

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

Tuesday, January 10, 2012

The Honorable Council of the Town of Morehead City met in Regular Session on Tuesday, January 10, 2012, at 5:30 p.m., in the Municipal Building Auditorium at 202 South 8th 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 William F. Taylor Demus L. Thompson Diane C. Warrender
CITY MANAGER:	R. Randy Martin
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson Taylor, III, Derek Taylor, Michael Thomas
OTHERS:	Corinne Geer, Lennie Griffin, Ed Fulcher, Christopher Johnson, Chris Marmo, John Rennwald, Clyde Ebron, Kymm T. Johnson, Steve Benbow, Sarah Benbow, Dwight Rettie, Gary Gentry, Donna Getty, Gary Ridgeway, Bob Deans, Alan Ballard, Bruce Ballard, Malcolm Condie, Graylan, Carrie & Charles Finney, Buddy Bengel, Leigh Johnson, Roger Latham, Billy Willis, William A. Adams, Larry Land, Terry Johnson, Regina Johnson, Kelly Caldwell, Richella Walker, David Horton, James Sargeant, Sandy Bell, Sarah Lanier, Carolyn Dennis, Planning Director Linda Staab, Finance Director Ellen Sewell, Jim Jablonski, Julie Naegalen, Major Richard Abell, Tom Kies, Mindy Ballou-Fitzpatrick, Ronetta Gaskill, Captain Terry Garland, Shirl Meadows, Craig Lands, Mark Hibbs, Reporter, <i>The Carteret News Times</i> and several others.

I. Regular Meeting, Call to Order and Pledge of Allegiance

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

II. Special Presentations:

II.A. Offshore Wind Energy – North Carolina Chapter of the Sierra Club – Steve Benbow, Morehead City

In late 2011, a representative of the Sierra Club requested to be on an AGENDA to make an offshore wind presentation. Steven Benbow, a representative from the Sierra Club gave a brief presentation on offshore wind energy. The area offshore of Carteret County has been determined to have significant potential for wind energy and the Sierra Club has been working to provide information to the coastal area communities regarding this topic.

II.B. Comprehensive Annual Financial Report [CAFR] for Fiscal Year Ending June 30, 2011 – James Sargeant, McGladrey & Pullen, LLP.

The City is required to have conducted an independent annual financial audit. The City has elected to expand the auditing process to include a Comprehensive Annual Financial Report [CAFR] document. Copies of the completed CAFR were recently distributed to the Council. As is customary, James Sargeant of McGladrey & Pullen, LLP, independent auditors for the Town of Morehead City presented the CAFR and detailed highlights of their audit review for the fiscal year ending June 30, 2011. The Finance Committee of the Council reviewed the CAFR with the auditor prior to the Council Meeting. The City's CAFR has received recognition by the Government Finance Officers' Association for each of the past 21 years. This is a significant achievement for the City.

James Sargeant stated that the Comprehensive Annual Financial Report is comprised primarily of information provided by the Morehead City Finance Department. He continued that Morehead City received a clean opinion which is the highest quality opinion possible for a municipal audit. He explained that a new standard for governmental accounting was instituted which changes the language for various categories of the fund balance. He further explained that a negative unassigned fund balance in certain types of

funds was normal and just meant that a large amount of receivables have not been collected as yet. Morehead City has had a high consistent tax collection rate which this year was 99.35 percent and the City ranks in the top 20 percentile in the state for tax collection. He continued that with regard to the compliance section which refers to any material weakness or internal deficiencies relating to financial reporting, none were found for Morehead City. Many federal and state agency funding resources review this section to indicate how well a city government manages its money and it is an important source for qualifying for federal and state grant and/or loan funding. Morehead City also received a clean or unqualified opinion in this category which is the highest level of assurance for audits mandated by federal and state governments for specific state and federal funding.

Councilman Taylor commented that the audit results were excellent and he congratulated Finance Director Sewell and the Finance Department for having received the Certificate of Achievement for Excellence in Financial Reporting recognition consecutively for the 21 years.

Mayor Jones noted that total City debt decreased by \$.4 million during the last fiscal year.

Manager Martin then recognized the efforts of the Finance Director Sewell and the Finance Department staff of Sarah Lanier, Dana Green and Carolyn Dennis and stated that the audit report is a compilation of much more data well beyond the actual audit.

Mr. Sargeant noted that the percentage of local governments in the same population category as Morehead City which actually do the CAFR each year is less than 1 percent nationwide.

By concensus the Council, accepted the Comprehensive Annual Financial Report [CAFR] for the fiscal year ending June 30, 2011, as presented.

III. Adoption of the CONSENT AGENDA

III.A. Approval of Minutes: Thursday, December 8, 2011, Special Meeting Tuesday, December 13, 2011, Regular Meeting

Approved the minutes of Thursday, December 8, 2011, Special Meeting; and Tuesday, December 13, 2011, Regular Meeting and dispensed with the reading.

III.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for December 2011, in the amount of \$748.22; and Accept the Tax Collector and Finance Director Reports for December 2011

Approved the requests for release of overpayment of ad valorem taxes for December 2011, in the amount of \$748.22; and accepted the Tax Collector and Finance Director Reports for December 2011. [These reports are attached to and made a part of the minutes.]

III.C. Adopt Resolution 2012-01 Declaring the Badge and Service Weapon Carried by Major Richard Abell as Surplus and Authorize Award to Him Upon His Retirement

Major Richard Abell will retire from the Morehead City Police Department February 1, 2012, after 35 years of service. Badges and service side arms of retiring members of city law enforcement agencies can be awarded to them upon request by the adoption of a resolution declaring them surplus. Morehead City has done this in the past with all qualifying retirements from City service.

Mayor Jones stated that this tradition of awarding retiring police personnel their badge and sidearm is practiced across the state.

Manager stated that their will be a celebration for Major Abell on Tuesday, January 31, 2012 from 6:30 p.m. to 8:30 p.m. at the Crystal Coast Civic Center.

Adopted Resolution 2012-01 Declaring the badge and service weapon carried by

Major Richard Abell as surplus and authorize they be awarded to him upon his retirement. [Resolution 2012-01 is attached to and made a part of these minutes.]

Councilman Taylor MOVED, seconded by Councilwoman Warrender, and carried unanimously, to adopt the CONSENT AGENDA with one [1] motion.

IV.A. Public Hearing: Request submitted by James Bircher to Rezone Tax PIN # 6356-0877-8676-000 located at 119 Industrial Drive from CH [Highway Commercial] District to IP [Port-Industrial] District – Adopt Ordinance 2012-01

Planning Director Linda Staab reported that Mr. Bircher submitted a request to rezone approximately 0.51 acres located at 119 Industrial Drive from CH [Commercial Highway District] to IP [Port-Industrial District]. The zoning classification of other surrounding properties includes IP to the north, R15M to the west and CH to the east and south. Surrounding development includes equipment rentals to the north, a church to the south, retail to the east, and a manufactured home to the west. The parcel is located in the extraterritorial jurisdiction (ETJ).

The property is located in Neighborhood 10 of the CAMA Land Use Plan and is classified as General Commercial. The proposal does not appear to conflict with any policies of the Land Use Plan.

Property owners within 300 feet of the property were notified of the Planning Board meeting as well as the date of the Council public hearing scheduled for January 10, 2012. The property has been posted.

At the Planning Board Meeting on November 15, 2011, Curtis Fleshman stated that the rezoning would be consistent with the surrounding area. John Creech made the MOTION, seconded by Gordy Patrick, and carried unanimously, to recommend approval of the rezoning request and Planning Board Resolution 2011-0005. The Planning Committee of the Council reviewed the request.

Mayor Jones opened the public hearing. No one spoke for or against the request.

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilman Walker, and carried unanimously, to adopt Ordinance 2012-01 granting the request submitted by James Bircher to Rezone Tax PIN #6356-0877-8676-000 located at 119 Industrial Drive from CH [Highway Commercial] District to IP [Port-Industrial] District. [Ordinance 2012-01 is attached to Ordinance Book #6 in the vault.]

IV.B. Public Hearing: Request submitted by Jay Phillips, on behalf of Advanced Signs and Window Tinting, to Amend Article 19-6 of the Unified Development Ordinance [UDO] to Delete Existing Language which Limits Electronic Message Boards/Digital Marquee Signs to Displaying Text Only and to Add Language Regulating Brightness – Adopt Ordinance 2012-02

Planning Director Linda Staab reported that a request was submitted by Mr. Phillips to amend Article 19-6 to remove language that limits electronic message boards and digital marquees to displaying text only and to establish new language to regulate brightness. The amendments to the existing language under Article 19-6 as proposed by Mr. Phillips are presented in the attached information. Since Morehead City does not currently possess the equipment that would be necessary to enforce the regulations proposed by Mr. Phillips, staff conducted research of other North Carolina jurisdictions which address electronic message boards and digital marquees and also drafted amendments which are incorporated into the proposed ordinance.

At the Planning Board Meeting on December 6, 2011, Gordon Thayer made the motion, seconded by Gordy Patrick, and carried unanimously, to recommend approval of the ordinance amendment request, for on-premise signage only, to include staff suggestions and two [2] conditions: 1] a one [1] minute minimum between picture changes; and 2] an annual certification for light illumination levels. The Planning Committee of the Council reviewed the request at their meeting on December 19, 2011,

and recommended that language be added to require certification for light illumination levels upon receipt of a complaint to address potential violations.

Mayor Jones opened the public hearing.

Ken Wood of 910 Harrell Drive, Morehead City questioned if this proposed ordinance applies to more than just the image on signs. He questioned the one [1] minute interval and stated there are digital signs all over town such as the one at the Crystal Coast Civic Center which changes 19 different times at six [6] second intervals.

Planning Director Staab replied that the proposed amendment refers to pictures only. There is another section of the ordinance which addresses text, etc.

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilman Walker, and carried unanimously, to adopt Ordinance 2012-02 granting the request submitted by Jay Phillips, on behalf of Advanced Signs and Window Tinting, to Amend Article 19-6 of the Unified Development Ordinance [UDO] to delete existing language which limits electronic message boards/digital marquee signs to displaying text only and to add language regulating brightness. [Ordinance 2012-02 is attached to Ordinance Book #6 in the vault.]

V. Citizen Requests/Comments [2 minute time limit]

Larry Land of 700 Lands Pointe, Morehead City stated that it was his opinion that the public was unaware that the lease for the use of the Big Rock Stadium and the sale of alcoholic beverages there would be voted on by the Council at this meeting. He was opposed to this vote without public comment.

Clyde Ebron of 2304 Mayberry Loop Road, Morehead City, stated he was opposed to the sale of alcoholic beverages at the baseball stadium and requested that the Council vote in opposition to selling alcoholic beverages at the stadium.

Jim Jablonski of Harkers Island spoke about re-siting “The Siege of Fort Macon” historic plaque from beneath the oak tree in front of the Marine Fisheries Building on Highway #70 to the Visitors Center. He stated that the superintendent of Fort Macon State Park and Carol Lohr of the Visitor’s Center were in support of this move. He requested a donation of \$900 from the Town of Morehead City be given to the Friends of Fort Macon as seed funding to begin this process.

Mayor Jones remarked that approximately two [2] months ago Mr. Jablonski spoke to the Council about moving the plaque and that Morehead City sent a letter to the North Carolina Division of Archives stating the City had no opposition to the move.

Councilwoman Warrender stated that she received information from Mike Hill of the North Carolina Division of Archives stating that that organization approved the move, but a local organization or the City would have to do the project.

Mayor Jones stated that Morehead City supported Mr. Jablonski’s efforts but that the request for the seed funding will have to be brought before the Finance Committee of the Council for review and consideration.

Donna Getty of 35th Street, Morehead City stated she was disappointed that the baseball park was on the agenda and that the citizens should demand a public forum on the baseball park before any vote is taken.

Susan Ballou Roberts, sister to Councilman George Ballou, stated she was told that at the previous Council meeting there was a slanderous remark made by Councilman Walker about their deceased mother and she requested an apology.

Leigh Johnson of 407 Lands Point Road, Morehead City stated that as there was public comment on what is happening at the State Port regarding PCS Phosphate, so

should the same be with the ballpark and that due diligence should be done regarding the ballpark agreement.

Doug Arden of Newport, and President of Morehead Marlins Booster Club, stated that the baseball stadium was good times for a reasonable price. He was for the sale of alcoholic beverages at Big Rock Stadium. The baseball team needs to stay in this area.

Gaylan Finney of Havelock stated he did not care if beer were sold or not sold at the baseball stadium. He and his handicapped son attend every game. The Marlins are his son's idols. He requested that the Council not take out the sportsmanship and fun for everyone at a great baseball park.

Reverend Terry Johnson of 1902 Paulette Road, Morehead City and Pastor of Temple Baptist Church was opposed to the sale of alcohol at this park based on his religious convictions.

Dawn Gaskill of 1208 Evans Street, Morehead City stated she was opposed to a vote on the Marlin agreement on the agenda. She stated she had no issue with the sale of alcoholic beverages, it was strictly her concern with the contract as a business proposition.

Mindy Ballou-Fitzpatrick of 1501 Four Iron Street, Morehead City questioned the necessity for voting on the baseball issue at this meeting. She was of the opinion that the City will not make enough funds from the ballpark with the current contract.

Jimmy Craig Womble of 1208 Mizelle Drive, Morehead City stated he owns the property right behind the baseball field and that his three [3] year old son cannot play in his backyard due to the incidence of foul balls. He wanted to know what the City and/or Marlins would do to alleviate this problem with the upcoming season.

Charles Collier of 1505 Chipshot Drive, Morehead City was opposed to the sale of alcoholic beverages at the ballpark.

Ken Johnson of 1800 Bay Street, Morehead City questioned if the City does not let the Marlins sell beer, how could it in good conscience allow beer to be sold at the North Carolina Seafood Festival and other events.

Mayor Jones closed citizen's requests/comments.

VI.A. City Manager's Report: Update on the Status of the Recreation Facility Licensing Agreement for use of Big Rock Stadium by Riverfront Sports & Entertainment

Manager Martin commented that options for a use agreement with the Marlins has been discussed for more than the past two [2] years. There were extensive public meetings and public discussions about locating the team here, terms of use that would be incorporated and the potential for a long term agreement during the period. There has been significant review and public comment and hundreds of names on petitions, e-mails and letters concerning the particulars of this topic. The agreement was also a topic of discussion during the recent election. He commented that there has been more public input received on this particular activity than probably on anything else that has been done during the more than 16 years he has been with the City. This topic has been strongly debated and discussed and it is not accurate for anyone to state the topic is something new or that public input has been limited. A long term agreement was proposed, but it was placed on hold. The majority of the City Council did act on an alternative which was a licensing agreement. The use is approximately a 30 day schedule each year for activity by the Marlins Baseball Team. The City has received fees for this usage. All members of the present Council and the previous Council have directed and encouraged him to pursue discussions with Riverfront Sports & Entertainment, Inc. for a long term agreement. There is strong community support for their activity, but negotiations have been at an impasse in terms of long term issues. At this point no such recommendation has been developed which would be acceptable for all parties for him to recommend to the City Council.

Manager Martin then gave background information and reported that on April 7, 2010, the City Council approved the Recreation Facility Licensing Agreement for use of

O'Neal Field/Big Rock Stadium during the 2010 and 2011 baseball seasons at the request of Riverfront Sports & Entertainment, Inc. The Council had previously authorized the use for the 2010 season, but at the April 7, 2010 meeting, it was reported that the Coastal Plains League regulations require each franchise to have a minimum of a two [2] season facility use agreement to participate in the League.

On November 9, 2010, the City Council in regular session, at the request of the Morehead City Marlins organization, considered the extension of the use agreement to include the 2012 season to continue compliance with League requirements after the 2010 season was completed. The City Council approved this agreement modification. No other changes to the agreement were made.

Since this action, Riverfront representatives have expressed concerns about the specific terms of a longer term agreement. Several issues were identified including: length of the agreement; future facility needs; whether the Council will consider allowing this organization to use the stadium consistent with the existing City code requirements allowing the regulated sale and consumption of malt beverages and unfortified wine on public property pursuant to the City Code Section 10-38[e]; and, the financial terms for their use. A number of options and ideas have been discussed, but no firm proposal acceptable to all parties has been successfully negotiated. Given that a new majority has been elected to the City Council, Riverfront officials and City management have requested input from the current Council to further discussions. Also, given the time that is necessary after getting this input to further negotiations on a longer term agreement, the following is proposed for Council consideration at this time:

1. Management recommends that the Council amend the agreement to comply with League requirements by extending the use of the facility to include the 2013 season.
2. Management recommends that the Council consider further amending the agreement to allow Riverfront to use the stadium consistent with the existing City code requirements allowing the regulated sale and consumption of malt beverages on City property provided: that the organization is able to obtain all required permit approvals; that consumption be limited to designated areas within the stadium; and that the City receive increased compensation for facility use consistent with the terms of the agreement in the total amount of \$20,500 per season of use.
3. During 2012, the City and Riverfront officials will evaluate the change in use and other considerations in the upcoming season and pursue good faith negotiations of a longer term use agreement with a goal of completing this process by calendar year end.

Manager Martin stated that he was proposing the Council authorize the regulated serving of alcohol at Big Rock Stadium on a trial basis during this upcoming season. He commented that the issue of whether to allow the sale and consumption of alcohol generally within the City is not before the City Council as Morehead City is not a dry city and for decades there have been provisions in the City's code that allow for the sale of alcoholic beverages. He further stipulated that he needed to know if the Council had an opinion on this matter before further pursuing negotiations of a longer term use agreement with Riverfront Sports & Entertainment, Inc.

Upon a question by Councilman Taylor about a decision as soon as possible, Manager Martin stated that the owners have indicated their need to know. The decision is a year overdue and the Marlins have stated there is no interest on their part or ability to enter into a long term agreement unless there is a provision for the sale of malt beverages. He recommended a one [1] year trial basis.

Councilman Ballou questioned the proposed contract as he did not recall that he received any contract to review.

Manager Martin reiterated that the terms of the use agreement were the same as previously approved with the exceptions recommended regarding the second season for use consistent with League rules and allowing the serving of certain alcoholic beverages consistent with City code. It was also noted that the City Attorney had distributed a redraft

to Council of the proposed use agreement.

Councilman Walker wanted to be assured of what specific avenues were going to be taken to assure that the park would remain a family-friendly venue.

Manager Martin replied that some of the specifics to which Riverfront Sports & Entertainment, Inc. has agreed is to have off duty police officers at their expense, oversight of all Alcoholic Beverage Control [ABC] regulations, certain areas would be designated as alcohol-free zones. There would be support of state alcohol law enforcement officials, undercover officials could be used as necessary to assure that no one under the legal age would be able to have alcohol. There would be restrictive areas for purchase, a cut off time, state rules limiting sale to anyone who is inebriated, in addition to other rules and regulations.

Councilman Walker questioned if during this trial period was there a way that an agreement for some type of long term situation could be developed so people could have public input.

Manager Martin replied that there has been extensive public input received by the City on this topic for the last two [2] years. In any longer term agreement review process, the City Council can gauge and evaluate the activities of this season and the impact of the allowance of malt beverages to be served at this facility. The Council could do a schedule or any other format for people to see the draft documents in advance for any longer term use agreement.

Councilman Taylor stated that he has heard the comments about the need for transparency and he made a suggestion for an amendment to the agreement and offered that a provision be inserted which states that the approval of this license agreement serves as a trial and data gathering opportunity for final negotiations of a long term agreement. Riverfront Sports & Entertainment, Inc. and the Town of Morehead City shall initiate contract negotiations no later than August 20, 2012, with an approval no later than October 20, 2012. He would also like City staff to gather the following background information: other baseball contracts, responses from cities with like teams, contact with League officials, cost basis of expenditures to revenues received from the use of the stadium, etc. He would also propose that the Council meet in work sessions to finalize components of a long term contract.

Councilman Taylor MOVED, to approve the license as amended with the above included options and with the further parameters as stated by Councilman Taylor; Councilman Walker seconded the motion and further Council discussion ensued.

The Council discussed the options of providing for and regulating the sale of alcohol at Big Rock Stadium.

Mayor Jones explained that the motion was to approve the license agreement as presented which provided that consistent with City code alcohol would be sold at the stadium, that the lease would be extended into the 2013 season to meet League requirements; and the addition of Councilman Taylor's statements.

To a comment by Councilman Ballou that he did not understand the urgency of settling the matter this evening, Manager Martin replied that the Council on more than one occasion had attempted to finalize this agreement in the past, but the Council was never able to come to a consensus particularly regarding the allowance of serving malt beverages at the stadium. He suggested that after a one [1] season trial period, the Council could immediately undertake negotiations for a long term agreement.

Councilman Ballou was of the opinion that the Council should step back and work the agreement through committees as he wanted to be sure he knew all the parameters before he voted on any agreement.

Upon a question from Councilman Walker to Buddy Bengel, the Manager of the Morehead Marlins, on how the organization planned to keep the ballpark "family friendly", Mr. Bengel stated that responsibility would be promoted. Riverfront Sports &

Entertainment, Inc. would be responsible for the sale and security regulations for alcohol, and there would be options to sit in an area away from alcohol consumption. The same great entertainment would still be available. As to the necessity for having a decision as soon as possible, he stated that it takes time to get permits, policies and procedures in place, and to build the confined areas for alcohol consumption, etc. Upon approval of the agreement, the Town of Morehead City will be the highest paid city in the Coastal Plain Baseball League for use of facilities.

Councilwoman Warrender commented that most citizens she has spoken with want this issue resolved. She was of the opinion that the Marlins should be part of the community and it was time to make a decision.

Further discussion followed.

Mayor Jones specified that the motion on the floor was to consider this license as presented with certain modifications.

The Council voted on the above motion which passed by a vote of three [3] for and two [2] against with Councilmen Ballou and Thompson voting opposed. [Attached to and made a part of these minutes is the Recreation Facility Licensing Agreement for use of Big Rock Stadium by Riverfront Sports & Entertainment.]

VI.B. City Manager's Report: Retirement of City Manager R. Randy Martin

City Manager R. Randy Martin read a statement announcing his intentions to retire from employment with the Town of Morehead City. [Attached to and made a part of these minutes is the statement from City Manager Randy Martin.]

VII. Council Requests/Comments

Mayor Jones recognized the City Manager for his extraordinary service to the people and stated that he will be leaving Morehead City better than he found it.

Councilwoman Warrender stated she was just glad to be here and finally move the baseball agreement along.

Councilman Walker stated the wanted to make sure that the City was moving in the right direction and would be assured that with the baseball field all the safety parameters are being taken care of. He stated that he would miss the City Manager.

Councilman Taylor thanked the City Manager for his years of service. He thanked the Council for moving the baseball process along.

Councilman Thompson stated that he had been with City Manager Martin for a lot of years and hoped that both could look forward to retirements. He stated he was concerned about the new Councilmembers but they came through as he trusted they would. He stated he looked forward to serving with them to do the best they all could for Morehead City.

VIII. CLOSED SESSION AS PER G.S. 143.318.11[a][6] TO CONSULT WITH THE CITY ATTORNEY AND DISCUSS PERSONNEL

Councilman Taylor MOVED, seconded by Councilman Walker, and carried unanimously, to enter into CLOSED SESSION.

Councilman Thompson MOVED, seconded by Councilman Taylor, and carried unanimously, to return to OPEN SESSION.

There being no further business, the meeting was recessed until 4:00 p.m., on Tuesday, January 17, 2012, in the Municipal Chambers at which time staff representatives of the North Carolina League of Municipalities [NCLM] will be available to make a presentation on the process, options and actions necessary for replacing the retiring City Manager.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk