offered that service by contract with someone else. It is considered a governmental activity and is allowed by our zoning ordinance. She cited Town Code Chapter 7-128.

Ms. Burleson said she would like a policy direction. She asked if what has been going on is what the Board would like to see or if they want to make limitations. She said if she does not receive a policy direction she will have to go with the code as written.

There was discussion on why the current code does not address mobile vendors. Ms. Burleson said that she thinks it is because they are prohibited by the code so it does not need to address them.

V. OPEN FORUM:

Angie Perry of 1647 Chadwick Shores Drive in Sneads Ferry – Ms. Perry said she is in favor of sales of Italian ice on the beach. She said the owners are people of integrity. She said that it is a great attraction for North Topsail Beach and an enhancement for the beach. She said it will bring people here.

Dean Perry of 1647 Chadwick Shores Drive in Sneads Ferry – Mr. Perry said he is in favor of Italian ice being sold on the beach. He said it is a family beach, it is family oriented and so is Italian ice. He said his wife's family used to go to Myrtle Beach, now they come here. He said the Italian ice is a good product. He said people leave and have good memories and that keeps them coming for years. He said the owners are good people and decent people and that is as important as the product you sell.

Frank Rochelle, business owner at Roger's Bay Campground – Mr. Rochelle presented the Board with a petition. He did not solicit anyone to sign it. He said all of the comments say no. He said these comments come from people from Maine to Missouri. He read some of the comments. He said he thinks businesses that have been

here before North Topsail was incorporated should be grandfathered. He said he receives all positive comments about the vendor that parks at Roger's Bay and that the Town needs to keep vending to some degree.

Mike Yawn of 207 Tamarix Court – Mr. Yawn said that the Town has a lot of cases and situations to look at such as people selling in state right-of-way and shops and restaurants that are in a residential zone. He said they will exist as they are until a new zoning code is completed with PUD (Planned Unit Development). He mentioned the ice cream van and selling on the beach and he said the Town needs to have restrictions on them. He suggested that the Town limit what vendors can sell, the vehicle they use, the size, where they sell, and the hours that they sell. The Town should have 10 sales or rental stations and that the license fee should be more than what it is now. He suggested a reverse auction to determine the charge. He said there should be no commercial activities in residential areas and that only home occupations are allowed. He said the Town should look at some of the privilege licenses that are granted and what is listed on the license. He said he thinks grandfathering is a problem and that both town attorneys have said that it is a bad idea.

Doug West of 184 Tillet Lane in Sneads Ferry – Mr. West said that he and his wife work at the county concession areas. He put out petitions at his locations for people to voluntarily fill out. He offered them to the Board. He said that all of them are against the mobile beach vendors.

Debra Potterfield of 34 Osprey Drive – Ms. Potterfield said that the operation for Italian ice is done professionally. She said children run up and the employees don't bother people. She doesn't see that there is any peddler component to it. She said she is in support of the Italian ice business and that it represents the United States and an entrepreneurial spirit.

Denise Mazariello, visitor from New York - Ms. Mazariello said that she is in support of the Italian ice vendors. She said you can bring your cooler here but you can't bring your ice cream and she is for it.

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said that whatever is decided should be fairly and equitably applied to all. He said that some of the vendors are institutions and have been here a long time such as the Millis family. He said the Board needs to think of fairness. He said competition is a part of free enterprise. He said the Williams' are members of this community, they live here, they pay taxes here and they come to the Board meetings. He said the Town needs to become more business friendly.

Steve Campbell of 300 Dennis Rd in Jacksonville – Mr. Campbell said that he has been coming to this beach well over 30 years and one of the deciding factors to stay here was the beaches. He chooses to come to this beach because it is a safe beach and a pleasurable one to come to. He said he is in support of the Italian ice because of the family atmosphere. He said he brings his grandchildren here and said he has to keep his eyes on them all of the time and with the Italian ice coming by you do not have to worry about them wondering off because they are in eyesight. He said he is in support of the business and he had not seen where anyone was soliciting. It is a wonderful service.

Gary Williams of 31 Osprey Drive –Mr. Williams is the owner of Bada Bing Italian Ice. He said when they started operating this year and they got a petition for people to sign. He said that they decided as a business not to be intrusive so that the sales could speak for themselves. He said the sales have spoken for themselves. He said they have had over 20,000 people have voted yes to the Italian ice by purchasing it. He said the purchases are not just from locals and property owners, but the very same people who add to the tax base of the community. He said they have been encouraging and telling them that it is a service to them. He said that the Board of Aldermen can handle all of the details for regulating vendors. He said they live here full time and they are not going anywhere. He urged the Board to allow this service to continue.

Frances Campbell of 300 Dennis Road in Jacksonville – Ms. Campbell said “don’t take my Bada Bing away; it’s a little piece of heaven on the beach.” She said that it’s real Italian ice she thinks it’s a blessing and that they should be able continue to do business on the beach.

Jean Miller of 4452 Island Drive - Ms. Miller said that there isn’t any business currently running that we can do without. She said the people who want them use them and the people who don’t can walk by. She said that there is an emotional attachment to the Shrimp Lady, and said if it is a problem to let DOT to deal with it. She said that maybe the Town has enough vendors now and there should be a cut off. She said her family loved it. She does not want to be inundated by vendors. She said it would be a tragedy if the vendors that are currently here were gone.

James Andrews – Runs the Vegetable Stand at 2nd Avenue – He still owns much of the property he bought here years ago before Highway 210 was here. He owns three farms. He thanked the Town of North Topsail Beach for letting him be here. He said he has restrooms available for his customers and brings his produce in on a refrigerated truck. He said he has enjoyed it here.

Randy Millis –Owner of the “Shrimp Lady” operation– Mr. Millis said that he and his family have been operating the business here for 25 years. He said there have been no accidents directly related to his business. He said they feel like it is a privilege being here and that his grandmother “the Shrimp Lady” thought a lot of this place. He said he wants the Town to know that they appreciate being there and that is how they make their living and would like to keep on doing it.

VI. BOARD DISCUSSION AND ACTION:

Alderman Swantek agrees that the Town needs some vendors. He said the Town is in need of some camaraderie and we do not have restaurants to serve the people who come here. He said the vendors are an important part of keeping our tourism up. He said he had asked people to send negative and positive comments to him through e-mail. He said only one was partially negative. He said everything is positive and the children love them (the Italian ice). He said he watched what they are doing and they do the job properly.. They put ads in our paper and help with our economy. He said the Town needs to update the code and that we are living in the past. He said restrictions are needed such as no open flames and no glass. He thinks the Town needs to limit the number of licenses to 10 when somebody leaves someone else can pick up the license.

He said the Town needs to do something today. Our current ordinances are too restrictive.

Alderman Tuman said that the Town needs to change Chapter 4 of the ordinance and make a provision for vendors and itinerant merchants. He said that our Town Attorney provided some information several months ago in terms of definitions and clarifications specific to itinerant merchants and vendors and those should be included in our definitions. He said our ordinances do include restrictions relative to businesses and services and he thinks those should be maintained. He has never heard anybody say that the vendors are a public nuisance. He has heard comments that are cautionary and said the Town should not turn into a carnival atmosphere and the board needs to weigh that consideration. He proposed that in Chapter 4-16 under exemptions to add a total of 12 licenses for peddlers and merchants and to have fair access for anybody to have those licenses. They will be given on an annual basis, people will apply for them during the high season and they will last from the Friday before Easter until the end of September. The application deadline will be April 1st or March 15th depending on when Easter occurs. If there are more than 12 applications they will be handled on a lottery basis. They will be first come first serve until all 12 are exhausted. He suggested no powered vehicles allowed on the beach, the carts are okay, but he would put a restriction on the size of the cart.

Alderman Peters said he sees no harm in having the vendors that we have here. He thinks the fact that there are sales demonstrates there is a need for them and there are no adverse circumstances resulting from it. He said he agrees with the comments of Alderman Swantek and Alderman Tuman. He thinks the Town ought to allow a select number of vendors. He said if specific ones are in question hopefully there is a way the Town can get them to be allowable one way or another.

Alderman Hardison said he is very sensitive to the people who have been here for some time and that he has purchased from a few of the vendors for many years. His concern is what the Board is going to do about it. He said Mr. Yawn brought up good points of what should be in various locations. He is concerned about how it will be monitored. He said he would feel better about making a decision on this today with more discussion about the vendors and zoning.

Ms. Burleson said that she said it sounds like there is a general consensus and that Mayor Pro Tem Hardison may have a few more questions and she may be able to answer them.

Alderman Hardison said he would like to know if there are other areas other than the beach where these businesses can take place without being punitive to their request.

Ms. Burleson said that the way the code is currently written businesses can only operate in areas that are zoned business. She said that there are home occupations that are allowed in residential areas. She said that it will need to be looked at to make sure we are following the ordinance. She said that with the restaurants in the condo-hotels, such as the St. Regis, that if they were approved with the original plans for development they may have been approved by the County. If they were part of the original application for development then they will be holding to what they said they were going to do. The Planning Board is going to look at that and Planned Unit Development (PUD) which allow a mix of residential and commercial activities. She said that selling in the right-of-

way is prohibited by the Town and the State. She said the ice cream truck and the vendors on the beach are also prohibited by the current code. She said the only businesses allowed in a residential area are home occupations.

Alderman Swantek made a motion to modify the Town Code to allow the vendors on the beach with restrictions and to have another Board workshop strictly with the Board to go over the ordinance and revamping it with the restrictions on the vendors, including the number of vendors that will be allowed. Alderman Peters asked if the motion was necessary and requested that it be narrowed down. Alderman Swantek said that he will narrow the motion down to modifying the Town Code. Alderman Peters seconded the motion. Ms. Burleson clarified that the Board is going to modify the ordinance with reference to vendors on the beach. Alderman Swantek clarified that he meant vendors total. Ms. Burleson asked that the Board give her more direction than to just change the code.

Alderman Tuman said that the motion does not go far enough to give the Town Manager direction. He said he would like to see a modification of Chapter 4 that deals with this issue. He said he discussed adding the mobile vendors and peddlers to Chapter 4 and the definitions provided by the Town Attorney. He said there are definitions that describe these and the limitations.

Alderman Swantek retracted his motion.

Alderman Tuman made a motion to include language in the code that includes mobile vendors and peddlers with the definitions provided by the Town Attorney which clarifies the privileges and restrictions. He said this will include the Good Humor man, the Italian ice person, the produce person, the shrimp person. He said he would specify the total number of licenses available and if there are more applications than licenses that it will be done on a lottery basis or by auction. He said there may not be sufficient restrictions in the definition of cart; he said that the Town should restrict motorized vehicles on the beach. He said that there should be 12 licenses and that they can operate on private property with the permission of the owner. There will be a maximum of 12 vendors and they can be on private property or public streets like the Good Humor man. Alderman Peters seconded the motion.

Alderman Peters asked about what should be allowed on Town property. He also mentioned that things such as the umbrella business should be addressed.

Alderman Tuman said that the Town may look into zoning some of the Town property for business.

Alderman Hardison said he was not comfortable with what the aldermen were saying. He thinks the Town is opening up the gate and if they can go anywhere and set up shop, he does not see why we have codes.

Alderman Tuman said that there are restrictions. Alderman Peters said there are instances where they will be stretched, but that they will be monitored and controlled.

There was discussion on when the Board would like to see a draft from the Town Manager. Alderman Peters suggested another informal work session. The Board decided that Ms. Burleson would bring it to the agenda workshop prior to the next meeting. The draft will be available at the meeting on September 29th.

The motion passed 3 to 1 with Alderman Hardison voting against.

VII. ADJOURNMENT: Alderman Tuman made a motion to adjourn. Alderman Hardison seconded the motion. The motion passed unanimously. The meeting was adjourned at 10:23 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 10/1/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Minutes Tuesday, September 29, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Farley, Richard Peters, Robert Swantek, Daniel Tuman, Interim Town Manager Breck Smith, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Tuman seconded the motion. The motion passed unanimously.
- III. **NEW BUSINESS:**

A. Discussion of Agenda for Thursday, October 1, 2009

Manager's Report

Mr. Smith briefed the Board on a few topics that will not be on the agenda for Thursday night.

Mr. Smith discussed the flooding issues. He said that he and Mr. Thomas Best and DOT staff looked at the flooding areas around the town. DOT will be doing some surveying in the Gray Street area. A 50/50 match is possible for some work that will take place in spring 2010 to solve the issues. They are also looking at the St. Regis area and town park areas. Gray Street is the worst area. He reported on other DOT projects such as the contract for the DOT to work on New River Inlet Road. That item should be presented at the November meeting. He said Part A of the project from the stop sign to the north end of New River Inlet Road is not budgeted. He mentioned the bike path and that DOT will be handling the contracts on that for which \$260,000 is budgeted. He announced that quotes were received for the work on Port Drive and Goldsboro Lane. Public Works Director Thomas Best recommended Norris Construction whose quote was \$36,900, the Town budgeted \$42,100. He passed out the information on those quotes. He announced that DOT will be working on the boat ramp on Shrimp Lady Lane. He offered copies of the plans on that project. Alderman Farley suggested that the Town contact ONWASA prior to beginning work on the streets to ensure that ONWASA does not have plans to work on the water lines which may result in tearing up the road after it has just been fixed.

Update on Beach Vitex: Mr. Smith reported that eradication efforts began yesterday. He had maps and a list of addresses. He said that the work started in the north end of town. He said that there is \$10,000 in the budget for this work.

Mr. Smith reported that the Town achieved a Community Rating System rating of seven.

Mr. Smith reported that the Town received some Federal fire grant funds. The Town did not receive the full amount that was applied for. The monies will be going to purchase fire equipment.

Mr. Smith reported that Mr. Best pulled some pilings that were found at the north end and that sand bags were also found and are exposed and need to be removed. There was discussion on who was responsible for removal of the sand bags and that State money could possibly go to it since the area they are in may be considered public trust waters.

Mr. Smith presented a grant request from Ms. Debra Hill to apply for a planning grant for GIS software. Alderman Tuman suggested that the Town contact Jeff Hudson or Angela Cole with Onslow County to coordinate with the county, that the county should be taking the lead on GIS projects.

Mr. Smith announced that the closing for the property that the Town bid on and won is tentatively set for October 14th. He said it was \$8,100 and the Town already paid \$1,000. So there will be \$7,100 and the closing costs because of extra title work will be \$1,500 which can be taken out of attorney fees.

Mr. Smith announced that he received notice about the School of Government's Essentials of Government course. Ms. Faulkner stated that she will register the Town for four elected officials and two staff members.

Mayor Martin asked about the gentleman that will be coming to make a presentation. Ms. Faulkner stated that she contacted Mr. Gallant who represents PLURIS, and that he will be coming to give a presentation on Thursday night.

Update on Building Inspections: Mr. Smith reported that Mayor Martin turned the hiring of the building inspector over to Ms. Hill and Mr. Smith. There are pending background checks and they are waiting on those and will also check references. There was discussion about the various levels of certification. The Town has budgeted for the salary of a Class 3 inspector. Alderman Tuman suggested that the Town check with the County to see if they can aid in the selection process.

There was discussion about the town manager vacancy. Alderman Farley said he would like to put an ad out immediately. There was discussion on using a search firm and the methods previously used to hire the town manager. The Board directed the interim town manager to put an ad out immediately. It was suggested that the Town use a firm to do background checks.

Update on CP&E Project: Ms. Faulkner directed the Board to look at the memo from Ken Willson which is in the Board Packet. This will also be on the agenda in the Manager's Report for Thursday night. There was discussion about when dredging will begin on the north end. The mayor said he will check into it.

Consent Agenda: These items were not discussed.

Old Business:

Approval of July 16, 2009 Minutes: Ms. Faulkner said there have not been any changes to the minutes. She said she sent out an e-mail indicating that she had asked her fellow clerks for advice and that she received many examples. She said that the clerks said public comments are always included in their minutes and the minutes briefly summarize what was said. Alderman Farley stated that if the minutes are left the same that he is not sure that they would be acceptable. There was discussion on verbatim versus paraphrasing. Ms. Faulkner asked for suggestions on how that portion could be written differently. Alderman Tuman said that when there is a public forum the minutes should reflect the sentiments of the person speaking because it is public input to the Board.

Alderman Tuman made a correction to the closed session minutes. He indicated that the minutes need to reflect that after the first closed session the Board did not reopen the meeting room to the public between going out of closed session and going back into closed session for a different purpose.

- IV. **ADJOURNMENT:** Alderman Tuman made a motion to adjourn. Alderman Farley seconded the motion. The motion passed unanimously. The meeting adjourned at 10:44 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 11/5/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, October 1, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Interim Town Manager Breck Smith, and Town Clerk Carin Faulkner.

NOT PRESENT: Town Attorney Brian Edes

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Reverend Dwayne Collins of North Topsail Shores Baptist church gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Tuman made a motion to amend the agenda. He said he would like to make an addition. He said that this Town had a closed session meeting last Thursday at which time this Board voted to terminate our town manager. He said that the final action of termination did not take place in an open meeting. He suggested that the Board add the final action to the agenda so that it may be voted on in open session. Alderman Peters seconded the motion.

Alderman Farley said he feels that this should be done with the Town Attorney present and to be fair to all parties that it should be postponed. Alderman Hardison said he does not have an objection to it, but would like to see the attorney here. Alderman Tuman said that presumes that no action has been taken and that Ms. Burleson is still our town manager by law and that if she is still the town manager, where is she?

Mayor Martin read a statement from the Town Attorney, Brian Edes (a reply to an e-mail from Mike Yawn, resident of NTB) it read as follows:

The Board had to act in open session to terminate Lara. However, prior [to] the most recent closed session I met with Lara and the Mayor independently. Lara requested and the Mayor agreed to allow Lara to voluntarily separate from her

employment with the Town in the event it appeared the Board was going to terminate her employment. Consequently, Lara's separation from employment from the Town occurred as a consequence of a mutual agreement between the Town and Lara. Stated differently, the Town did not fire Lara thus no formal action of the Board took place nor was needed. Pursuant to N.C. General Statute 160A-168, I am not at liberty to discuss closed session discussions regarding personnel issues. At any rate, I spoke with both Lara and her attorney this morning and confirmed this understanding in light [of] my receipt of your email below.

Alderman Tuman said would like to respond to the attorney's statement. He said that he has had conversations with Ms. Burleson. Alderman Tuman read his statement and it read as follows:

Regarding Attorney Edes' statements, they don't reflect anything in truth. The motion was made in closed session by Mr. Swantek, seconded by Mr. Hardison to terminate Lara Burleson, was as reported in the newspaper 3 to 2 with Tuman and Peters voting no. The motion was not as Edes claims to agree to enter into negotiations with Burleson that would result in her separation from the Town under the terms that will be worked out between both parties. That discussion never happened. In fact the ensuing discussion after the vote to separate her involved the terms of her employment contract and whether the Town had any financial obligations to her at all. Edes was sent to tell Lara that she was through and was not to report back to work. This is not the first time that the Board failed to come out of closed session and not take the action as required by law. At the moment there is no formal separation agreement between Lara and the Town, nor has she been legally fired, nor has there been a Board approved action to enter into separate negotiations with her. Thus far, the only action the Board took was in closed session to terminate her and tell her not to report back to work.

Alderman Peters said he agreed with Alderman Tuman's statement and he said he thinks it was an illegal meeting, or at least the decision was handled illegally as far as being in the closed session and he still thinks the Town has a town manager. He recommended that the Board take appropriate action to keep her.

Alderman Farley said that he has been to many closed sessions and that he feels that there was a consensus and not a vote. He said things are still in negotiation and the attorney is comfortable with what this Board did and how it was done. There was discussion about whether or not the town attorney was working on an agreement with Ms. Burleson. Alderman Peters said that he was unaware of an agreement that was made prior to the closed meeting.

Alderman Tuman said that there was no such discussion or presentation of Ms. Burleson's request that there be negotiations between her and the Town. He said there was no discussion or motions to do that. The only thing that was explicit was a motion made to terminate her and there were instructions for the town attorney to inform her of that decision. Alderman Tuman said that he spoke at length and said that the Board does not want to do this, take this action to terminate Ms. Burleson, he spoke about the

implications on the Town, the operations of the Town, the potential that a month from now there could be a new Board and that she could be brought back. He said clearly the discussion was on her termination. There was nothing about where she had approached the Town or the mayor or the town attorney saying this is not working, maybe we need to make a deal. Alderman Farley said he does not feel comfortable discussing things that could make the town manager look bad.

The motion failed 3 to 2 with Aldermen Tuman and Peters voting in favor of the motion.

Alderman Swantek made a motion to approve the agenda with the removal of the old business item, approval of July 16, 2009 minutes. Alderman Hardison seconded the motion. The motion passed 4 to 1 with Alderman Peters voting against.

V. **COMMITTEE REPORTS:**

A. **PLANNING BOARD:** Sue Tuman presented the Planning Board report. It read as follows:

At our regular September 10, 2009 meeting the Planning Board cover three issues:

Continuing review of Zoning Map Inconsistencies: Town and County staff have compared the Official Zoning Map of North Topsail Beach, published by Holland & Associates, to the zoning data contained in the County's GIS/Mapping System. Several inconsistencies were found to exist.

In order to resolve the differences between the Zoning Map and GIS, a review of Town records and Board of Aldermen Minutes was conducted to determine whether to correct either the GIS/Mapping System or to recommend an amendment to the Town's Official Zoning Map. Once these inconsistencies are resolved, the Town will be able to use the County's GIS information to print new Town Zoning maps when needed and facilitate amendments as they occur. Additionally, accurate online information will be accessible to the public.

Undersized Lots of Record: In the Public Comment section, former Planning Board Chairman, Mike Yawn presented concerns about making any blanket changes in zoning for undersized Lots of Record. Planning Board consensus was first to make use of the Staff review currently underway identifying all of the undersized properties. Once all the properties have been identified, the Planning Board will review each section individually, addressing first the one that included a property most recently brought to the Board of Adjustment.

Town Code, Chapter 7: Staff reviewed the changes in the Unified Development Ordinance as discussed at our August meeting and more changes were discussed.

B. **BOARD OF ADJUSTMENT:** The Board of Adjustment did not meet in September. There was no report.

- C. **ONWASA (Onslow Water and Sewer Authority):** Alderman Farley had previously reported that ONWASA was searching for a firm to do a rate study. He reported that they have selected a firm, but that the board of directors has asked to go back and compare prices. The firms have to meet a standard and once the qualifications are met the board is able to compare prices. This will be a five year rate study.

Alderman Farley reported that ONWASA approved applying for a grant that will be a grant combined with a low interest rate loan to do several projects; the principal project will be construction of a one million gallon per day plant in the Richlands area. He announced that there will be a public hearing on October 15th on the new state law requiring separate meters for new irrigation systems. He said that this could end up being very expensive for people who are building new homes and that it could be up to \$10,000. He urged the citizens to attend the public hearing as he feels that it will be heavily attended by developers. There was further discussion on taps and backflow devices.

- D. **Topsail Island Shoreline Protection Commission (TISPC):** Alderman Peters reported that TISPC had their regular meeting on September 25th. He said that they discussed each of the town's beach nourishment projects. He said that Topsail Beach will be letting the contract for their private project and construction is expected to begin next November. He said that they hope to tie in with Bald Head Island's project to minimize the cost but it is uncertain whether that can occur. He reported that with North Topsail Beach's project with CP&E that the permit keeps getting delayed and that NTB expects to get the permit by March or at the latest early summer. He said that for the Federal project with the Army Corp of Engineers that we are losing the project manager which will result in some changes and that they will be having a meeting with the ACOE on where the project is. He said the permit is expected to be ready next year. He said it was announced today that the House has voted for \$90,000 for the project and that will get it through the next calendar year. He said that we will have to ask for a larger sum for the following year for the planning and construction phases. He said the TISPC also discussed changes in the CRC. They discussed that there is a contract with Moffatt and Associates to study the success of groins. He said they will be using one specific location as an example. He said NTB could opt to be the designated location. The firm is expected to give a response to CRC by next April. He announced the next meeting of TISPC is October 27 at 2:00 p.m. in Surf City.

- VI. **PUBLIC HEARINGS & PRESENTATIONS - Update on Sewer System - Michael Gallant, P.E. P.A. of PLURIS:** Mr. Gallant said that he was here representing PLURIS, the new owner of the sewer plant for NTB. He said the geotechnical work for the plant structure as far as the field work has been done and the conclusion of that report will be coming in next morning or early next week. The hydro geologist that will work on the infiltration basin that will be constructed there has been hired and is currently doing his work on-site. They are hoping to have the field work finished in the next two to three weeks and a report will be completed a month or so after that. He said in October he is going to Austin to meet with the equipment supplier and contractor to have a final design meeting and hopefully will be modifying the current permit in the December time frame.

Mr. Gallant said as far as the collection system goes, they are conducting a flow study of the entire system and they received a model from another consultant. He said the State has been recommending that the collection system be split up into sections to reduce pressure on the system. This will expedite permitting, taking the wait time from 6 to 9 months to 3 to 4 weeks. He said they have held interviews for a customer service agent for the local office.

There was discussion on the plans for the future. Mr. Gallant said there are plans for a one million gallon a day footprint plant with an additional flow of one half of a million gallons a day. He said that in the long term they are planning to phase out the lagoon system. There was discussion on the technology of the plant, the establishment of policies, and the waiting list for service.

VII. **MANAGER'S REPORT:**

- A. **Update on Building Inspections:** Mr. Smith reported that Staff has initiated background checks for the candidates that were interviewed. The checks have not come back yet.
- B. **Update on Beach Vitex:** Mr. Smith said that the eradication work began on Monday. Of the right of entry (ROI) letters that went out, the Town has received about half of them back. The properties that returned the ROI have already been completed. As the Town receives more letters back those properties will also be completed.
- C. **Update on CP&E Project:** Mr. Smith made reference to the memo that was in the Board packet. He reported that CP&E has turned in a CAMA major permit to the State; however the discovery of the clay in the channel has put a hold on that. They will be resubmitting it to the State. The essential fish habitat will be completed this week and submitted to the State. He said the biological assessment is almost finished, it will be about another week. He said that the Environmental Impact Statement will be ready in March or April 2010. He said after that they need to look into necessary permits, easement, bid packages, and most important, finances.

VIII. **OPEN FORUM:**

Thomas Leonard of 218 Coastal Drive – Mr. Leonard addressed the issue with the town manager. He said he was disappointed in the Board. He said that this Board has forgotten that they represent and work for the citizens.

Rose Peters of 601 New River Inlet Road - Mrs. Peters said it was brought to her attention that members of the Board felt it was inappropriate for an alderman's wife to babysit for the town manager so as of that date, she no longer babysat for Ms. Burleson. She said it is inappropriate that this Board has to interfere with her personal matters. She said she is concerned with the direction that this Board is going.

Mike Yawn of 207 Tamarix Court – Mr. Yawn thanked the Planning Board for doing such a great job. He said instead of terminating Ms. Burleson he urges the Board to work through the issues it has with her.

Gary Rowland of 127 S. Permuda Wynd – Mr. Rowland read a written statement. The statement included Mr. Rowland's concerns about the Town's reputation. He discussed the selection and dismissal of the town manager. He said a revolving door to the office of town manager is not best for the Town.

Sue Tuman of 3944 River Road – Mrs. Tuman said that she had a couple of corrections. She said consensus is when a group entirely discusses a topic and reaches one decision, it is not a 3 to 2 vote that is a vote, consensus it is not. She reminded the Board again that minutes are an accurate record of a meeting.

Deb Lanci of 21 Hunter Heath Drive – Ms. Lanci expressed the citizens' disappointment over the Town's loss of another town manager. She said she does not know when the Town will hire another manager because the Town behaves so disingenuously.

IX. CONSENT AGENDA

A. Approval of Minutes:

September 1, 2009

September 3, 2009

September 3, 2009 (Closed Session)

September 9, 2009

B. Department Head Reports

Finance Department

Fire Department

Inspections Department

Planning Department

Police Department

Alderman Peters made a motion to approve the consent agenda. Alderman Tuman seconded the motion. The motion passed unanimously.

X. OLD BUSINESS:

A. ~~Approval of July 16, 2009 Minutes:~~ This item was removed from the agenda.

XI. OPEN FORUM:

No one came forward to speak.

XII. ATTORNEY'S REPORT: Mayor Martin read Mr. Edes' report at the beginning of the meeting.

- XIII. **MAYOR'S REPORT:** Mayor Martin reported that one of our policemen acted above and beyond the call of duty when he assisted at the scene where a young man was hit by a drunk driver. He was very responsive and did a great job.

Mayor Martin announced that he is honored and pleased that we have Mr. Smith with us. He said he is doing a great job and has really stepped up to the plate. He thanked Mr. Smith.

- XIV. **ALDERMEN'S REPORT:**

Alderman Hardison thanked everyone for coming out tonight and told them to have a good evening.

Alderman Peters said that his wife has tolerated him being on this Board for almost four years and he has been through several prior trials and tribulations and she has asked him why he has not resigned. He said after the meeting to dismiss Ms. Burleson he has never agreed with her so much that he needs to get away. He said this is a total embarrassment to him personally to be a member of a Board which would take such action. He repeated Mr. Leonard's statement that nobody thought of the impact this would have on Ms. Burleson. He said she is a human being and that she did not need bullied and treated in the manner that she was. He said he made a statement earlier this week that he would welcome anyone who wants to know what went on to meet with him to discuss it after this meeting. He said he was counseled not to discuss anything that would jeopardize the settlement that may occur with Ms. Burleson. He said he will honor the parameters that he was asked to follow. He invited people to meet somewhere in Town Hall later.

Alderman Tuman said he would like the citizens to pay attention. He mentioned that the interim manager has been thrust into his current position and does not have the benefit of knowing all of the active items. He suggested that if there is anyone who knows of something requiring Town action that they follow up with Mr. Smith. He said there is a continuity issue and that things fall through the cracks. He pointed out that the next Town meeting is very close to the election and he mentioned the polling place for this year. He said what happened in the last few weeks was a real low and that he was blindsided and it caught him by surprise.

Alderman Swantek said thank you for coming out. He said there were things the Board didn't like to do but had to do for the Town's sake.

Alderman Farley said he did not want to get into the he said-she said stuff. He said there is nobody in this room with more integrity than Larry Hardison and Bob Swantek. He said they work very hard for this Town. He said they are interested in this Town and the betterment of this Town. He said they have a high degree of integrity. He pointed out that Alderman Swantek painted the meeting room. He said that they do not make decisions lightly. He said that they are doing their job. He said they may not have the same view points as the other aldermen. He said he is happy that they are on the Board. He said that the number of seven town managers is not accurate and that interim managers are included. He said that it is incorrect that one of the Board members viciously went after the last town manager. He said it was not right that other Board

members were pointing fingers at other members. He said that you don't go through all of those managers on one board. He thanked everyone for coming. He said that everyone is entitled to give criticism and that's what makes us unique.

- XV. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Hardison seconded the motion. The motion passed unanimously.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 12/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting October 23, 2009 1:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Richard Farley, Robert Swantek, Interim Town Manager Breck Smith, Town Attorney Brian Edes, Town Clerk Carin Faulkner

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at in the North Topsail Beach meeting room at 1:00 p.m.
- II. **PLEDGE OF ALLEGIANCE:** Those present recited the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:** Mayor Martin announced that the public has requested that an open forum be added to the agenda. Alderman Tuman made a motion to add an open forum to the agenda. Alderman Peters seconded the motion. The motion failed. The vote was 3 to 2 with Alderman Peters and Alderman Tuman voting in favor.

Alderman Peters made a motion to postpone this meeting for two weeks until the election is over and the results of the election are final. Alderman Tuman seconded the motion. Alderman Peters said that he has read e-mails that reflect that three of the prospective aldermen are in favor of retaining our town manager. He feels that the Town should take the opportunity to defer this decision until there is a new board. He said to make this decision now is counterproductive to the Town economically and reflects poorly on the Town. Alderman Tuman commented that he supports Alderman Peters' comments. The motion failed 3 to 2 with Aldermen Tuman and Peters voting in favor.

Alderman Tuman read the following statement:

Since Lara Burleson has not been legally terminated by the Board of Alderman of North Topsail Beach and since she has not submitted a letter of resignation, it is my motion that the Board of Alderman order the Mayor of North Topsail Beach to contact Ms. Burleson and to inform her that she is either to report back to work as Town Manager of North Topsail Beach or submit her resignation. Failure to do either will result in her immediate termination by the Board of Alderman of North Topsail Beach.

Alderman Peters seconded the motion. Alderman Farley questioned what the motion was. Mr. Edes said that this is a motion to add that action on the agenda. The motion failed 3 to 2 with Aldermen Tuman and Peters voting in favor.

Alderman Farley made a motion to approve the agenda. Alderman Hardison seconded the motion. Alderman Farley said that before the Board goes into closed session that there may be some things to discuss prior to that. Mr. Edes said that the closed session is to discuss the personnel matters that may overlap and will be okay to discuss in closed session.

Alderman Peters asked Mr. Edes to clarify the status of the town manager, is she a current employee of the Town. Mr. Edes said that she has resigned. Mr. Edes said that he has not seen a resignation letter, but there was an electronic writing that predates the last closed session meeting. Alderman Peters asked about the legality of the meetings the Board had. Mr. Edes said that in his opinion, the meetings were legal. Mr. Edes said Ms. Burleson was not terminated. He said that she clearly stated that as opposed to being terminated she would voluntarily leave. Alderman Tuman asked for further clarification. He said that he has never been a witness to the things that the attorney is saying. Mr. Edes said that the e-mail he is referring to was sent to the Mayor and forwarded to the Board.

The motion to approve the agenda passed 3 to 2 with Aldermen Tuman and Peters voting against.

IV. **CLOSED SESSION:** Alderman Farley made a motion to go into closed session. Alderman Swantek seconded the motion. The motion passed.

V. **OPEN SESSION:** Alderman Farley made a motion to go into open session. Alderman Swantek seconded the motion. The motion passed unanimously.

Alderman Swantek made a motion to approve the separation and release agreement between Lara Burleson and the Town of North Topsail Beach. Alderman Hardison seconded the motion. The motion passed 3 to 2 with Aldermen Tuman and Peters voting against.

VI. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Peters seconded the motion. The motion passed unanimously.

The meeting adjourned at 1:56 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Minutes Wednesday, November 4, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Farley, Robert Swantek, Daniel Tuman, Interim Town Manager Breck Smith, and Town Clerk Carin Faulkner.

NOT PRESENT: Alderman Richard Peters

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Farley made a motion to approve the agenda. Alderman Tuman seconded the motion. The motion passed unanimously.
- III. **NEW BUSINESS:**

A. Discussion of Agenda for Thursday, November 5, 2009

Alderman Farley made comment that he would approve everything on the agenda with exception of the meeting minutes. He said that he would not approve the public comments in the October 1, 2009 meeting minutes. There was consensus that the minutes will be taken off of the agenda at the beginning of the next meeting by a vote of the Board.

Consent Agenda: These items were not discussed.

Old Business:

Discussion of Approval of July 16, 2009 Minutes – It was discussed that the Town Attorney was to give comment on this item at the next meeting. The town clerk will remind Mr. Edes.

New Business

Discussion of 2009 Mobile Government Grant – Alderman Tuman explained that the grant will help the Planning Department with funds to acquire equipment that will help identify GPS coordinates of properties in the Town which are used on all planning

documents. It would also help with beach vitex removal and repairs. It was suggested by the Planning Department that the Town apply for the grant. The grant is for almost \$90,000 and will go to 20 government agencies. There was discussion about Onslow County's role in it. Alderman Tuman said Onslow County already has the equipment. The Board requested that Ms. Hill present more on this item at the next meeting.

Discussion on Installation of Security Lights within Street Easement – There was discussion about Dolphin Shores requesting the use of the right-of-way to install street lights in that subdivision. Mr. Smith said that the HOA will be responsible for the purchase of the lights, the electricity, installation and maintenance. There was further discussion on street lights on public streets in general.

Mr. Smith said that there is another issue in that subdivision about a parking area. It is a private parking area, but on a Division of Coastal Management (DCM) map it is designated as a public parking area. He said Ms. Hill is looking into it. There was discussion about the DCM map and finding the document to determine what the particular issue is with the determination.

There was further discussion about street lights. The Board discussed what the Town's responsibility is in regards to installing lights. The Board asked Mr. Smith to look into whether the Town has a standard that the Town adheres to in placing lights. He said that he will also contact Dolphin Shores HOA to make sure that they will be paying for the electricity.

B. Discussion on Reeves Street – Mr. Smith indicated that there is a problem with identifying who owns a section of property from the end of this street to the waterway. He said that the Powell Bill map shows that the Town claims that street and that there is 30 or 40 feet from the street to the water where the local homeowners want to install hard structure and block it off from public use and use it privately. The Town needs to determine who owns that property. He referred to a 1950 deed that does not indicate an owner. There was discussion about getting a permit to put gravel down. Alderman Swantek said that the Town Attorney was supposed to look into it and that he was advised not to follow up with it. Alderman Tuman said that the Town needs to determine where Reeves Street begins and ends and that will end the Town's responsibility. He said the actual property owners and neighbors should deal with the issue on their own. He said the Town Manager and Town Attorney need to establish what the Town is responsible for. There was further discussion as to whether a parking lot is allowed there because it would be close to the water.

C. Discussion on Purchase of Town Christmas Tree – Alderman Swantek presented the proposal from the vendor to the Board. He described it as a fake tree made of panels and it would be 22 feet tall. He said the tree can be installed before Thanksgiving and that it was suggested that the Town use colored lights. He said he envisions the Town having a lighting ceremony and he thinks it would build camaraderie for the Town. Mr. Smith said that there is no money left in the snowflake fund as that money was used to pay for property. Alderman Tuman suggested that Mr. Smith look into taking the \$6,400 from the bike path/recreation line item. There was further discussion on the storage of the tree. Mr. Smith will check with Surf City to see what storage space they use.

Manager's Report

Mr. Smith said that he needs direction from the Board on what to do about the building inspector. Alderman Farley suggested that staff go through the applications the Town has already received. There was consensus from the Board to do this.

Mr. Smith reported that the patching on Goldsboro Lane and Port Drive is complete and that it was under budget by \$3,550.

Mr. Smith reported that the excavation of the asphalt and the concreting of the parking lot at the North End fire station is complete and was under budget by \$250.

Mr. Smith reported that the State mowing contract has been filled out and the Town will be expecting \$3,000 on that.

Mr. Smith reported that the Army Corp of Engineers withheld money and the Town is getting back \$9,500.

Mr. Smith reported that the League Workers' Compensation representative came to audit the payroll and the Town is receiving over \$3,000 back on insurance.

Mr. Smith said he appreciated Ms. Faulkner's work in creating a calendar of the recycling and trash pick up days which is available on the website. She also notified the Town about the upcoming power outage on the marquee and website.

There was further discussion about the pending issues such as Reeves Street. Alderman Tuman suggested that issues be recorded somehow and followed-up upon and available for everyone to see.

- IV. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Farley seconded the motion. The motion passed unanimously. The meeting adjourned at 11:02 a.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 12/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, November 5, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Interim Town Manager Breck Smith, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Minister Veronica Brown of Heritage Community Church gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Alderman Swantek led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to amend the agenda. He said he would like to remove the approval of the July 16 and October 1 minutes from the agenda. Alderman Tuman amended the motion to include the addition of a brief personnel discussion to the Closed Session. Alderman Farley amended the motion to add an item in New Business to discuss the Town's position on the Titan cement plant and a possible adoption of the position taken by the League of Women Voters. The Mayor indicated that the Mobile Government Grant is to be removed as item A under New Business and the Titan cement plant item replace it on the agenda. The motion passed unanimously.
- V. **COMMITTEE REPORTS:**
 - A. **PLANNING BOARD:** Sue Tuman presented the revised version of the Planning Board report. It read as follows:

The Planning Board met on October 8th, 2009 for our regular monthly meeting for the following:

1. Presentation by Michael Gallant, PE, PA on Pluris, LLC, new owner of North Topsail Utilities. This was a repeat of the presentation made to the Board of Aldermen last month, requested by Planning Board Chair for the information of Planning Board members.

2. Continued review of the Zoning Map inconsistencies from last month with the help of Attorney Tim Smith, sitting in for Attorney Brian Edes, to handle several of the properties which involved CU-R10 zoning designations we have learned were not legal as the Town had no such district at the time and could not create one without a text amendment to our ordinances first. Staff is researching for our next meeting whether there is any justification for having a Conditional Use districts in our town.
3. Remaining Zoning Map inconsistencies have been cleared with Onslow County GIS corrections or await response from Holland and Associates review of zoning district line irregularities.
4. Proposed development of a Travel Trailer Park (adjacent to Rogers Bay Campground): Mr. Durwood Bradshaw, of D & J Properties, presented plans to develop his property as an expansion of the travel trailer park to help pay taxes. Unfortunately, staff reported that she has confirmed that any expansion of the Campground is prohibited by the NC Building Code and Town Code Chapter 8 FLOOD DAMAGE PREVENTION. Any new travel trailer park or any expansion to Rogers Bay would be in direct conflict with the State Building Code and also would not be eligible for a Variance as it pertains to State mandated performance standards. The property can be developed commercially, but not as a travel trailer park.
5. ESRI and Trimble 2009 Mobile Government Grant: All present members of the Planning Board were unanimous in their support recommending the Board of Aldermen approve the application for this private grant for packages of hardware, software and training. However, further study by Staff has determined that \$89,980 is the total value of all 20 local grants. Individually, they should be valued at approximately \$4,500. Discussion with Patricia Pike/Onslow County GIS Director determined that it probably isn't worth the trouble of preparing the grant. Staff has requested that this item be removed from the BOA Agenda.
6. Discussion on Home Occupation conflict between the Table of Permitted and Conditional Uses and the text. Attorney Smith stated that in a discrepancy like this the court always enforces the most recent Ordinance. Consensus of the Planning Board is to place Home Occupation permits under the newest Ordinance, Section 7-132 which lists it as an accessory use.
7. Proposed Recombination by Donald & Helen Quenzer: Staff contacted Richard Ducker at the School of Government regarding this issue. His response indicates that the recombination is exempt from the full subdivision review process and should be marked "no approval required" or "exempt" so that the plat may be recorded if the sub divider wishes to do so.
8. Planning Board members were asked to go through the Unified Development Ordinance section on the Board of Adjustment, returning their marked copy to Staff in 1 week for her to combine their suggestions for our November meeting review.

Alderman Farley asked about the zoning map inconsistencies. Mrs. Tuman and Ms. Hill explained the corrections that need to be made. It was explained that in the graphics that Holland and Associates used for the map that the fill-in colors did not match the

boundaries; the auto-fill function may have not been working properly. Alderman Peters asked if after the corrections are made, if the map will need to be approved by the Board. Both Ms. Hill and Mr. Edes agreed that the Board would have to approve the map as corrected.

Alderman Farley asked about the campgrounds and whether or not the Town had made them conditional use. Mrs. Tuman said that there is a State mandate that says no campground can be expanded. Alderman Farley asked about the recombination and if there are issues with the HOA. Mrs. Tuman indicated that the issues will be between the property owners and the HOA.

B. BOARD OF ADJUSTMENT: The Board of Adjustment did not meet in October there was no report.

C. ONWASA (Onslow Water and Sewer Authority): Alderman Farley reported that the ONWASA Board passed the irrigation meter rate increase. The rate will be 50 % higher than the rate for home use. He said he preferred an impact fee over the percentage increase. He said that the issue with the Town of Swansboro and the dedication of assets has been settled, ONWASA has those assets.

D. Topsail Island Shoreline Protection Commission (TISPC): Alderman Peters reported that the commission met on October 27th in Surf City. They updated each other on each town's nourishment plans and what stages they are in. The NTB/Surf City joint program has received a notice that Congress has allocated \$90,000, of that \$17,000 will be used to complete the feasibility study and the rest will be for the design work. That will get the project through the calendar year. Topsail Beach expects to have a contract for their beach nourishment project which will go into effect next year. They have signed a contract with a dredging company and easements have been obtained for access. The NTB/Surf City Federal Project continues to have delays. There was a request made through Representative McIntyre to become a part of any Congressional Water Resources Development Act funds for beach nourishment projects. Alderman Peter said that because of the delay we cannot participate in the act next year, but there will be a contingency approval to participate in the future. This will help the project stay on schedule as much as possible.

Alderman Peters reported that the commission expects to get a copy of the BIMP (Beach Inlet Management Program) plan that the State is developing it should be coming this summer. This beach plan will outline how the State can help with the beach nourishment funding process. Alderman Peters said there is continued discussion with the CRC on terminal groins. He said that the next TISPC meeting is on November 24th at Topsail Beach Town Hall at 2:00 p.m.

VI. PUBLIC HEARINGS & PRESENTATIONS – Onslow Vietnam Veterans Memorial Foundation – Kenji Horn: Mr. Horn was unable to make it to the meeting. This presentation may be rescheduled.

VII. **MANAGER'S REPORT:**

- A. **Update on Beach Vitex:** Mr. Smith said that the Town budgeted \$10,000 and the Town has spent \$4,150 so far. Staff has submitted the paperwork for reimbursement for that money. The eradication is continuing and he said he expects another invoice for \$1,500 that will also be submitted for reimbursement. The St. Regis is working with Dale Suiter to get replacement plants and the eradication there will be completed in two phases, north side one year, and south side the next year.
- B. **Update on Building Inspections:** Mr. Smith said that the most qualified applicant was interviewed and turned down the job. Staff discussed the top candidates with the N.C. Department of Insurance and they advised the Town to re-advertise the position. The Town will advertise in the Jacksonville Daily news and a building inspection website.
- C. **Update on Street Paving:** Mr. Smith reported that the patching on Goldsboro Lane and Port Drive has been completed. It was under budget by \$3,550. The Town also came under budget on the excavating and concreting of the North End fire station lot.

VIII. **OPEN FORUM:**

Thomas Leonard of 218 Coastal Drive – Mr. Leonard congratulated the newly elected mayor and aldermen. He thanked Mayor Martin and Alderman Peters for their hard work and dedication to the Town. He wished all veterans a happy Veteran's Day and happy birthday to the Marine Corps. He said it was mentioned that the lighting at Dolphin Shores was needed because of the crime there. He said he wants the vandalism in Dolphin Shores to be substantiated by the police department. He said that the HOA needs to be responsible for the expense of the lights. He said that they are going to be installing too many lights. He said he questions the Town spending \$6,700 on a Christmas tree that will be used two months out of the year and would rather the Town funds go to merit raises or bonuses for Town employees.

Sue Tuman of 3944 River Road – Mrs. Tuman introduced herself as the President of the area League of Women Voters which covers three counties. She read a statement from the League regarding the proposed Titan America cement plant which expressed the League's opposition to the plant. She said doctors from the area have spoken in opposition to the plant.

Mike Yawn of 207 Tamarix Court – Mr. Yawn reported that on September 22nd his home was struck by lightning. He thanked the NTB Fire Department for the response. He said they did a very professional job. He said he concurs with Mr. Leonard about the Christmas tree and said that he is concerned about the wind, the cost, storage, and separation of church and state issues. He suggested that the Town purchase one for \$500 or \$1000. He thanked Aldermen Hardison and Peters for their hard work. He congratulated Ms. Lanci and Mr. Macartney and Mayor-elect Tuman. He cited his concerns about the Titan America cement plant and recommended that the Town send a letter to the Division of Air Quality in opposition to the plant.

IX. **CONSENT AGENDA**

A. **Approval of Minutes:**

September 29, 2009

~~**October 1, 2009**~~ **Removed from Agenda**

October 23, 2009

B. **Department Head Reports**

~~**Finance Department**~~ **Incoming expense report removed**

Fire Department

Inspections Department

Planning Department

Police Department

Alderman Peters made a motion to withdraw the incoming expenses report. Alderman Swantek made a motion to approve the Consent Agenda as amended. Alderman Tuman seconded the motion. The motion passed unanimously.

X. **OLD BUSINESS:**

A. ~~**Approval of July 16, 2009 Minutes:**~~ **This item was removed from the agenda.**

XI. **NEW BUSINESS**

A. **NTB Board of Aldermen Position on Titan America Cement Plant:** Alderman Farley stated that the Board knows what the issues are with the Titan America cement plant and that the Town should not necessarily adopt verbatim the position from the League of Women Voters, but the Town should express the concerns. Alderman Tuman made a motion that the Town of NTB submit a letter to the N.C. Department of Environmental and Natural Resources - Division of Air Quality expressing the concerns with the State permit approval of the plant. Alderman Farley seconded the motion. The motion passed 4 to 1 with Alderman Peters voting against.

B. **Request to Install Security Light within Street Easement:** Alderman Swantek explained that the Dolphin Shores HOA needs permission from the Town to use the right-of-way so they can have Jones-Onslow EMC install street lights there. The HOA will pay for the electricity and the lights and it will not cost the Town anything. Alderman Swantek made a motion to give Jones-Onslow Electric Membership Corporation permission to install security lights within the right-of-way at Dolphin Shores subdivision. Alderman Tuman seconded the motion. There was discussion about the Town's responsibility for street lights. The Town does not have a formal policy. The motion passed unanimously.

XII. **OPEN FORUM:**

Thomas Leonard of 218 Coastal Drive – Mr. Leonard said he was frustrated with the Board's failure to take action on the July 16, 2009 minutes.

Joyce Peele of 331 Seashore Drive – Ms. Peele said that she would love for the issue with the sound end of Reeves Street to be settled. She asked does the Winterhaven subdivision own it or the Town.

XIII. **ATTORNEY'S REPORT:** Mayor Martin thanked Mr. Edes for his service to the Town and said that Mr. Edes has been very helpful to him. Mr. Edes expressed his gratitude and honor of serving Mayor Martin, Alderman Peters, and Alderman Hardison. He wished them the best of luck in their future endeavors.

XIV. **MAYOR'S REPORT:** Mayor Martin thanked all of the citizens of the Town for being very helpful to him; he also thanked the Board and the employees.

XV. **ALDERMEN'S REPORT:**

Alderman Hardison said it has been a pleasure and an honor to be a part of this body and to feel that he has done a little something to help the Town and the citizens of the Town. He said he hopes the best for the new Board that is coming on and he has enjoyed coming here on these nights. He said it is an up and down kind of job, but through it all he has enjoyed it.

Alderman Peters congratulated the incoming Board and said he is extremely enthusiastic about the opportunities that this new Board will provide to our Town and wished them a tremendous amount of success. He thanked everyone for coming out.

Alderman Tuman thanked all of the voters who came out to vote. He said there was a rather substantial turn out. He is appreciative of the support he has. He asked that the outgoing Board members not be strangers and said that the Town is always looking for volunteers. He said the Town needs everybody and implores everyone to take the time and effort and volunteer.

Alderman Swantek thanked everyone for coming out. He congratulated Mr. Yawn, Ms. Lanci, and Mr. Macartney and wished them luck.

Alderman Farley welcomed Ms. Lanci, Mr. Macartney, and Mr. Yawn and said that he looks forward to arguing with all three of them. He said he looks forward to working with Mr. Tuman. He said it has been a pleasure. He said happy Veteran's Day to everyone and happy Thanksgiving. He said to look at donating to food banks to help others. He said that Onslow County Ministries is in need. He thanked everyone for coming out.

XVI. **CLOSED SESSION:** Alderman Farley made a motion to go into Closed Session. Alderman Tuman seconded the motion. The motion passed unanimously.

The closed session was to consider the following items:

Closed session per North Carolina General Statute § 143-318.11. Closed sessions. Section 5. To establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the

price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange or lease.

Closed session per North Carolina General Statute § 143-318.11. Closed sessions Section 6. To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee; or to hear or investigate a complaint, charge, or grievance by or against an individual public officer or employee. General personnel policy issues may not be considered in a closed session. A public body may not consider the qualifications, competence, performance, character, fitness, appointment, or removal of a member of the public body or another body and may not consider or fill a vacancy among its own membership except in an open meeting. Final action making an appointment or discharge or removal by a public body having final authority for the appointment or discharge or removal shall be taken in an open meeting.

Alderman Swantek made a motion to go out of closed session. Alderman Tuman seconded the motion. The motion passed unanimously.

XVII. **ADJOURNMENT:** Alderman Swantek made a motion to adjourn. Alderman Tuman seconded the motion. The motion passed unanimously. The meeting at 9:05 p.m.

APPROVED:

Donald Martin, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 12/3/2009

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Agenda Workshop Minutes Wednesday, December 2, 2009 10:00 A.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Farley, Robert Swantek, Richard Peters, Daniel Tuman, Interim Town Manager Breck Smith, and Town Clerk Carin Faulkner.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 10:00 a.m. in the North Topsail Beach meeting room.
- II. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda for the workshop meeting. Alderman Hardison seconded the motion. The motion passed unanimously.

III. **NEW BUSINESS:**

A. **Discussion of Agenda for Thursday, December 3, 2009**

The Board went through the agenda item by item to possibly find a way to make it shorter.

Consent Agenda: These items were not discussed.

Old Business: The Board agreed that the July 16th and October 1st minutes need to be approved.

Presentations: Alderman Tuman suggested that the reception take place after the Oath of Office and then have the Organizational Items when the new Board reconvenes after the reception. He suggested moving the recognition of the old Board members after the reception. Then he suggested creating an item for Organizational Items to include the election of the Mayor Pro Tem, meeting schedule, etc. There was discussion on how the Board will vote for the items.

New Business:

The Board agreed that the appointments to the Planning Board will remain in New Business. The resolutions honoring the old Board will be under New Business as the first item. There was discussion about the item, Discussion and Possible Action of the Determination and Selection of a Town Manager. There was discussion on the rules of putting items on the agenda. Alderman Tuman recommended that the Board readopt Fleming Bell's Rules of Procedure. There was discussion on training regarding the rules.

Manager's Report

Discussion on Update on Building Inspector - Authorize Interim Manager to Make Offer of Employment: Mr. Smith explained that his report has an action item regarding the Building Inspector. The Board needs to authorize Mr. Smith to make a job offer to one of the candidates for the job of Building Inspector. The Board reviewed documents pertaining to the individual that will be hired. There was discussion about compensation and continuing education.

Discussion on Update on Audit Report: The auditor will be coming to the January meeting to discuss the audit report. Mr. Smith said that it looks very positive.

Discussion on Update on Placement of Sand on North End: Mr. Smith said that he was going to speak about the sand that will be placed on the north end.

Discussion on Announcement of Collections for Toys for Tots and Angel Tree: Mr. Smith said that the Town is collecting for Toys for Tots and that the information is on the website. He urged the Board and the public to participate in it. He also explained that the Town is collecting gift cards for the Angel Tree program which helps local children.

Other Items Discussed: Alderman Tuman pointed out that the new Board will need to decide if they will continue the Agenda Workshops and when they will take place. He also said that the Board should decide other items that are up to the Board's discretion within the Rules of Procedure, such as if the Board will address the public during the Public Forum period. He suggested that the Board suspend the rules to ask the public questions.

There was discussion about the reception and the attendees for the regular meeting and the order of events. There was discussion about the Nags Head resolution item. Alderman Tuman made a suggestion on how to dispose of the item instead of having a prolonged discussion.

IV. **ADJOURNMENT:** Alderman Peters made a motion to adjourn. Alderman Swantek seconded the motion. The motion passed unanimously. The meeting adjourned at 10:58 a.m.

APPROVED:

Daniel Tuman, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 1/7/2010

Town of North Topsail Beach

Donald Martin, Mayor
Larry Hardison, Mayor Pro Tem
Aldermen:
Richard Farley
Richard Peters
Robert Swantek
Daniel Tuman



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Regular Meeting Thursday, December 3, 2009 7:00 P.M.

PRESENT: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Aldermen Richard Peters, Robert Swantek, Daniel Tuman, Richard Farley, Interim Town Manager Breck Smith, Town Attorney Brian Edes, and Town Clerk Carin Faulkner.

Distinguished Guests: State Senator Harry Brown, State Representative W. Robert Grady, Mayor Elmer Padgett of Holly Ridge.

- I. **CALL TO ORDER:** Mayor Martin called the meeting to order at 7:00 p.m. in the North Topsail Beach meeting room.
- II. **INVOCATION:** Reverend Dwayne Collins of North Topsail Shores Baptist Church gave the invocation.
- III. **PLEDGE OF ALLEGIANCE:** Mayor Martin led those present in the Pledge of Allegiance.
- IV. **APPROVAL OF AGENDA:** Alderman Peters made a motion to approve the agenda. Alderman Tuman seconded the motion. The motion passed unanimously.
- V. **CONSENT AGENDA:**
 - A. **Approval of Minutes**
November 4, 2009
November 5, 2009
 - B. **Department Head Reports**
 1. Finance Department
 2. Fire Department
 3. Inspections Department
 4. Planning Department
 5. Police Department

C. Request to Approve Tax Refund

Alderman Peters made a motion to approve the Consent Agenda. Alderman Swantek seconded the motion. The motion passed unanimously.

VI. **OLD BUSINESS**

- A. **Approval of July 16, 2009 Minutes:** Ms. Faulkner explained that the minutes have been revised and that the Board received an updated copy. Alderman Swantek made a motion to approve the minutes of July 16, 2009 as amended. Alderman Hardison seconded the motion. The motion passed unanimously.
- B. **Approval of October 1, 2009 Minutes:** Alderman Swantek made a motion to approve the October 1, 2009 minutes with the amendments. Alderman Hardison seconded the motion. The motion passed unanimously.

VII. **PRESENTATIONS**

- A. **Citizen of the Year Proclamation: Gene Graziosi:** Mayor Martin thanked Rose Peters and those that volunteered to decorate the Town Hall for Christmas. Mayor Martin read the proclamation and presented Mr. Gene Graziosi (and his assistant, daughter Casey) with a framed copy of the proclamation. Mr. Graziosi thanked the Mayor and spoke about volunteers and how all volunteers of the Town, the committee members, the chair persons and the Board are appreciated by the Town for their work.
- B. **Comments from Outgoing Elected Officials: Mayor Donald Martin, Mayor Pro Tem Larry Hardison, Alderman Richard Peters, and Alderman Daniel Tuman:**

Mayor Martin congratulated the new Mayor and Board on their election to office. He said he knows they will do great things. He thanked the old Board members for their service to the Town. He also thanked the Police Department for everything they do. He recognized the Fire Department for their response to the two fires that took place while he was in office. He thanked the Town staff for their help and for everything they do for the Town. He thanked Mr. Smith for stepping in and doing a wonderful job. He thanked the citizens for allowing him to serve as their Mayor; he said it was a great honor. He said he assumes a role of citizen and volunteer and he looks forward to that.

Mayor Pro Tem Hardison thanked the staff and various department heads. He said he is thankful for the honor that the citizens have given him and thanked them for allowing him to be of service to them. He hoped the best for the new Board. He hopes that they will do the things that should be done for the benefit of the whole Town.

Alderman Peters thanked everyone. He said the Town has had significant successes in the four years he has been alderman. He said particularly with the CBRA. He said the Town is on the cusp of moving forward with some very positive things and he looks forward to the new administration. He thanked the people who have stepped in to replace the outgoing aldermen. He wished them the best of luck and he hopes that everyone keeps in mind what is good for the Town as we move forward.

Alderman Tuman said he was reflecting on things that are important in his life and his life is here at North Topsail Beach and he has been around for 20 years. He said there are a number of things that are important, he cited having a circle of family and friends, and a loving wife. He said the circle of friends and acquaintances has really grown since he has served on the Board. He said that North Topsail Beach is paradise. The Town is here to secure our safety and protect us from harm and he feels very secure and the quality of life here is outstanding. He said that the last four years that he was an alderman presented things that were totally new to him, he had no clue about municipal government and its importance to our lives and that it presents challenges and rewards. He said he feels challenged and good about his new responsibility. He said he is looking forward to the next two years as our mayor. He said he appreciated the support in the election and was grateful for the turnout.

- C. **Results of Municipal Election of November 3, 2009 – Carin Faulkner, Town Clerk:** Ms. Faulkner read the results of the municipal election of November 3, 2009 as certified by the Onslow County Board of Elections.

D. **Oath of Office:**

- Mayor Donald Martin administered the oath of office for Michael Yawn and Richard Macartney.
- Representative W. Robert Grady administered the oath of office for Mayor Daniel Tuman and Alderman Deborah Lanci.

- E. **Recess for Reception:** The Board recessed for a reception.

- VIII. **APPROVAL OF AGENDA (Motion will include Agenda Items VIII through XVIII):** Mayor Tuman entertained a motion to approve the agenda. He asked that the motion include a change in the order of the items. He requested that the items including the resolutions honoring the former Board members and the recognition of those members be moved to the first item of business. Alderman Yawn made a motion to approve the agenda as amended by Mayor Tuman. Alderman Macartney requested that the Marlowe contract item be moved up before the Town Manager and Beach Nourishment items. Alderman Yawn modified his motion to include Alderman Macartney's suggestion. Alderman Macartney seconded the motion. The motion passed unanimously.

IV. **ORGANIZATIONAL ITEMS:**

- A. **Resolutions Honoring Mayor Martin, Mayor Pro Tem Hardison, Alderman Tuman, and Alderman Peters:** Mayor Tuman read Mayor Martin's resolution which is very similar to all of them and asked that the Board approve all of the resolutions honoring the former Board members. Alderman Yawn made a motion to adopt all four resolutions. Alderman Lanci seconded the motion. The motion passed unanimously.

- B. **Recognition of Outgoing Officials – Senator Harry Brown:** The Honorable Senator Harry Brown presented Mayor Martin, Mayor Pro Tem Hardison, Alderman Peters, and Alderman Tuman with plaques of appreciation and gifts. He said a few kind words for each of them in acknowledgment of their service to the Town of North Topsail Beach.
- C. **Election of Mayor Pro Tempore (G.S. 160A-70):** Alderman Macartney nominated Alderman Michael Yawn for Mayor Pro Tempore. Alderman Farley nominated Alderman Swantek. The Board voted for each nominee. Alderman Yawn received three votes. Alderman Swantek received two votes. Alderman Yawn was elected Mayor Pro Tem by majority vote.
- D. **Reappointment of Town Attorney (G.S. 160A-173):** Mayor Martin entertained a motion for the reappointment of Town Attorney. Alderman Swantek made a motion to reappoint Brian Edes as Town Attorney. Alderman Yawn seconded the motion. The motion passed unanimously.
- E. **Resolution to Adopt Regular Meeting Schedule:** Mayor Tuman entertained a motion to adopt the proposed resolution. Alderman Macartney made a motion to adopt resolution 2009-21 which indicates that the regular Board of Aldermen meetings will continue to be the first Thursday of the month at 7:00 p.m. Alderman Yawn seconded the motion. Alderman Swantek said that he would like to change the time to 6:00 p.m. There was discussion. Mayor Tuman mentioned that the resolution does not include the agenda workshop meetings usually held the Tuesday morning before the regular meeting. There was further discussion. The Board came to a consensus on holding the agenda workshop meetings on an “as needed” basis. The motion passed unanimously, the regular meeting schedule will remain the same, the first Thursday of the month at 7:00 p.m.
- F. **Resolution to Adopt “Suggested Rules of Procedure for a City Council”:** Mayor Tuman entertained a motion to adopt the proposed resolution. Alderman Farley made a motion to adopt the resolution. Alderman Yawn seconded the motion. The motion passed unanimously.
- G. **Appointment of Board Member to Represent NTB on the board of ONWASA:** Alderman Swantek nominated Alderman Farley. Alderman Macartney nominated Mayor Tuman. Alderman Yawn asked each nominee if they would be able to represent the position of the majority of the NTB Board at ONWASA even if it disagreed with their personal position. Alderman Farley said he would have the Board send someone else in his place. Alderman Tuman said if he felt strongly about an issue he would do his best to convince the NTB Board of his position on that issue. If he couldn’t do that, he would still respect the opinion of the Board. Alderman Farley was reappointed to the board of ONWASA based on a majority vote of the Board. Alderman Farley received four votes and Mayor Tuman received one vote from Alderman Macartney.

H. Appointment of Board Member to Represent NTB on the Topsail Island

Shoreline Protection Commission: Alderman Lanci nominated Alderman Macartney as the Board member representative to TISPC. Alderman Macartney was appointed unanimously.

I. Appointment of Board Member to Represent NTB at Eastern Carolina Council:

Alderman Swantek nominated Alderman Yawn. Alderman Yawn nominated Mayor Tuman. Mayor Tuman was appointed by unanimous vote of the Board.

J. Appointment of Board Member Designee(s) to Sign Checks: Mr. Smith indicated that he had spoken with Mayor Tuman, Alderman Yawn, and Alderman Macartney and they all agreed to be on the signature card for the bank. Mayor Tuman entertained a motion to approve the information provided by Mr. Smith, appointing Tuman, Yawn and Macartney as designees for signing checks for the Town. Alderman Swantek made the motion to appoint Mayor Tuman, and Aldermen Yawn and Macartney as board member designees to sign checks. Alderman Lanci seconded the motion. The motion passed unanimously.

X. COMMITTEE REPORTS

A. Planning Board – Sue Tuman presented the Planning Board report. It read as follows:

The Planning Board met for our regular monthly meeting on November 12, 2009 and continued discussions of 3 items of Old Business:

1. **Conditional Use Districts:** At our October meeting the Planning Board had directed Staff to determine whether the Town should have a CUR-10 classification and if so, to draft the Town's current zoning ordinances to include CUR-10. Staff's initial recommendation is to look into Conditional Zoning instead of Conditional Use District (CUD) zoning.

Conditional Zoning is still a rezoning based on a site-specific development plan, but there are no specific findings for any particular property. Decisions would still be based on sound land use guidance principles; however, those principles would be set forth in the proposed ordinance. The owner of the property would be the applicant and a site-specific plan for that property would be required with uses to be specified and the applicant bound by those conditions.

Some considerations

- Conditional Zoning has proven less vulnerable to judicial challenge. In 2001 and 2002 the NC Court of Appeals approved the use of "conditional zoning" in two cases with their review denied by the Supreme Court;
- Increased flexibility in zoning;
- Less administrative time needed to administer the ordinance and process applications;

- Streamlines the process at both the Planning Board and Town Board levels and in courts; however
- It can be susceptible to over use.

While the current CUD zoning process would be eliminated for future use, any property already established with this process would continue to be governed by the CUD ordinance. Meanwhile, Staff is continuing to research the merits of Conditional Zoning, checking how other localities have implemented and benefited from Conditional Zoning vis-à-vis Conditional Use Districts. Staff also expects to inform the Planning Board at our next meeting whether a CUR-10 zone was ever adopted by the Board of Aldermen but not included in the text of the Ordinance.

2. **Zoning Map**: After discussion, the Planning Board unanimously decided to have Staff go out and delineate the wetlands to provide a basis for the recommendation in determining the zoning district boundary line on the tax parcels where this question arose from the differences between Town zoning maps, the GIS maps of Onslow County and the maps drawn by Holland and Associates for our Town's current Zoning Map. The zoning district lines can then be drawn based on the physical condition of the land.

3. **Undersized Lots of Record**: Non-conforming lot analysis is being done by Rob Will for Eastern Carolina Council. Staff expects to have an update on the background of the undersized lots for the Planning Board at our December meeting.

There was no New Business.

In our Discussion Session Staff and the Planning Board discussed the response from Richard Ducker at the School of Government regarding the Quenzer recombination in Dolphin Shores. Mr. Ducker advised that since the number of lots did not increase with the recombination, and therefore is an exemption, if there was any dispute, this would be a civil matter and should not be presented to either the Planning Board or the Board of Aldermen.

Staff continues work on the Unified Development Ordinance. When each section is presented to the Planning Board for review, it will now have marked for consideration all changes suggested in our discussions, required by changes in State Legislation and those needed to conform to our new CAMA Land Use Plan.

Mrs. Tuman announced that Don Harte has applied to be on the Planning Board. She added that there is one more opening on the board for an alternate.

B. **Board of Adjustments – Gary Miller** – No report, there was no meeting in November.

C. **ONWASA** –Alderman Farley announced that ONWASA eliminated the impact fees on irrigation systems but put in a 50% increase on water used by irrigation systems that have a separate meter. According to the director of ONWASA the new rate applies to existing meters. They were able to make a change to refund the impact fee for irrigation systems that were put in prior to July 1, 2009 to compensate for the

increase. Alderman Farley said that ONWASA rolled the impact fee on sewers back to pre 2007 levels. He said it will benefit those on sewer significantly. He said the reduction in fees is temporary and will be looked at again in July. He said the reason for the decrease is to encourage people to hook onto the system. He said there is also competitor pressure. He reported that he has worked to get two projects which are now included in a package of repairs that has been approved by the ONWASA board. One project is at Shipwatch condos. He said there are frequent outages there and they are going to re-lay the pipe which should stop the outages. He announced that the ONWASA board meetings will now take place at Jacksonville City Hall. Mayor Tuman reminded everyone that the ONWASA meetings are recorded and the minutes are available to anyone on their website.

- D. **TISPC** –Alderman Peters reported that TISPC met last week. He said that the Marlowe contract is up for renewal and TISPC recommended that each town approve it. He explained that Marlowe & Company is the lobbyist for TISPC in Washington. The whole contract is \$60,000 and the cost is shared by each town. Alderman Peters strongly recommended that it be approved and said that Marlowe has done an outstanding job for TISPC.

He said they discussed each of the town's local projects. He said that our CP&E project has had very little change and we should receive a permit by sometime early this summer. He said Mayor Martin indicated that NTB will be receiving 185,000 cubic yards of sand on the north end of the island. He reported that Topsail Beach has a contract with a firm to nourish their beach to begin next year. He said the items of interest right now are the requests to get easement permits so they can do the work. He said there is an item of litigation in Florida that is contesting the State's right to enter onto properties. The property owners are alleging that it is a taking of property. He said that everyone is waiting for resolution on this issue. This could have an implication on all of North Carolina and its beach nourishment efforts. He announced that the CRC (Coastal Resources Commission) meeting is December 13-15 in Raleigh. He said they are continuing to monitor the BIMP issue as well as the terminal groin issue. He said that there is an item on tonight's agenda to discuss beach nourishment for NTB. He said the Army Corp of Engineers is having an internal meeting this month and will provide us with further information on the status of the Federal project. He said that the next TISPC meeting is December 22 at NTB Town Hall at 2:00 p.m. Mayor Tuman announced that the Board is very appreciative of the efforts and services of Alderman Peters as he served on TISPC.

Alderman Farley added that there is another ONWASA project to replace service lines on Sandpiper. He mentioned that the Town has previously discussed entering into a partnership with ONWASA where they would replace lines and then the Town would come in and do the paving. He said that our Board will have to decide if the Town wants to make the expenditure to pave the roads after they do all of the re-piping.

XI. **MANAGER'S REPORT**

- A. **Update on Building Inspector - Authorize Interim Manager to Make Offer of Employment:** Mr. Smith reported that the position was re-advertised and that the Mayor, Planning Director and he participated in interviews of candidates has chosen a candidate for the job, and he has an offer of employment for that individual. He asked the Board to authorize him to make an offer of employment. Alderman Swantek made a motion to authorize the Interim Town Manager to make an offer of employment to the chosen candidate. Alderman Yawn seconded. There was discussion on compensation and that the individual will be coming from Onslow County inspections department. The motion passed 3 to 2 with Aldermen Farley and Macartney voting against.
- B. **Update on Audit Report:** Mr. Smith announced that the audit report came out great. The fund balance went up and the Town is in very good shape. He said Mr. Goodson will be coming in January to present the report. The aldermen have been given a copy of the audit report and it is available for the public to review at Town Hall.
- C. **Update on Placement of Sand on North End:** Mr. Smith announced that when Mayor Martin attended the NC Beach Inlet and Waterway conference he spoke with the new project engineer with the Army Corps of Engineers about NTB's erosion. The Town emailed photos of the erosion to the ACOE and within two days the ACOE came down to look at the beach. They will be giving the Town 185,000 cubic yards of sand and beach material at no cost to the Town. The sand will be placed from Topsail Reef north to the inlet. It is supposed to start in January 2010. Mayor Tuman indicated that Alderman Macartney and Alderman Farley should examine the ACOE proposed maps of where the sand is being placed to ensure that it is going to go to the most erosion prone areas.
- D. **Announcement of Collections for Toys for Tots and Angel Tree:** Mr. Smith announced that the Town has participated in the Toys for Tots program for many years and encouraged the Board and the citizens to bring unwrapped new toys or monetary donations to Town Hall for the program. He announced that the Town is also collecting donations for the Angel Tree program which benefits local children. He encouraged everyone to donate gift cards for this program.

Other Items:

Alderman Yawn asked Mr. Smith about the bike path project. Mr. Smith said that project is due to begin in the spring.

Alderman Yawn asked Mr. Smith about the flooding on the roads. Mr. Smith said that he has gone out with DOT and the Public Works Director twice to look at the three main flooding areas in Town. He said there are six French drains that the Town paid to get cleaned out. He said that the State has also come to do elevation shots to see if the water can be re-routed. There does not seem to be a good solution right now. It is a State road so it should be DOT money going to fix the problem. Alderman Yawn expressed that the citizens are very interested in getting it resolved.

The Town Attorney cautioned that the Town should not change the nature of a State maintained road for liability reasons.

XII. OPEN FORUM:

Don Lowe of 3 Osprey Circle – Mr. Lowe suggested that the Town use pump trucks to carry away water.

XIII. NEW BUSINESS:

- A. Appointments to the Planning Board:** Mayor Tuman entertained a motion to elevate Suzanne Grey to a regular position on the Planning Board. Alderman Macartney made a motion to appoint Suzanne Grey as a regular member on the Planning Board and to appoint Don Harte as an alternate member of the Planning Board. Mayor Pro Tem Yawn seconded the motion. Mayor Pro Tem Yawn announced that being an alternate is important because if there is an absence an alternate gets to vote and an alternate is able to speak when they do not vote. Mayor Tuman said that there will be one more opening on the Planning Board. The motion passed unanimously.
- B. Resolution to Request that NC Coastal Towns & Counties Join with the Town of Nags Head in Asking that FEMA's NFIP Support Flood Insurance Claims for Damages to Structures Suffering Gradual Coastal Erosion:** Alderman Swantek made a motion to table this item so that the Board can receive more information on this item. Mayor Pro Tem Yawn seconded the motion. There was discussion on the possible rate increases required to insure gradual erosion and obtaining more information on the item. The motion passed unanimously.
- C. Renewal of Contract with Marlowe & Company for TISPC:** Alderman Macartney moved that the Town of North Topsail Beach Board of Aldermen approve the contract between TISPC and Marlowe & Company and acknowledge that the Town of North Topsail Beach will pay its share of the fees in the amount of \$20,000 for which the Town has already budgeted. Alderman Lanci seconded the motion.
- There was discussion on the work Marlowe & Company has done for NTB and TISPC. The Town Attorney stated that he reviewed the contract and that the only item of interest to the Town would be if there was a dispute between TISPC and Marlowe & Company the contract states that the case will be adjudicated and arbitrated in Washington, D.C. and will fall under D.C. laws. Mayor Pro Tem Yawn offered his suggestions for the contract, specifically that Marlowe should focus on issues other than just Beach Nourishment, and that the terms of the contract specifically discuss hours of work included and under what circumstances we would be required to pay additional fees if we are in excess of the hours specified. The contract is set up to Marlowe's advantage, not to ours. The motion passed 4 to 1 with Alderman Farley voting against.
- D. Discussion and Possible Action of the Determination and Selection of a Town Manager:** Mayor Pro Tem Yawn expressed the importance of hiring a Town Manager. He said he would like to set up a schedule of closed meetings to discuss the

candidates. He suggested that the Board meet on the following Monday. He suggested phone interviews and possibly doing in person interviews during the holidays because the candidates may have time off to come to NTB.

Mayor Pro Tem Yawn made a motion to study the candidates and have a special meeting on Monday night to narrow the list of candidates the meeting will be closed session because it will discuss personnel. The Board came to consensus on having the meeting on Monday night at 7:00 p.m. Alderman Swantek seconded the motion. The motion passed unanimously.

E. Discussion and Possible Action - Special Meeting on Beach Nourishment:

Mayor Pro Tem Yawn explained that the latest information provided by Coastal Planning & Engineering indicates that the Town will have permits for the CP&E project in April or May. He said this means that this Board is going to have to make a decision in June if the Town is going to make any type of tax actions related to beach nourishment. He said he is not for it or against it, he wants citizen input. He said he would like data on what the citizens want in the form of a survey or referendum. He said he talked to the Board of Elections and to get something on the May primary referendum it has to be in their office in final form by February 26th. He made a suggestion to have a special meeting of the Board to discuss the data needed in order to make a decision in June.

There was discussion on what will be discussed at the special meeting and where the Town is on the subject of beach nourishment. Mayor Pro Tem Yawn made a motion to schedule a special meeting to discuss beach nourishment. Alderman Lanci seconded the motion. The motion passed unanimously. There was Board consensus to schedule the special meeting for Tuesday, December 15th at 7:00 p.m.

XIV. OPEN FORUM:

Russell Proctor of 2314 New River Inlet Road – Mr. Proctor asked the Town Attorney if there is a referendum and his voter registration is in Nash County, can he vote on it. Mr. Edes said the answer is no. Mr. Proctor said that he is not interested in a referendum if he cannot vote on it. He said that if the Board wants his opinion that they need to structure something that will take his opinion into account. He said he would like to make sure that the Town hears from the taxpayers and a referendum will not accomplish that.

Don Lowe of 3 Osprey Circle – Mr. Lowe said that Mr. Jeffries wants to give a strip of land to the Town to be used for the purpose of building a crossover. He said the crossover has been deeded to the Town. He said that it is a fifteen foot wide piece of land where it is usually 10 feet and that a bike rack could be placed there. He said he thinks it is a good deal for the Town. Mayor Tuman explained that this issue had been before the Board in September and was being handled by the Town Manager. He said that the Town Manager contacted the agent for Mr. Jeffries and recommended that it be dedicated to the Osprey HOA because the Town is not interested in the land at this time. The Board did not think that it met the Town's needs for a public access. Mayor Tuman

suggested that Mr. Lowe contact the Interim Town Manager and the he will bring it to the Board again if it is appropriate.

Gary Rowland of 127 S. Permuda Wynd – Mr. Rowland asked Mayor Tuman to direct Alderman Macartney and Alderman Yawn to work on Alderman Yawn's recommendations for the Marlowe & Company contract. He thinks that Alderman Yawn had some good points.

XV. **ATTORNEY'S REPORT:** Mr. Edes congratulated the newly elected officials. He thanked them for reappointing him and said that it is a pleasure serving the Town and he looks forward to serving in the future. He wished Mayor Martin, Mr. Peters and Mr. Hardison best of luck in their future endeavors. He wished everyone a happy holiday and merry Christmas.

XVI. **MAYOR'S REPORT:** Mayor Tuman wished everyone a happy holiday. He pointed out that besides the audit report there will also be a presentation by Onslow County Tax Administrator Harry Smith, who will present information on property revaluation. Mayor Tuman said he would like to work with the County Manager and Mr. Smith to understand what the outlook is for our Town as far as the revaluation. He recognized the work of Mr. Gene Graziosi and Mayor Martin on the CBRA issue. He announced that Mayor Martin has graciously offered to continue to work on that effort. He formally appointed Mayor Martin to a position on the Mayor's Committee for Continuing Efforts on CBRA. He suggested that Mayor Martin use the Mayor's office in the Town Hall building as his workspace. He said he was pleased with the turnout tonight. He commended all of the nominees and those who were appointed; he said they will serve the Town well. He said that the work regarding beach nourishment is a formidable job and the thinks that drafting a proposal or plan that can be implemented is a priority and that should be done before going to the public.

XVII. **ALDERMEN'S REPORT:**

Alderman Lanci thanked everyone for coming out tonight, she said it was pretty impressive and that it was the best meeting the Town has had in a long time. She thanked everyone for their support during the election and said she will do the best she can.

Alderman Macartney thanked everyone for being here and putting him where he is, he said he will try to live up to the citizens' expectations and he said he hoped the Town got a flavor of the openness and dedication to get things done here and hopes that the Board keeps that cooperation and camaraderie.

Mayor Pro Tem Yawn thanked everyone for coming out and thanked his fellow aldermen for having cordial evening. He thanked those who voted for him. He thinks that the Board needs to focus on cordiality and what is best for the Town. He is not part of a faction and he will use logic and not emotion to decide the issues and he is willing to compromise on things. He said that the Town needs to be consistent on how we govern. He said he is focused on transparency in government. He wants to make sure that the Town stays revenue neutral after the revaluation. He said he is open to other solutions for beach nourishment and is open to hearing from both taxpayers and voters. He

thanked Town staff; he said Ms. Faulkner, Mr. Smith, Ms. Hill, Mr. McAlister, and Ms. Woodle have all been good to work with as well as Ms. Burleson. He expressed his concern for the environment and paraphrased a quote from Teddy Roosevelt regarding the Grand Canyon and applied it to North Topsail Beach, “keep it for your children, your children’s children and all that come after you...”

Alderman Swantek thanked everyone for coming out tonight. He wanted to emphasize that the Town has an Angel Tree and that it is local, the donations will go to local children. The Town received 25 people to donate to just from Dixon Middle School. He urged everyone to donate.

Alderman Farley thanked Dick Peters for his work. He thanked Larry Hardison, he said that Larry has become his friend and he will miss him. He wished everyone a merry Christmas and welcomed the new members. He said that there are other organizations to donate to other than Angel Tree and Toys for Tots, he mentioned New River Community Church and their food bank and the Fraternal Order of Police, the Salvation Army and other churches, he said think of them too.

XVIII ADJOURNMENT: Alderman Swantek made a motion to adjourn. Alderman Farley seconded the motion. The motion passed unanimously. The meeting adjourned at 10:06 p.m.

APPROVED:

Daniel Tuman, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 1/7/2010

Town of North Topsail Beach

Daniel Tuman, Mayor
Michael Yawn, Mayor Pro Tem
Aldermen:
Richard Farley
Deborah Lanci
Dick Macartney
Robert Swantek



Breck H. Smith
Interim Town Manager

Carin Z. Faulkner, MPA
Town Clerk

Board of Aldermen Special Meeting December 15, 2009 6:15 P.M.

PRESENT: Mayor Daniel Tuman, Mayor Pro Tem Michael Yawn, Aldermen Richard Farley, Robert Swantek, Dick Macartney, Deborah Lanci, Interim Town Manager Breck Smith, and Town Clerk Carin Faulkner

- I. **CALL TO ORDER:** Mayor Daniel Tuman called the meeting to order at 6:15 p.m. in the North Topsail Beach meeting room.
- II. **PLEDGE OF ALLEGIANCE:** Mayor Tuman led those present in the Pledge of Allegiance.
- III. **APPROVAL OF AGENDA:** Alderman Swantek made a motion to approve the agenda. Alderman Macartney seconded the motion. The motion was approved unanimously.
- IV. **CLOSED SESSION:** Mayor Pro Tem Yawn made a motion to come out of the recessed Closed Session of December 7, 2009 per N.C.G.S. § 143-318.11 Section 6. The motion was seconded by Alderman Dick Macartney. The motion passed unanimously.

The Closed Session was recessed until January 4th at 1:00 p.m.

The Board came out of closed session at 7:00 p.m. Mayor Pro Tem Yawn made a motion for the Town to contract with Colin Baenzinger & Associates to perform a set of services as documented on their memorandum of services to include the following: candidate interviews with their standard format, background checks, which includes five items (references (up to 3), verification of education, verification of employment (back 15 years), background checks and an internet research newspaper archive for up to 4 candidates.

Alderman Swantek seconded the motion. Alderman Farley recommended an amendment to the motion to give Aldermen Yawn and Lanci flexibility. Mayor Pro Tem Yawn agreed to amend the motion to include flexibility. Alderman Macartney seconded the amended motion. Mayor Pro Tem Yawn said he will call Colin Baenzinger & Associates tomorrow and will follow up with Town staff on the contract. Mayor Pro Tem Yawn further amended the motion to include that the timeline is that the firm get the

information to the Board by the morning of January 4th. Alderman Macartney seconded the amended motion. The motion passed unanimously.

V. **NEW BUSINESS**

A. **Beach Nourishment – Overall Plan for Beach Nourishment and Decision Process:**

Mayor Tuman introduced the item and emphasized that there will be discussion and possible action.

Mayor Pro Tem Yawn indicated that he requested this meeting. He said that based on the latest information from Coastal Planning and Engineering (CP&E) the Town could have a permit in the April to May time frame. He said this means that the Board may have a decision to make during budget time. He said that there is a lot of data that he would like to collect between now and then. He went through a list of questions that he said need answered:

- 1) Are we willing to tax all properties across NTB to fund phase 1? (alderman decision)
- 2) High much tax revenue will be supported by a significant majority of taxpayers and voters in phase 1?
- 3) How many properties are OF and non-OF in phase 1, and what is the average tax value in each of those districts (post reval).
- 4) How much is the town willing to allocate from our BN reserves and anticipated BN and occupancy taxes? (alderman decision)
- 5) How much outside funding can be solidly committed from the county, state, and feds?
- 6) What is our plan to lobby county, state, and federal governments for funding?
- 7) Are we willing to borrow money? What will the terms be? At what point do we have to (or will it be desirable to) go to a bond issue?
- 8) Are we willing to look at other options besides BN? Clay and environmental issues.
- 9) Are we willing to look at borrow sites for phase 1 other than the NR Inlet, ie, offshore?
- 10) Are we willing to look at funding options such as by feet of frontage assessments instead of taxes based upon values?
- 11) How much will phase 1 cost for construction/project management/monitoring/etc? (bid process after permits)
- 12) What easements are required and what is the process for NTB to deal with those property owners that deny easements? How many properties will fall into this category? Atty action
 - a. investigate
 - b. follow Supreme Court case in Florida
 - c. discuss with Rhett Pollock, Topsail Beach atty
 - d. estimates of costs
- 13) In June, need the status of terminal groins with the state.

- 14) In June, need the status of CBRA relief.
- 15) Do we want another BN Committee or Lobbying Committee or ???
- 16) Do we want to hire an outside consultant?
- 17) If permits are delayed beyond budget-time, does that delay construction to Nov 2011?

There was discussion on State and County funding of beach nourishment projects. Mayor Pro Tem Yawn said that in discussions with the County it was apparent that if the Town were to go to the County for money the Town should have a concrete number of how much the Town is willing to commit. He said knowing this will help the Town in discussions with outside agencies. There was discussion that the most the State would pay toward a project would be 35 percent. Mayor Tuman indicated that there is not a percentage, but that what is asked for must be reasonable.

Alderman Macartney discussed the work of the BEST committee. He said that the BEST report is extremely valuable work and he thinks that it is the job of this Board to tack onto it and move forward. He thanked the BEST committee. He said that the BEST report recommends that the Town do all four phases of the CP& E project. He said the first issue that needs to be worked out is the financing of the project and how the cost should be divided among the taxpayers. He suggested that the Town contract with Peter Ravella who works with Towns on financing plans for beach nourishment.

Mayor Tuman highlighted the two findings from the BEST report that he found significant. The first one is that they recommended that the Town pursue beach nourishment. The second is that they looked at the CP&E proposal and they endorsed the project design. He said that the Board could consider a resolution that embraces those findings. He said then the Town should work on financing the project and that hiring someone to help is an option.

Alderman Lanci said that Mayor Pro Tem Yawn had a good list of questions and that it would be a good idea to sit down and go through the BEST report and answer those questions. She suggested posting the answers on the website. She said it was important that the Town re-establish a beach committee because it will affect the Town's vote at the TISPC. She said that the Board should look at the suggestions that Frank Clifton made such as keeping communication open with the residents, basing funding on revenue streams, fostering relationships with other elected officials (Senator Brown and Representative Grady included), having the Division of Water Quality approve of the concept so the Town can get on the funding list, finding funding for channel related projects, and hiring a project manager or an information officer.

Alderman Farley said that if the issue of not doing the project is not on the table we do a disservice to the citizens. He said that the erosion problem is isolated in the north end. He said that the Town may need to enforce and change the setback and establish a requirement for moving homes. He said that there are other methods besides beach nourishment. He is not convinced it benefits the whole town. He said he is against taxing everybody. He supports taxing those who benefit from it.

Alderman Swantek read from the BEST report what the potential risks are for beach nourishment such as increased construction costs, more frequent renourishment, channel widening causing back erosion, storms washing away the sand, FEMA funding, and that it only delays the inevitable. He said that there are alternative plans that can be pursued instead of burdening the taxpayers during the current economic conditions.

Mayor Tuman said that the potential risks and rewards that Alderman Swantek referred to from the BEST report was a list of opinions as opposed to the conclusions the BEST team had after they did their research and had Dean's analysis. He said that the conclusions in the BEST report were not substantiating the risks.

Alderman Macartney made a motion endorse the first two conclusions of the BEST report which are as follows:

BEST endorses the recommendations of Coastal Planning & Engineering (CP&E) for the five-phased implementation of Beach Nourishment in the northern 7.25 miles of NTB, and the recommendation of the Army Corps of Engineers for the implementation of Beach Nourishment in the southern 3.85 miles. This endorsement reflects BEST's opinion that Beach Nourishment is the only currently viable option. BEST notes that there are uncertainties about the outcome of the proposed channel realignment at the New River Inlet. Dr. Robert Dean, in his assessment of CP&E's recommendations, states in his report: *"my assessment is that the greatest uncertainties lie in the effectiveness of the New River Inlet channel realignment component. The performance of the inlet component should be regarded as an experiment."* CP&E states in the Draft Environmental Impact Statement (DEIS) *"...higher erosion rates should be expected at the northern end, adjacent to New River Inlet."* CP&E has advised that *"The final design can certainly add an extra factor of safety... (so that) the top and the bottom of the channel would be further away from the houses."*

BEST supports implementing the Beach Nourishment solutions on a "pay-as-you-go" basis, avoiding debt financing of the projects. ~~If outside funding is insufficient to fund any portion of the implementation plan, then BEST recommends establishing tax districts that correspond to the phased implementation plan. Any taxpayer funds required, above what is already allocated by the Town for Beach Nourishment, should be provided only by the property owners in the tax district receiving beach nourishment.~~

Mayor Pro Tem Yawn seconded the motion. Alderman Macartney explained that there are two options, you can do beach nourishment as allowed by the State of North Carolina or you can do nothing. He said we choose beach nourishment, which is Phase One. Mayor Pro Tem Yawn pointed out to Alderman Macartney that the recommendation states that funds above what are already allocated by the Town for Beach Nourishment should be provided only by the property owners in the tax district receiving the beach nourishment. Alderman Macartney amended his motion to

remove the portion of the recommendation which tied the funding to the tax districts that corresponded to the phased implementation plan (strike through). He said he would prefer that the Town pay for Phase One before Phase Two.

Alderman Farley said he looked at the property value in the north end area and estimated it to be about \$7 million and compared it to the estimated project cost of \$10 million. He asked how that could be justified.

Mayor Pro Tem Yawn recommended surveying the taxpayers in Phase One and emphasized that knowing an amount gives the Town a better position when it goes to the County and the State.

Alderman Macartney withdrew the pay as you go portion of his motion and said that he would rather go with the first conclusion. He wants the Board to endorse Phase One.

There was further discussion about the process, Phase One, and financing.

Alderman Lanci suggested that the motion be that the Board supports moving forward with the due diligence as the Board does concur with the BEST committee on item one of the recommendations. Alderman Macartney accepted Alderman Lanci's restatement of the issue and withdrew his motion in favor of hers.

Alderman Lanci repeated the motion as that **"we proceed with the due diligence to move forward with CP&E's Phase One based on the Board's concurrence with BEST's recommendation to do Phase One."** The motion passed 3 to 2 with Aldermen Farley and Swantek voting against. There was discussion that this vote does not require the Town to move forward with the project if for example the costs are significantly higher than expected or if the citizens are against it.

Mayor Pro Tem Yawn read a statement in the form of a motion and it read as follows:

Whereas, the Beach Erosion Study Team recommended that the town again survey the taxpayers on the topic of Beach Nourishment, and

The Beach Erosion Study Team recommended that the taxpayer funds required, above what is already allocated by the town for Beach Nourishment, should be provided only by the property owners in the tax district receiving beach nourishment, and

That a number of factors have changed significantly since the last scientific survey in 2006, including:

- 1) A Great Recession
- 2) Much higher property taxes and insurance costs
- 3) Increased erosion at the North end, more than the rest of the town

- 4) Our new 5-phase plan with significant risks and environmental questions involving the 15 foot deep dredging on the New River Inlet
- 5) Newly discovered clay issues
- 6) Costs of other beach nourishment projects have escalated dramatically
- 7) Sea level rise estimated to be one meter over the next 100 years
- 8) Terminal groins may gain acceptance by the state of NC, which may offer an alternative to beach nourishment
- 9) Elimination of CBRA designation efforts show promise of fruition, which may allow all of NTB to be covered by a federal project at some point in the future,

And, we have a past survey relationship with Holland and Associates, and we have an ongoing relationship with Holland and Associates on our LUP and Zoning Map, and our last survey cost was \$6000 plus mailing costs, for a very extensive survey, which is below the threshold required to put this out to bid,

And we need to have a firm estimate of the town's funding of construction of phase 1 in order to effectively lobby the county, state, and federal governments for their share of the funding required in order to construct phase 1 of the project,

And that an effective survey will give a calculated estimate of a fair split of the share of taxpayer funding required between oceanfront and non-oceanfront property owners, which has been a contentious issue in the past,

I move that the Board of Aldermen request town staff to engage with Holland and Associates for the purpose of that firm submitting a contract for surveying all property owners in phase 1. This proposed contract shall be reviewed in our January meeting.

The specifics of the contract shall be as follows:

- 1) About 7 pages of informational material shall be included on the proposed project's phase 1, with construction details, amounts/types of sand, timeframes, etc. Additionally, information shall be provided on alternatives, such as dune pushing, terminal groins, trucking in sand, and doing nothing. Also, information shall be included about sea level rise and the CBRA status. Finally, information shall be included on environmental issues, the clay issue, and the possibility of using offshore borrow sites instead of the NRI channel as a sand source. The information shall also include a link to the Beach Erosion Study Team report on the town website.
- 2) The questions shall be just one page, with 3 key questions:
 - a. How much are you willing to pay for the subject property per year, forever, in added property taxes:
 - i. I do not support going forward with the proposed project
 - ii. \$0, but I support the project
 - iii. \$100
 - iv. \$200
 - v. all the way up to "\$2000 or more"
 - b. Do you support NTB borrowing money for this project (Y/N)

- c. Are any owners of this property registered voters in NTB? (Y/N)
- 3) A survey shall be delivered to the Onslow County GIS mailing address of record for EACH taxpaying property in phase 1 of NTB, and the surveys shall be numbered for security purposes and the surveys shall state on the answers page that data are being collected in reference to that specific property. The surveys shall require signatures, and the signatures must be witnessed in order to be valid, similar to an absentee ballot. In the case where multiple people own a property, the survey must be signed by each property owner (per the GIS) and witnessed in order to be valid.
 - 4) The data shall be collected in such a way that a histogram for the tax question can be created in a number of different ways: oceanfront, non-oceanfront, total, by neighborhood, by tax valuation ranges, by voter/non-voter.
 - 5) The final verbiage of the survey shall be approved by the Board of Aldermen.
 - 6) The timing of the survey shall be in early March, with results back by May 1 at the latest, so that if any tax actions are required during our budget process, we can make those in a timely manner.

There was further discussion on Mayor Pro Tem Yawn's motion.

The motion was modified to also include instructing Town staff to ask Peter Ravella to submit a proposal regarding his firm's efforts in making a project plan for the financing of Phase One. **Mayor Tuman clarified that the full motion is to direct Town Staff to approach Holland & Associates about conducting a survey for Phase One property owners within the guidelines of Mayor Pro Tem Yawn's original motion and to ask consultant Peter Ravella to present a proposal to the Town regarding his firm's efforts for purposes of developing a project plan with financing for North Topsail Beach for Phase One.** Mayor Pro Tem Yawn accepted the modification. The motion passed 4 to 1 with Alderman Farley voting against.

Mayor Tuman indicated that any further discussion on this topic will take place after the Town receives the proposals.

There was further discussion on the time frame of receiving permits for the project and how that will coincide with possible tax actions. Mayor Tuman said that he will approach CP&E on the current status and possible meetings.

B. Discussion on Additional Citizen Committees:

Alderman Macartney explained that the TISPC (Topsail Island Shoreline Protection Commission) has a new charter which gives each town three members and each County one member with a total of eleven voting members. One of the designations of a town member is the chairman of a beach nourishment committee and if NTB does not have a beach committee, NTB will not have a third vote. He said this is a good reason for NTB to add a beach committee. There was discussion on what Topsail Beach was going to do and Mayor Pro Tem Yawn said that they may be forming a beach committee made up of their Board members and the chairperson of that committee will be a third voting member.

Alderman Macartney moved that the Board reinstate a beach advisory committee made up of former chairmen Ed Doherty and Ms. Bowman and advertise for additional members. He thinks that there should be an advisory committee to this Board on beach nourishment.

There was discussion on the need for a committee.

Mayor Pro Tem discussed that the Town's rules allow for the Board to create sub-committees made up of members of the Board of Aldermen. Mayor Pro Tem Yawn made a motion to create a beach nourishment sub-committee made up of the Board of Aldermen including the Mayor and that Alderman Macartney serve as the chairman. He said then the Board can vote on the at-large and elected official members to represent NTB on TISPC.

The Board voted on Alderman Macartney's motion to establish a citizen advisory committee for beach nourishment. The motion failed 3 to 2 with Aldermen Lanci and Marcartney voting in favor.

The Board voted on Mayor Pro Tem Yawn's motion to create a beach nourishment sub-committee made up of the Board of Aldermen and Mayor, with the Mayor having normal mayoral voting rights.. The motion passed unanimously.

Mayor Pro Tem Yawn made a motion to appoint Alderman Macartney the chairman of the beach nourishment committee, to appoint Alderman Lanci as the Board representative to the TISPC, and to appoint Alderman Swantek as the at-large representative to the TISPC. The motion passed 4 to 1 with Alderman Macartney voting against.

Mayor Pro Tem Yawn stated that he had some ideas about forming a lobbying committee, but because of the previous decisions of the Board he is going to put that on the back burner.

- C. **Appointment of Two Representatives to TISPC (Topsail Island Shoreline Protection Commission):** This item was resolved during Agenda Item B.

VI. **OPEN FORUM:**

Thomas Leonard of 218 Coastal Drive – Mr. Leonard stated that he was happy that the Town had this meeting tonight and the he thought things are getting off on the right foot. He served on the BEST team and said that he thinks how the Town deals with this issue will define the success or failure of our Town. He is glad that the BEST report is being looked at as well as the recommendations. He thinks that former chairmen of BEST, Ed Doherty would be very pleased. He said he agreed that the non-voting property owners should have a voice in the decisions. He wanted to make sure that each person receives the same number of surveys as the number of properties they own. He agrees that the Town needs a dollar amount of what citizens are willing to spend on beach nourishment so that when the Town goes to the County we can tell them how much the Town is

putting up, that will help in building a partnership. He said that non-oceanfront property owners benefit from the beach.

Richard Peters of 601 New River Inlet Road – Mr. Peters said that he concurs with Mr. Leonard's comments. He said that a survey question asking citizens how much they will be willing to pay is nebulous. He thinks the people need to have a good parameter of what is necessary to achieve the goal of beach nourishment. He thinks it is possible to narrow it down to what is necessary. He suggested using \$1,000 for oceanfront and \$250 non-oceanfront as a benchmark to see what can be accomplished. He said that right now the citizens are stressed by high taxes but that the environment that we have now is an opportunity to have a reduction in taxes and the citizens will be able to look at the situation and see that they are not paying any more than they are now.

- VII. **ADJOURNMENT:** Alderman Farley made a motion to adjourn. Alderman Lanci seconded the motion. The motion passed unanimously. The meeting adjourned at 8:32 p.m.

APPROVED:

Daniel Tuman, Mayor

ATTEST:

Carin Z. Faulkner, Town Clerk

Approved on: 1/7/2010