

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

Tuesday, October 12, 2010

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, October 12, 2010 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:	George W. Ballou
COUNCILMEN:	Paul W. Cordova David Horton John F. Nelson Demus L. Thompson
CITY MANAGER:	R. Randy Martin
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson Taylor, III, Derek Taylor, Michael Thomas
OTHERS:	Linda Staab, Joyce Veltman, Janet Hill, Lt. Richard

Abell, Lawrence Hopkins, Sherry Hopkins, Rosemary Mormann, Pastor Charles Royal, Susan Nixon, David McCabe, Jane Capps, Nina Borum, Ken Wood, Tommie Willis, Mabrey Smith, Bennie Willis, Joseph Busacco, Larry Land, Mike Shutak, Reporter, THE CARTERET NEWS TIMES

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

Mayor Jones called the meeting to order, Pastor Charles Royal gave the invocation and all joined in The Pledge of Allegiance.

II. Special Presentations:

II.A. Jane Capps on behalf of The Salvation Army

Mrs. Jane Capps introduced Lt. Nina Borum, Corps Officer in The Salvation Army. Lt. Borum spoke on behalf of the Salvation Army, an international organization known for its evangelical, social and charitable work. Both Mrs. Capps and Lt. Borum made an appeal for 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.

Thursday, December 2, 2010, from 12:00 to 2:00 p.m. at the main entrance to Walmart has been set aside as Morehead City Council Kettle Day. All Council members were encouraged to participate in the kettle program at that date and time.

II.B. Mayor's Proclamation in Celebration of "Mission Carteret" Fall Festival on Saturday, October 30, 2010, at the Morehead City Parks & Recreation Center

Last year for the first celebration, 12 churches banded together to present a fall festival consisting of food, music, games and fun activities for both young and "young at heart" citizens at the Morehead City Parks & Recreation Center at 1600 Fisher Street. The festival was an outstanding success with over 1,000 participants. This year Mission Carteret will again be sponsoring similar activities on Saturday, October 30, 2010 from 5:00 to 8:00 p.m., and all are invited to attend.

Mayor Jones presented Pastor Charles Royal of the First Baptist Church in Morehead City and Lt. Nina Borum with a Mayor's Proclamation celebrating this event.

Mayor Jones presented a Mayor's Proclamation in celebration of "Mission Carteret" Fall Festival on Saturday, October 30, 2010, from 5:00 p.m. to 8:00 p.m., at the Morehead City Parks & Recreation Center at 1600 Fisher Street. [Attached to and made a part of these minutes is the Mayor's Proclamation.]

II.C. Adopt and Present Resolution 2010-37 in Honor of Lawrence J. Hopkins, III, Upon His Retirement from the Morehead City Public Works Department

As is customary, the Town of Morehead City presents retiring employees with a Resolution of Retirement. Lawrence Hopkins, Street Supervisor, worked for the Public Works

Department for 33 years and helped Morehead City and its citizens recover from the aftermath of countless hurricanes, northeasters, snow storms and other weather events in addition to his dedication and hard work during the numerous festivals held on the Morehead City waterfront. With his wife, Sherry, by his side, Larry accepted Resolution of Retirement 2010-37 from Mayor Jones.

Larry thanked the Council, his fellow workers and citizens for his many happy years of service to Morehead City.

Adopted and presented Resolution 2010-37 in honor of Lawrence J. Hopkins, III, upon his retirement from the Morehead City Public Works Department after 33 years of distinguished service. [Resolution of Retirement 2010-37 is attached to and made a part of these minutes.]

III. Adoption of the CONSENT AGENDA

III.A. Approval of Minutes: Tuesday, August 10, 2010, Regular Meeting Tuesday, September 14, 2010, Regular Meeting

Councilman Horton had a correction to the minutes of September 14, 2010, which was corrected by the City Clerk.

Approved the Minutes of the Council on Tuesday, August 10, 2010, Regular Meeting and Tuesday, September 14, 2010, Regular Meeting and dispensed with the reading.

III.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for September 2010, in the amount of \$7,474.93; and Accept the Tax Collector and Finance Director Reports for September 2010

Councilman Horton asked for an explanation in the Tax Collector's Report regarding the motor vehicle tax receipts which seemed to be more than usual.

Manager Martin responded that this information comes from county figures and can fluctuate dramatically from month to month. Morehead City only reports the figures upon receipt of the taxes and it appears that these taxes were not received in July which could be the cause of the increase in receipts.

Approved the requests for release of overpayment of ad valorem taxes for September 2010, in the amount of \$7,474.93; and accepted the Tax Collector and Finance Director Reports for September 2010.

III.C. Adopt Ordinance 2010-42 Amending the Town of Morehead City Code of Ordinances, Chapter 2, Administration, Art. III, Div. 6, Conditions of Employment, Section 2-189 and Div. 8, Holidays and Leaves of Absence, Sections 2-251 and 2-252 Relating to Payout of Accumulated Annual Leave

The adoption of Ordinance 2010-42 clarifies the language as to the payment of leave based upon voluntary or involuntary separation of an employee with the Town of Morehead City. The City Attorney reviewed the proposed amendments and recommended approval. The proposed revision does not change the procedure utilized by the City for decades, but it eliminates any ambiguity and addresses a recent issue raised in light of judicial guidance on this matter.

Adopted Ordinance 2010-42 Amending the Town of Morehead City Code of Ordinances, Chapter 2, Administration, Art. III, Div. 6, Conditions of Employment, Section 2-189 and Div. 8, Holidays and Leaves of Absence, Sections 2-251 and 2-252 Relating to Payout of Accumulated Annual Leave. [Ordinance 2010-42 is attached to Ordinance Book #6 in the vault.]

III.D. Award of bid for Public Works Department Knuckleboom Loader to the Low Bidder, Triple T Freightliner of Wilmington, N.C., in an amount not to exceed \$104,458.00

The bids received for the purchase of a replacement truck and mounted knuckleboom loader were as follows:

Knuckleboom Loader Bid Tab -- September 21, 2010

Bidder	Total
Triple T Freightliner Bid #1	\$104,458.00
Carolina Industrial Equipment Bid #2	\$105,520.00
Carolina Environmental Systems Inc	\$106,259.00
Triple T International Bid #1	\$107,374.55
Triple T Freightliner Bid #2	\$109,001.00
Cavalier Equipment Corporation International Bid	\$110,420.00
Triple T International Bid #2	\$111,917.55
Cavalier Equipment Corporation Freightliner Bid	\$112,792.00
Carolina Industrial Equipment Bid #1	\$113,350.00
Public Works Equipment & Supply Inc Alternate Bid #1	\$115,400.00
Public Works Equipment & Supply Inc Alternate Bid #2	\$126,900.00
Public Works Equipment & Supply Inc Primary Bid	\$128,245.00
Triple T Freightliner Bid #3	\$135,307.00
Triple T International Bid #3	\$141,223.55

The low bid received was from Triple T Freightliner of Wilmington, N.C., in the amount of \$104,458.00. This equipment is utilized in the collection of yardwaste and is needed to retire the original 11 year old equipment that has been used as a backup. A demonstration of the equipment was provided and references have been checked, which were both satisfactory. The Public Works Committee of the Council reviewed the bids and recommended award to the lowest bidder, Triple T Freightliner of Wilmington, N.C., in an amount not to exceed \$104,458.00. The FY2010-2011 budget included sufficient funds for the purchase.

Awarded the bid for Public Works Department Knuckleboom Loader to the Low Bidder, Triple T Freightliner of Wilmington, N.C., in an amount not to exceed \$104,458.00.

III.E. Approve the contract with Avolis Engineering, P.A. of New Bern, N.C. for Engineering Services for the Barbour Road Sidewalk Projects

At a meeting of the Public Works Committee of the Council, a proposal from Avolis Engineering, P. A., of New Bern, NC, for Barbour Road sidewalk design services was reviewed and discussed. At the September 14th Council Meeting, approval was granted to negotiate a contract for engineering services pertaining to the Barbour Road sidewalk projects. Because of the different funding sources, the work has been separated into two [2] separate engineering contracts and the engineer has provided proposals accordingly.

To review, the City received two state [2] grants for the construction of sidewalks along Barbour Road. The first NCDOT grant was a Safe Routes to School (SR2S) grant that requires no match and will cover the construction of a sidewalk along Barbour Road directly across from the school; a pedestrian crosswalk across Barbour Road and an internal sidewalk into the school property that interconnects with an existing school sidewalk. The budget for this section of work is \$83,300.00

The second grant was a traditional NCDOT sidewalk grant that requires a 22 percent match as currently budgeted. This is for the construction of sidewalk along the curb and gutter section of Barbour Road to Mandy Lane. This section of road will require a CAMA minor permit. The budget for this section of work is \$68,390.00 with a match amount of \$12,390.00.

Engineering Proposal 1 is for design, surveying and construction management services to the SR2S grant. The proposal is for \$12,400.00. Surveying and inspection are included in the proposal for \$4,200.00. Design, including bidding, is \$8,200.00 which represents a fee of 9.8 percent. The SR2S grant is a federally funded grant and has significantly more reporting requirements.

Engineering Proposal 2 is for design, surveying and construction management services for the NCDOT sidewalk grant portion. This proposal is for \$8,150.00. Surveying, inspection and permitting are included in the proposal for \$3,400.00. Design, including bidding, is \$4,750.00 which represents a fee of 6.9 percent.

The total combined fee for both projects is \$20,550.00. The Public Works Committee recommended awarding the contracts to Avolis Engineering of New Bern, NC as the design firm for the Barbour Road sidewalk projects.

Approved the contract with Avolis Engineering, P.A. of New Bern, N.C. for Engineering Services for the Barbour Road Sidewalk Projects with Proposal 1 in an amount not to exceed \$12,400.00; and Proposal 2 in an amount not to exceed \$8,150.00; for a total amount of \$20,550.00 for both projects.

III.F. Award of the Landscaping Project at the new Morehead City Police/E911 Station to the Low Bidder, Island Green Landscapes, in an amount not to exceed \$27,900.00

The bids received for the landscaping including irrigation elements of the project at the new Morehead City Police/E911 Station were as follows:

	Island Green Landscapes	Carolina Grassmasters, Inc	Landscape Design of Goldsboro	Parks Landscaping, LLC	J&S Landscape & Design
Landscaping	\$16,000.00	\$22,900.00	\$22,060.00	\$19,975.00	\$36,636.80
Irrigation	\$ 5,900.00	\$ 6,700.00	\$ 7,000.00	\$ 6,720.00	\$ 9,400.00
Lawn	\$ 6,000.00	\$ 6,600.00	\$ 9,877.00	\$12,250.00	\$ 8,175.00
Total	\$27,900.00	\$36,200.00	\$38,937.00	\$38,945.00	\$54,211.80

The Public Works Committee of the Council reviewed the bids at their meeting on October 4, 2010, and recommended awarding the project to the low bidder, Island Green Landscapes in an amount not to exceed \$27,900. The original general contract bid with D. H. Griffin Company had two [2] bid alternatives totaling \$35,000 for landscaping and irrigation included, but the Council rejected these elements of the bid opting to contract it separately to reduce cost. The Public Safety Committee of the Council also reviewed the bids on Thursday, October 7, 2010 and recommended awarding the contract to the low bidder. Money for the landscaping and irrigation elements of the project is available in the project budget.

Awarded the Landscaping and irrigation elements of the project at the new Morehead City Police/E911 Station to the Low Bidder, Island Green Landscapes, in an amount not to exceed \$27,900.00.

III.G. Award of the Furnishings contract for the new Morehead City Police/911 Station to the Low Bidder, Mac Thrift Furniture, in the amount of \$ 133,908.29

The furnishing bids were opened on Wednesday, October 5, 2010. The Public Safety Committee of the Council reviewed the results of the bid opening on Thursday, October 7, 2010 and recommended awarding the Contract to the low bidder. The low bid amount is significantly less than the project budgeted funds for furnishings which is \$220,000.

The architect's estimated range for the furniture only portion was expected to be between \$160,000 and \$190,000. The telephone system contract was already awarded by the Council from the \$220,000. There are a few other equipment items, but the furnishings bid is well within the budgeted funds. [Attached to and made a part of these minutes are the bid tabulations.] The bid amount includes delivery, assembly and installation. The bid includes all furnishings for the Police Department occupied portions of the building and for the common use areas of the building to be shared with the County for which the City will receive partial reimbursement from the County. The County is purchasing the equipment separately for the exclusive 911 communication center areas of the building.

Awarded contract for furnishings for the Police/ 911 Station to the low bidder Mac Thrift Furniture in an amount not to exceed \$133,908.29.

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

Mayor Jones reported that Counsel had requested to remove Public Hearing Item IV.B. to adopt "City Initiated Ordinance 2010-43 Amending Sections 2-2 and 19-8.3 of the Unified Development Ordinance [UDO] to Add Signage Requirements for

Community Events” from the AGENDA for further review. The Council concurred and removed Item IV.B. from the AGENDA.

IV.A. Public Hearing: Adopt Resolution 2010-36 in Support of CAMA Public Beach and Coastal Water Access Grant Application for Blair Farm Property Acquisition Water Access Project in the Amount of \$11,900 with a City Match of \$2,100

Planning Director Staab reported that after submitting a pre-application, Morehead City was invited to apply for a Coastal Area Management Act [CAMA] Public Beach and Coastal Waterfront Access Grant to acquire approximately a 13 acre parcel located on Blair Farm Parkway [PIN #6386-0769-1238] currently owned by the Coastal Hunting Land Conservation Group. The grant is in the amount of \$11,900 with a City Match of \$2,100 for a total amount of \$14,000. The Planning Committee of the Council discussed the project on Wednesday, October 6, 2010, and recommended approval to the Council.

Planning Director Staab reported that this property was owned by a nonprofit. She further described the proposed plans for the property advising that the plans were only in the concept stage. The City at the present time is only requesting to apply for a CAMA grant for property acquisition. In the future the City may attempt further grants for minimal recreational development and public water access.

Mayor Jones opened the public hearing.

Larry Land, 700 Lands Point Road, Morehead City, stated that the original developers [of Blair Farms] intended that the site remain undeveloped and as a wildlife or natural area. This piece was donated to a conservation group set up by local accountant, Leonard Jones, who has since passed. He continued in his opinion that legally the City can do what it wants with the property, but ethically not. The property should be set aside as a wildlife preserve. He continued that the conservation easement does have one clause that says the property could be used for recreation purposes, however, that was not the intent when it was given to the conservation group. It was his opinion that morally the property should not be used as a public park.

Upon a question from Mayor Jones if the property was able to be developed, Mr. Land replied that it could never be built upon because of the conservation easement, however, there was a loophole which allows it to be developed for recreational purposes.

Joe Busacco, 1502 Egrets Bay Court, Morehead City, stated he can attest to the wildlife in this area. He further stated he was told when he bought his property that the site would remain natural. He is Vice President of the Home Owners Association [HOA] of Blair Farms and stated this matter will be discussed at their next meeting. He was concerned with traffic if the property was to become a public park. It was his opinion that the property should remain natural.

Frank Gainey, 1410 Marsh Pointe, Morehead City, stated that he was told there would never be any development on the site. He continued that he sees wildlife there and it would be a sin to develop the land.

Mayor Jones closed the public hearing.

Planning Director Staab explained that if the City does not acquire the property, it will go into foreclosure.

City Attorney Derek Taylor explained that anyone can stop the foreclosure proceedings by paying the owed taxes, however, ownership is another matter because of Internal Revenue Service [IRS] stipulations and the conservation easement.

Manager Martin reported that this property came to the City's attention because the conservation group initiated contact with him to ascertain if the City would be willing to acquire it. This happened before Leonard Jones passed away. Carteret County did not receive the required documentation in a timely manner to make the property tax exempt. The county taxes must be paid to unencumber the property. The property was placed in foreclosure proceedings which were temporarily stopped by the county to allow the City this window of opportunity to acquire it. The CAMA grant was a way to acquire the property without appropriating City funds with the exception of the requested \$2,100 match. If the

property were acquired with CAMA funds, it would necessitate a limitation on the property's development and use. If the City does not acquire the property the county will go forward with foreclosure proceedings.

City Attorney Derek Taylor further explained that the deed on the property from the current owners cites an IRS statute or restriction that only certain qualifying groups or entities, such as the current owners which are a type of 501 C corporation, can own the property. Municipalities also qualify for ownership. He continued that he has not researched other various legal aspects of the acquisition of the property in terms of overcoming any deed restrictions.

Various discussion ensued including deed restrictions, the possibility of other groups other than the City owning the property, the Blair Farm HOA acquiring the property, the conservation group willing to donate the property to the City but not being willing or able to pay any outstanding taxes or legal proceedings, Larry Land offering to get together a 501C corporation to acquire the property, and the necessity of Carteret County knowing if Morehead City would be willing to acquire the property before continuing foreclosure proceedings.

Councilman Thompson was of the opinion to keep the property natural.

It was ascertained that the CAMA grant application is due November 1st to pursue the funding.

Councilman Horton questioned if the City were to accept a CAMA grant, the property would have to have a water access.

Manager Martin replied that if the grant was accepted the City would be obligated to follow the guidelines of CAMA on the uses of the property. He continued that based on other projects the City had done in conjunction with CAMA, their regulations are fairly broad but there are certain limitations.

Councilman Horton was of the opinion that it was premature to apply for the CAMA grant. If the CAMA grant was received the property would have to be open to the public and he felt that the neighborhood did not want this. He continued that he was one of the developers, did not want the property to be developed and had no idea this could happen.

Councilman Ballou questioned who were the members of the Coastal Hunting Land Conservation Group?

Larry Land commented that there were individuals on the board who were not aware they were on it and they are not residents of Blair Farm. He continued that the members want to wind this corporation down and are not willing to pay the back taxes.

Mayor Jones commented that it seems the Council wishes to keep the property in its natural state. The property will always have public access. The Council needs to decide the best use for the neighborhood and City. If the neighborhood wants to raise the money and donate the land to the City to have it remain natural, he would be open to that suggestion.

Manager Martin stated that very little legal research has been done to "tie up" the property or evaluate limitations on use.

Mayor Jones commented that if the City were to acquire the property, it would be much better protected in terms of preventing development than if a private organization were to acquire it.

Councilman Horton requested the discussion stop.

City Attorney Nelson Taylor stated that the Council was under the time factor of the foreclosure proceedings.

Councilman Nelson cited the need for greenspace and that the City should proceed with the acquisition of this piece of property and not go through the restrictions of CAMA.

Councilman Thompson MOVED, second by Councilman Ballou, to adopt Resolution 2010-36 in support of CAMA Public Beach and Coastal Water Access Grant Application for Blair Farm Property Acquisition Water Access Project in the amount of \$11,900 with a City Match of \$2,100 for a total of \$14,000. The motion failed with a vote of no one for and five [5] against.

Councilman Nelson MOVED, to acquire the property by any means other than the CAMA grant. The motion died for lack of a second.

IV.B. Public Hearing: Adopt City Initiated Ordinance 2010-43 Amending Sections 2-2 and 19-8.3 of the Unified Development Ordinance [UDO] to Add Signage Requirements for Community Events

At the request of Counsel, the item was removed from the AGENDA for further review.

V. Citizens Requests/Comments:

Ken Wood, 910 Harrell Drive, Morehead City, had concern with the wetlands in the area adjacent to the South 10th Street Boat launching ramp in that they will disappear due to the sand berm which restricts their draining. He appealed for the removal of the sand berm to save the wetlands at this site.

Mabrey Smith, 4540 Arendell Street, and 1700 Wood Duck Court, Morehead City stated that he was required to remove political signs from his property. He contended that the signs were not in the right of way and that the City should not have employees riding around and harassing citizens about signs.

Tommie Willis, 1802 Paulette Road and also 405 South 15th Street, Morehead City stated that stormwater runoff recently entered his house at 405 South 15th Street. He feels this is due to the changed elevation of the road when it was repaved several years ago. He stated he never had water in the house until the roadwork was done. He continued that the road and alley are higher than his yard.

Councilman Nelson stated that he visited the property in question and it seemed that the house is built below sea level. The green grassy area in front of the house looked higher than the door to the house.

Mayor Jones stated the City would look into the situation.

VI. City Manager's Report: Manager Martin had nothing additional to report.

VII. Council Requests/Comments:

Upon a question from Councilman Horton, Manager Martin stated there was not a set policy in Morehead City for the celebration of Halloween. There will be a community event sponsored by area churches from 5:00 p.m. to 8:00 p.m. on Saturday, October 30th at the Parks & Recreation Center at 1600 Fisher Street.

Councilman Horton commented that Morehead City was the most profitable ABC [Alcoholic Beverage Commission] store in the county and wanted to be assured that Morehead City was receiving its fair share of revenue.

Manager Martin replied that Morehead City receives its share based upon policy and the performance of the store.

Councilman Horton questioned when the closed session minutes could be released.

Manager Martin stated that consistent with state law and Council policy those recommended for release will be presented to Council once he has completed his review and hopefully by the next Council Meeting. He advised that the Clerk had already presented them for his review.

Councilman Ballou commented on concerns with the poor drainage of the Hull Swamp Creek area flooding Highway #70 in heavy rain events with Highway #70 being a evacuation route for Morehead City. He requested that these concerns be addressed with Carteret

County to begin working on a solution. Councilman Ballou personally thanked the City, especially Public Works Director David McCabe, for all the contributions to the success of the North Carolina Seafood Festival. The event was a record in attendance and the North Carolina Seafood Board of Directors could not do the festival without the support of the city.

Mayor Jones said that a meeting with all interested parties should be scheduled to review the drainage conditions at the Hull Swamp.

With no further business, the meeting was adjourned at 7:30 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk