

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

Wednesday, April 7, 2010

The Honorable Council of the Town of Morehead City met in a Special Meeting on Wednesday, April 7, 2010, at 1:00 p.m., in the Municipal Building Auditorium at 202 South 8th Street, Morehead City, North Carolina. The purpose of the meeting was to award the contract to the low bidder for the purchase of bleachers at O'Neal Field; approve budget amendments for the Baseball Park Capital Project; and approve a modified use agreement for the baseball field by Riverfront Sports and Entertainment, Inc., to provide for use during the 2011 season. Those in attendance were:

MAYOR:	Gerald A. Jones, Jr.
MAYOR PRO TEM:	Demus L. Thompson
COUNCILMEN:	George W. Ballou
	Paul W. Cordova
	David Horton [Absent]
	John F. Nelson
CITY MANAGER:	R. Randy Martin
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson W. Taylor, III, Derek Taylor
OTHERS:	Mike A. Shutak, Reporter, THE CARTERET NEWS

TIMES; Bill Taylor; Bill Hettler; Johnette Grantham; Elizabeth S. Scheller; Evelyn Harris; John Michael Harris; Rick Schulz, Building Inspector; Captain Garland Terry, Morehead City Police Department; Major Richard Abell; Morehead City Police Department; Bobby Lawrence; Jean Lawrence; Buddy Bengel; and Linda Staab, Planning Director

Call to Order:

Mayor Jones called the meeting to order at 1:00 p.m.

Upon a question to excuse Councilman Horton, City Attorney Nelson Taylor advised that it was not necessary that Councilman Horton be excused by the Council as it was noted that he was absent from the meeting.

Councilman Ballou stated he received an e-mail from Councilman Horton that he [Councilman Horton] requested be read into the minutes.

Mayor Jones requested that the City Attorney review the e-mail to ascertain that it pertained to the meeting topics.

Mayor Jones stated that the meeting was called to review the bids for the bleacher seats at O'Neal Field in order to expedite the process for completion of the facilities. The Public Works Committee of the Council reviewed the bids and recommended that the low bid be approved and that monies be appropriated into the budget. The project could be completed with the monies appropriated, however, not within the time span of having the project completed before baseball playing season begins. The Finance Committee of the Council met and approved the budget amounts also. The final item is that the Morehead Marlins need to schedule games and make the necessary preparations for the 2011 baseball season and need a two [2] season license agreement to be in compliance with Coastal Plain League requirements for franchisees.

City Attorney Nelson Taylor advised that the message from Councilman Horton pertains to the agenda of the meeting and read Councilman Horton's message into the minutes.

"As you all know it is impossible for me to attend this special meeting today that was called last Friday. The City manager said there was a consensus to hold the meeting even though it was known that I would be out of town for something that I could not possibly change. The City manager said he had nothing to do with it and that it was the three Councilmen, John Nelson, Demus Thompson and Paul Cordova who each decided on their own to hold it without me. George Ballou is not in favor of this meeting and any of the three other members could have agreed to rearrange the meeting had they wanted to. I assume Consensus means the City manager polled them to see if they would put the meeting off a few days for me.

The three items on the agenda have been developed without input from me. The items have never been discussed with me but they were discussed in detail last week with three Councilmen. I must assume that since those items are on the agenda and have been discussed with three Councilmen that they will be approved. I think it is already a done deal.

That is what you call hard ball politics, especially in a little town like Morehead City. Holding a special meeting and denying the attendance of one member, who wants to attend, has never been done in my six years on the Council.

But really if three council members have developed an agenda that they are all in favor of, debate by whole council doesn't make a difference anyway.....

All I can say is...PLAY BALL!!!!"

Councilman Ballou commented that he received a call from City Manager Martin at 5:15 p.m. on Thursday, March 31, 2010, regarding the scheduling of this meeting and he was not happy about it. He wanted the minutes to reflect that he was concerned about having this meeting in the absence of Councilman Horton and he [Councilman Ballou] did not agree to it. He stated he would rather have this meeting with everyone present and did not understand the necessity for the rush.

Councilman Cordova replied that City Manager Martin has tried to be in touch with Councilman Horton to no avail. The Council cannot do business with a Council Member who will not deal with the City Manager. He continued that the Council wants to see the ballfield project completed. The Council tried to meet last week, but it was not possible and the bids for the bleachers have to be approved to meet a deadline. The Council tries its best to make the meeting times available for everyone.

Councilman Thompson stated that he took offense with the inference of Councilman Horton's e-mail. He continued that he has not met with anyone except in Committee. To say that the Council is doing something wrong and accusing the Council of conspiracy is inappropriate. No one is trying to go around Councilman Horton.

Councilman Ballou stated that the Public Works Committee Members know the details of the baseball project, but the other Council Members do not.

Mayor Jones reminded the Council that that is the reason for the meeting today, so that other Council Members will have the necessary information.

Councilman Nelson added that the Public Works Committee was trying to do the best to get the ballfield opened and could only do it in a timely manner by a special meeting. He continued that as Chairman of the Public Works Committee, he requested that the Mayor have a special meeting scheduled so that the City could get the ballfield project completed. He continued that the Council has done nothing to circumnavigate Councilman Horton, the Council just wants to get the project done.

City Manager Martin recommended that the contract for the bleachers for O'Neal Field be awarded to the low bidder, All Star Bleachers, Inc., of Lakeland, Florida in an amount not to exceed \$144,135.00 with the rise/run for the entire bleacher system modified to support seatbacks in all sections as recommended by the Committee members.

The Public Works Committee and staff recommended All Star Bleachers including engineering, design and finished product for approximately a 1,000 seat bleacher system measured on an 18 inch basis for each seat.

Councilman Nelson questioned how the City staff arrived at the necessity of 1,000 seats.

City Manager Martin replied that City staff spoke with other organizations and it was their recommendation that in order to host tournaments, sponsor organizations need to provide capacity for approximately 1,000 seats. The site has more than enough space to accommodate a 1,000 seat bleacher system and the original layout of the plans supported that amount of seating.

Councilman Nelson reminded that the Council has not acted upon purchasing the 1,000 seat bleachers, and would not 800 seats make more money available for other interests at the park.

Manager Martin commented that comfortably seating 1,000 people in the bleacher seats as provided would be a challenge, but that is the way the seats are rated. There are ample parking facilities to accommodate 1,000 seats.

Councilman Nelson questioned if the Marlins could have portable bleachers provided to accommodate the City purchasing less bleacher seats.

Mayor Jones commented that the American Legion needs 1,000 seats to host a state tournament. That is the standard amount of seating necessary for state and national tournaments.

City Manager Martin also reported that the City only has 50 seat portable bleacher sections and has in the past borrowed portable bleachers from the county for events.

Councilman Ballou was concerned with additional money being appropriated from the General Fund to accommodate 1,000 seat bleachers.

Manager Martin stated that the bleachers are currently provided for in the unencumbered funds available in the project budget in the amount of \$206,700. Of that amount, Big Rock has donated funds in excess of the bleacher cost for this purpose. The estimated budget for the project was set in January 2008, with the bleachers being part of that estimate. Borderline fencing, equipment, landscaping and several other miscellaneous items were not included in the original calculations. Hopefully the requested funds will finish out this project in a timely manner. With the approval of the budget ordinance amendments, there is the opportunity to hire outside help to complete the project without relying on City staff, the main component being a concrete contractor. The Big Rock gave the money for the bleachers, press box, grandstand and signage at the baseball park and any other amenities beyond those items the City was going to do anyway to meet its obligations to the project.

Councilman Ballou suggested doing 500 seats and using portable bleachers.

Manager Martin was not sure if 500 seat bleachers would work out to be half as expensive as the bid was promoted on a package deal. The City would have to redesign the project and do a new bid application and it would cost more at a later time to add additional bleachers. He continued that the City staff has trimmed as much money as they could from the baseball project to complete the project within the current budget amount. This has contributed to a slower completion by having to utilize City staff to cut costs.

Councilman Ballou wanted to start the bid process at 500 seat and work up to 1,000 seats.

Manager Martin commented that it has been the intent of the City to use the Big Rock money for the bleachers. To use less money from the Big Rock for less seating to cut other City costs would, in his opinion, not be acting in good faith. In terms of the field, the projects needing completion are the roofs and benches in the dugouts, minor bull pen details, backstop netting and poles with cabling [receiving assistance from Carteret/Craven EMC], sideline netting and a temporary scoreboard. In the concession stand, the projects needing completion are a serving window, heating/air unit installation [donation], shelving, door signage and some equipment items. In the bleacher and concourse area the projects needing completion are a concrete walkway, slabs, bollards, supports for the bleachers, site preparation for the bleachers, grassing, seeding, final grade, entrance way fencing, additional landscaping [partial donation], painting, boundary fencing, entrance sign.

Councilman Cordova MOVED, seconded by Councilman Nelson to award the contract to the lowest bidder, All Star Bleachers, Inc. of Lakeland Florida, for the bleacher system of 1,000 seats with seatbacks at O'Neal Baseball Field in an amount not to exceed \$144,135.00. The motion passed by a vote of three [3] to one [1] with Councilman Ballou voting against and Councilman Horton absent.

Councilman Ballou stated he cannot support the motion as he felt that the City could use less seating and try to save money where it could. He stated that the City could do with less at the ballfield without taking approximately \$93,000 from the General Fund.

It was announced that the American Legion Baseball team is scheduled to have the first event at the field on May 20th, however, this was subject to change.

Councilman Thompson requested if the West Carteret/East Carteret High School teams could have a trial run on O'Neal Field.

Manager Martin replied he would check if the teams would be able and willing to do so.

Councilman Cordova stated that as Chairman of the Finance Committee of the Council, the Committee would monitor each expenditure that is to be made on the baseball project from the appropriate funds.

Councilman Ballou indicated he was comfortable with Councilmen Thompson and Cordova serving on the Finance Committee and was comfortable with their dealings on funding.

Councilman Nelson commented that to cut back on the number of bleachers to 500 seats would probably be only approximately \$25,000 less.

Councilman Cordova commented that he was the only one at the bid opening and if all were so concerned, they should have been in attendance. He reminded that all were in agreement for 1,000 seats when the park was sited.

City Manager Martin acknowledged that the number of seats had been discussed in Council meetings previously.

Mayor Jones requested that the Council take up the approval of budget amendments for the baseball park capital project. He requested that the City appropriate \$93,000 to make the total cost of the project \$2.4 million. This \$93,000 will come from the contingency portion of the General Fund. It will relieve the public works staff from many of the finishing projects to be completed at the baseball field and expedite completion with a goal of early May.

Councilman Nelson MOVED, seconded by Councilman Thompson to adopt Budget Ordinance Amendments 2010-12 and 2010-13 in the amount of \$93,000 with regard to the Baseball Park Capital Project Fund. The motion passed by a vote of three [3] to one [1] with Councilman Ballou voting against and Councilman Horton absent. [Budget Ordinance Amendments 2010-12 and 2010-13 are attached to Ordinance Book #6 in the vault.]

Mayor Jones reported that the need for extension of the authorization to use the ballfield by the Morehead City Marlins for one [1] additional season was brought to the City's attention through Baseball USA and Pete Bock, President of the Coastal Plains League as within the next month they will start recruiting and planning for next season. The approval of a license to authorize use of the facility for the 2010 and the 2011 baseball seasons will give them the opportunity to schedule and plan for next year.

Manager Martin explained that he had been advised the League bylaws require this. The license agreements, drafted by the City Attorney, would provide for use during the 2011 season in a like manner to what is happening in 2010. It also essentially mirrors what the City of Wilmington has done. The Parks & Recreation Department will issue the permit if the license for their use is approved by the Council.

Councilman Ballou questioned if the City had received a response from the North Carolina Department of Transportation [NCDOT] on their questions in a letter dated March 5, 2010, which was presented to the Council by a citizen at the March 9th Council Meeting.

City Manager Martin replied that he has responded to the NCDOT and requested a face-to-face meeting with the NCDOT. Based upon his research of the permits, he does not believe there is a need for any changes to the access permit for the park. It was built to the NCDOT's specifications which the NCDOT has acknowledged. Basically, the City contends

that the project plans were presented to the NCDOT and it has been constructed and everything which the City has done is indicated on the plans which the NCDOT permitted. The ingress/egress was built to the NCDOT specifications for a commercial permit design for access to serve a major recreational facility. There was erroneous information noted in the NCDOT letter of March 5, 2010, which the City Manager has since advised NCDOT and corrected. The City has not as yet received a formal response.

Councilman Ballou questioned the Board of Adjustment ruling to the use of the park in response to a citizen appeal.

Manager Martin explained that the City had an inquiry to which the City filed a letter of response to that inquiry requesting a zoning opinion. A zoning opinion has been rendered and an appeal was submitted on behalf of Gary Goldstein and petitioners [8 property owners]. The City has not as yet done due diligence since the appeal has just been filed, however, Planning Director Linda Staab can answer any questions regarding procedures and statutes.

City Attorney Nelson Taylor reported that the City's position is that in Zoning District R15M a permitted use is recreation non-profit. Since the Morehead Marlins are not a 501C3 non-profit organization, the question is would it be proper for them to use the baseball park? It has been the tradition of the town to interpret the ordinance that if the property is owned by a non-profit, the fact that an organization that uses the park is for-profit, would not disqualify them against the usage. For example, this is not unlike soccer tournaments or camps, tennis tournaments, etc. that are held for a profit in other City facilities. He read from the Morehead City Code of Ordinances the definition of a park. By definition the parks are non-profit uses, even if someone who uses the park is a for-profit organization, by definition that use of the land as a park is a non-profit use.

City Manager Martin further explained that programming of activities by the Parks & Recreation Department does not change the use of the property.

Councilman Ballou stated he would like to have a letter from the NCDOT on their position regarding the access to the park and would like the rendering from the Board of Adjustment on the appeal before approving the two [2] season license.

City Manager Martin replied that nothing that the NCDOT has to say has any bearing on the use of this park by this proposed agreement. The NCDOT cannot take away the City's rights to access. That is not what their letter is about. The City has met the NCDOT's full requirements. However, if NCDOT wants to see other things done in addition to what has been done, that is not going to preclude the City's use of the park. The use of the park is not an issue to NCDOT. They are not interested in zoning or uses of the park, they are only interested in traffic and safety. And of course, Morehead City would not want to do anything to endanger its citizens. He continued that it was his belief that the City complied with the NCDOT requests and requirements with the site plan. He continued that the Board of Adjustment will hear the issue on April 22nd if all the paperwork is complete.

With regard to the lease, Councilman Nelson requested that in paragraph #6, to add "water, sewer and electricity" to the utilities. He questioned paragraph #10 regarding firework displays and suggested that the City needed to have control over it. The fireworks section needs to be approved by the Council and there needs to be some management over timing. He also requested that paragraph #14, change "will" to "may".

City Manager Martin replied that state law regulates fireworks.

City Attorney Taylor stated he would reword paragraph #10 regarding fireworks.

The Council concurred that adding a statement regarding dates and times for firework displays to be pre-approved by the Council and/or a program schedule for the year could be brought before the Council for approval.

Councilman Thompson MOVED, seconded by Councilman Nelson, to approve the Recreation Facility License Agreement authorizing use of facilities for 2010 and 2011 between the Town of Morehead City and Riverfront Sports and Entertainment, Inc. with the following amendments:

- **Paragraph #6: Add “water, sewer and electricity” to the utilities.**
- **Paragraph #10: Reworded by the City Attorney as per the Council suggestions.**
- **Paragraph #14: Change “will” to “may” in the first sentence.**

The motion was approved by a vote of three [3] to one [1] with Councilman Ballou voting against and Councilman Horton absent.

There being no further business, the meeting was adjourned at 2:30 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk