

**Town Council Minutes  
Morehead City, North Carolina**

**Tuesday, November 13, 2012**

The Honorable Council of the Town of Morehead City met in Regular Session on Tuesday, November 13, 2012, at 5:30 p.m., in the Municipal Chambers located at 202 South 8<sup>th</sup> Street, Morehead City, North Carolina. Those in attendance were:

MAYOR:	Gerald A. Jones, Jr.
MAYOR PRO-TEM:	Harvey N. Walker, Jr.
COUNCIL:	George W. Ballou
	Bill Taylor
	Demus L. Thompson
	Diane C. Warrender
CITY MANAGER:	David S. Whitlow
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson W. Taylor, III, Derek Taylor, Mike Thomas
OTHERS:	Craig Hassler; Stephen K. Levy; Captain Anthony

Juliana, The Salvation Army; Mark Hibbs, Reporter, THE CARTERET NEWS TIMES; Ken Wood; Planning Director Linda Staab; Recreation Director Craig Lands; Tanner Davis; Barrett Davis; Vincent Martin; Mary Martin; Dave Pokela; Ruth Jones; Public Utilities Director Daniel K. Williams; Police Major Garland Terry; and several others.

**I. Regular Meeting Call to Order**

Mayor Jones opened the meeting at 5:30 p.m., Councilman Thompson gave the invocation and all joined in The Pledge of Allegiance.

**II. Special Presentations**

**The Salvation Army Kettle Campaign for 2012 -- Captain Anthony Juliana**

Captain Anthony Juliana, spoke on behalf of the Salvation Army, an international organization known for its evangelical, social and charitable work. There is a new way for volunteers to register on line at [www.registertoring.com](http://www.registertoring.com). An appeal was made for the Council and others to participate in the Christmas Kettle Program, which involves volunteers standing outside businesses, and playing or singing Christmas carols, or ringing bells to inspire passersby to place donations inside the trademark red kettles. Captain Juliana reported that 7,849 people came to the Salvation Army for help in Carteret County last year.

**West Carteret High School Marching Patriots Presentation of Resolution 2012-43**

The members of the West Carteret High School Band, "The Marching Patriots", were advised by the Disney Performing Arts representatives that they were selected as the only high school band to perform in the 2012 Disney Parks Christmas Parade in the Magic Kingdom at Disney World in Orlando, Florida. The 180 member band will leave November 28<sup>th</sup> for Orlando and return December 2. The band submitted a performance tape to be considered for the parade, but was also selected based on its commitment to academics, music education and performance in the community. Mayor Jones, on behalf of the Council of Morehead City, congratulated these young achievers and wanted them to know how proud Morehead City is for this special accomplishment. Mayor Jones also presented the band with a \$1,000 donation.

**III. Adoption of the CONSENT AGENDA**

*Councilman Taylor disclosed that with regard to Item III.G. on the CONSENT AGENDA, that his family owns property which stands to prosper from Port activity. City Attorney Nelson Taylor advised that this was not considered a conflict of interest.*

**III.A. Approval of Minutes: Tuesday, October 9, 2012, Regular Meeting  
Tuesday, October 16, 2012, Special Meeting**

*Approved the Minutes of Tuesday, October 9, 2012, Regular Meeting and Tuesday, October 16, 2012, Special Meeting and dispensed with the reading.*

**III.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for October 2012, in the amount of \$5,939.77; and Accept the Finance Director and Tax Collector Reports for October 2012**

*Approved the requests for release of overpayment of ad valorem taxes for October 2012, in the amount of \$5,939.77; and accepted the Finance Director and Tax Collector Reports for October 2012.*

**III.C. Adopt Resolution 2012-40 Declaring the Service Weapon and Badge Carried by Officer Robert D. Harman as Surplus and Authorize Award to Him upon his Retirement and Adopt Resolution 2012-41 Declaring the Service Weapon and Badge Carried by Lieutenant James Willard as Surplus and Authorize Award to Him upon his Retirement**

*Adopted Resolution 2012-40 Declaring the service weapon and badge carried by Officer Robert D. Harman as surplus and authorized award to him upon his retirement and Adopted Resolution 2012-41 Declaring the service weapon and badge carried by Lieutenant James Willard as surplus and authorized award to him upon his retirement. [Resolutions 2012-40 and 2012-41 are attached to these minutes and incorporated herein by reference.]*

**III.D. Adopt 2013 Council Schedule of Regular Meetings**

As per G.S. 143.318.12, the proposed 2013 Town Council Schedule of Regular Meetings is presented for Council approval.

*Adopted the 2013 Council Schedule of Regular Meetings as presented. [The 2013 Council Schedule is attached to these minutes and incorporated herein by reference.]*

**III.E. Adopt Resolution 2012-43 in Honor of the West Carteret High School Marching Patriots for their Upcoming Performance at Disney World, Orlando, Florida**

*Adopted Resolution 2012-43 in honor of the West Carteret High School Marching Patriots for their upcoming performance at Disney World, Orlando, Florida. [Resolution 2012-43 is attached to these minutes and incorporated herein by reference.]*

**III.F. Adopt Resolution 2012-44 Adopting the Municipal Records Retention and Disposition Schedule Dated September 10, 2012**

The 2009 Municipal Records Retention and Disposition Schedule which was adopted by the Morehead City Council on July 14, 2009, is currently in effect. The North Carolina Department of Cultural Resources, Division of Archives and History, has totally revised the Schedule dated September 10, 2012, incorporating changes and making the document more user friendly. The acceptance of this updated schedule must be approved by Council and sets the guidelines for record retention and disposition for City documents.

*Adopted Resolution 2012-44 Adopting the North Carolina Department of Cultural Resources, Division of Archives and History Municipal Records Retention and Disposition Schedule Dated September 10, 2012. [Resolution 2012-44 is attached to these minutes and incorporated herein by reference.]*

**III.G. Adopt Resolution 2012-45 in Support of the North Carolina State Port in Morehead City**

Morehead City and Carteret County Officials met with representatives of the North Carolina State Port and others regarding an expanded project, transportation and additional issues concerning the Morehead City State Port. The meeting was held on Tuesday, October 30, 2012, at 2:00 p.m., at the Crystal Coast Civic Center located at 3505 Arendell Street, Morehead City. The meeting was for informational purposes only and was open to the public.

At the meeting it was disclosed that the North Carolina State Ports Authority plans to begin shipping wood pellets to Europe from the Port of Morehead City in January 2014, according to Tom Bradshaw, Executive Director of the Ports Authority. He and others

presented information as well as potential impacts of this project.

The adoption of Resolution 2012-45 would lend Morehead City's support to this sustainable industry and use of the State Port. The Planning Committee of the Council reviewed the Resolution and recommended adoption.

*Adopted Resolution 2012-45 in Support of the North Carolina State Port in Morehead City. [Resolution 2012-45 is attached to these minutes and incorporated herein by reference.]*

### **III.H. Approve Acceptance of a CAMA Grant for the Jib Property Project on the Morehead City Waterfront**

Morehead City is in receipt of a CAMA grant in the amount of \$150,000 for Phase I of the Jib project improvements. The total cost of the project, excluding the statue donation from the Big Rock, is \$406,350 using figures from the City's Public Works staff. Based upon these figures, the local City cash match for Phase I is \$256,350. The Planning Committee and the Public Works Committee of the Council reviewed the grant and recommended moving forward with the project.

*Approved the acceptance of a CAMA Grant for the Jib property project on the Morehead City Waterfront in the amount of \$150,000.*

### **III.I. Approve a Contract with Bearing Point Consulting, Inc., for the Charles Wallace School Site Plan**

At the last meeting of the Public Works Committee of the Council, the proposal from Bearing Point Consulting to accomplish design services for a site plan at the Charles Wallace Property was reviewed. As requested in the RFQ [Request for Qualifications], Bearing Point has developed a scope of work to create a site plan that will identify a variety of tasks including landscaping, parking [both on and offsite], utility needs and to identify areas for potential artifacts and works of art. The fee proposed for the design is \$15,620 and is broken down in the proposal by task. Expenses related to an architectural rendering were not included nor recommended. The Public Works Committee recommended approval of the agreement with Bearing Point Consulting.

*Approved a contract with Bearing Point Consulting, Inc. for the Charles Wallace School Site Plan in the amount of \$15,620. [Attached to and made a part of these minutes by reference is the contract with Bearing Point Consulting, Inc.]*

***Councilman Thompson MOVED, seconded by Councilman Walker, and carried unanimously to adopt the CONSENT AGENDA in one [1] motion.***

### **IV.A. Public Hearing: Request for a Certificate of Convenience and Necessity [Limited Taxi Service Franchise] for Stephen Keith Levy, Owner – Adopt Ordinance 2012- 49**

City Manager David Whitlow reported that the application is for a limited taxi service in Morehead City. Stephen Levy, the owner of this transportation service has been in the business for over 24 years. The City Code provides that a Limited Taxi Service Certificate of Convenience and Necessity be granted for two [2] years. The process of obtaining such a certificate must pass two [2] readings before the City Council. The initial reading was held at the October 9, 2012 Council Meeting. The Public Safety Committee of the Council reviewed the request.

Councilman Walker questioned the insurance coverage provided by the applicant saying that he had spoken to Mr. Levy's insurance broker and learned that his current insurance is more of a personal coverage. In further conversation with the insurance broker, it was ascertained that if Mr. Levy uses the "for hire" license plate this action would necessitate him in securing a business owners policy. Councilman Walker continued that he spoke to two [2] other insurance companies who essentially said the same.

Mayor Jones opened the public hearing

Dallas Goodwin, 4000 Oak Street, Morehead City stated that on behalf of the applicant

he has been trying to get different quotes for the proper insurance and will provide proof of that insurance in the near future. He continued that Mr. Levy does a good job, provides a needed service and has a lot of people who depend upon him.

Mayor Jones closed the public hearing.

Councilman Taylor questioned the City Attorney as to his opinion regarding proper insurance coverage.

City Taylor Nelson Taylor stated that the insurance policy provided in the Agenda packet does not comply with the Morehead City ordinance or state statute. He advised that the Council take no action or approve the application subject to the proper insurance policy being presented.

Councilwoman Warrender stated that the policy in the packet was more than what was required for the regular taxi driver and that this was a last minute revelation which can be surmounted.

Councilman Ballou was of the opinion that Mr. Levy should not be allowed to provide service until he had the proper insurance coverage.

Councilman Taylor questioned if Mr. Levy had a wreck would the insurance cover the injured individual and could the City be held liable.

City Attorney Nelson Taylor replied Mr. Levy needed commercial insurance in order to work.

***Councilwoman Warrender MOVED, seconded by Councilman Walker, to adopt Ordinance 2012-49 granting a Certificate of Convenience and Necessity [Limited Taxi Service Franchise] to Stephen Keith Levy if he can provide the necessary insurance within five [5] days.***

Further discussion ensued.

***Councilman Warrender withdrew her initial MOTION.***

***Councilman Warrender MOVED, seconded by Councilman Walker, and carried unanimously, that the City will issue a Certificate of Convenience and Necessity [Limited Taxi Franchise] to Stephen K. Levy once he can produce a letter or binder proving that he has the proper insurance. He was five [5] business days to provide proof of such insurance. Until he does so, he will not be able to operate as a taxi service.***

**IV.B. Public Hearing: City Initiated Voluntary Contiguous Annexation Request for 1208 Mizzell Drive, 0.61 acres, Tax PIN #6376-1297-8281-000, zoned R15M [Single-Family Residential/Manufactured Home] District -- Adopt Ordinance 2012-44**

Planning Director Linda Staab reported that the property under consideration for annexation is contiguous to the present City limits, contains approximately 0.61 acres and is zoned R15M [Single-Family Residential/Manufactured Home] District. The property is the recently City acquired home adjacent to O'Neal Field. The site in question is not part of a subdivision, and therefore, will not fragment a subdivision. The current tax value of the property is estimated to be \$107,274. The Planning Committee of the Council reviewed the request.

Mayor Jones opened the public hearing.

Mary Martin, 1211 Mizzell Drive, Morehead City, stated she had serious concerns about the City's plans for the property.

Mayor Jones closed the public hearing. He then stated the plans are to use the property for recreational purposes.

Councilman Thompson asked Mrs. Martin to advise the Council of her concerns.

Mrs. Martin replied that she feared further development would lower her property value and peace of living in that area. She continued that the ballpark as it now stands already does that, and she does not want more of the same.

Councilwoman Warrender stated that the City has no intentions for expansion of the baseball park. The property in question is a continuation of the ballpark, and the house will be used possibly for storage or office space.

Manager Whitlow stated there are no concrete plans and the property is currently not zoned for office use. The building will be used for storage in the near term. The City acquired the property to eliminate a nuisance of foul balls on the property.

***Councilman Ballou MOVED, seconded by Councilman Taylor, and carried unanimously, to adopt Ordinance 2012-44 granting City initiated voluntary contiguous annexation for 1208 Mizzell Drive, 0.61 acres, Tax PIN #6376-1297-8281-000, zoned R15M [Single-Family Residential/Manufactured Home] District. [Ordinance 2012-44 is attached to Ordinance Book #7 in the vault.]***

**IV.C. Public Hearing: Request submitted by Nexsen Pruet, on behalf of Progress Energy, to amend Articles 2-2, 8-4.1, 11, 14-2, and 14-31.2 and to add a new Article 14-45 of the Unified Development Ordinance to establish a definition for “Communication tower”, to exempt communication towers from nonconforming replacement cost requirements and height limitations, to allow communication towers as an accessory use to “Public utility building/use” and to establish additional requirements for said use – Adopt Ordinance 2012-43**

The applicant requested that this item be removed from the Agenda for further review.

Planning Director Linda Staab concurred that there are further developments which impact this request and it should be additionally reviewed by the Planning Board.

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to return this item to the Planning Board for additional review.***

**IV.D. Public Hearing: City Initiated Request for Amendment to Article 14-1.3 of the Unified Development Ordinance [UDO] to Permit a Fence Height of Eight [8'] Feet for Public Utility Sites – Adopt Ordinance 2012-48**

Planning Director Linda Staab reported that in residential districts, the Unified Development Ordinance [UDO] currently allows solid fences to be constructed a maximum of three feet [3'] in height in a front yard. Fences with less than fifty percent (50%) opening as viewed from outside the fence may be constructed to a maximum four feet [4'] in height in the front yard. Fences in all remaining yards may be built to a maximum of six feet [6'] in height in residential districts. The maximum height in commercial districts is eight feet [8'] in all yards.

For safety and security purposes, the Public Utilities Department sometimes wishes to construct fences to secure wells, lift stations, and equipment and to protect citizens from chemicals that are sometimes stored at public utility sites. The Planning Committee discussed the issue in June 2012, and agreed that the proposal appears to be a reasonable accommodation.

At the Planning Board Meeting on October 16, 2012, Jackie Maucher made the MOTION, seconded by John Creech, to recommend approval of the ordinance amendment as presented by Staff. The motion carried unanimously.

Mayor Jones opened the public hearing.

No one spoke for or against the amendment.

Mayor Jones closed the public hearing.

***Councilman Thompson MOVED, seconded by Councilman Walker, and carried***

***unanimously to adopt Ordinance 2012-48 granting the City initiated request for an amendment to Article 14-1.3 of the Unified Development Ordinance to permit a fence height of eight [8'] feet for public utility sites. [Ordinance 2012-48 is attached to Ordinance Book #7 in the vault.]***

**V.A. New Business: Adopt Resolution 2012-42 Making Certain Findings and Determinations, Authorizing the Filing of an Application with the Local Government Commission [LGC] and Requesting the LGC to Sell Bonds at a Private Sale in Connection with the Issuance of Revenue Bonds by the City to Finance Improvements to the Water System**

City Manager Whitlow reported that Morehead City desires to finance the cost of undertaking various improvements to the water system including the acquisition, construction and equipping of a new well, a new 500,000 gallon elevated water tank and new water treatment plants. The project is necessary to secure adequate and reliable sanitary water service and to promote the present and future welfare of the residents. The City wishes to begin procedures for the issuance of revenue bonds in a principal amount not to exceed \$4,932,000. This funding, together with other available funds will be used to pay the costs of the project as well as certain other costs associated with the issuance of such revenue bonds. The Public Utilities Committee of the Council reviewed the request and recommended adoption.

***Councilman Taylor MOVED, seconded Councilman Ballou, and carried unanimously, to Adopt Resolution 2012-42 Making certain findings and determinations, authorizing the filing of an application with the Local Government Commission [LGC] and requesting the LGC to sell bonds at a private sale in connection with the issuance of revenue bonds by the City to finance improvements to the Water System. [Resolution 2012-42 is attached to these minute and incorporated herein by reference.]***

**V.B. New Business: Award of Contracts for Water Treatment Plants 2, 3 & 4; Well No. 6; and Elevated Storage Tank No. 4 and Adopt Resolution 2012-46 to Award Contracts and Finances for Water Improvements and Ordinance 2012-50 Grant Project Budget Ordinance Phase II USDA Water Improvements Project**

City Manager David Whitlow reported that Morehead City received bids for the next phase of the water project on October 24, 2012. This project includes three [3] contracts: a water tower, a new well and three [3] water plants for the treatment of the water. The specifications were written in a fashion that allows the City Council to award all or portions of the project.

As anticipated, the total project bids exceeded the dollars allocated for the project; however, the project can be completed and serve the needs of Morehead City quite adequately by building two [2] water plants rather than three [3]. City Engineer Tyndall Lewis has provided bid tabulation for all phases of the project. The Public Utilities Committee has met and recommended the following contract awards:

**Contract 71—Water Treatment Plants**

Award a contract to George Raper and Sons, Inc. to build Water Treatment Plants 3 and 4, eliminating Plant 2.

Contract amount: \$5,575,616.00

**Contract 72—Well Number 6**

Award a contract to Magette Well and Pump Company

Contract amount: \$144,700.00

**Contract 73—Elevated Tank No. 4**

Award a contract to Caldwell Tanks for Alternate 3, Concrete Pedestal Tower

Contract amount: \$1,565,000.00

A full explanation, bid tabulations, bid award and resolutions were distributed to the Council.

**Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously, to award Contract #71 [Water Treatment Plants] to George Raper and Sons, Inc., to build Water Treatment Plants 3 and 4, eliminating Water Plant 2 in an amount not to exceed \$5,575,616.00; to award Contract #72 [Well No. #6] to Magette Well and Pump Company in an amount not to exceed \$144,700.00; and to award Contract #73 [Alternate #3, Concrete Pedestal Tower] to Caldwell Tanks in an amount not to exceed \$1,565,000.00.**

**Councilman Taylor MOVED, seconded by Councilman Ballou, and carried unanimously, to approve Resolution 2012-46 to award Contracts 71, 72 and 73 subject to full and complete approval by the USDA [United States Department of Agriculture. [Resolution 2012-46 is attached to these minutes and hereby incorporated herein by reference.]**

**Councilman Ballou MOVED, seconded by Councilwoman Warrender, and carried unanimously, to adopt Ordinance 2012-50 Grant Project Budget Ordinance Phase II USDA Water Improvements Project. [Budget Ordinance Amendment 2012-50 is attached to Ordinance Book #7 in the vault.]**

Councilman Taylor stated that this project represents a huge gain in water improvements for the City and was secured by grant funding and a 40 year loan at 3 ¾ percent interest. The financing for this project represents the efforts of the past Council as well as the present. The City acquired the funding with least cost as possible to benefit the entire community.

## **VI. Citizen Requests/Comments**

Craig Hassler, 1904 Arendell Street, Morehead City reported various instances where he was stopped by the Morehead City Police Department and questioned while riding his bicycle. Most of the issues regarded his use of his bicycle on City streets.

## **VII. City Manager's Report**

### **VII.A. Items of Interest for the Council's Information:**

The following items were distributed for the Council's information.

- Carteret County Board of Commissioners Resolution Opposing North Carolina Coastal Wind Projects in Low-Level Military Flight Training Areas
- Carteret County Resolution Opposing a 30 Percent or any Insurance Rate Increase for all 18 Eastern N.C. Counties Located in the N.C. Insurance Underwriters Association Beach Plan Coverage Area
- Thank you letter from the Carteret Literacy Council

### **VII.B. Adopt a License Agreement with Riverfront Sports and Entertainment, Inc., for Use of Big Rock Stadium and O'Neal Field**

City Manager David Whitlow reported that the Council met in Special Session on Tuesday, October 16, 2012, to review and discuss a proposed contract with Riverfront Sports and Entertainment, Inc., [Morehead Marlins] for use of Big Rock Stadium and O'Neal Field. The proposed license agreement is a culmination of the review of the proposed contract. A letter of intent from Buddy Bengel, the Manager of the Marlins, was distributed. [Attached to and made a part of these minutes by reference herein is the letter dated November 11, 2012.] Although the letter was not related to the contract, Mr. Bengel proposed a way of paying \$5,500 a year for improvements to the stadium as long as the Marlins are in contract. City Manager Whitlow further advised adopting the contract as presented.

Councilman Ballou requested that the Marlins limit the time the sound system came on prior to a game.

Upon a question from Councilman Taylor for an explanation of the Morehead Marlins letter of November 11th, Mr. Bengel explained that if the construction for the ball field projects were not started prior to the beginning of the baseball season, the Morehead Marlins would pay the improvement funds the following year.

The Council ascertained that there are drawings for specific park improvements which have been discussed, mainly the addition of restroom facilities. The City intends to construct these facilities in the near future. The Marlin donation together with not having to pay the fees for the rented restroom facilities would cover the debt service on new construction.

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to approve the License Agreement for the use of Big Rock Stadium and O’Neal Field with Riverfront Sports and Entertainment together with the stipulations stated in the letter from the Morehead Marlins Manager Buddy Bengel dated November 11, 2012.***

Vincent Martin, 1211 Mizzell Drive, Morehead City questioned what “related events” referred to in the contract.

It was explained that the “related events” referred to in the contract were for baseball activities. As to music before a game, it was agreed that an hour before game starting time would be appropriate.

City Manager Whitlow commented that any other uses of the facilities would be dealt with as separate instances.

Mary Martin, 1211 Mizzell Drive, Morehead City, commented that the Marlins had a concert this past season which was much more involved than what was advertised. She was concerned the Marlins were going to start having other events to increase attendance and that the City will use the facilities for concerts and other uses. She continued also that the trees which formerly sheltered her house from the park were taken down for the walkway.

Craig Hassler, 1904 Arendell Street, Morehead City, was concerned as a taxpayer that the costs of the ball field were not being covered by the people who use the ballfield.

#### **VIII. Council Requests/Comments**

Councilman Ballou requested that the Public Safety Committee of the Council review the insurance portion of the taxi ordinance as the statement “if available” is stated and he did not understand why that statement was in the ordinance.

#### **IX. Adjourn**

There being no further business, the meeting was adjourned at 7:00 p.m.

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Gerald A. Jones, Jr., Mayor

Attest:

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Jeanne M. Giblin, City Clerk