

MINUTES
BOARD OF ALDERMEN
OCTOBER 13, 2016

Mayor Pro Tem Mills called the meeting to order at 5:30 p.m. in Council Chambers of Town Hall and noted that Mayor Blair was in Raleigh welcoming his new granddaughter, Lucille (Lucy) Malone Larson.

Attendance: Mayor William J. Blair III (*arrived at the end of the regular meeting*), Mayor Pro Tem Darryl Mills, Alderman Elizabeth King, Alderman Henry E. Miller III, and Alderman Lisa Weeks; together with Town Attorney John C. Wessell III, Town Manager Timothy W. Owens and Town Clerk Sylvia J. Holleman.

Pledge of Allegiance

Invocation: The Lord's Prayer

PUBLIC COMMENTS: MS. SUE BULLUCK: 1) HURRICANE MATTHEW, 2) CHAMBER OYSTER ROAST, AND 3) BIMP HEARING RESULTS; MR. HAROLD KING: JOB WELL DONE DURING HURRICANE MATTHEW.

Ms. Sue Bulluck, speaking for the Chamber and the hotel, thanked the Board and Town staff for their hard work during Hurricane Matthew. She said, hopefully, it had opened up some discussion lines on other things like sand and reconstruction. She then invited everyone to attend the Chamber's Oyster Roast on November 6th at the Oceanic Restaurant from 4:00 to 6:30 pm. with the proceeds going to the Chamber's business promotion, the Visitor's Center, and the Wrightsville Beach Elementary School PTA. Ms. Bulluck then referenced the recent BIMP (Beach Inlet and Management Program) hearings having to do with shallow draft and deep draft dredging and said it is now being combined in a proposal to the study committee for sand for our beaches and beach reconstruction. She said it is an inclusive plan that looks at the whole coast for beach reconstruction as sponsored by the state and the local. She said, "That sounds good except in their initial development of statistics and maps and presentations, they have developed all of the cost for the eight coastal counties and that looks like it will be somewhere between sixty-five to a hundred million a year. The problem comes in the studies and the tables being presented to the study committee and to the committee on environment on November 3rd which shows the revenue to pay for that coming predominately from the targeted eight counties. If you do the numbers, even if you look at taking all of room occupancy tax, all or any transaction tax, etc., and you look only at the eight counties, we may have unintended consequences. So I ask you, as a Board, to put Mr. Owens and Mr. Wessell on it and keep close track of it. This is a piece of requested legislation that can either help us a lot or put us in a big hurt."

Mr. Harold King said, "The Town did an excellent job in preparing and managing the storm and, luckily, we all fared fairly well. I want to thank the Town for the good job they did; and the staff, Bill Squires and his crew did a fantabulous job with after-storm cleanup. And Chief House and everybody did a good job."

CONSENT AGENDA APPROVED WITH A 4-0 VOTE BY MOTION OF ALDERMAN WEEKS AND SECOND BY ALDERMAN MILLER.

- a. Approved Regular and Closed Session Minutes of September 8, 2016.
- b. Approved special event permits as follows:
 - 1) Wrightsville United Methodist Church Son Run 5k (*150 participants*)
Sunday, October 23, 2016 – 11:00 am – 3:00 pm (*1:00 kids; 1:30 pm adults*)
Location: Wrightsville Beach Park, the Loop, North Channel Drive

- 2) UNC Children’s Hospital 5k Beach Run (*300 participants*)
Saturday, March 18, 2017 (*9:00 am – 2:00 pm*) (*race begins at 9:00 am*)
Location: Beach Strand Surf Club to North End
 - 3) Communities in Schools Polar Plunge (*200-400 participants*)
Monday, January 1, 2017 (*1:00 pm – 3:00 pm*) (*plunge at 2:00 pm*)
Location: Beach strand north of Chrystal Pier (*Access 36*)
- c. Acknowledged previously approved special events for November.
 - d. Adopted Resolution No. (2016) 1998 approving a Memorandum of Understanding between the U.S. Marine Corps Forces Special Operations Command and the Town to be able to train within the Town. (*Mr. Owens explained that this resolution updates the one that is currently in place and just sets the parameters for when they come to do training.*)
 - e. Approved revised 2016 Board of Adjustment Meeting Schedule to cancel the October 27th meeting.
 - f. Adopted Resolution No. (2016) 1997 amending the Town’s contract with New Cingular Wireless to amend the antennae equipment currently installed on the Elevated Water Tank located on Waynick Boulevard.

PUBLIC HEARING FOR CONSIDERATION OF A TEXT AMENDMENT TO ADD SECTION 155.6.6 OVERLAY DISTRICTS TO ALLOW FOR THE CREATION OF A MIXED-USE ZONING OVERLAY DISTRICT FOR PROPERTIES LOCATED WITHIN A CERTAIN PORTION OF THE C-2 COMMERCIAL DISTRICT BOUNDED TO THE NORTH BY SEAGULL STREET, TO THE SOUTH BY EAST SALISBURY STREET, TO THE WEST BY NORTH LUMINA AVENUE, AND TO THE EAST BY THE BEACH STRAND/ATLANTIC OCEAN. MIXED-USE DEVELOPMENTS LOCATED IN THE C-2 DISTRICT AND FALLING WITHIN THE MIXED-USE ZONING OVERLAY DISTRICT WOULD BE SUBJECT TO A 50-FOOT HEIGHT LIMITATION.

Planning and Parks Director Tony Wilson reviewed the following background information: “On June 2, 2016, the Planning Department received a text amendment application from the authorized agent, Joe Taylor – he is the petitioner for Coastal NC Real Estate, LLC. The applicant is requesting a zoning text amendment that would create a mixed use overlay district in the C-2 Commercial Districts that would allow buildings up to a height of fifty feet. On August 18, 2016, the proposed text amendment was revised; the major change to it was that now the C2 Commercial District will adjoin Johnnie Mercers and not the other C2 which is in the South Lumina area. Just to give you some background on height, the maximum building height within the Town has constantly been a topic of concern for the Board and Town citizens. There have been recent zoning amendment applications within the past several years in regards to allowing a height increase from the forty feet in some zoning districts. The most recent text amendment application did deal with allowing staff to receive and review mixed use projects greater than forty feet in height. At that time, staff and the Planning Board supported that text amendment at the December 2, 2014 Planning Board meeting. When this went to the Board of Aldermen on January 8, 2015, the members voted unanimously not to approve the text amendment. A few months later, the other text amendment was submitted to increase height in the C1 District (which is the downtown district) by 15%. At the February 3, 2015 Planning Board meeting, the members and staff did not support the text amendment for the 15% increase. At that time, the applicants decided to withdraw their application; so it never made it to the Board of Aldermen. The result of this text amendment, if approved, would allow mixed use structures with a height of fifty feet above

the center line of the street, if parcels are zoned mixed use overlay district in the C2 Commercial District as described in the proposed text amendment. This would be an increase of ten feet from the current height of forty feet. Requested items exempted from the fifty-foot height limit would be some of the same things we have today – antennas, chimneys, stairwells, elevators, or other accessories to the building and installed in accordance with our building and conditional use permits. The process for adopting the MUOD and applying it to parcels would be like any other standard rezoning request. If adopted by the Board of Aldermen, this overlay district would be added to the Town's UDO text only. The applicants then would have to request that area be rezoned to a MUOD and also apply for a conditional use permit. And there will be some other things that have to happen so, tonight, if you pass this or if you don't, it doesn't mean it's going to happen; there has to be more text amendments. So we have several text amendments to happen before this would happen. On page 51 is the proposed ordinance to add Section 155.6.6." Using an overhead, Mr. Wilson reviewed the properties that this would apply to if they are zoned mixed use. He showed Buddy's, the Palm Room and a vacant area but noted that they are not zoned mixed use. He said, "The definition of building height and the way it was measured was changed on July 9, 1998. At that time, staff started getting complaints from different organizations, so we had a change of how we measured height. In the R-1, R-2, C-1, C-2, C-3, G-1 and PC Zoning Districts, the maximum building height is forty feet. Prior to July 9, 1998, the building height was measured from the top of fire hydrants. So, it wasn't uncommon to have structures 42, 44 or 45 feet tall – houses and some commercial buildings. At that time, there were people who were interested in reducing the height. So, that's what happened; we changed the definition and we changed how we measured buildings. In our departmental review, we had no comments from any of the other departments. This agenda item was opened and continued until the September 6, 2016 meeting. Staff finds that increasing the maximum allowed height of structures in C-2 Districts would not meet the spirit and intent of the 2005 CAMA Land Use Plan. They're not saying they're against it; but that it would not meet the spirit and intent. At the September 6, 2016 Planning Board meeting, the members voted unanimously to forward a favorable recommendation to the Board of Aldermen for the text amendment to Section 155.6.6.1. There was good discussion at that meeting and the Planning Board decided at that time to move for a favorable recommendation for this. Staff comments are as follows: 1) It appears that the MUOD would only be applicable to the C-2 Zoning District within the Town which is located adjacent to Johnnie Mercer's Pier; 2) Paragraph C states that the standards of the MUOD will take precedence over any standard for the underlying zoning in the Town. The only standard for the MUOD is that the building may be up to fifty feet in height and references to those items exempted from the height limit; and 3) The Town will be updating the 2005 CAMA Land Use Plan in 2016-2017, the intent of the Land Use Plan is to anticipate and deal with development pressures in an organized fashion. The Plan is long range and looks beyond current issues to address potential future land use and environmental issues over the next ten to fifteen years. This may be a good time to discuss building heights in all districts during the Land Use Plan Update. The question is, is this a good time to start talking about heights in all districts? Later on tonight, you'll start looking at a company to guide us in that. I just bring that up to the Board tonight if you choose to do that. Planning Staff's recommendation: Based on the analysis and findings of this report, it is the opinion of Staff that the proposed text amendment does not meet the intent of the Board of Aldermen's direction in previous attempts to increase the building height above forty feet. Planning Staff requests that the Board of Aldermen deny the text amendment to Section 155.6.6.1."

Mr. Joe Taylor, representing the applicant, said, "I don't think this thing is quite understood by everybody. This is really not height, per se. What this is, is trying to obtain

three buildable floors; three useable floors. What has happened is, since everything has happened and all the flood regulations have come about, we don't have three useable floors for this project in mixed use. So, the only way we can fix that is a text amendment – an overlay district. The CAMA Land Use Plan re-do won't have anything to do with this; it doesn't have anything to do with this. The CAMA Land Use Plan and the re-do of it is a policy guide; it's just a guide; it's not law; it doesn't set out what the heights are going to be, what the building criteria will be – you have to do that by ordinance. The only way you can handle situations like this is the ordinance. We had a bad time this morning because a lot of our folks who support us read the article in the Lumina News and called us to tell us that it was clear the Board had already decided what to do with our request. I don't believe that but we had several of our presenters who just didn't come because they thought it was not worth their time because it had already been decided to put this into the Land Use Plan. I don't think that's the case; that's why we're here. We're going to make our presentation to you and the people that did come to speak in our favor, we want you to listen to them because I know you will. If I may be granted an old man's prerogative of rehashing history a little bit, there's probably nobody on this beach that has fought harder for height limits than I have. When I was a young lawyer and just moved here in the seventies, the battle over condominiums and height was raging – and the beach was basically divided; it was not a slam dunk that we were going to limit height. The Town was basically split evenly, I would say. So, Mr. Wright, for whom Wrightsville Beach is named, came to me and said 'what do you think about high rises' and I said 'I don't like them.' He said 'would you consider running for the Board of Aldermen; I'll pay all your expenses?' I said, 'since you are my biggest client, I'm not sure how I turn that down, so, yes sir, I'll be glad to.' Well, I ran solely on the issue of limiting height in Wrightsville Beach and I won by three votes. That's exactly what we did – we stopped it cold. In that discussion also, we spent a lot of time talking about the rest of the beach and forty feet. And why this is important is that our talks and historically in Wrightsville Beach, what we decided to do when we limited high rises and stopped them was that we would grant to the residents and the commercial properties a building that could have three useable stories. And we sort of talked about a traditional roof, too. But the idea was to give most residents and commercial owners three buildable floors – that's where forty feet came from. That was the idea; three useable stories plus a traditional roof. So, that went on until 1989 or 1990 when the Town changed the way height was measured. Our forty feet, when we were deciding and made the critical change to stop height on the beach, was to always be able to allow folks to have three useable floors in their house – no more; no less. What happened, when the Town changed the way it's measured and put it to the center of the road, what effectively happened was – it's based on history – the whole history of the Town at forty feet; it got changed to thirty-six feet. And I would argue with you that in a lot of places, the effective height limit as measured against history is probably thirty-four or thirty-five feet. Now, at the same time that's happened, federal flood regulations have come on us and what that's done is pushed us up. So, now we've got to be fourteen feet above mean sea level and, historically, thirty-five feet down, not forty feet. So, we can't build three useable stories. We're caught in that trap and there's no way out. We've spent three years and hundreds of thousands of dollars trying to figure out how to get out of this trap. What this also caught was, when that got changed, anybody's home who was built to the forty feet in the sixties, seventies, eighties, and nineties, is now a nonconforming structure. And I'm sure nobody on the beach understands that or knows that. What we've got here is a compression; federals are pushing us up and they're going to continue to push us up; we're just seeing the start of this thing – fourteen feet is just the start. It's going to keep going up. So, we're just getting this squeeze. The only way out here was this overlay district which all it does is allow us to have three – we're not trying to build a bigger building. We're just trying to get three useable stories. That's the way it works. Our petition doesn't have anything to do with a project; it's our project and it will fit in that C-2

Zone. But you all would have to pass the text amendment to allow us to do this. Then you would have to hear another whole set of public hearings to decide whether we should be rezoned in this. Then you would have another whole set of public hearings to decide whether you're going to give us a conditional use permit or not. So, what you do tonight doesn't do anything about establishing what will be built on that; you will have control over that in the process later on. You see the site; that's all it is. One of the things in the comments that were made in the Planning Board hearings, we had a couple of folks that wanted to speak against the project and their comments were, 'we're not opposed to the project; we just don't want this to be a slippery slope where somebody else comes in for an overlay district and somebody else comes in for this and somebody comes in for that and it sets a precedent that will cause the Town a great deal of trouble. To answer that question, this is not precedent setting. This is in a C-2 Zone. There are only two properties in the C-2 Zone; both of them are ocean front and both of them have fishing piers. It cannot be a precedent; there are no other properties in the C-2 Zone. So, there is no precedent set here for anything. It applies only to these tracts and this overlay applies only to that one tract and only one other property in the C-2 Zone. One of our biggest worries is that people don't really understand that we're not really asking for height. The practical effect of this is, were you to pass this overlay district at fifty feet, what it would mean – one of the buildings beside us is over forty-four feet. So, what would happen is, our building would be just a little bit over waist high taller than the building that adjoins us. That's the practical effect of this overlay district. It's not a great building height; it's not a slippery slope. What it does do, though, is give us the right to have three useable floors because we have to go up fourteen feet; we're in a VE Zone; we've got to go up fourteen feet according to the federal regulations. So we've got fourteen feet for the first mixed use floor, and then two twelves for the residential and we're way over forty feet and no roof. You just can't build is the problem. What we did was, we came two years in front of you with an affirmative staff recommendation but that went all over the beach. This one is just targeted for this. I'm a little bit unsure about why we got an unfavorable recommendation because we got a favorable one the first time around for the whole beach and an unfavorable one for just this. Our idea here for the overlay district was basically Tim's (Owens) idea. He's had experience with these overlay districts before and they work. They're surgical tools where the Town can go in surgically without any problems with precedent and correct inequities in a particular area. So, it works. This is the state-of-the-art way to fix this problem. It has been done in other municipalities very successfully. So, I would strongly urge that you look at this. The other thing I wanted to talk to you about is the CAMA Land Use Plan. The CAMA Land Use Plan is not binding law or policy; it's just a guide. Wrightsville Beach's own ordinance allows you to adopt ordinances that are contrary to the Land Use Plan; it's specifically written into the ordinance – into the UDO – that you have the authority to do that. It's just a guide. It goes back to 2005/2006, when conditions were entirely different than they are now. I would strongly suggest to you that you consider that. The resolution to the problem of the federal push-up is not going to be accomplished through a review or renewal of the CAMA Land Use Plan. It's just a guide. You've got to have an ordinance to fix these problems on the beach. There will never be anything anymore such as a uniform height on the beach; that just won't happen. You eventually will get around to having to measure height based on flood elevation rather than ground elevation; that's coming. This text amendment surgically does the same thing; that's what it does. It's just another form of doing and accomplishing the same thing. One thing I did want to talk to you about also is your Planning Board. The Institute of Government is a wonderful facility that provides help and guidance to municipalities to insure proper governance. In their guide to municipal government, they say 'The primary citizen board that is critical to the success of a Town's planning program is the Planning Board.' It is critical to the success of the Town that the Planning Board be a cross section of citizens and be of high quality appointments. You've got the finest Planning Board there

is. They put a lot of time and effort into things. What was so amazing about our hearing in front of them was that everybody was prepared; everybody had done their research and had great questions. They discussed everything – CAMA, slippery slope – everything was discussed. And they unanimously recommended to you that you adopt this text amendment. The Planning Board is a cross section of the citizens of Wrightsville Beach and they're saying to you, 'We've studied this; we've thought about it; we've discussed it and we agree and feel that it's best for the Town to adopt this text amendment.' That's what they're saying to you. We hope that you will take that to heart. Let me just say to you that height is one thing but please think about this text amendment – not as a larger building – but to be able to have the three useable floors that historically every structure in Wrightsville Beach and every property owner in Wrightsville Beach has always had the right to have. Now, that right has been taken away in certain areas by federal flood and we're one of them. The only way we can fix that is to go up slightly. Historically, we'd only be about that much taller than the building beside us but then, you would have a magnificent place there. That tract is an eyesore; it's a derelict tract. For eight years, it sat there like it is now. It's a center of crime and drugs and it needs to be fixed and cleaned up for the neighbors. It's taking down the neighbors' property value; it's affecting them. And it really needs to be developed and the only way they can do that – and we have looked at every way possible – is to go through this text amendment. So, let me just ask you to please consider that postponing this to make it part of the re-do of the CAMA Land Use Plan won't work. And the last time the Town did a re-do of the CAMA Land Use Plan, it took three years from the time you appointed the committee to the time the new plan was adopted – that was over three years. This property has already sat vacant for eight years. We really need your help. This could be a first-class facility for Wrightsville Beach. It could clear up all the problems. It won't affect any of the neighbors adversely. We're not really seeking a bigger building; we're just seeking three stories."

Mr. Cameron Zurbruegg, 6 Crane Street, said, "I've lived here for nine years now and own several pieces of real estate on Wrightsville Beach. I act as the development consultant to the group that owns the property behind the pier; and also as sort of a community liaison, if you will. I spend a lot of time soliciting opinions regarding things that we're trying to do. I want to thank Joe Taylor and Andi Van Trigt, our legal team – and also David Lisle who is our architect and Rob Balland with Paramounte Engineering who is our civil engineer. They're all here tonight for the purpose of being able to answer questions later about what we're trying to do – even though this is not a discussion about the project. It's also worth noting that David and Rob have been involved in this project since its inception and through the process of the approval for the Helm. They have a lot of good insight into how we are where we are today. I want to say a special thank you to the Town's Planning Board because on the issue of text amendments to consider a project over forty feet, they have twice studied the packages that staff has prepared; they've discussed, debated and voted in favor of recommending to the Board of Aldermen. They have always been prepared and open-minded and they have always led spirited discussions. In addition to the Planning Board's seven votes in favor of the approval of the overlay, there are a number of people here tonight and I thank them for coming and everybody that might be in opposition; I think it's important to have the debate. We also sent in excess of thirty written expressions of support for the overlay district from various property owners of the Town. We think tonight would be a good time for the Board to acknowledge support as well as opposition; listen, discuss, debate and try to make an objective decision on more than just the staff recommendation. I just think it's important for the participants in this room to understand a few things that Joe (Taylor) didn't cover. The overlay area – it is as shown here but all of these properties are C-2 within the specific defined geographic area. One is the Summer Place, a developed group of condominiums. The other piece of property is the Palm Room. A third piece of property

is the former Buddy's which is under renovation for a proposed restaurant. And the fourth piece of property that's part of this overlay district is the 1.1 acres that Mr. Kievit owns that is currently a vacant site. It already has a mixed use project approved and permitted on it. A lot of people that I've talked to in the community don't understand that; they think we're trying to get a mixed use project approved as part of this plan. But we're trying to change some of the requirements of mixed use property but there's already a project approved. I went through this last time and I had a number of people who said 'thank you for doing that' so I'm going to do it again because I don't know who was here and who wasn't here. The actual mixed use project that's approved which is currently called 'The Helm,' is a 1.1-acre vacant piece of property that sits behind the pier. It has 5,400 square feet of heated area. Included in that heated area is 23 residential units that range from 1,500 square feet to 2,100 square feet. Commercial space – 6,690 square feet – all of which is on the ground floor. 78 parking spaces which is supposed to be enough, I assume, for the residential and the commercial that was approved. And in addition to the building and the parking, through several evolutions of amendments to the mixed use commercial use permit for The Helm, these are the additional structures that have been approved there: an oceanfront elevated pool with a hot tub; outdoor bathroom and showers at the pool; and an 8,100 square foot pool and terrace area. The way that particular building is actually structured, is that on the ground level you have parking and commercial – all the commercial is on the ground level; on the first level you have parking and a little bit of commercial; on the second level you have residential; and on the third level you have residential. But basically, one of the levels which we do not feel like we can build now is on the ground level. In order to build on the ground level right now, an immense amount of effort has to go into water – flood proofing – and to me, it just makes no sense forgetting the economics, to build on the ground level at Wrightsville Beach. That is the debate about the downtown district. It's important to know, that's what's approved. When we met with the Planning Board, we kind of emphasized the fact that the overlay is an opportunity, or at least we perceived it as an opportunity. I had a great conversation recently with a Wrightsville Beach resident at Summer Place who has owned there for seventeen years; he's from Cary; he was a land planner for the Cary area. He's currently developing and consulting as the land planner. His opinion was that this is a special opportunity site and he said that he would be happy to come and talk to me more about a special opportunity site. But he basically said it had all the characteristics of redevelopment that would constitute this term 'special opportunity site.' In addition to that conversation, recently, as part of the information that was sent in to the Planning Board, a local resident (Jim Busby) who articulated wonderfully in a simple one-page memo his thoughts about this area – not so much in favor but definitely not opposed. But he articulated very clearly some of his thoughts about this area and why things should change down here." Mr. Zurbruegg then read the following from Mr. Busby's memo: "Setting a Precedent: There's always a concern about setting a precedent and opening the floodgates for opportunities to come in and make a case that if you did it for them, you need to do it for me. I understand and appreciate the dilemma but would submit that the nature of this particular area is such it is significantly different from much of the rest of the beach. Among other things, it is the terminus of a major highway that runs from the mountains of North Carolina to the coast. It has a stoplight. It is already zoned commercial and has mixed use facilities already. Many of the buildings are outdated, noncompliant and aesthetically unappealing. I'm afraid we're destined to see a series of minor updates which are effectively putting lipstick on the aging pig rather than allowing responsible redevelopment that would be a long-term asset to the beach." Mr. Zurbruegg said, "Back to our position about the overlay as an opportunity, there were a couple of reasons why we felt that way when we met with the Planning Board and they're still the same. The overlay is the only way we have here at Wrightsville Beach potentially to review a viable project over forty feet; right now, you can't do it. It does a great job of restricting zoning classifications and geographical areas so that people who are concerned about it spreading really shouldn't be concerned. It mitigates neighbor-

hood uncertainty and there are several people from the Seagull Street neighborhood here tonight that will tell you how uncertainty has impacted their lives. When I first got involved with this project, it was actually before Mr. Kievit owned it. Everybody on the Planning Board at the time and everyone on the Board of Aldermen said, 'Do not come to us for change here unless you have the approval of Seagull Street.' Well, in our opinion right now, we've nurtured that relationship to the point where we have their approval. It's not unanimous; but it's a majority group that approves what we're trying to do. If approved, the overlay would open the door to a methodical process with controlled dialogue with the Town and the developer and the community. And also, we maintain that an overlay approval would expedite fees and significant tax-based generation to the Town, which is not a bad thing. I'm going to walk through how we got here tonight. More than two years ago, we submitted a text amendment to the Town which was processed; the submittal fee was accepted; it was advertised; and at the eleventh hour, it was pulled. The reason it was pulled was because staff felt like if we went forward with the text amendment we had at the time, and we got approved, then somebody could potentially legally challenge that text amendment because the ordinance says the Town can't review anything over forty feet. So, we were all hyped up and ready to go but we acquiesced and we pulled. Subsequently, staff recommended a plan and they authored a text amendment that would allow the Town to review a plan over forty feet. That was in October of 2014. We did not draft that text amendment; staff drafted the text amendment and subsequently, staff recommended approval of that text amendment to the Planning Board. I'll read a couple of comments from the Planning Board minutes of December 2014: CAMA Land Use Plan, Building Standards Generally – the Town shall support refinements in building standards throughout the community to reflect the unique characteristics of different areas of Wrightsville Beach including, but not limited to, height, setbacks and floor area ratios. That's one interpretation of the CAMA Land Use Plan. The summary in the minutes from the staff was, the adoption of the proposed text amendment would allow staff to accept a mixed use project for a proposed height greater than forty feet. It doesn't say anything about approving a plan; it just says now they can look at something. And then, staff's recommendation at the time to the amendment that they drafted was, 'Planning staff recommends that the Planning Board forward a favorable recommendation to the proposed text amendment to the Board of Aldermen. Well, that's what the Planning Board did. On a four-to-one vote they recommended that text amendment for approval to the Board of Aldermen. I would note that David Culp in that discussion was the only one who didn't vote for it but he had a legitimate reason; the reason was that he wanted height capped. He thought that not capping height didn't make any sense, so he voted against it. The Board of Aldermen didn't agree with the Planning Board recommendation and voted unanimously against the text amendment drafted by staff, recommended by staff, and approved by the Planning Board. From a personal opinion of the story of that night was that there was a lot of opposition that showed up at that meeting and there was some confusion that the vote was about approving a plan; not about accepting a plan that was over forty feet and, subsequently, the Board of Aldermen chose to not approve that text amendment. But at that meeting, Tim Owens, in the minutes, was quoted as saying 'The way to solve this, we thought, was if the Board does have some kind of appetite for something over forty feet, was to create an overlay zoning district. It could be mixed use overlay zoning district with conditions; plop that down whenever the rezoning would happen. It could be a parcel specific situation and each time we'd have to come for rezoning but there would be a cap at some point even if you did consider over forty feet. It's not going to be unlimited. Hence the overlay was born. So, after the text amendment was denied, we kept working and talking to staff, Mr. Wessell, Board members, and especially the community. After several iterations and significant coordination with staff and strong legal opinions legitimizing the content of the text amendment, we submitted the MUOD text amendment for approval. Now, the text amendment is highly specific to only

C-2 zoned property and a very geographically refined area with a condition of mixed use where mixed use is already approved and, that's a big difference between the two text amendments. Also, height is capped. We listened; we made sure we had neighborhood support before we submitted. And it wasn't just the support of Seagull Street, although that's always our first stop. But we felt like there was enough support to move forward. Now, staff doesn't recommend this to the Planning Board and suggested the Planning Board not recommend it to the Board of Aldermen. When you're talking about spirit and intent and you're talking about its the opinion of staff, it isn't concise to me; it's very wishy washy. So, 2014 to 2016 – when you compare and contrast the situation, both text amendments were about allowing consideration of a plan over forty feet. But the overlay ends up being far more refined and vetted than staff's text amendment, yet now staff recommends against it. And the 2005 CAMA Land Use Plan has not even changed, but its interpreted differently. After that recommendation, the Planning Board meets to consider the MUOD text amendment, I thought we made a compelling presentation; residents spoke in favor; residents opposed. But seven concerned citizens and residents who dedicate considerable time to volunteer as the Planning Board members asked questions, listened, deliberated and discussed and then voted unanimously to recommend that the Board of Aldermen approve the MUOD. Maybe they realized that there's support in addition to opposition; I think that was a big event that night. Maybe they realized that something better than what is already approved at this location would be in the overall best interest of the community and the overlay opens the door to discuss that opportunity. Maybe they realized that the CAMA Land Use Plan is interpretive and that staff's contradictory recommendations should not be the only factors in making a favorable recommendation. Maybe they're not afraid of change, especially when the process is so completely in the Town's control. In any event, the Planning Board voted seven to zero, unanimously in favor of a recommendation to the Board of Aldermen to approve the MUOD. This was their second vote in favor of a way to consider a plan over forty feet. Now, I think it's the Board's turn, hopefully, to listen to its Planning Board, acknowledge support and not just opposition, ask questions, debate, and thoughtfully consider in favor of the MUOD text amendment. Before I conclude, I'm compelled to address several comments in the current Lumina News edition. The article that ran last night online was, 'Town to Consider New Building Height Rules, Land Use Plan Revisions.' I'll read a couple of the quotes and then I'll respond. The Mayor said, 'It's important that we're not doing things arbitrarily.' I maintain that the MUOD would be a refined process with nothing arbitrary about it, especially if the Town leaders trust their staff, the legal process and their own judgement. The Mayor said, 'If we start doing one-off projects, we'll end up with a hodge-podge of development that could go to extremes.' I maintain that The Helm is already a one-off project. It's approved and permitted; it may have some extreme elements considering the pool and the hot tub, but the overlay gives the community a chance to improve the project. Planning Board Chairman Ken Dull, in the Planning Board meeting, was quoted and that quote transferred over to the article, 'We need positive things to happen at the beach, especially in places that sit derelict. People on the beach need direction.' I maintain that the Board of Aldermen can provide direction by approving the MUOD. The Mayor said, "Public opposition is another reason the Town should consider addressing the issue through the more comprehensive process of a Land Use Plan review and rewrite." From my perspective as a resident and development consultant to this process, I think public support for the MUOD and the Town's financial needs are two very good reasons why there is no reason to wait twelve months or however long for an appointed steering committee to revise, recommend, seek approval and potentially even carry over to a new Board of Aldermen and Mayor. So, in conclusion, if the Board will objectively consider the discussion tonight and then approve the MUOD, the steering committee would have a very valuable overlay tool to potentially incorporate into its revised plan. I appreciate your time and consideration of our presentation and I hope that

you'll consider approving the MUOD tonight. One thing that I would add as a postscript is that when we had the Planning Board meeting, there was a lot of discussion from the participants in the room for and against about a plan, and Ken Dull finally got to the point where he said this is not about a plan; this is about a text amendment; that's it. So, I think to the extent that you can control that dialogue, it will make for more effective discussion and more efficient discussion. We have team members available to answer questions."

Mayor Pro Tem Mills opened the public hearing at 6:33 p.m.

Dr. John Powell, 10 Crane Street, said, "I have a question. I noticed that the Summer Place is included in this design. My question is, was it the intent behind including that as opposed to what were vacant lots that have been sitting for years and maybe a little less time since the fire. Is it the intention to tear that apartment building down or – what are their thoughts about including that in this proposed zoning district?" Mr. Zurbruegg replied, "This is a question that was debated when we first started talking about the overlay district and what is the definition of good planning. We just felt as though, based on conversations with staff and other consultants, that good planning is anything that is zoned C-2 that is contiguous to the undeveloped property deserves to participate in the overlay. It doesn't mean anything about the intent. It means that at some point in time, they could have the same rights as we would in the redevelopment of our property. It's the same for the existing structures of the Summer Place, Palm Room and the former Buddy's. They're all zoned C-2; they're all defined by a geographic area of streets and ocean. So, it was just a good decision we thought to include all of C-2 in the overlay instead of excluding and then somebody say why didn't you include me." Dr. Powell said, "It means it's C-2 already?" Mr. Zurbruegg replied, "Yes."

Ms. Sue Bulluck said, "We've entrusted you as a board with the capability of having vision for all of us businesses, residents – now and in the future. And we happen to believe that we can do more than one thing at a time. I sat on the land use plan committee in 2005; lots of discussion went into many things. The same thing will happen again; but time passes on. We're not in the fifties; we're not in the sixties. We have a Town that is approaching another discussion from almost a polarizing position. I'm asking you to use your authority and your wisdom and your good judgement to allow two things to be done at a time. One, this amendment simply allows for good discussion and exchange. If you ultimately look at what is proposed for this overlay and you don't like it or it doesn't meet requirements, you've got plenty of time to deny it or to delay it or to change it. But we really can't move ahead in this community dealing with our blight, our problems that we have in the pier area – and we do have problems. And it seems to us and me from the Chamber and from the business side that it's not very logical for us to wait for yet another process, which is land use, which will address this in a different forum. But it seems illogical to make this project wait; this assessment wait while we spend a year getting ready to file a new Land Use Plan when you already have the authority and the ability to work with all of business to think about what we want the vision for this beach to be. It's a process and this is the beginning of a process for this little piece. If we think we're going to maintain all of our commercial buildings as they are into the future for another twenty years without dealing with what we really want, what we can be – this is a special place and you have the authority to continue that special way but you also have the need and responsibility to add flex, to add your wisdom, and to consider all opportunities. This is an opportunity for us to have interaction between residents, businesses, your children – think about your grandchildren and what we want it to be. I urge you to give this location the opportunity for further review."

Mr. Hayes Perry, said, “My family moved to Wrightsville Beach in 1957 and we’ve owned property on Seagull Street since 1971. My dad used to be the Town Clerk and was the interim Town Manager when they changed forms of government. We lived on Seagull Street through the motel and through all kinds of stuff and through storms and through lots of different things. My two questions to you are – if not this, then what; and if not now, then when? When are we going to have a better opportunity, especially since this overlay district is limited to only two potential areas of development on the beach. And, I think it’s a wonderful opportunity for there to be development on the beach and increase the tax base on the beach without raising parking fees on the beach. It’s going to be residential on our side without any intrusion on our side. I think it’s a great thing for Seagull Street; I think it’s a great thing for the beach. I urge you to at least approve this step and further the discussion. What usually fills the room is the vocal minority who are against things like this. I want to stand and be counted as one that’s in favor of it.”

