

**TOWN OF LELAND
REGULAR COUNCIL MEETING
THURSDAY, DECEMBER 21, 2006
7:00 P.M.**

ASSEMBLY

The Town of Leland Council held their regular meeting on Thursday, December 21, 2006 at 7:00 p.m. at Leland Town Hall, 102 Town Hall Drive.

Present were: Walter Futch, Mayor; Councilmen: Brenda Bozeman, Gordon Hobbs and Tommy Wallace.

Also present were: Bill Farris, Town Manager; Carol Ann Floyd, MMC, Town Clerk; Landon Barker, Executive Assistant; Robyn Watts, CMC, Tax Collector; Steven Spruill, Planner I; Nicholas Mills, Planner I; Tim Evans, Chief Building Official; Osey Sanders, Police Chief and John Wessell, Town Attorney.

Absent was: Jimmy Medlin, Councilman.

7:01:44 PM CALL TO ORDER & INVOCATION

Mayor Futch called the meeting to order at 7:01 p.m. A quorum was present. Councilman Wallace gave the invocation. Everyone stood and gave Pledge of Allegiance to the Flag of the United States of America.

7:02:29 PM APPROVAL OF THE AGENDA

Mayor Futch asked if there were additions or deletions to the agenda. Mr. Farris asked that the following be added to the agenda:

- 17A Resolution – Approving 15 Certificate of Occupancy’s – Mallory Creek – Phase I
- 17B Discussion – Plan for shortfall on building permits if they continue to go down

Councilman Bozeman **MOVED, SECONDED** by Councilman Hobbs to approve the agenda with the additions as stated above. The **MOTION CARRIED UNANIMOUSLY**.

PUBLIC COMMENT

Councilman Bozeman stated that Barbara White, one of our employees has been very sick and is a widow lady and she had the opportunity to visit with her last week. Councilman Bozeman stated that Mrs. White told her something that she didn’t know and that it made her very proud. Councilman Bozeman stated that Mrs. White told her some of the staff from the town has been going to her home and their spouses and the men cleaned up her yard and the women cleaned up her house. Councilman Bozeman stated that it says a lot for our staff and that she appreciates it.

Councilman Hobbs stated that a citizen unable to be here tonight because of illness asked him to make a statement in his behalf to express a concern. Councilman Hobbs stated that it’s the lack of left hand turn signals in our downtown area. Councilman Hobbs stated that specifically he mentioned the bank and the Piggly Wiggly. Councilman Hobbs stated that the gentleman has had to sit through 3 lights just to make that turn. Councilman Hobbs stated that there needs to be a stoplight at the Kicking Mule at the intersection of Village Road and Lanvale Road.

7:06:51 PM RECOGNITION – CAROL ANN FLOYD, MMC – RECEIVED HER MASTER MUNICIPAL CLERKS FROM THE INTERNATIONAL INSTITUTE OF MUNICIPAL CLERKS ON NOVEMBER 30, 2006

Mayor Futch read the following statement:

The Town has been notified that our Town Clerk has received the designation of Master Municipal Clerk from the International Institute of Municipal Clerks (IIMC).

Carol Ann has been a member of the IIMC since 1995 and has received the extensive formal training, on the job training and community experience required for the designation

She joins an elite group of 10,256 members worldwide, there are only 518 people with this designation, and only 34 Master Municipal Clerks in North Carolina

I want you to join me and other members of Town Council in congratulating Carol Ann on this honor and expressing our appreciation for her hard work on our behalf.

CERTIFICATE PRESENTATION – CHIEF BUILDING OFFICIAL

Tim Evans, Chief Building Official, presented Eric Heunemann with his state certification for Level 1 Plumbing and Dana Williams with her state certifications for Level 1 for Plumbing & Mechanical.

APPROVAL OF CONSENT AGENDA

The consent agenda under consideration by the council was as follows:

- | | | |
|----|--------------------------------|--|
| A. | <i>Approval of Minutes</i> | <i>November 16, 2006 – Regular Meeting</i> |
| B. | <i>Resolution</i> | <i>Letter of Credit
LOC-06-2623 – Maco Road Partners, LLC – Grayson Park
– Phase I – Lots 23-53, 58-95 and Multifamily pads 1-60 –
\$314,417</i> |
| C. | <i>Resolution</i> | <i>Releasing – Letter of Credit
LOC-06-2124 – Stevens Home Investment, Inc. – Cove
Landing @ Mallory Creek – Phase I - \$254,572</i> |
| D. | <i>Finance</i> | <i>Budget Amendment 07-08 – Recognize
Revenue for Insurance Proceeds for damaged Public
Works Vehicle</i> |
| E. | <i>2006 Tax Releases</i> | |
| F. | <i>Hold Harmless Agreement</i> | <i>Brunswick County
Gregory Malpass – 9688 Holly Hills Drive – Dilapidated
Structure</i> |

Councilman Wallace **MOVED, SECONDED** by Councilman Hobbs to approve the consent agenda as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:10:39 PM PUBLIC HEARING – 2007-2008 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)

Mayor Futch opened the public hearing at 7:10 p.m.

Floyd Adams stated that \$850,000 dollars is the maximum amount that can be awarded to the town for a CDBG. Mr. Adams stated that the grant includes housing repair/replacement, street, water and sewer improvements including recreation to be located in a target area. Mr. Adams stated that this grant is concentrated grant and not a scattered site. Mr. Adams stated that

based on low to moderate income neighborhoods. It was the consensus of the council to look at Graham Road again.

Mayor Futch closed the public hearing at 7:20 p.m.

7:20:16 PM PUBLIC HEARING & ORDINANCE 06-28 – ANNEXATION PETITION – ANX-06-2459 – BRUNSWICK PROPERTIES, LLC – PARCEL #0290000301 – 1.99 ACRES

Mayor Futch opened the public hearing at 7:20 p.m.

Mr. Spruill gave the following presentation:

GENERAL INFORMATION

Applicant: Brunswick Properties, LLC
Purpose: Voluntary Annexation Petition of Parcel # 0290000301, 1.99 ± acres

SUMMARY

This is a voluntary annexation petition made by Brunswick Properties, LLC. The subject property is located near the intersection of Reed Rd and Valerian Lane, in-between the Lake Forest Subdivision and the Food Lion Shopping Center. The applicant wishes to annex an approximate 1.99 acre tract of land into the Town of Leland. There is one single family home located on the property which is allowed in all Town Zoning Districts except the Conservation District. Staff recommends approval of this annexation request.

7:22:57 PM Mayor Futch closed the public hearing at 7:22 p.m.

The ordinance under consideration by the council was as follows:

ORDINANCE NO. 06-28

AN ORDINANCE OF THE TOWN OF LELAND, NORTH CAROLINA,
TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF LELAND, NORTH CAROLINA CONTIGUOUS ANNEXATION
FOR, BRUNSWICK PROPERTIES, LLC, 1.99 ACRES + or –
PARCEL #0290000301

WHEREAS, the owners of the hereinafter described tract of land which is contiguous to the boundaries of the Town of Leland, North Carolina, have petitioned for its annexation pursuant to N.C.G.S. §160A-31; and

WHEREAS, the Town Council of the Town of Leland, North Carolina, has by Resolution directed the Town Clerk to investigate the sufficiency of said Petition; and

WHEREAS, the Town Clerk has certified the sufficiency of said Petition and a public hearing on the question of annexation was held at Leland, North Carolina, at 7:00 o'clock p.m. on the 21st day of December, 2006, after due notice had appeared by publication in the Wilmington Star-News on the 4th day of December, 2006; and the 11th day of December, 2006.

WHEREAS, the Town Council of the Town of Leland, North Carolina does hereby find as a fact that said Petition meets the requirements of N.C.G.S. §160A-31, as amended.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Leland, North Carolina, as follows:

1. By virtue of the authority granted by N.C.G.S. §160A-31, as amended, the following described territory is hereby annexed and made part of the Town of Leland, North Carolina as of the 21st day of December, 2006:

Being all of that real property described in Exhibit "A" attached hereto and incorporated herein by reference for a more particular description of the annexed property.

2. Upon and after the 21st day of December, 2006, the above-described territory and its citizens and property shall be subject to all debts, laws, ordinances and regulations in force in the Town of Leland, North Carolina, and shall be entitled to the same privileges and benefits as other parts of the Town of Leland, North Carolina. Said territory shall be subject to municipal taxes in accordance with the provisions of N.C.G.S. §160A-31.

3. The Mayor of the Town of Leland, North Carolina shall cause to be recorded in the office of the Register of Deeds of Brunswick County, and in the office of the Secretary of State in Raleigh, North Carolina, an accurate map of the annexed territory described in paragraph 1 herein, together with a duly certified copy of this ordinance. Such a map shall also be delivered to the Brunswick County Board of Elections, as required by N.C.G.S. §163-288.1.

This Ordinance adopted this 21st day of December, 2006.
(SEAL)

Mayor

ATTEST:

Town Clerk
APPROVED AS TO FORM:

Town Attorney

BEGINNING AT THE SOUTHEASTERLY CORNER OF TRACT 3R OF THAT CERTAIN MAP TITLED "LELAND PLAZA" RECORDED JULY 13, 2006 IN MAP CABINET 35 PAGE 387 IN THE BRUNSWICK COUNTY REGISTRY;
THENCE N55° 07'35"W, 296.69 FEET TO A POINT;
THENCE S34° 51'49"W, 86.06 FEET TO A POINT;
THENCE N55° 22'56"W, 100.79 FEET TO THE TRUE POINT OF BEGINNING;
THENCE N55° 24'42"W, 415.85 FEET TO A POINT;
THENCE S38° 33' 18"W, 210.00 FEET TO A POINT;
THENCE S55° 24' 42"E, 415.85 FEET TO A POINT;
THENCE N38° 33'18"E, 210.00 FEET TO THE TRUE POINT OF BEGINNING.
CONTAINING 1.99 ± ACRES
SAID TRACT BEING ALL OF TRACT 4A OF THAT CERTAIN MAP TITLED "LELAND PLAZA" RECORDED JULY 13, 2006 IN MAP CABINET 35 PAGE 387 IN THE BRUNSWICK COUNTY REGISTRY.

7:23:02 PM Councilman Hobbs **MOVED, SECONDED** by Councilman Bozeman to approve the consent agenda as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:23:11 PM PUBLIC HEARING & CONSIDERATION OF SITE SPECIFIC PLAN – SSP-06-2377 – BRUNSWICK FOREST – PHASE I – SECTION 3

Mayor Futch opened the public hearing at 7:25 p.m.

Mr. Mills gave the following presentation:

GENERAL INFORMATION

Applicant: Funston Land & Timber L.L.C.
Purpose: To review the site specific plan for Brunswick Forest Phase 1 Section 3 and make a staff recommendation based upon the review of the submitted plans and application.

BACKGROUND

Brunswick Forest is a planned unit development located approximately 2.4 miles south of the intersection of Hwy 74/76 and US Hwy 17. The applicant has requested review of the Site Specific Plan for Brunswick Forest Phase 1 Section 3 which has a proposed 94 single family lots and encompasses 73.48 acres.

SUMMARY

After reviewing the application and the site specific plan for Brunswick Forest Phase 1 Section 3, staff has concluded that all the following conditions of the Leland PUD ordinance have been met. Site specific plan 06-2377 consists of 94 proposed single family lots on 73.48 acres which produces a density of 1.28 units per acre. Brunswick Forest Phase 1 Section 3 includes 27.90 acres of designated open space. All roads are proposed to be public and are built to NCDOT/ Town of Leland pavement and sub grade standards. Water will be provided by the North Brunswick Sanitary District and sewer will be provided by the Town of Leland. The ground coverage calculation was referred back to the master land use plan and was found to meet the PUD ordinance. The storm water permit is in the application review process at this time.

Staff Recommendation: Approved

Planning Board Recommendation: Approved

7:25:04 PM Mayor Futch closed the public hearing at 7:25 p.m.

7:25:07 PM Councilman Bozeman **MOVED, SECONDED** by Councilman Hobbs to approve the site specific plan for Brunswick Forest Phase I Section 3 as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:25:24 PM PUBLIC HEARING & ORDINANCE 06-30 – TEXT AMENDMENT – TXT-05-1346 – WHEEL STOPS – SECTION 30-273 (PARKING REQUIREMENTS) STATEMENT OF CONSISTENCY

Mayor Futch opened the public hearing at 7:25 p.m.

Mr. Mills gave the following presentation:

GENERAL INFORMATION

Applicant: Withers & Ravenel
Purpose: Withers & Ravenel is requesting that the Town of Leland amend Chapter 30 Article VIII Section 30-273(i)(3) of the Leland Code of Ordinances.

BACKGROUND

The applicant requests that the Town amend Chapter 30 Article VIII Section 30-273 subsection (i)(3) which currently reads: 30-273(i)(3) Each perimeter parking space shall have a wheel stop or guard to prevent extension of the vehicle beyond the parking space and/or over sidewalks;

SUMMARY

Withers and Ravenel has requested that The Town of Leland zoning ordinance Chapter 30 Article VIII Section 30-273(i)(3) be amended to read as follows:

30-273(i)(3) Each perimeter parking space shall have a wheel stop, guard, or D-style curbing to prevent the extension of the vehicle beyond the parking space. Where a sidewalk or other pedestrian walkway is within 36 inches of the perimeter of the parking area a wheel stop shall be required except when the sidewalk or pedestrian walkway is at least 7 feet in width with a minimum vertical separation of 5 inches between the parking area and the top the sidewalk or walkway.

Staff has reviewed the request and compared it to the future land use plan for Leland and determined that the request is consistent with that plan for the following reasons. The purpose of the wheel stop or guard is to prevent vehicles from extending into the pedestrian travel way. A 4-foot sidewalk will be maintained for pedestrians by extending the sidewalk an additional three feet and requiring a 5-inch vertical separation between sidewalks and parking areas. The proposed ordinance also allows the option of leaving 36 inches of pervious surface between the parking area and sidewalk. This also achieves the objective of preventing vehicles from extending into pedestrian travel ways. This request for an amendment to the ordinance gives reasonable flexibility to construct parking and pedestrian travel ways.

Staff Recommendation: Approval

Planning Board Recommendation: Approval

It was the consensus of the council after some discussion to change at least 7 feet in width to 8 feet in width.

7:28:56 PM Mayor Futch closed the public hearing at 7:45 p.m.

The ordinance and consistency statement under consideration by the council were as follows:

ORDINANCE NO. 06-30

Town Council
Town of Leland, North Carolina

Date: December 21, 2006

AN ORDINANCE OF THE TOWN COUNCIL OF
THE TOWN OF LELAND, NORTH CAROLINA
AMENDING CHAPTER 30 OF THE CODE OF ORDINANCES,
TOWN OF LELAND, NORTH CAROLINA

The Town Council of the Town of Leland, North Carolina, doth ordain:

1. That the definition of Off Street Parking Requirements as set forth in Sec. 30-273(i)(3) of the Code of Ordinances, Town of Leland is amended to read as follows:

30-273(i)(3) Each perimeter parking space shall have a wheel stop, guard, or D-style curbing with a vertical separation of 5 inches, to prevent the extension of the vehicle beyond the parking space. In addition, where a sidewalk or other pedestrian walkway is within 36 inches of the perimeter of the parking area a wheel stop shall be required; if the sidewalk or pedestrian walkway is at least 8 feet in width with a minimum vertical separation of 5 inches between the parking area and the top the sidewalk or walkway, no additional wheel stop is required.

2. If this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to that end the provisions of this ordinance are declared to be severable.

3. Any ordinance or any part of the ordinance in conflict with this Ordinance, to the extent of such conflict, is hereby repealed.

4. This Ordinance is adopted in the interest of public health, safety and general welfare of the inhabitants of the Town of Leland, North Carolina, and shall be in full force and effect from and after its adoption.

This Ordinance adopted this 21st day of December, 2006.

Mayor

ATTEST:

Town Clerk
(SEAL)

APPROVED AS TO FORM:

Town Attorney

November 6, 2006

STATEMENT OF CONSISTENCY WITH LOCAL PLANS

Case #: ZTA-05-1346

Applicant: Withers & Ravenel

Purpose: A request to amend Chapter 30, Article VIII, Section 30-273 Off-street parking requirements; (i)(3) to read "Each perimeter parking space shall have a wheel stop, guard, or D-style curbing to prevent the extension of the vehicle beyond the parking space. Where a sidewalk or other pedestrian walkway is within 36 inches of the perimeter of the parking area a wheel stop shall be required except when the sidewalk or pedestrian walkway is at least 8 feet in width with a minimum vertical separation of 5 inches between the parking area and the top the sidewalk or walkway."

Consistency with the Future Land Use Plan:

Section (6) (a) (2) states the Town of Leland will provide greater consideration for pedestrians in transportation and traffic planning, and also in parking areas.

Section (6) (a) (3) states that Leland will require, and will promote and develop, pedestrian causeways, breezeways and crossings.

Consistency with other matters: The proposed ordinance would allow an alternative that would promote a wider area for pedestrian use, thus encouraging that use. This option also removes a tripping hazard for pedestrians, aesthetics and appeal of a parking lot structure.

Planning Board Chairman

Date

Mayor

Date

7:30:06 PM Councilman Wallace **MOVED, SECONDED** by Councilman Bozeman to adopt Ordinance 06-30 and the statement of consistency as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:30:19 PM **PUBLIC HEARING & UPDATE – FINANCING CONTRACT FOR THE CONSTRUCTION OF THE WESTPORT FIRE STATION LOCATED OFF HIGHWAY 133**

Mayor Futch opened the public hearing at 7:30 p.m.

Mr. Farris recommended opening the public hearing and continue until the next meeting. Mr. Farris stated that the bids came well over the estimates. Mr. Farris stated that we will have to re-bid the project. Mr. Farris stated that the low bid will not be able to complete the project. Mr. Farris asked that the council declare the low bidder is not responsive. Mr. Farris stated that the next lowest bid is Paragon at \$19,000 dollars more for a total of \$1,859,788. Councilman Wallace **MOVED, SECONDED** by Councilman Bozeman to continue the public hearing until the next regular meeting on Thursday, January 18, 2007 at 7:00 p.m. or shortly thereafter at Leland Town Hall. The **MOTION CARRIED UNANIMOUSLY**.

7:35:37 PM Councilman Bozeman **MOVED, SECONDED** by Councilman Hobbs that Hall Builders were not found to be the lowest responsible bidder and authorize the town manager to negotiate with the next lowest bidder, which was Paragon Building Corporation at 1,859,788.

7:36:02 PM CONTINUED PARKS & RECREATION – RESOLUTION – CONTRACT – PARKS & RECREATION MASTER PLAN

The resolution under consideration by the council was as follows:

A RESOLUTION OF THE
TOWN OF LELAND, NORTH CAROLINA
TO APPROVE SCOPE OF SERVICES FOR A
PARKS AND RECREATION MASTER PLAN

WHEREAS, the Town Council recognizes the need for a comprehensive long range plan for parks, recreation and open space.

WHEREAS, the Town Council appropriated \$13,000.00 to Parks and Recreation Professional Services for the creation of a Master Plan.

NOW, THEREFORE BE IT RESOLVED that the draft scope of services of Wilbur Smith Associates for the preparation of the Parks, Recreation and Open Space Master Plan be approved.

This Resolution adopted this 21st day of December 2006.

Walter B. Futch Jr., Mayor

Carol Ann Floyd, MMC, Town Clerk

7:36:21 PM Councilman Bozeman MOVED, SECONDED by Councilman Wallace to adopt the resolution as presented. The MOTION CARRIED UNANIMOUSLY.

7:36:58 PM RESOLUTIONS – DEDICATION OF PUBLIC FACILITIES – WESTPORT – PHASE I & PHASE II

The resolutions under consideration by the council were as follows:

Town Council
Town of Leland, North Carolina

Date: December 21, 2006

A RESOLUTION OF THE TOWN OF LELAND, NORTH CAROLINA
OFFICIALLY ACCEPTING STREETS, STORMWATER
DRAINAGE IMPROVEMENTS AND SIDEWALKS IN
PHASE 1, SECTIONS 1 THROUGH 7, WESTPORT SUBDIVISION

WHEREAS, the Developer of Phase 1, Sections 1 through 7 of Westport Subdivision has completed installation of the approved infrastructure to include streets, stormwater drainage and sidewalks in accordance with standards of the Town of Leland, NC; and

WHEREAS, the Developer of the above-referenced sections of Westport Subdivision has executed a Warranty Deed conveying ownership of the streets within the sections of Westport Subdivision described herein to the Town of Leland, NC; and

WHEREAS, the Town by its execution of this Resolution intends to accept such improvements and to be responsible for the maintenance of such improvements in the future, subject to any warranties required from the Developer in accordance with applicable Town Ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Leland, North Carolina that:

1. The Town of Leland hereby accepts for ownership, operation and maintenance the streets, stormwater drainage improvements and sidewalks constructed to Town standards for Westport Subdivision, Phase 1, Sections 1 through 7 as shown on those maps recorded in Map Book 29 at Page 361, Map Book 29 at Pages 491-492, Map Book 30 at Page 239, Map Book 30 at Page 324, Map Book 31 at Pages 107-108, Map Book 31 at Page 109 and Map Book 31 at Pages 139-140, Brunswick County Registry, together with improvements consisting of stormwater drainage, sidewalks and any public utilities rights-of-way. The total value of said improvements is estimated to be \$1,942,749.00.

2. This Resolution shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract, or to otherwise reduce or eliminate the rights of the Town, its agents, and employees against any other party connected with or in any way related to the development of these subdivisions or the installation, operation, and maintenance of all public facilities within said subdivisions. Furthermore, this Resolution is not to be interpreted as a waiver of any defense or immunities which the Town, its agents, or employees may assert or have been entitled to.

3. All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the Town and any and all benefits derived therefrom shall inure to the Town, its agents, and employees. Such acceptance is conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the property dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purposes;

that the property is free and clear of any deed of trust, mortgage, lien, or assessments, and that the said dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such public facilities against any and all claims and demands whatsoever.

This Resolution adopted this 21st day of December, 2006.

Mayor

ATTEST:

Town Clerk

(SEAL)

Town Council
Town of Leland, North Carolina

Date: December 21, 2006

A RESOLUTION OF THE TOWN OF LELAND, NORTH CAROLINA
OFFICIALLY ACCEPTING STREETS, STORMWATER
DRAINAGE IMPROVEMENTS AND SIDEWALKS IN
PHASE 2, SECTIONS 1, 2 AND 2A, WESTPORT SUBDIVISION

WHEREAS, the Developer of Phase 2, Sections 1, 2 and 2A of Westport Subdivision has completed installation of the approved infrastructure to include streets, stormwater drainage and sidewalks in accordance with standards of the Town of Leland, NC; and

WHEREAS, the Developer of the above-referenced sections of Westport Subdivision has executed a Warranty Deed conveying ownership of the streets within the sections of Westport Subdivision described herein to the Town of Leland, NC; and

WHEREAS, the Town by its execution of this Resolution intends to accept such improvements and to be responsible for the maintenance of such improvements in the future, subject to any warranties required from the Developer in accordance with applicable Town Ordinances.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Leland, North Carolina that:

1. The Town of Leland hereby accepts for ownership, operation and maintenance the streets, stormwater drainage improvements and sidewalks constructed to Town standards for Westport Subdivision, Phase 2, Sections 1, 2 and 2A as shown on those maps recorded in Map Book 32 at Pages 1-3, Map Book 32, Page 433 and Map Book 33, Pages 227-229, Brunswick County Registry, together with improvements consisting of stormwater drainage, sidewalks and any public utilities rights-of-way. The total value of said improvements is estimated to be \$1,823,420.00.

2. This Resolution shall not be interpreted in any way to relieve any developer, contractor, subcontractor, insurance company, owner, or other person of his individual or several obligations under any ordinance, policy, or contract, or to otherwise reduce or eliminate the rights of the Town, its agents, and employees against any other party connected with or in any way related to the development of these subdivisions or the installation, operation, and maintenance of all public facilities within said subdivisions. Furthermore, this Resolution is not to be interpreted as a waiver of any defense or immunities which the Town, its agents, or employees may assert or have been entitled to.

3. All rights, privileges and warranties of whatsoever nature and kind, for equipment, supplies, materials, goods, and services shall be assigned to the Town and any and all benefits derived therefrom shall inure to the Town, its agents, and employees. Such acceptance is conditioned upon the owners covenanting and warranting that they are lawfully seized and possessed of all the property dedicated to the public; that they have good and lawful authority to dedicate the same to the public for the stated purposes; that the property is free and clear of any deed of trust, mortgage, lien, or assessments, and that the said dedicators for their heirs, successors, executors, administrators, and assigns, covenant that they will warrant and defend the dedication of such public facilities against any and all claims and demands whatsoever.

This Resolution adopted this 21st day of December, 2006.

Mayor

ATTEST:

Town Clerk

(SEAL)

7:39:31 PM Councilman Bozeman **MOVED, SECONDED** by Councilman Wallace to adopt the resolution for Phase I as presented. The **MOTION CARRIED UNANIMOUSLY**.

Councilman Wallace **MOVED, SECONDED** by Councilman Bozeman to adopt the resolution for Phase II as presented. The **MOTION CARRIED UNANIMOUSLY.**

7:40:15 PM RESOLUTION – ONLINE PAYMENTS

The resolution under consideration by the council was as follows:

Introduced by: Bill Farris, Town Manager Date: 12/21/2006
Resolution authorizing online payment program

INTENT/PURPOSE:

At the November 19, 2006 meeting, Council requested staff to further research the feasibility of accepting online payments. Staff's research focused on two major requirements. The online payment service should be compatible with the Town's accounting software to avoid additional processing costs; and the service should have reasonable transaction costs.

EDS, Inc. meets both of these requirements. The service is compatible with the Citi-Pak accounting software. The cost per transaction for utility customers is \$2.50 and the cost for property taxes is 2.95% of the payment amount. These costs are consistent with other services.

The Town Attorney approved online payment of property taxes as long as the charge is paid by the property owner.

The resolution authorizes implementation of the service.

THEREFORE, BE IT RESOLVED:

That, the Council authorizes provision of online payment services with Southern Software (Citi-Pak) hosted by EDS, Inc. The service will be offered through the Town's website for an initial transaction cost of \$2.50 for utility bills and 2.95% of payment amount for property taxes.

Walter B. Futch, Jr., Mayor

Adopted at a regular meeting

on December 21, 2006

Attest:

Carol Ann Floyd, MMC, Town Clerk

7:44:07 PM Councilman Bozeman **MOVED, SECONDED by Councilman Hobbs to adopt the resolution as presented. The **MOTION CARRIED UNANIMOUSLY.****

7:44:24 PM RESOLUTION – IN SUPPORT OF WIDENING HIGHWAY 74/76 BETWEEN LELAND & WILMINGTON

The resolution under consideration by the council was as follows:

Introduced by: Town Council Date: 12/21/2006
Resolution requesting NCDOT to widen US 17 from
NC 133 interchange to Memorial Bridge

INTENT/PURPOSE:

At its meeting on November 19, 2006, Town Council discussed the problem of traffic congestion on Village Road and its direct relation to congestion on US 17 between NC 133 Village Road and the Cape Fear Memorial Bridge (the Causeway). Congestion on this section of US 17 is worse as a result of the opening of the Martin Luther King Jr. Parkway in New Hanover County and completion of I-140 between I-40 and US 421. Council also discussed the priority of the planned expansion of Village Rd. north of Old Fayetteville versus expansion of the Causeway to six lanes. Finally, Council expressed interest in organizing a community effort to encourage the NCDOT to upgrade the Causeway.

As a result of the discussion, Council requested staff to prepare a resolution requesting the NCDOT to take steps to widen the Causeway for consideration at the December 21, 2006 meeting.

Widening of the Causeway is one of the Tier 1 projects included in the MPO Long Range Thoroughfare Plan. The cost estimate is \$12,000,000. The project is included in the 2007-2013 TIP (R-3601), but it is not funded.

Upgrade of Village Rd. from S. Navassa to Lanvale also is a Tier 1 project in the Thoroughfare Plan. This project is in the TIP and is scheduled for ROW acquisition in FY 2012 and construction in FY 2013. The TIP cost estimate is \$15,986,000.

(Widening of Village Rd. from US 17 to S. Navassa is scheduled for FY 2008 and is estimated at \$8,616,000.)

THEREFORE, BE IT RESOLVED:

THAT, the Council expresses its support for expanding the Causeway to eight lanes and strongly encourages the North Carolina Board of Transportation to accelerate the planning for this project to FY 2007 and to provide funding to construct the project as soon as possible thereafter;

THAT, the Council encourages other local governments and organizations in northern Brunswick County and surrounding counties to take similar action to encourage expansion of the Causeway;

THAT, the Council, in concert with the MPO and its Board of Transportation representative, initiate a review of transportation priorities for the community to ensure that available funds are allocated in the most cost-effective manner as appropriate; and THAT, the Council take steps to establish a fund to support efforts to advance the Town's transportation priorities.

Walter B. Futch, Jr., Mayor

Adopted at a regular meeting
on December 21, 2006
Attest:

Carol Ann Floyd, MMC Town Clerk

7:49:21 PM Councilman Bozeman **MOVED, SECONDED** by Councilman Wallace to adopt the resolution as presented. The **MOTION CARRIED UNANIMOUSLY**.

Mayor Futch stated that the second resolution would be what we asked all of the towns to in the MPO to adopt.

The resolution under consideration by the council was as follows:

Resolution requesting NCDOT to widen US 17 from
US 74/76 to Memorial Bridge

WHEREAS, members of the Metropolitan Planning Organization (MPO) are concerned about local traffic congestion and safety problems that result from high traffic volumes on the Causeway section of US 17, which extends from US 74/76 to the Memorial Bridge on the Cape Fear River; and

WHEREAS, opening of Martin Luther King Jr. Parkway and I-140 aggravated existing traffic congestion and safety problems on the Causeway; and

WHEREAS, upgrade of the Causeway to 6 lanes is one of the Tier 1 projects included in the MPO Long Range Thoroughfare Plan; and

WHEREAS, the Causeway widening project is included in the 2007-2013 TIP (R-3601) but not funded.

BE IT RESOLVED, THAT

The undersigned local governments that are members of the Metropolitan Planning Organization for transportation express their support for expanding the Causeway to eight lanes and strongly encourage the North Carolina Board of Transportation to accelerate the planning for this project to FY 2007 and to provide funding to construct the project as soon as possible thereafter.

_____ Town of Leland	_____ Date Adopted	_____ Attest
_____ Town of Belville	_____ Date Adopted	_____ Attest
_____ Town of Carolina Beach	_____ Date Adopted	_____ Attest
_____ Town of Kure Beach	_____ Date Adopted	_____ Attest
_____ Town of Navassa	_____ Date Adopted	_____ Attest
_____ City of Wilmington	_____ Date Adopted	_____ Attest
_____ Town of Wrightsville Beach	_____ Date Adopted	_____ Attest
_____ County of Brunswick	_____ Date Adopted	_____ Attest
_____ County of New Hanover	_____ Date Adopted	_____ Attest

Councilman Bozeman **MOVED, SECONDED** by Councilman Hobbs to adopt the resolution as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:50:56 PM RESOLUTION – TRANSPORTATION CORRIDOR PLANNING

The resolution under consideration by the council was as follows:

Introduced by: Bill Farris, Town Manager Date: 12/21/2006
Resolution affirming policy on transportation corridor planning

INTENT/PURPOSE:

Council has established plans and policies to ensure that transportation needs are met as the town grows and develops. In 2005, Council endorsed the Long Range Thoroughfare Plan for the Wilmington metropolitan area, which was subsequently adopted by the NC Board of Transportation. Also in 2005, the Council adopted the US 17/NC 133 Collector Street Plan, which identifies a system of smaller facilities that connect arterials.

Sec. 22-76 of the subdivision regulations require subdivision plats to include thoroughfares where applicable, and Sec. 22-145(e) provides that the planning board may require access to adjoining properties when it is deemed necessary.

Proposed corridors shown in the plans are general, but Town staff and advisory boards, using the best available information, must make every effort to protect corridors as development takes place. Loss of the corridors will result more costly facility development and the potential for major disruption to existing neighborhoods.

Ensuring that Council’s policy regarding preservation of corridors and rights-of-way is clear will provide valuable guidance. In addition, developing more precise location for the corridors will make it easier to identify and preserve them.

THEREFORE, BE IT RESOLVED:

THAT, Council affirms its policy to take all steps practical to identify and preserve corridors for future transportation facilities and directs staff, Planning Board, other advisory boards to take necessary steps to implement the policy.

THAT, Town staff is directed to begin a process of refining the location of planned corridors that reflects existing transportation facilities, environmental conditions, existing and planned development, cost, and other relevant factors. The process will address facilities in order of priority and need.

Walter B. Futch, Jr., Mayor

Adopted at a regular meeting
on December 21, 2006
Attest:

Carol Ann Floyd, MMC, Town Clerk

7:58:06 PM Councilman Hobbs MOVED, SECONDED by Councilman Wallace to adopt the resolution as presented. The **MOTION CARRIED UNANIMOUSLY**.

7:59:12 PM ANNEXATION PETITION – ANX-06-2453 – BEASLEY PIGFORD PROPERTIES, LLC – PARCEL #0480003 – 9661 CHAPPELL LOOP ROAD RESOLUTION – DIRECTING THE CLERK TO INVESTIGATE THE SUFFICIENCY OF THE ANNEXATION PETITION

Mr. Spruill gave the following presentation:

GENERAL INFORMATION

Applicant: Beasley Pigford Properties, LLC
Purpose: Directing the Clerk to investigate the sufficiency of the Voluntary Annexation Petition of Parcel # 04800003, 93.16 ± acres

SUMMARY

This is a voluntary annexation petition made by Beasley Pigford Properties, LLC. The subject property is located near the intersection of Chappell Loop Rd and Raceway Rd. The applicant wishes to annex an approximate 93.16 acre tract of land into the Town of Leland. The first step of the annexation procedure is directing the clerk to investigate the sufficiency of the annexation petition.

The resolution under consideration by the council was as follows:

RESOLUTION
DIRECTING THE CLERK TO INVESTIGATE A
PETITION RECEIVED UNDER G.S. 160A-031

(Beasley Pigford Properties, LLC – Parcel #04800003 – 93.16 acres)

WHEREAS, a petition requesting annexation of an area described in said petition was received on December 21, 2006 by the Leland Town Council, said petition is attached hereto as Exhibit A; and

WHEREAS, G.S. 160A-31 provides that the sufficiency of the petition shall be investigated by the Town of Leland Clerk before further annexation proceedings may take place; and

WHEREAS, the Leland Town Council of the Town of Leland of Brunswick County deems it advisable to proceed in response to this request for annexation;

NOW, THEREFORE, BE IT RESOLVED by the Leland Town Council of the Town of Leland of Brunswick County that:

The Town of Leland Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the Leland Town Council the result of her investigation.

This resolution adopted this 21st day of December, 2006.

Mayor

ATTEST:

Town Clerk

(SEAL)

8:03:02 PM Councilman Hobbs **MOVED, SECONDED** by Councilman Bozeman to adopt the resolution as presented. The **MOTION CARRIED UNANIMOUSLY**.

SET PUBLIC HEARINGS

Regular Meeting – Thursday, January 18, 2007 – 7:00 p.m. or shortly thereafter

1) 2007 – 2008 Community Development Block Grant (CDBG)

2) Initial Zoning - IZ-06-2579 – Brunswick Properties, LLC – Valerian Dr. – R-6 with Performance Standards, Parcel # 0290000301 – 1.99 acres

3) Rezoning Request – REZ-06-2490 – Brunswick Properties, LLC – Valerian Dr. ±1.58 acres from C-2 to R-6 with Performance Standards, Parcel #'s 0290000305 & 02900002

4) Rezoning Request – REZ-06-2590 – Stokley Family Trust – 8694 Old Forest Dr. from R-15 to R-6 – Parcel # 037IA019

5) Rezoning Request – REZ-06-2589 – C&M Investment Properties – 805, 810, 815 Village Road ± 15.36 acres R-15/C-1 to M-F Parcel #'s 029MA006, 029MA007, 029MA00701 & 029LA030

6) Rezoning Request – REZ-06-2594 – James Malpass – 105 Dresser Lane from R-20 to C-1 Parcel # 038AB007

7) Site Specific Review – SSP-06-2481 – Cape Fear Engineering – East Commercial at Magnolia Greens – 8.2 acres

8:04:33 PM Councilman Wallace **MOVED, SECONDED** by Councilman Hobbs to set the public hearings for the next regular meeting as stated above. The **MOTION CARRIED UNANIMOUSLY**.

OLD/NEW BUSINESS

8:05:01 PM **DISCUSSION – SETUP SEWER WORKSHOP – MAYOR FUTCH**

Mayor Futch stated that he received a call a few weeks ago from the sanitary district to set a meeting concerning something that the county needs. Mayor Futch stated that the assumption is that the county wants the sewer treatment plant permit that the sanitary district has, which is for 800,000 gallons discharge into the Brunswick River. Mayor Futch stated that concerns him a

little bit because that puts the county as the sole provider of sewer treatment in this part of the county, which we are in the plant. Mayor Futch stated that it may also buy some time for the county, but it may not benefit the Town of Leland. Mayor Futch stated that if the sanitary district gives the county their permit then they make want all of the capacity it generates. Mayor Futch stated that he met with organized a meeting with himself, Councilman Bozeman, Bill Browning, Perry Davis, Jeff Earp and Jimmy Sloan. Mayor Futch stated that it's still not knowing what the county wants. Mayor Futch stated that the 750,000 gallons that the town has is probably going to be insufficient for Brunswick Forest. Mayor Futch stated that he would like to have a sewer workshop and invite Mr. Earp and his group and anyone else who would like to be there. Mayor Futch stated that if we could get all the entities engineers there to see what the long term needs are going to be and see how we are going to provide them for whoever needs them. Mayor Futch stated that Mr. Earp and his engineers and he can be at a meeting on Thursday, January 11, 2007 sometime in the morning if it would be possible for the council to set up that meeting. Councilman Wallace **MOVED, SECONDED** by Councilman Bozeman to set a special meeting to conduct a sewer workshop at Leland Town Hall, 102 Town Hall Drive at 9:00 a.m. The **MOTION CARRIED UNANIMOUSLY**.

8:10:53 PM BOARD VACANCIES

Mayor Futch stated that there are 3 vacancies on the Planning Board beginning February. Mayor Futch stated that 2 people are eligible for reappointment they are Mike Leggett and Roy Lettieri. Mayor Futch stated that Carl Antos has term limited out. Mayor Futch stated that there are 2 vacancies coming up on the Board of Adjustments and an alternate position that has been vacant for a while. Mayor Futch asked that the applications that are on file be placed in their boxes for them to review. Mayor Futch stated that the planning board ordinance reads that the request has to be made in writing before December 31st, but anyone else could be nominated to be appointed that they don't have to fill out an application in advance.

8:14:08 PM RESOLUTION – APPROVING 15 CERTIFICATE OF OCCUPANCY’S – MALLORY CREEK – PHASE I

The resolution under consideration by the council was as follows:

Introduced by: Bill Farris, Town Manager Date: 12/21/2006
Resolution approving certificates of occupancy for Mallory Creek development

INTENT/PURPOSE:

At the June meeting, Council approved a special exception to the master land use plan to allow for construction of 250 homes prior to Phase II TIA. However, the approval stipulated that no COs would be issued until the NCDOT interim driveway permit improvements were installed.

The developer received a revised driveway permit on December 5, 2006 and has a letter of credit in place to ensure construction of the improvements.

THEREFORE, BE IT RESOLVED:

THAT, Council authorizes Town staff to issue up to 15 certificates of occupancy for the Mallory Creek development pending installation of required driveway improvements.

Walter B. Futch, Jr., Mayor

Adopted at a regular meeting
on December 21, 2006
Attest:

Carol Ann Floyd, MMC
Town Clerk

8:19:15 PM Councilman Bozeman **MOVED, SECONDED** by Councilman Hobbs to adopt the resolution as presented. The **VOTE CARRIED AS FOLLOWS:**

Councilman Bozeman	YES
Councilman Hobbs	YES
Mayor Futch	NO
Councilman Wallace	NO

THE MOTION FAILED FOR THE LACK OF A MAJORITY.

8:25:39 PM DISCUSSION – BUILDING PERMIT SHORTFALL

Mayor Futch stated that he was concerned that our budget is considerably supported by our building permits. Mayor Futch stated that it looks like they are starting to taper off and do we have a plan in place for how we become austere between now and the end of the year if these things don't recuperate. Mayor Futch stated that he is not saying that we are in that situation now, we are still above the total of what we should do at this point, but the trend is headed that way. Mayor Futch stated that the money trend is up according to the line. Mr. Farris stated that the money trend is up and the total number of permits is flat or declining. Mr. Farris stated that he didn't have those projections with him, but as he recalled the projection of the actual money at the end of this fiscal year's projection would be \$1.9 million dollars, which is above what we had projected.

8:29:07 PM OLD/NEW BUSINESS CONTINUED

Mr. Farris stated that the Lawrence Group charrette will be underway January 22, 2007. Mr. Farris stated that the Lawrence Group wants an advisory committee. Mr. Farris stated that maybe the Blue Ribbon Committee could be the advisory group. Mr. Farris stated that the public kickoff would be on Saturday, January 20, 2007 from 10 a.m. until 12 p.m. Mr. Farris stated that the group would meet with the advisory committee after the public meeting to discuss ideas.

REPORTS

- 1) MONTHLY FINANCIAL REPORT**
- 2) MONTHLY TAX REPORT**
- 3) MONTHLY UTILITIES REPORT**
- 4) MONTHLY POLICE ACTIVITY REPORT**
- 5) MONTHLY BUILDING INSPECTION REPORT**

The reports are for the council's information.

8:38:48 PM ADJOURNMENT

Councilman Wallace **MOVED, SECONDED** by Councilman Bozeman to adjourn the meeting at 8:38 p.m. The **MOTION CARRIED UNANIMOUSLY.**

Walter B. Futch Jr., Mayor

Carol Ann Floyd, MMC, Town Clerk

Approval Date: 01/18/07