



## ORIENTAL TOWN BOARD MEETING

Wednesday, November 8, 2017 at 7pm

507 Church Street, Oriental, NC

Mayor Sally Belangia Officiating

The Town Board of Oriental Town Board Meeting on Wednesday, November 8, 2017 was called to order at 7pm. The Mayor Sally Belangia determined a quorum to be present. She said we have a Public Comment period, if you wish to speak please make sure you are signed up on the correct sheet. We will call the meeting to order with the Pledge of Allegiance.

Present: Mayor Sally Belangia, Pro Tempore Barbara Venturi, Commissioner Overcash, Commissioner White, Commissioner Winfrey, Commissioner Price, Town Manager Diane Miller, Deputy Finance Director Tammy Cox, Administrative Assistant Jeannine Russo, Officer Nicholas Blayney and Members of the Public.

### 1. Approval of Agenda

- (a) **Commissioner White** made a **MOTION** to approve the Agenda, seconded by **Commissioner Winfrey**. Motion passed 5-0.

### 2. Consent Agenda: (Tab 1)

- (a) Consider Approval of Minutes from Town Board Regular Meeting October 3, 2017

**Commissioner Venturi** made a **MOTION** to approve the Consent Agenda, seconded by **Commissioner White**. Motion passed 5-0.

**3. Public Comment Period:** Mayor Belangia asked if anyone would like to speak. Limit comments to 3 minutes and comments to full board not individual.

**Jim Barton, 104 Pelican Circle:** Extended congratulations to the three Commissioners re-elected and thanks to the two outgoing Board members. He is here this evening to talk about Ordinance H and the use of firearms in the Town. Conversation began with two rabid fox in Dolphin Point, where he resides. Both were killed by Pamlico County Animal Control. After a third sitting, Mr. Barton stated that Animal Control Officer Berkley Hill instructed him "if you see it Jim, kill it." Mr. Barton stated that he had been told in the past by other people, as well as the former Mayor, there is no authorization for firearm discharge in Town. After researching, Mr. Barton found in Ordinance H, Section 6, Sub-Section 3, there is a section for self-defense, a section for law enforcement and a third for pest control where only a .22 caliber or 8-shot for shotgun may be used. Mr. Barton stated that Section B is redundant and repeats what is said in Section A-3. Mr. Barton has spoken with the Town attorney and challenged the Town's authorization to be able to do this under Statute. Mr. Barton stated that the Town attorney did not state case law to support his position, only the authorization by the municipality for discharge and not specifically for caliber. He also spoke to a second attorney and the North Carolina Chapter of the NRA who disagree with the Town's position and it could be challenged, but he will not. Mr. Barton stated that Town Manager Miller has recommended removal of B-3, which is the redundant portion regarding .22 caliber and 8-shot. Mr. Barton agrees with this as, he states, 8-shot was outlawed in 1987-88. Secondly, he believes .22 caliber opens other issues (shows the Board photos of various .22 caliber weapons). His belief, and recommendation to the Board and Town Manager, is that A-3 and B-3 should be eliminated.

**Grace Evans, 301 Midyette Street:** Regarding the gun ordinance, what is a pest? Ms. Evans considers the squirrels to be pests and states that some people consider pets such as dogs and cats pests. She would also like to know what the restrictions are in Town regarding open carry as she was "shocked" to see someone open carry at Croaker Festival and whether we can have any restrictions. She is uncertain why Scott (attorney) feels we should get rid of what we have. She feels the only difference is where it concerns someone under 16 years of age. Sometimes, in the past, BB gun shots have gone astray and done damage so she is unsure why that would be taken out. Ms. Evans also mentioned that the water at the drain down near Hodges and Broad Streets is deeper than normal and is aware that this is a state problem. Commissioner Winfrey addressed Ms. Evans and asked why she looked at him when making the BB gun comment. She replied that she knew him when he was a child.

Jennifer Roe commented that she wanted to thank the Board members returning and the new members coming on to the Board.

#### 4. Public Hearing: GMO changes to the Permissible Use Table – No motion needed.

Mayor Belangia opened the Public Hearing.

Mayor Belangia: Manager Miller, did you want to say anything before we...

Manager Miller: Just briefly, ma'am. The Planning Board met two more times after the Motion was tabled at the October 3<sup>rd</sup> meeting to look again at those items that were raised as potential issues at that meeting and made several slight adjustments to the original you saw and one thing that I need to tell you is in the copy that you see, there are two places where it is red, and that is since the original that was posted on October 25<sup>th</sup>, following the Planning Board's last meeting, that red has been added since so those words were on a previous draft and somehow got dropped off. Then there were also some misspellings there and then down in the definitions, there is one that is red, this has been added because the intent when they instituted a Pleasure Craft Only Marina definition, was to replace the original Marina definition and nowhere in the document that was out for review did it say that they were going to remove the marina definition so that has been added since October 25<sup>th</sup>. Everything else is what had been posted on October 25<sup>th</sup>. It is very difficult to see the changes in the Permissible Use Table because it is not just changes in X's and L's and S's. It is changes where things were taken out of one group and put into a different group. The Permissible Use Table itself had not been reviewed in almost 14 years and this was a comprehensive review so it changed acceptable (inaudible) for mental health instability and disabilities, those types of things had to be changed and were also moved and then there were also two significant pieces of legislation that made several things in our GMO illegal and that was because of the Fair Housing Standards Act of 2000 and it was also because of the Religious Land Use (RLUIPA), a federal statute, that made it advisable for those who are regulating religious uses to tread extremely carefully and if you were to ban a use for X number of people gathering for religious purposes, you had to ban every other gathering of that many people for any purpose in the same district and if you didn't, then you weren't legal so a lot of things got moved around that way. I think that is, by way of explanation, all I can give you. I have on the Powerpoint each section by section and I can point out the notables but you really have to look at when we posted it to the web it has the existing Permissible Use Table and then has the new Permissible Use Table and of course in the Ordinance itself, as proposed, all of the definitions that are being added. They changed all of Section 4 and defined Light, Medium and Heavy Industrial and then were more specific in the uses on the Harbor. While, generally, you cannot totally ban a use, generally. There have been new exceptions to those laws that say if there is a reasonable justification for why you would ban a certain use, for example, in our situation, we have so much land that is out on little finger creeks and we are much more aware now of pollution and how it runs. We have a responsibility to regulate those uses that could contaminate air, land and water, and most especially water because so much of us touches the water so we are justified in eliminating those uses that would be deemed Heavy Industrial from (operating?) within our Town limits. The land that maybe is not in Oriental but potentially could be in Oriental, maybe a little further away from the water, may be able to have Heavy Industrial use but we are not at that point. One other thing that we need to take away from this is the changes made to things in R1, especially, and all residential zones are more pointed toward our future. You are not going to get a performing arts center in an existing R1 platted development. What we are looking at with this is a 40-acre tract that is on the current outskirts of our town that is the new recommended use development method where there is housing, entertainment, food and shopping all in one place, kind of self contained; those are the kinds of developments that this is aimed toward, land that is not already annexed in, but could potentially be annexed in in the future. What is already in Town, as a maximum 1.1 acre lot, cannot hold those kinds of uses because of parking requirement, or the setbacks, or the lots that are currently platted are not going to hold the uses that most people are objecting to. This is more aimed toward the future and potential new annexations. That is probably all of the questions that I can answer. We will do as directed. The Planning Board put in 12 full sessions of work line by line on the Permissible Use Table and then the corresponding definitions and I would like to thank them for that effort.

Jennifer Roe, 502 South Avenue: My comments cannot be very structured, I am going to tell you, I did not have time to do side by side. I know that the staff works very hard but I am used to seeing things where you see it crossed out and there is a whole brand new section which here is a half a page, from a state law that that whole brand new section is underlined and they have moved a section and then they flip to another page. It would have been nice to have been able to look at it like that and I understand it's not the Board's responsibility to (inaudible) so my comments are just on that, that when I pulled this up, it would have been nice to have seen exactly what was going away without having to lay them side by side. I know it's time consuming. I do this too with the Board of Elections so it just makes it easier for the public that is not doing this on a daily basis not to have to go to the website and try

to pull it up and print this out. I know it's very time consuming to make the change and I know there were some things that were added tonight and I guess I have a question more than a comment now, the things that were added tonight, have you all looked at that in the red or is that a new item.

**Manager Miller:** What is in the red is exactly what I said. That is just recently added since the 25<sup>th</sup> of October. It was simply removing the definition of marina.

**Jennifer Roe:** It was adding definitions.....

**Manager Miller:** The Pleasure Craft Marina only had been added in there. We neglected to remove what it was replacing so it is just the replacement.

**Jennifer Roe:** Thank you, Ms. Miller.

**Mayor Belangia:** Thank you. Jim Barton.

**Jim Barton:** Thank you. I sent my comments to the Board electronically. You have those. I have got a copy of them here which I will provide as well as the ones I did earlier on before (inaudible). I actually was tipped off to the changes in the GMO, because I have been out of town, by Eric Dammeyer who had a meet the candidate here at Town Hall last week and he talked about that being a priority of his so I thought having been a former Vice Chairman of the Planning Board and member of the Planning Board and having done one of our first major revisions to the GMO, I took interest in that so I did, in fact, take the old GMO, lay it down, compared the old matrix to the new matrix and determined exactly where the changes were. In the past, I agree with Jennifer, in the past what we've done is when we offer up changes to the Board, we will do a (?) and we will do like you have here on this slide, a red edit so you see exactly what you are replacing and for the public, I think that is extremely important. If you are unable to pull that from the website and looking at the document that is there, in fact that red one is not there, the one that is on the website.

**Manager Miller:** Yes, it is.

**Jim Barton:** Well, it wasn't there when I looked at it and I've got a copy of that. I did bring that up. I mentioned that in my electronic comments because I did see the discrepancy between marinas and private marinas. That was one of the points I made along with the typos and errors in bold that I saw. The biggest concern that I have within this document is the section on MFDs, a manufactured house, and it does not appear that these classifications, the classes you have in here, look like they have been in there since Lord knows when, maybe since the 1976 regulation that was put down and so the classes really don't necessarily...I think they were put there by the Town or where they came from or where they stem from is not explained. That was a concern for me when I was on the Planning Board but we never really addressed it. I am glad to see it being addressed here but I have identified a couple of sections of state statute that I think apply having to do with Class A and originally Class B but now anything other than Class A is of interest. You've got an across-the-board restriction on what is considered to be other than Class A and I wonder where we are getting that authority because the legislature in 1987 specifically addressed that issue of not doing across-the-board restrictions in zones and I've got a copy of that in here and I have brought it to you electronically as to what that statute is. I think that needs exploring. I am not saying that it's right or wrong. I just think that it needs further exploring. I also pointed to a 2014 legal summary that was done by a professor at the University of North Carolina, a Professor Owens, wherein he specifically addressed the issue of authorities to a town with regard to manufactured housing. You put in size qualifications on these from 8' wide to 16' wide and essentially the matrix is now focused on 16' wide. I know why you are doing it. I don't disagree with it, necessarily. My recommendation, however, is before you approve this and put it into an ordinance or into the most important ordinance in town, you should look at those specific things, or if you did, then fine.

**Manager Miller:** We did.

**Jim Barton:** You did? Okay, well then it would be nice for the public to see how you legally justified doing that and that is my only comment.

**Manager Miller:** Can I address that?

**Mayor Belangia:** Yes.

**Manager Miller:** The manufactured homes, the classes are classed by manufacture date more than anything else and the restriction on allowing manufactured homes was originally put in place to prevent low income housing from happening and to get around that state statute that you quoted; they started putting size restrictions so that you couldn't put so small a home. The Class letters, A, B and C are relative to standards to which a home is built, winds that it can withstand and at this point, what is Class A, I think it is 1996, I have to check the date, and forward, anything prior to that, is not going to withstand a 90 mile an hour wind or it's just not built to withstand the weather that we have so rather than restricting the size of a home, if somebody wants a small home and wants a more affordable home, they can still get a Class A manufactured home of a smaller variety. We are not pricing anybody out by doing that, but we are preventing them from bringing in a home that is physically dangerous in a storm

situation. So, without pricing out the lower income folks and allowing them to still have manufactured homes on those lots that allow manufactured homes, we are still preventing the safety issue that comes with Class B and C manufactured homes that come loose from their moorings and off they go. It was all looked at and restricting them in a hurricane zone is absolutely acceptable.

**Jim Barton:** I think I still have two minutes left. My biggest concern is G.S. 168-383.1, whether that was considered or not, because it reads, it was enacted in 1987 by the State Legislature, it reads "It is applicable to all cities and counties and directs local governments to consider allowing more land for manufactured housing sites as a way to provide additional affordable housing in the state. Under the Statute, local governments may regulate the location, the appearance and the dimensions of manufactured homes, which you say you have done, but may not exclude such homes entirely from their zoning jurisdiction by creating classes of MFDs and excluding through zoning restrictions, all but one class. My concern is whether this GMO amends and does exactly what the statute prohibits.

**Manager Miller:** Back to the newer version of that, allows you justifiable reasons to exclude certain things. It is justifiable to exclude a house that is likely to come apart in a storm that is likely to happen in this area, just like it is likely that a heavy industrial thing settling on land that is contiguous to water is a good thing too.

**Jim Barton:** Well, Dr. Owens 2014 legal summary disagrees with you.

**Mayor Belangia:** Thank you. The next person is Eric Dammeyer.

**Eric Dammeyer:** Madame Mayor, I wanted to just make a couple of comments about this GMO Table of Permissible Uses project and I was part of that but I really want to thank all of you for listening and for considering this and all of the hard work of everybody that has been involved. I just want to make two observations and recommendations to you. One is I urge you that when you receive a large construct like this where you've got a lot of moving parts that you can get as much of it as you can pass passed and if there is an issue with a part of it, that you take the time tonight. We all agree to have you be as thorough as you need to be. Take the time tonight to remove the parts that are a problem and send them back but don't not pass the rest of it that is waiting that is ready to go for which there is no controversy and that you get things done that way. The second thing is I think as these people come to the final hearing, which this is the final hearing, it reminds us that when we don't pass the parts that important, that are okay and that are good, we allow more time for more concerns to come up, which they always will – it's like Murphy's Law, that things will bubble up. Some of them are excellent, some of them are not, but if we get our job done, then we leave aside the controversy just sitting there waiting to fester. So, I urge you tonight, if you would please, act in some degree regarding these changes that have been worked on so hard by the people that have volunteered to serve you. Thank you very much.

**Mayor Belangia:** Thank you.

**Martin Barrow, 1110 Link Lane:** Dianne and Eric, congratulations. You guys, congratulations on your re-election. Mayor, on your contentious and difficult race, congratulations to you. When I looked through the GMO and I sat in on a lot of these Planning Board meetings and I'll tell you, they are a lot of fun. I recommend anybody (inaudible) Planning Board meeting. But that said, they did put a lot of time and they did put a lot of energy and I appreciate it. But I've got a concern I want to bring to the Board tonight. I've got, I guess, a request that I want you to consider and you guys are the judgment makers so the only thing I can do is present the information that I have and let you make a call. Basically, what I want to do is ask you to take a look at this GMO, specifically Sections 5 and Section 7 and if you do pass the GMO this evening, exclude those. Kick those back to the Planning Board for a second look and the reason I think it would be worth our while is because a lot of these changes in Section 5 and changes in 7 are in conflict with Deed Restrictions and Covenants that are attached to some of the lots. For example, Sea Vista has 57 lots that are operating under one set of restrictions which under the GMO would be in conflict. What I would like to see is if the Planning Board can go back and take a look at all of the property that is in R1, examine those properties for restrictive covenants and then try to construct Section 5 and Section 7 to work in harmony with it as opposed to in conflict with it. One of the things I did when I bought my property here in Oriental was I took a look at the GMO and I took a look at the restrictive covenants and I looked at the GMO pretty much as a covenant between the Town and the property and so when there is a good reason, a compelling reason, to change it and the research is done on it and the sections can be in as much harmony, not that it is going to be perfect, but as much harmony as it can, the less conflict, then it is a good product. And I think that a second look at that, at least examine those properties in R1 would be worth the time to do that. I agree with Eric that the whole package, or one thing or another, is not constructive, but these are the things I think would warrant (inaudible). Section 9 of the current GMO speaks to the covenants and deed restrictions and the ordinance is not intended to aggregate, annul or otherwise override those covenants and states in part that the ordinance is not intended to repeal, aggregate, annul or impair or interfere with existing easements, covenants, deed restrictions and that the more stringent requirements would prevail. To such a

(inaudible) creates an impediment to the new Section 5 and 7 and what I would like to do again is just to ask you folks to take a look at those two sections, look at how it changes (inaudible), look at how it changes the covenants or how it matches the covenants and restrictions and see if there is a way to marry those two together with a little less conflict. Thank you.

**Mayor Belangia:** Thank you. Carol Wright.

**Carol Wright:** 5306 Bogue Drive. I am going to be echoing a lot of the sentiment from Martin, I guess. I am a real estate agent, as you all know, and I have been selling property here since 2001. One of my biggest jobs is to make certain that when somebody buys a piece of property, they have read their covenants, they know about, and they understand and they also know if they are in Town that there is a GMO they also have to be familiar with. It is very difficult for me to do my job, I think, when I am constantly in fear of what is going to change with the GMO. I didn't even know that there was going to be changes on the R1 until three weeks ago and I live in this town.

**Commissioner White:** Can we have one conversation please and let her speak, I'm sorry.

**Carol Wright:** That's okay. One of the things that I would like to ask is that any time there is a change to a use that affects somebody's property value, I think it is incumbent upon you guys to come up with some way to make certain that it is not left to Town Dock or up to a little thing on Facebook or something, a way to communicate to every property owner that is going to be affected by that change before you make it. I don't know how you do it but I just know that there are a ton of people that don't know about this. I went back and read through the definitions that you guys had. Martin has already talked about the covenants. Within most of the R1 district there are covenants attached to every lot. There are probably five or six different sets. The old village part, the R2 and R3 are mostly the old village and they don't have covenants so you are kind of clear with that but in the R1 it is different. When people buy in those neighborhoods, they are kind of expecting it to be residential and don't blend it with something else. Anything blended should be in the mixed use section which is kind of where it belongs. It makes no sense to me to have an ordinance that is going to allow some uses that they are now proposing to build out in R1 that in 99% of the cases are not allowed in their restrictive covenants so (inaudible) and you are asking for problems and you are forcing people who live there to have to come in and argue against that for something they shouldn't have to and that is if they know about it. Just be careful what you do with R1 with the fact that the restrictive covenants are there. One last thing, the changes recently made to R2 and R3, and this has been a while back, where you allowed the Air B & Bs. Those are the types of things that concern me when they get made because they have a tendency to snowball and get misused with respect to what happens next. All of a sudden somebody is living next to something that is like an Air B & B that they didn't intend to live next to. I hate to see that happen in R1. That's it, thank you.

**Mayor Belangia:** Manager Miller, did you....

**Manager Miller:** Did you want me to address any of that?

**Mayor Belangia:** Sure, I know you had something you wanted to say.

**Manager Miller:** I specifically had a conversation with the attorney about covenants because there was a situation at the time was if the covenants say 10' setbacks and the GMO says 7' setbacks, where do I go; and the answer was we only enforce the GMO – period. And the GMO is a living document that should expect to be changed according to changes in statute. Most of these changes are because of changes in statute to make us compliant. During those 12 meetings that the Planning Board had, starting in August, all of which were noticed in the local newspaper and the Public Hearing in October was noticed in September, beginning of September, for October and noticed again in October for today, so I have more than surpassed all of the legal requirements for notification. In those conversations, there are things you would like to see, and would be acceptable in an R1, like a pleasure craft marina and like a golf course or tennis courts, pickleball courts, things like that – if you allow a gathering of people, X number of people, on X amount of land for recreational purposes, you can no longer then restrict other things in that same zone so if you want to say you are only going to have residential in R1, you are only going to have residential in R1. You won't have any of the other amenities either. But again, it is a living document that changes as we come current with state and federal statute. But beyond changing it to go according to the statute, the covenants, if we only enforce the GMO – period, and if the covenants are different, the homeowner, you have to have been offended by somebody doing something against the covenants before you can bring any action and that action goes through the court system. If you have somebody whose neighbor decides to put up a fence in Dolphin Point, where you are not allowed to have a fence, they would have to either go through the homeowners association and see if that has any teeth and if the homeowners association didn't do anything, then it goes to court. The Town is nowhere in the middle of that because as the Town, we don't regulate fence so it's two totally different levels of government.

**Mayor Belangia:** Thank you.

273 **Carol Wright:** Assuming I have probably 30 seconds left because I have one comment if I may, then I don't  
 274 understand the purpose of Section 9 which says if there is a conflict between the covenants and the GMO that the  
 275 more stringent shall rule because of that is the case then the more stringent shall rule.  
 276 **Manager Miller:** It will rule until somebody decides to take it to court. Your covenants are much more restrictive  
 277 than the GMO.  
 278 **Mayor Belangia:** The next one on the list, thank you Carol and Manager Miller, Grace Evans.  
 279 **Grace Evans:** I also have a question, I just want to be sure what these are because I know when we first did the  
 280 GMO so many years ago we did not have some of the things we have now and one of them is we've run out of  
 281 getting Sears Roebuck house kits and so does the manufactured, does that include kits, does that include what I use  
 282 to do the solar house which was SIPS and they do have a wind criteria for them but I was just wondering what MFD  
 283 (inaudible). Was it just trailers and then what is a trailer these days.  
 284 **Manager Miller:** There is a federal definition, accepted definition, for Class A manufactured homes and Class B  
 285 manufactured homes.  
 286 **Grace Evans:** So I go to the what to find it.  
 287 **Manager Miller:** The Federal Administrative Code.  
 288 **Commissioner Overcash:** Does she come ask you off line (?).  
 289 **Grace Evans:** But if somebody came to you and said they wanted to building something that was not stick built,  
 290 would you have to...  
 291 **Manager Miller:** I would have to find out which class that home was.  
 292 **Grace Evans:** Okay, well, maybe we ought to know. That was the main thing there. This is not the time to say  
 293 anything about the Fulcher's?  
 294 **Mayor Belangia:** No.  
 295 **Grace Evans:** Okay.  
 296 **Mayor Belangia:** Last one is Knute (Bysheim).  
 297 **Knute Bysheim:** Hello everybody. My name is Knute Bysheim. We talked a month ago at the last meeting about  
 298 proposals to the ordinance for having a lift that cannot exceed a 35-ton capacity. I was told that I would be  
 299 grandfathered in. I would like to know if that could be put in writing for my benefit.  
 300 **Manager Miller:** What you have in writing tells you you can do whatever you like.  
 301 **Knute Bysheim:** Okay good.  
 302 **Commissioner Overcash:** Within those parameters.  
 303 **Manager Miller:** Within the parameters of the (inaudible)  
 304 **Knute Bysheim:** There are some definitions in here of commercial boat/ship yard and it kind of reads here:  
 305 Maintenance or repair services boat and ship, paint, scaling, above and below the water line, must all be contained  
 306 and enclosed – fixed roof facility. We have a height ordinance in the Town so it is very unlikely that a property  
 307 owner can build an enclosed, fixed roof facility for any of this purpose. That is one comment. It also goes on to say  
 308 boat repair services such as filter changes, engine repairs, maintenance, etc. may not be in a contained facility. If  
 309 these operations pose no risk in emitting pollutants into the surrounding air, land or water and my comment is that  
 310 most all repairs such as filters, changes, engine repairs, boat maintenance – they do pose a threat, a risk, to emitting  
 311 pollutants into the surrounding area so those are my two comments that I believe should be removed from this.  
 312 Thank you for your time.  
 313  
 314 **Commissioner White** made a **MOTION** to close the Public Hearing. Seconded by **Commissioner Overcash**.  
 315  
 316 **Commissioner White** made a **MOTION** to adopt the changes that have been submitted to the GMO with the  
 317 changes that Manager Miller noted on the red items that came after 10/25, which was the last change. Manager  
 318 Miller added that it was removing the definition of a marina and added a referring section in 9.2 that refers you to  
 319 other boat related. **Mayor Belangia** asked for the **MOTION** to be stated again. **Commissioner White** stated that  
 320 the **MOTION** is to approve the GMO changes received with the additions that **Manager Miller** spoke about  
 321 previously – removing the marina definition and adding C Section 4 through 4.3. **Commissioner Price** stated that he  
 322 had a copy where in 1.110 detached had been removed. Motion passed 5-0. **Commissioner Venturi** stated that she  
 323 would like to mention the tremendous amount of work that went into this project and that this was probably the third  
 324 time since she is here that changes have been sought and this is a working document as Manager Miller stated. She  
 325 complimented the Board and feels it is worth putting it into the order it is in now and allowing it to go forward.  
 326

327 **Mayor Belangia** opened the Public Hearing for the Annexation of 1400 Broad Street Extension. And now, Ms.  
328 Glenda Merritt.

329 **Glenda Merritt:** Good evening everyone, we own property at 1301 Broad Street Extension and this is Ms. Emma  
330 Smith. She also owns property out there and we got a letter about a week and a half, two weeks ago, we knew  
331 nothing about it and said for us to, if you had a discussion on it, on November the 8<sup>th</sup> so we came to find out about it  
332 because we know nothing about it. This is the first time we had heard anything about it and it was brought up by Mr.  
333 Billy Flockhart. He wants to be annexed in to the Town.

334 **Commissioner White:** Correct.

335 **Mayor Belangia:** Okay, Manager Miller.

336 **Manager Miller:** Yes ma'am. You received the letter because your property is within 150 feet of the Piggly Wiggly  
337 property. We are not attempting to annex you in any way, shape or form. It does not affect your property. Mr.  
338 Flockhart's property is attached by its northeast corner to the property that the Town owns at the Water Plant so it is  
339 a contiguous property to existing Town land that we will annex that way but it is just concerning his property. It will  
340 not affect yours in any way, shape or form.

341 **Glenda Merritt:** Okay, thank you very much. This is the information I need to take back to others. Thank you very  
342 much.

343 **Manager Miller:** I have had that question before.

344 **Mayor Belangia:** There's no one else for the Public Hearing?

345 **Manager Miller:** We have to do this really carefully, really carefully.

346 **Glenda Merritt:** Thank you all for listening.

347 **Commissioner Overcash:** Thank you for coming in.

348 **Commissioner White:** So now we need a motion to close.

349 **Mayor Belangia:** Yes.

350

351 **Commissioner White** made a **MOTION** to close this portion of the Public Hearing for the annexation but we still  
352 have one more to go. Seconded by **Commissioner Overcash**. Motion passed 5-0.

353

354 **5. Commissioner White** made a **MOTION** that the Board adopts, by this **MOTION**, including the official changes  
355 to the GMO map. Seconded by **Commissioner Venturi**. **Manager Miller** stated this is the annexation Ordinance.  
356 Exhibit A is the metes and bounds portion. Exhibit B is the map that we also have on here and it says we have drawn  
357 through our Certificate of Sufficiency. We have done the Public Hearing properly. We have noticed it in the  
358 Pamlico News, and you are accepting that property to be annexed in. Motion passed. 5-0.

359

360 **Mayor Belangia** opened the Public Hearing for the adoption of zoning change.

361

362 **Commissioner Overcash** made a **MOTION** that the Board accept the Planned Consistency and accept the new  
363 zoning. **Manager Miller** stated that the Board needs to accept the Statement of Zoning Consistency separately.

364

365 **Grace Evans, 301 Midyette St.:** On the Consistency, one of the things that bothered me when Wal-Mart came in  
366 there was the chance of overflow drainage into the pond of Whittaker Creek, I don't see any, mostly it's traffic flow  
367 there. How about water flow?

368 **Manager Miller:** That is not Consistency. That is compliance with existing regulations. This property is coming in  
369 as a nonconforming property. There is no more land to put asphalt on. We would not allow this to be built in our  
370 town limits as it sits on that property right now. However, there is a significant portion of this property, this is the  
371 end of the asphalt and the pond is about over here and they still own a good portion of property there (Manager  
372 Miller is referring to a map) none of that will be allowed to be made impermeable but other than it being a  
373 nonconforming property in the way it is situated on the land, it is consistent with the plans that we provide the  
374 amenities and try to extend the Town limits to get around that curve to connect both parts of town.

375 **Grace Evans:** Okay, they could put trees there maybe.

376 **Unknown:** So the square footage, is that conforming?

377 **Manager Miller:** It's above. He can't add a popsicle stand if not on top of existing asphalt..

378

379 **Commissioner White** made a **MOTION** to close the Public Hearing. Seconded by **Commissioner Overcash**.  
380 Motion passed 5-0.

381

382 **Commissioner Overcash** made a **MOTION** to accept the Zoning Consistency. Seconded by **Commissioner**  
383 **Winfrey**. Motion passed 5-0.

384  
385 **Commissioner White** made a **MOTION** that the Board adopts the new zoning by **MOTION** with the changes to  
386 the GMO map. Seconded by **Commissioner Overcash**. **Manager Miller** explained the changes to the GMO map  
387 that will take place as soon as we get the revised map back from ECCOG, but the effective date will be today.  
388 Motion passed 5-0.

#### 389 390 **6. Chapter H Adjustment.**

391 Manager Miller was contacted by Mr. Jim Barton with what he believed to be inconsistencies in Chapter H. After  
392 consulting with our attorney, he recommended that we remove Subsection B from Section 6 because it is redundant  
393 and not wholly redundant, makes things more confusing because it repeats part of what is in Section A but not all of  
394 what is in Section A so he suggested that we remove Section B. Mr. Barton also suggested that we change the rest,  
395 which Manager Miller did forward back to our attorney, and he said according to N.C. G.S. 168-189 "A city may by  
396 Ordinance regulate, restrict or prohibit the discharge of firearms at any time or place within the city except when  
397 used in defense of person or property or pursuant to the lawful directions of law enforcement." That covers your  
398 Subsection A and Points 1 and 2. On Point 3, our Ordinance says "Private citizens using small caliber firearms or  
399 shotguns to rid property of pests. When ridding property of pests, it is (inaudible) to use .22 caliber firearms or  
400 shotgun with nothing larger than a number 8 shot. Given the above cited statutory authorities, local governments  
401 may regulate, restrict or prohibit the discharge of firearms at any time in the city except 1 and 2. Manager Miller  
402 stated we do have the right to regulate the use of firearms. We can take out 3 so that they only way a firearm can be  
403 discharged is in defense of life and property or by law enforcement. Our attorney said we are fully within our rights  
404 to regulate it, to some extent, and it is consistent with other municipalities regulation and the option is to have a  
405 regulation or prohibit use altogether and he would be happy to answer any questions. Unless someone has been  
406 charged with discharging a weapon against this Ordinance, they do not have standing to bring a problem to the court  
407 system. Manager Miller stated she is confident with the attorney's response, if we remove Section B, we are good. A  
408 resident asked what if they are defending their dog being attacked by a coyote. Manager Miller stated if you are  
409 defending life and property, it does not matter the caliber. Mr. Barton asked why do we stipulate pest control when  
410 we do not define pest and specify .22 caliber 8-shot when any caliber can be used in defense of life and property and  
411 believes it is unnecessary.

412  
413 **Commissioner White** made a **MOTION** to adopt the regulation as stated by Manager Miller in Chapter H.  
414 Seconded by **Commissioner Overcash**. **Commissioner Venturi** feels she is not prepared to vote on this subject  
415 matter tonight as it is not a subject she knows very much about and does not feel she would vote to do anything to  
416 this this evening. **Commissioner Overcash** feels this has been researched very well by Manager Miller and feels we  
417 should go ahead with it. Motion passed 4-1.

#### 418 419 **7. Fulcher CAMA Permit response.**

420 Manager Miller stated that, as was expected, the attachments to the previous revised application were copied and  
421 pasted from the application that was denied to the new application. The application was revised the day of our last  
422 meeting and then again following several questions from Manager Miller. She also noted that the CAMA Authority  
423 also picked up the permits the Town had talked about during their questioning of the application. One is a  
424 stormwater permit issued in 2009; CAMA had asked for copies of that permit to be attached to this. Clarified that  
425 there would be no boat lift and no travel lift, which the revision indicates. Mr. Fornes, the signed agent for Mr.  
426 Fulcher's project, said the wrong paperwork was attached and everything was revised properly. We were mistakenly  
427 listed as the sewer district owner rather than Bay River and this also has been corrected. Manager Miller has signed  
428 the Land Use Permit as everything was allowable within our regulations. The project will extend and replace  
429 bulkhead, three new, wider, docks and six new slips. Commissioner White asked when work will start. Manager  
430 Miller stated it is up to CAMA and the list of nine things they asked for will need to be satisfied.

#### 431 432 **8. Public Hearing Requests.**

433 Mr. Dutton has not been able to contact all owners in Seahorse Landing so has asked for this to be pushed back to  
434 December. Mr. Sharpe has submitted an SUP for short-term rental at 309 High. He lives in town and owns another  
435 property, may be in sight of one another.



Commissioner White made a **MOTION** to set the Public Hearing for December 5 for two SUPs. Seconded by Commissioner Venturi. Motion passed 5-0.

#### 9. Budget Amendment.

Manager Miller requests for the Board to approve a Budget Amendment to increase Parks and Recreation Donation in the amount of \$10,559. This is a single, private donation to fund a dog park. The land has already been scouted and measured. This donation puts a down payment on fencing. There will be two separate areas, one for small dogs and one for large dogs. There will also be a water fountain, which has already been ordered. This project is in conjunction with the County.

Commissioner Overcash made a **MOTION** to approve the Budget Amendment. Seconded by Commissioner Winfrey. Motion passed 5-0. Maintenance is to be shared with the County. Tree Board has approved drainage and trees that are already there, good shade for the dogs. Rules will be posted.

#### 10. Quarterly Workshop.

Workshop was scheduled for November 30. Manager Miller stated that there will be a new Board coming on December 5. Mayor Belangia asked to reschedule the Quarterly Workshop to January 25, 2018 at 4pm.

#### 11. Police Report.

Presented by Officer Blayney. Officer Blayney went over the report, gave explanations. Manager Miller told the Board of an incident on Halloween where Officer Blayney, while handing out candy to children, flipped on the blue lights, scaring the children and then had to give them more candy. Commissioner White commented on the four reported Breaking and Enterings and one attempted Breaking and Entering and noted that this seemed to be an increase. Officer Blayney gave specific explanations.

#### 12. Manager's Report.

- Manager's Report
- Pierce Creek Dredging Project has passed the halfway point. First reimbursement has been received.
- Sidewalk repair – in the package there are photos and a proposal from Safe Sidewalks. They have been used previously. Estimate is \$8,400, does not include sidewalk at the Roe residence and several other places in town. Manager Miller stated there is \$3,000 in Powell Fund for sidewalk repair. Would the Board like for her to use that and do budget amendment for remainder or pull \$8,400 from General Fund and a budget amendment and use the \$3,000 to begin replacing sections that cannot be repaired. Commissioner Overcash and Commissioner Overcash feel this would be the “most bang for the buck.”
- Flood insurance – was running approximately \$1,500 per year. Bill received for this year was over \$4,000. We secured a new elevation certificate which puts us in an X zone, not a flood zone. The bill was resent at a cost of \$2,500. Manager Miller explained that we are now in a better zone and the bill has nearly doubled. Manager Miller contacted the League and was told that our existing property insurance, in an X zone, covers flood with a \$50,000 deductible. We can either pay the \$2,500 in addition or our current insurance will cover us because we are in an X zone. Commissioner Overcash felt that the League insurance “is a good way to go.” Board was in agreement.
- Manager Miller will be attending school from November 14-17 and has passed her first test, 20/21.
- There are two Planning Board vacancies, the seat left open with Eric Dammeyer's ascension to the Board and the other belonging to Bonnie Knapp. Manager Miller asked the Board to speak with people who may be willing to do that type of work, fairly intensive work sessions.
- Closures: November 10 for Veteran's Day, closing the office at 3pm on November 22 and closed November 23 and 24 for Thanksgiving.
- Staff Schooling: Jeannine Russo attended Records Retention class. Tammy Cox attended a Duke Energy event on outside lighting, new options and fixtures. Jesse Burgess, Andrew Cox and Josh Gibson will attend continuing education wastewater classes, they attend for free as we are hosting this class.
- Christmas/Appreciation party on December 1.
- Town Beach Beautification Project: Master Gardeners have chosen Bond Beach as their project to receive certification from Ag Extension. They have forwarded two large proposals to Manager Miller.
- North Carolina Municipalities who holds our insurance were here November 8 (today) to do our appraisal and were very pleased and impressed, with the water plant as well.

- Responses to questions from previous meeting: Mr. Bysheim about grandfathering. Ms. Sutter's drainage in front of her property is Town right of way and maintained as such. Cayton will re-establish the grass after work is completed but not sod; they are required to put it back the way it was. Regarding the ditch between she and her neighbor is not a right of way or easement. They each own to the center line of that ditch. If we clear the ditch, with signed paperwork from both parties, it will be completely cleared. Otherwise, the property owners are responsible.
- Dock reservations: Joe Valinoti requested dock reservations for Saturday, December 9 for the Spirit of Christmas Flotilla. Manager Miller will check back to 2016 for beginning and ending times for these closures. Commissioner White stated it was noon on Friday to noon on Sunday.
- Suzanne Gwaltney of the Tourism Board forwarded Manager Miller a resume for someone they would like appointed to their Board, Victoria Hardison. She is a lifelong resident of Pamlico County and real estate agent in Oriental. Tourism Ordinance allows for people who work in Oriental as well as people who live in Oriental to serve on their Board.

**Commissioner Venturi** made a **MOTION** to appoint Victoria Hardison to the Tourism Board. Seconded by **Commissioner White**. Motion passed 5-0.

**Commissioner Overcash** asked if Manager Miller had found the cleared check that had disappeared, possibly auditors? Not sure if they have it but we have copies of everything we need.

### 13. Committee Reports.

1. HWAC – August 10, 2017
2. HWAC – October 12, 2017

Lisa Thompson of Harbor Waterfronts Advisory Committee reported that their event at the waterfront on October 19 was very successful. Commissioner White commented that our docks are being extensively used. Lisa Thompson stated that there were over 47 successful pumpouts, however, the universal head has been stolen on a few occasions. Commissioner Winfrey said he can secure these.

### 14. Commissioners' comments.

Mayor Belangia spoke about an event at the Wildlife Ramp celebrating Coastal Heritage Day where a boat christening was held. There was a Proclamation from the Mayor. Mayor Belangia reminded all about the Glow Run to support Hospice of Pamlico County on November 18. Our next Board meeting will be held on December 5 at 7pm.

### 15. Adjourn.

**Commissioner Winfrey** made his final **MOTION** to adjourn. Seconded by **Commissioner Overcash**. Motion passed 5-0.

Meeting adjourned at 8:36pm.

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Sally Belangia, Mayor

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Diane H. Miller, Town Manager/Clerk

Approved \_\_\_\_\_, 2017 \_\_\_\_\_