Mr. Mike Prince, 106 Lees Cut, said, “I actually hadn’t intended on speaking because I rarely do that because I’m also considered a commercial developer and in real estate. But I’m compelled to speak because it segways very nicely to what was just said. I’d be in favor of this project for several reasons: 1) Something a lot less desirable could conceivably go at that location under the current zoning as my predecessor had spoken about. Let’s face it; Johnnie Mercer’s pier area currently is not the best of Wrightsville Beach. And from all of my investigations and reports, this proposed project is well designed. I know we’re not talking about the project but I’ve looked into that and this is what we’re trying to get to here; this is the end result and it is of quality – and the use seems to be an appropriate use for that particular piece of property. I do not agree with this theory that this action that the Aldermen will take if in favor of this project would set a precedent. It will not happen as long as the Aldermen do their job in the future. This Town is built out; anything that comes before you is a renovation, addition, or rebuild. I personally feel if you have too many controls, standards, height regulations, you will not have the flexibility to decide on what’s best for the citizens of the Town of Wrightsville Beach. Each property in Wrightsville Beach is unique and property should be evaluated on its uniqueness and location and impact on the neighborhoods, negative or positive, and to the citizens of this Town. I came from Cary where growth was rapid and rampant, so controls were necessary to prevent negative impact on those that were there. Here, you don’t have that problem. We’re here and we’re at max. If too many ordinances, UDOs, standard controls and implementations are implemented here, you may be in the future faced with a bad project that cannot be turned down because, legally, their project meets all ordinances, regulations and zoning requirements. Believe me, I’ve dealt with developers; I’m a developer; and developers will find a way. So, it’s imperative that we have flexibility to allow staff who we pay, Planning Board who we appoint, and the Aldermen who we elect to recommend and act on the best interest of the citizens of Wrightsville Beach.”

Mr. Wayne Bland, 11 Seagull Street, said, “Twenty years this has been a derelict piece of property; not four or five. Mr. Wessell can tell you; he’s dealt with this forever. Thanks to Tim Owens and Chief House, those of us who have stayed finally have quality of life; but not the quality of life that you have. Mr. Burgard, my neighbor, said to me yesterday something that I hadn’t heard before that really stuck with me more than anything. He had to move a year and a half ago because his wife had surgery and could not recover living on our street. They owned a house in Atlanta; they have now sold the house in Atlanta because they live in Wrightsville Dunes. Their health is up; their life is back to what he thought it would be when he bought No. 6 Seagull Street. I admire all of you for what you’re doing; you come in here and give of your time. Twenty years we have been told so many different things; none of them have ever come forthright. You can look

at me; I was in that water for two hours this afternoon because I love it. I turned down \$1.4 million from Ward Manning to walk away. Why? That's my home. We should not be held hostage any more. I don't know what you're going to do with the property. I don't know how high we need to be – forty-four – fifty-four – I don't think that's the biggest concern right now. When I remodeled the Visitors' Center for the Town of Wrightsville Beach a couple of years ago, I was amazed at how many people came back when they parked there and I would tell them where to go. They drive across the drawbridge and they see this beautiful, God-given island. But when they got to Mercer's Pier and some of the establishments downtown, they were shocked and most of them don't come back. The house with the metal roof beside me, the amount of sales that fall through there because of that derelict piece of property, the dysfunctional run pier. Tim (Owens) and Chief House are my heroes. My blood pressure is down. I'm 65 years old and I can swim to the end of the pier and back twice. I did it on my birthday, thanks to these two men. Four years ago, I couldn't do this. Two Sundays ago, to show you that our problem has not gone away, I watched a fight – unfortunately the people renting the top of No. 13 that I take care of for the owner also witnessed it. For one hour, a fight went on amongst twenty people at the bottom of the pier steps. Nobody else called from the Silver Gull or from the pier. It went on to where I walked over and was amazed at the people who watched it. But then I looked at those people; they're not what we want on Wrightsville Beach either. The mentality that day of what's in that horseshoe – there was a woman that was assaulted; there were children that were assaulted and used as a hostage between the two men fighting. I called 911 when a knife was being pulled. 911 took seven minutes to dispatch. Then I called again when a gun was pulled. This went on for an hour – this was Sunday night at eight o'clock in October. This is far reaching – you go six blocks here or six blocks there; I'm speaking now on behalf of twenty-six people who are in favor of this project – at which height, I don't know. But, you have a whole generation of children that are growing up in this neighborhood – four blocks – are not allowed to come into this area; that's a whole generation. Knowing all of you like I do and you're all very capable, if we all work together on this and come together, we should be able to rectify this problem. Our Town is the most beautiful thing there is. But to see a family a couple of weeks ago walk away from No. 13 because the mother went up on the pier and has a fourteen-year-old daughter – and what she listened to, like she described it to me, was shocking. I tried to talk her into staying; she would be a great neighbor for me. I wouldn't have weekly rentals to come home to; I would have the quality of life that you have. This project – I have looked at it over and over; I don't know if it's the one for you; I think it's great for this area and I think we need to look at other areas. Our quality of life in most areas but here is excellent; people rave about our Town but they are shocked when they come into that area. Thank you for the job that you all are doing. Our Town, right now, is the best I've seen it. This is the best Board. The Planning Board – what an awesome group of people with the research and being prepared to look at these things.”

Mr. Chris Bark, said, “I'm a resident of 523 South Lumina Avenue. I'm also a property owner; a local contractor; a developer; and a licensed professional engineer. I have three small children ages five, seven and nine. My seven-year-old and my nine-year-old are students at Wrightsville Beach Elementary School and my five-year-old daughter will be a kindergartner at Wrightsville Beach Elementary School next year. We moved here to raise our family. This is our home. My seven-year-old and my nine-year-old are not allowed to ride their bikes past the Banks Channel Bridge. I don't take my children to this area of Wrightsville Beach if I'm with them. I do understand the project but I'm here to support the text amendment for the overlay district and I hope you will consider that tonight.”

Mr. Mike Saieed, architect with Design Elements, said, “I’ve been a resident of Harbor Island for over fifty years. I have absolutely no association with this project but I support it tremendously. I came before the Board before the recession to do the Middle of the Island project, which was similar to this project going on about the same time and paralleled each other. So I understand the kind of frustrations as a designer. For one thing, I support the project because we need it from everything that’s been spoken here already. I’m going to take a look at this and approach it in a different way on a technical aspect to try to help you understand why we need a fifty-foot height, not only for this project in a C-2 but possibly in other areas where we do have issues. Even at the Middle of the Island Restaurant, we have issues; I wish we could get that back activated. But if I could approach the bench, I would like to give you an example of why we really need to have a project like this and to make it successful, we need to have the fifty feet.” Mr. Wessell said, “We don’t want to talk about this project; this is not about that project even though everybody keeps saying that.” Mr. Saieed said, “Okay. Again, as an architect and a resident of this beach and Harbor Island, I really think that this project is very beneficial. We’ve already done good by replacing Johnnie Mercer’s Pier. Let’s continue on and carry on the Helm project as we work our way around the island.”

Miss Nancy Faye Craig, 111 Seaside Lane, said, “I can’t say that I’m in opposition but I would like to point out a couple of comments that were made tonight. I attended the Planning Board meeting and I heard time and time again that it applies only to this parcel; there’s only one other C-2. I understand all of that. But, if I were a landowner or a hired developer or architect and I had a C-1 or C-3 or a C-Z and you all approve this, then I would think I had a right to come and you could possibly have to approve it for me. Even though I’m told that’s not true; I would sure try. I appreciate Mr. Wessell’s comments just now because most everyone has spoken about the project and that’s not what this is about. I liked what Mr. Prince said and I would reiterate it – ‘Developers will find a way.’ And I question how many iterations of this one area have y’all had to listen to.”

Mr. Harold King, 10 Island Drive, said, “I’m not on either side but I’m kind of in the middle. This is not really about elevation, height and so forth to me; it’s density. The higher you go the more density you get; the people you get; the more cars you get. One caution I would throw out to you; keep in mind, we have a traffic problem; we have an access problem. It’s going to be a long time before we get any relief and everything we do that potentially increases density is going to impact that, and as we go forward, we need to keep that in mind. It’s going to be wall to wall red lights; wall to wall cars. It’s already pretty busy out there; Causeway Drive is a super highway.”

Mr. John Moore, resident of Schloss Street, said, “I am against this. The Standard State Zoning Enabling Act states that ‘All such regulations shall be uniform for each class or kind of buildings throughout each district.’ This height text amendment that we’re considering for this one, we also, for all intent and purposes, are considering the one at the Oceanic – which is about two-to-three times bigger than this property. We’re talking about density; we’re talking about traffic issues regarding South Lumina – getting in and getting out is very difficult. Number two, accessories to the building, we were talking about the HVAC or antennas or whatever would be needed for the building, would increase the structure’s height to approximately sixty feet. I’m totally against that height addition; that mass of a structure. And third, increasing the maximum allowed height of a structure in the C-2 Commercial District would not meet the spirit and intent of the 2005 CAMA Land Use Plan.”

With no further comments from the public, the hearing was closed at 6:59 pm.

Mr. Owens asked to clarify a couple of things. He said, “Obviously, this is the applicant’s request; this is not staff’s request. Basically, nine out of ten times, we’re put in the position to assist the applicant and that’s what we’ve done in this case. We don’t approve anything; we just help them get to a position. The other thing is, we were talking about fourteen feet as far as the elevation goes – the ground height is at six feet; so you really only have to go up eight feet. That leaves about thirty-two feet and I think everybody may have been under the impression that you had to go up fourteen feet from ground level but that’s not necessarily the case. Also spirit and intent, I think there was some discussion about Tony and his recommendation; the Land Use Plan does not have a policy about forty feet, but it does have an implementation strategy about forty feet. Technically, you wouldn’t have to amend your Land Use Plan but the spirit and intent is the implementation strategy. So, for all intents and purposes, you probably should amend your Land Use Plan at some point if you want to go over forty feet, in my opinion.”

Mayor Pro Tem Mills said, “I was on the Planning Board when the Helm was approved and I thought it was a viable project at the time. It is still an approved project; it’s still out there if the owner wishes to pursue it. We discussed at that time, or the issue of height came up then; it was clear to us on that Planning Board that the Town was not ready to consider going above forty feet. Since that time, the Planning Board has had occasion to take another look at this and has recommended taking a look; and I have talked to some members of that Planning Board to get their feeling above and beyond just what their vote was. First of all, everybody would love to see something happen in that area. I think what the Planning Board, or the ones I talked to, wanted the elected officials to be the ones making the decision – not anyone appointed by us. And I respect that and understand that and when I was on the Planning Board, I felt the same way. So, I kind of understand what the Planning Board was doing and that’s why we are here. Mr. Taylor is correct; the Land Use Plan does not carry the force of an ordinance. If the Land Use Plan does get changed (and we’ll talk about that next on the agenda), it doesn’t necessarily change the ordinance; it doesn’t necessarily address the issue. He’s exactly correct. So, from that perspective, I understand his concern. But the CAMA Land Use Plan sets out the spirit and intent of which we promulgate ordinances. So, we can’t just ignore it, in my opinion; we need to take them into consideration. I think the CAMA Land Use Plan is in need of updating and we’re going to address that.”

Alderman Miller, addressing David Lisle, said, “I know you designed the building that’s approved. What has changed? What has the Town changed that’s changed that?” Mr. Lisle replied, “I designed it in a time when the value was very different – the viability of that project per square foot. In my opinion, it is no longer a viable project in that sense for that location. If it were built, it would do more harm than good. It would end up being an empty building.”

Mayor Pro Tem Mills reminded the Board members that what was before them, was whether or not they wanted to adopt the Mixed Use Overlay District. He said, “We are not considering any specific plan that Mr. Kievit or whomever may have put together. We are going to, essentially, amend the Town of Wrightsville Beach ordinance to include a Mixed Use Overlay District. That’s all we’re going to talk about; that’s all we need to talk about. I let it go beyond that because I wanted these folks to get a fair hearing; I know they felt like when that Lumina News Article came out that

maybe they might be getting cut off at the pass. That is not the case and I wanted them to see that. I wanted them to get a full and fair opportunity to present and advocate. So, we've done that. But now, we're going to limit it, I trust, to the Mixed Use Overlay District discussion."

Alderman Miller said, "Mr. Wessell, I believe you said at the last meeting that we could subject ourselves to other properties coming and asking us to do the same thing." Mr. Wessell replied, "Are you talking about the question of what kind of precedent it sets?" Alderman Miller replied, "Yes." Mr. Wessell said, "I think it clearly means that if you were to adopt this Mixed Use Overlay District and make it applicable to the C-2, any other property in that C-2 District would have a right to come in and ask for the same thing. And, to a certain extent, that would probably apply to the other C-2. I would not say that it would go beyond that." Alderman Weeks said, "So, it wouldn't open litigation to a C-1 argument?" Mr. Wessell replied, "I don't think so, no."

Alderman Weeks said, "The new proposed flood maps that we're waiting for, is that going to affect the C-2 area?" Mr. Wilson replied, "The effective map that we have now, this property is located – this area of C-2, there is a VE zone and maybe that pool was in there; but I think the original building was in the AE zone. Some of the things that the Town is doing, when the preliminary maps get adopted in 2017, all of Wrightsville Beach will see a benefit; a reduction of approximately two feet or more. So, you will see a reduction of two feet here. The Town, prior to this, in 2006, reduced the freeboard as a safety factor. It used to be three feet; in 2006, they reduced it to two feet. So, that was some advantage the Town gave to property owners. So, this property, when the preliminary flood maps are adopted, this property is going to go to an AE zone. A lot of the oceanfront properties are going to go from a VE to an AE. The unanswered question is the Coastal A zones. We're not sure where the Coastal A zones are going to be." Mr. Owens said, "So, basically, what I hear is that it's going to go from potentially an AE 14 to 12." Mr. Wilson replied, "Yes, it's going to be reduced, not only here but in other areas as well." Mr. Owens asked if that included the freeboard as well. Mr. Wilson said that did not include the freeboard; it would be twelve plus two – it would be about a two-foot difference. Mr. Owens said, "If this was a Coastal A Zone, you would not be able to floodproof a structure. That's why we're trying to clarify if it is a Coastal A Zone or not. Mr. Wilson has a meeting next week and, hopefully, we'll get some clarity."

Mr. Taylor said, "May I just clarify one of those things, please? What we're looking at here now is the difference of eight feet; then the first floor of commercial in the Mixed Use is fourteen feet; the next two floors of residential are twelve each; so the total is forty-six feet, without a roof. And that's taken into account. But what we've been told is that maybe a corner – we've met with the state; we've met with the federal flood people; we've met with the state flood people..." Mayor Pro Tem Mills asked Mr. Taylor to try to keep the discussion to the Mixed Use Overlay District. Mr. Taylor said, "It had to do with the fact that a corner of this piece of property will probably still be VE Zone, which means if a minor corner is, the whole tract has to be VE Zone."

Alderman King said, "If this is an overlay and this particular text amendment is for a Mixed Use Overlay – can you do an overlay in any other district or is it only done in a Mixed Use District?" Mr. Wessell replied, "You can probably do an overlay in any district. The one that most readily comes to mind is the City of Wilmington Zoning Ordinance; they have a variety of Overlay Districts. What Overlay Districts typically do,

somewhat unlike what is being proposed here, in my experience is they impose more restrictive uses on the area as opposed to imposing less restrictive uses. But you can have overlays in all kinds of districts and you can have overlays that address all kinds of different issues.” Alderman King said, “So, you can have an overlay in a Residential District?” Mr. Wessell replied, “Yes. I think, if I remember correctly, in Wilmington, they’ve got an overlay in some of the historic districts – is an example of that. This is not a unique device; it’s a device that’s certainly well recognized in zoning departments and you see it in lots of areas.” Alderman King said, “My point is, it’s not just for commercial.” Mr. Wessell replied, “No, it’s not.”

Alderman Miller said, “It’s kind of hard to discuss without talking about the project and I’m not going to talk about the project. We’ve tried to bite this apple ten different ways and I don’t know that my opinion has changed from the beginning. I get it completely; I’m the developer on the Board. But there’s just a lot of folks that are for it and a lot of folks against it. I know the spirit of the CAMA Land Use Plan and I hate to put them off but I don’t see another way. We’re getting ready to talk about putting thirteen people or eleven or nine or however many on a board to look at what the Beach wants to do. I’ve been around here for a long time but it’s still contentious. I get it every day at the post office and I get it at the grocery store. It’s contentious. It needs to be well thought out and I don’t know that it needs to be project specific. Those are my thoughts. I did not come in here with my mind made up, contrary to popular belief. It really is tough.”

Alderman King said, “I do get it – the density – the rebuilding. I see it; I live it. There is a problem; we have a huge problem with density. I know that once you repair a building, you can’t repair but just so much and it’s hard to because you’ve got so many rules and regulations. And then the flood regulations are making it more stringent; I get that; I understand it; I live with it. I have two problems with this. I do believe that our Land Use Plan is a guideline and I do believe that we have to pay attention to our Land Use Plan. Then, the other thing is the precedent and I believe that we are setting a precedent. I don’t think I can go with this tonight. I, personally, since it was brought up to maybe put it off, after listening, I really do wish we had put it off and I’m not one that said put it off. But now I do because I think that this does require a lot of discussion. I’m hoping our steering committee will discuss it; it needs to be discussed all over the Beach; and I would like to see what they bring back because I think we need an updated Land Use Plan. And I think that we won’t have this problem. So, I find it very hard to go with it as it is. Although I know that that area needs more help than anywhere else on this Beach. I know it because I grew up here and I was never allowed to go there; and I’m not twenty years old; I’m over sixty. So, I get it. But for the precedent reason and because of our Land Use Plan, I think we need to stick with it and go through that avenue to get things changed.”

Alderman Weeks said, “I don’t think anybody on this Beach wants high rises again, especially me. But I do recognize and many of my neighbors and constituents are very concerned about the build-out that’s going on just across the bridge. And the latest statistic is that our county is going to grow by 16% in the next ten years to 250,000 people. I grew up here; that’s exorbitant. So, my neighbors and friends want amenities on this side of the bridge so we do not have to traverse the bridge, particularly during the season. That means more commercial amenities. Unfortunately, the financial aspect of that is mixed use as a solution in that the residential supplements the commercial aspect of it. I’m a big proponent of mixed use. I don’t want to talk about the project but that area – I agree that something needs to be done

there. I think the Mixed Use Overlay District is a great concept; Mr. Owens and I talked about this months ago. My concern is that we're going to carve out one parcel for this and not consider the rest of the Beach because I think there are other commercial districts on this Beach that are viable for this same application and to carve out one commercial district without considering the others is going to be a bit problematic ahead of the CAMA Land Use Plan vision implementation. My hope is that that committee can vet and come up with a comprehensive overlay program for the commercial districts on the entire Beach. This island is a bit of a parish in that Harbor Island, the downtown area, at Poe's, this commercial district or the south end – we operate in a bit of a parish mentality and the north end really doesn't have anything similar to that. I think a project up there would really benefit the neighbors in that area to be able to walk to a coffee shop and have the benefit of that. In summary, I'm supportive of the Overlay District. I would like to see us have a comprehensive evaluation and plan for the entire commercial properties on the Beach and I'm hoping that can be accomplished through the CAMA Land Use Plan process."

Mayor Pro Tem Mills said, "This is a tough one. I want to say something in favor of Johnnie Mercers Pier because that's where I lived when I was a little guy and that was over fifty years ago. We were on Greensboro Street. These folks have presented some very compelling and viable reasons to consider this. There are serious concerns and considerations to oppose this. As has been stated by several people, we do have a special place here and one of the things that is special about it is that we have managed, whether it was through wisdom, or luck, or both, we've managed to preserve a beautiful and wonderful place to live. Part of that process is to consider change; to know when change should be made and when it shouldn't. None of us are all knowing and all wise and we've all made mistakes. It is a big issue because I know the issues down there at Mercers. I have gone out there on Saturday and Sunday afternoons and I have seen the activity there. Chief House is doing Yeoman's work and his guys are trying to police it but it is difficult because of the situation and we do need a solution to that. Going to a Mixed Use Overlay District that will allow fifty-foot height – is that the answer? I don't know that that's the answer to that. And I'm certainly not qualified to say that would be the answer to it. As I suggested a while ago, the CAMA Land Use Plan is kind of our guiding tool; we are going to update it; we are going to consider or should consider all of these things. I would also point out that a number of us, us being the present Mayor, former Mayor O'Quinn, former Board members – we all served on the Unified Development Ordinance (UDO) Committee. The height question came up then and it was decided that we weren't ready to change it. With all of the circumstances in front of us, I don't think it's appropriate right now to make decisions to change it without a more comprehensive review. In that respect, I do agree with what the Mayor said. I listened to what I heard tonight and it was persuasive but not quite persuasive enough to me. I believe that one of the charges I would give to the steering committee for the CAMA Land Use Plan is to take this issue up. I don't state that lightly because I have applied to be on that; so I may have to do it. So, I'm not running from the issue. It does need to be addressed and I would intend that we do address it."

Alderman Weeks said, "I thought we had a deadline of next April to have this completed." Mr. Wilson said, "We have some deadlines this time; it cannot drag on for three years. Some of those bids talk about April and May; it has to be in by April or May to be adopted, so this is going to be pretty streamlined." Mr. Owens said, "They did give a little bit of wiggle room on that; they said if we have a good working draft by

April, we can be in line to where we needed to be, plus you've got a process to go to the state and they approve it as well. So, it may not be April or May, it may be a couple of months after that." Alderman Weeks said, "John, is it reasonable to continue this instead of voting it up or down?" Mr. Wessell replied, "I don't believe that's my call; I think that's the Board's call. Do you have the authority to do it; yes, you do. Is it the right thing to do or not; I can't answer that." Alderman Weeks said, "That would be my preference."

Mr. Taylor said, "We would not object to continuing it." Mr. Wessell said, "I would not suggest that you continue it until the CAMA Land Use Plan is finished; you can continue it to the next meeting, if you'd like. What I would recommend, if you don't have a motion to approve, is there a motion to deny the requested amendment – would be my suggestion to you." Mayor Pro Tem Mills then made the motion to deny. The motion was seconded by Alderman Miller and the vote was recorded as 3-1 with yeas by Mayor Pro Tem Mills, Alderman King and Alderman Miller and nay by Alderman Weeks.

Meeting recessed at 7:28 and reconvened at 7:35 p.m.

APPOINTMENTS TO THE CAMA LAND USE PLAN STEERING COMMITTEE.

Mayor Pro Tem Mills suggested, given the large number of applicants, that the Board appoint eleven members instead of the nine recommended by the Planning Board and that the Board also consider appointing two alternates. Following a brief discussion, Alderman Miller made the motion to make it eleven members and two alternates. Mr. Wessell asked how the Board would envision the alternates acting on a committee like that; if they would just fill in when someone was absent. Mayor Pro Tem Mills said, "I would envision that if a duly appointed one of the eleven can't be there, that we have a person designated as the first alternate – kind of like the Board of Adjustment. As I would see it, even if the entire eleven are going to show up, the alternates are welcome to come to the meeting and listen." Mr. Wessell said, "The problem I would have is that, unlike the Board of Adjustment that considers something at one meeting, the result of this is going to be the cumulative effect of all the meetings and how can the alternates really function satisfactorily if they're not there most of the time? I would hope they would attend all of the meetings." Mayor Pro Tem Mills said if they took the appointment, it should be stressed that they need to attend. Mr. Wessell said, "I would encourage you to encourage them to take it with the understanding that, while they may not be able to vote or participate, they need to be there for most of the meetings." Alderman Miller noted that it would be very likely that they would have a voice and a vote at some point in time. He said that would be part of his motion. The motion was then seconded by Alderman King and approved with a 4-0 vote. Following a brief discussion, the Board agreed to go by the number of votes received to determine the thirteen members (eleven regular members and two alternates) and not have a certain number from the Planning Board and Board of Aldermen, etc. Using ballots, the Board appointed the following eleven regular members: Jim Busby, Susan Collins, David Culp, Jeff DeGroote, Pat Koballa, Mayor Pro Tem Mills, Bob O'Quinn, Bill Sisson, Jim Smith, Robert Tillman, and Calvin Wells; and the following two alternates: Allen Rippey and Frank Smith, Jr. (Mayor Pro Tem Mills read the names of the members for the audience at the end of the regular meeting.)

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APPLICANT	VOTE 1	VOTE 2
John Douglas Barker, II		
Sue Bulluck	Alderman Weeks	
Vincent Burgess		
Jim Busby (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
Susan Collins (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills	Alderman King Alderman Miller Mayor Pro Tem Mills
Lee Crouch, Jr.		
David Culp (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks
Jeff DeGroot (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
David Floyd	Alderman King Alderman Weeks	
David Hamilton Jacobs		
Pat Koballa (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills	Alderman King Alderman Miller Mayor Pro Tem Mills
Darryl Mills (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
Nicolas Montoya	Alderman Weeks	
Bob O'Quinn (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
Allen Rippy (Alternate Appointed)	Alderman King Mayor Pro Tem Mills Alderman Weeks	Alderman Weeks
Britt Klimberg Sheinbaum		
Justin Walker Shepard		
Bill Sisson (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
Frank Smith, Jr. (Alternate Appointed)	Alderman Miller Mayor Pro Tem Mills Alderman Weeks	Alderman Weeks
Jim Smith (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks	
Susan Snider	Alderman Miller Alderman Weeks	
Robert Tillman (Appointed)	Alderman King Alderman Miller Mayor Pro Tem Mills	Alderman King Alderman Miller Mayor Pro Tem Mills Alderman Weeks
Calvin Wells (Appointed)	Alderman King Alderman Miller Mayor pro Tem Mills Alderman Weeks	

AWARD OF BID FOR COMPLETION OF THE 2016 CAMA LAND USE PLAN.

Mr. Wilson reviewed the following background information: “In our 2016-2017 Budget, we did provide \$30,000 of local funds that will be combined with up to \$15,000 from a CAMA Grant that we received earlier this year. In August, staff invited several companies to submit bids; four firms provided bids to us (Stewart – \$27,000; COG – Not to exceed \$30,000; Holland Consulting Planners – \$35,000; and SEPI Engineering – \$41,945.32). Staff reviewed the proposals and would like for the Board to consider Holland Consulting Planners to complete the 2016 CAMA Land Use Plan. We have been involved with Holland several times; they’re going to provide their staff since we only have two in our department and they will help with minutes and things like that. So, staff would like for the Board to review and award the bid to Holland Consulting Planners in the amount of \$35,000 and also approve the Town Manager moving forward with the execution of a contract for the CAMA Land Use Plan following the review of the Town Attorney.” Mr. Owens noted that Holland has worked on a lot of Land Use Plans up and down the coast as well as Unified Development Ordinances (UDO) and he thought they would be a good choice. Mayor Pro Tem Mills agreed and said they worked with us when we did our UDO and he thought they did a competent job and worked hard at it.

Alderman Weeks noted that Holland’s public hearing date was in May while all the others were in March or April. She asked if we could accelerate their timeline so the process does not drag on like it did with the 2005 CAMA Land Use Plan. Mr. Owens said he thought they would be willing to do that. Mayor Pro Tem Mills asked Mr. Wessell to address that in their contract. Alderman Miller made the motion to award the bid to Holland Consulting Planners in the amount of \$35,000 with the stipulation in their contract as requested by Mayor Pro Tem Mills, and to approve the Town Manager moving forward with the execution of that contract for the CAMA Land Use Plan following review by the Town Attorney. The motion was seconded by Alderman King and approved with a 4-0 vote.

CONSIDERATION OF REQUEST TO RELOCATE THE WRIGHTSVILLE BEACH ELEMENTARY SCHOOL FALL FESTIVAL TO THE WRIGHTSVILLE BEACH PARK.

Program Supervisor Katie Ryan said, “At the September 8th Board meeting, the Board approved the Wrightsville Beach Elementary School PTA’s request to close Coral Drive for their annual Fall Festival. Alderman Weeks had expressed concern over the congestion on North Channel and, at that time, the Police had already determined that it was going to take three contracted officers to handle the traffic and congestion in that area for the event. After discussions with the PTA Board, they were excited about the possibility of maybe relocating to the park because it would alleviate all the traffic congestion down there and the need for the police officers. Special event permit fees would be a concern for them but the special event ordinance exempts schools from the special event permit fee if they’re participating in academic educational activities or classroom-based field trips provided that such activities are authorized by the school. The Fall Festival might be stretching that a little bit.” Mayor Pro Tem Mills asked if Mr. Wessell saw a problem with that. Mr. Wessell agreed that it was a little bit of a stretch but he thought it would be okay. Alderman Weeks made the motion to approve the request to relocate the Fall Festival to the Park. The motion was seconded by Alderman Miller and approved with a 4-0 vote.

CONSIDERATION OF BUDGET ORDINANCE NO. (2016) 436-B IN THE AMOUNT OF \$21,000 TO CREATE A BUDGET FOR ENGINEERING AND PERMITTING OF ADDITIONAL PARKING SPACES AT THE END OF NORTH LUMINA AVENUE.

Mr. Owens said, “At our last meeting, we decided to move forward with the engineering and surveying of parking at the north end and coming up with a conceptual plan and moving forward with that and permitting. We didn’t have the funds in the budget because I didn’t anticipate us moving forward; so, I’ll have to come back and ask for the funds. What we’re requesting is \$21,000 for Budget Amendment (2016) 436-B; this would allow us to move forward on all of the engineering and permitting and get it through to the end of the process. We did talk about, at some point, having a public hearing and maybe looking at that as well and that would be once we get a plan established.” Mayor Pro Tem Mills clarified that this was just funding what the Board already talked about. Following a brief discussion regarding the timetable for the Old Causeway Drive Project and an update on the Coral Drive Project, Alderman Weeks made the motion to approve. The motion was seconded by Alderman Miller and approved with a 4-0 vote.

REVIEW AND APPROVE CONTRACTOR TO COMPLETE RENOVATIONS OF THE TOWN HALL BOARD ROOM.

Mr. Owens said, “We budgeted funds to renovate this room and move forward with audio/visual projects. We budgeted for the audio/visual side of it already; in this year’s budget, we budgeted \$100,000 to do renovations to this room. We submitted some plans to five different builders. We’re recommending Lewis Builders; they were the lowest responsible bidder. The total cost for the renovation will be \$75,850. The furniture is \$24,000 and that’s to replace all of your chairs and these chairs back here; construction changes to keep Big Sky involved with preliminary meetings \$2,500; permits (county) \$2,500; accessories and miscellaneous allowances \$11,000; AV costs are not budgeted. We had \$20,000 in the budget and the cost was \$24,000. So, the total cost is \$119,850. I would like for the Board to approve Lewis Builders for the renovation of the Town Hall Board Room and allow myself and the Town Attorney to come up with a contract to move forward with all of it as stated.” (Note: the following bids were received: Lewis Builders – \$66,450; Stonehenge Building, Inc. – \$77,494; and Newman Bros. – \$88,200). Mayor Pro Tem Mills asked if Lewis Builders had worked with Big Sky before and if Big Sky is okay with them. Mr. Owens replied, “Yes, they were the ones that recommended a few of those.” When asked about local bidders, Mr. Owens replied, “We had a couple that I submitted it to and I wish we could have gone with that scenario but we have to be cost conscious.” Alderman Weeks made the motion to approve. The motion was seconded by Mayor Pro Tem Mills and approved with a 4-0 vote.

DISCUSSION AND DIRECTION ON APPLYING FOR FY2018 UNIFIED PLANNING WORK PROGRAM PROJECT FUNDS.

Mr. Owens said, “On November 15, the Wilmington MPO will be taking proposals for projects for the Unified Planning Work Program (UPWP); this is where Mike Kozlosky, Executive Director of that, recommended that we look for funds in order to look at the bridge project into the future as well as other traffic recommendations. I’ve put together a simple scope of work: *evaluation of current and future traffic demand; review and evaluate current conditions and make short-term recommendations to improve traffic flow; evaluate options for an additional bridge renovation or bridge replacement alternatives; look at estimated cost of options; and*

make recommendations. That's just the general scope of work with what I heard you guys talking about. I'm not really sure at this point what the cost is going to be but I'm estimating \$75,000 to \$100,000. I need to talk to some firms before I put together that proposal and submit it to the MPO." When Alderman Miller questioned the item in the scope of work to evaluate options for additional bridge renovations, Mr. Owens said, "I think one of the alternatives would be to renovate that bridge again; and the other alternatives would be whatever they might be." Alderman Miller said, "I think the intent was – and I wasn't here but I know the intent of the person that asked for it – for a second bridge location; if possible." Mayor Pro Tem Mills said, "It's been requested and we agreed to look into it." Mr. Owens said, "In between now and the next meeting, I can generate the scope of work and the whole proposal and bring that back to you. Is it the general consensus that I move forward on a grant?" There was consensus of the Board members present to move forward.

MAYOR PRO TEM MILLS: REPORTS AND COMMENTS.

- Mayor Blair has new grandbaby; Lucille (Lucy) Malone Larson.

ALDERMAN WEEKS: REPORTS AND COMMENTS.

- Thanks to staff for doing a phenomenal job during Hurricane Matthew. There are always opportunities to improve; like trying to find a more concise means of communication to the residents because not everybody is on Facebook; not everybody gets Ms. Ryan's emails; and not everybody is glued to the weather channel. Mr. Owens noted that staff was already looking into things like adding a "frequently asked questions" page on our website and they would discuss it further in an upcoming meeting.

ALDERMAN MILLER: REPORTS AND COMMENTS.

- I have heard more compliments from people who don't normally give out compliments specifically to the staff for their work during Hurricane Matthew. Thank you on behalf of the Board for all you do.

ALDERMAN KING: REPORTS AND COMMENTS.

- Alderman King agreed with all of the compliments to staff and said she was glad to be able to stay in contact with Mr. Owens during the storm and she was happy to see staff out in trucks after the storm. Mayor Pro Tem Mills agreed and said on the south end, people were very complimentary to staff.

MR. WESSELL: REQUEST FOR CLOSED SESSION.

- Request for Closed Session to give updates to the Board.

MR. OWENS: REPORTS AND COMMENTS.

- NCBIWA meeting on October 14th and 15th at the Blockade Runner. We can send three people. Please let me know if you wish to attend.
- The Marketing Advisory Committee meeting has been changed to Wednesday, November 9, 2016 because of the election. Mayor Pro Tem Mills made the motion to approve the change. The motion was seconded by Alderman Miller and approved with a 4-0 vote.

MAYOR BLAIR ARRIVED AT 8:10 P.M.

REQUEST FOR CLOSED SESSION FOR UPDATES FROM THE TOWN ATTORNEY PURSUANT TO G.S. 143.318.11.

Alderman Miller made the motion to go into Closed Session at 8:11 p.m. for updates from the Town Attorney pursuant to G.S. 143.318.11. The motion was seconded by Alderman Weeks and unanimously approved.

MEETING RECONVENED.

Mayor Pro Tem Mills reconvened the meeting at 8:22 p.m. and asked the record to reflect that the Closed Session had been held for the reason so stated with no action taken.

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD, THE MEETING WAS ADJOURNED AT 8:22 P.M.

Respectfully submitted,

Sylvia J. Holleman
Town Clerk