

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

Tuesday, October 13, 2009

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, October 13, 2009, 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 W. Taylor, III, Derek Taylor, Michael Thomas

OTHERS: Mike Shutak, Reporter, THE CARTERET NEWS TIMES; Linda Staab, Planning Director; Reverend Robert Pate; Pastor Charles Royal; Sue G. Hall; Linda Rike; Hunter Gibson; Lindsay Sewell; Ken Wood; Sarah West; Anne Krouse; Charles Krouse; Clyde W. Young III; Dale Edwards; and several others

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

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

II. Special Presentation: Special Presentation: Mayor's Proclamation in Celebration of "Mission Carteret" Fall Festival on Saturday, October 31, 2009 from 5:00 p.m.- 8:00 p.m., at Morehead City Parks & Recreation Center

This year several area churches have banded together in a group effort named "Mission Carteret" to celebrate a "Fall Festival" at the Morehead City Parks & Recreation Center at 1600 Fisher Street in Morehead City. Volunteers from participating churches will supply food, music, games and fun for the young and the "young of heart."

Pastor Charles Royal of First Baptist Church and Associate Pastor Robert Pate of Glad Tidings Church gave a brief presentation, invited everyone to attend the festival and thanked Morehead City for continuing to support the Churches of the community.

III. Adoption of the CONSENT AGENDA:

III.A. Approval of Minutes: Tuesday, September 8, 2009, Regular Meeting

Approved the minutes of Tuesday, September 8, 2009, Regular Meeting and dispensed with the reading.

III.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for September 2009, in the amount of \$428.45; and Accept the Tax Collector and Finance Director Reports for September 2009

Approved the requests for release of overpayment of ad valorem taxes for September 2009, in the amount of \$428.45; and accepted the Tax Collector and Finance Director Reports for September 2009.

III.C. Release the CLOSED SESSION Minutes of Tuesday, January 9, 2007, and Tuesday, April 28, 2009 regarding property acquisition for Morehead City Fire/EMS Station No. #2

Morehead City has entered into a contract for the purchase of the former NEWS TIMES Building on Arendell Street for Morehead City Fire/EMS Station No. #2. Therefore, the CLOSED SESSION minutes of January 9, 2007 and April 28, 2009, regarding discussions of acquiring a site for fire and emergency uses can now be released and spread upon the record.

Released the CLOSED SESSION Minutes of Tuesday, January 9, 2007, and Tuesday, April 28, 2009, regarding property acquisition for Morehead City Fire/EMS Station No. #2 and spread the minutes upon the record.

III.D. Adopt Resolution 2009-44 Authorizing Local Government Execution of a Public Beach & Estuarine Access Grant Contract for the Jib Property Acquisition

At the request of Councilman Horton, this item was removed from the CONSENT AGENDA and placed as Item VII.A. New Business.

III.E. Adopt Ordinance 2009-47 Jib Property Waterfront Public Access Grant Project Fund Ordinance in the amount of \$1,150,000

At the request of Councilman Horton, this item was removed from the CONSENT AGENDA and placed as Item VII.B. New Business.

III.F. Adopt Budget Ordinance Amendment 2009-49 to Appropriate \$650,000 of Fund Balance to the Jib Property Waterfront Public Access Project Fund

At the request of Councilman Horton, this item was removed from the CONSENT AGENDA and placed as Item VII.C. New Business.

III.G. Request for Voluntary Noncontiguous Annexation for Sailfish Wildwood, LLC for PIN #6357-0310-2518 located at 133 Wildwood Road, 42.76 acres, RMF/CU and CH/CU District zoning pending - Adopt Resolution 2009-45 Requesting the Clerk to Investigate the Petition and Resolution 2009-46 Setting the date of the public hearing for Tuesday, November 10, 2009, at 5:30 p.m.

The nearest point on the proposed satellite corporate limits is approximately 1,300 feet from the existing City limits. The area proposed for annexation is so situated that the Town of Morehead City will be able to provide services on the same basis as it provides in the primary corporate limits. The site in question is not part of an existing subdivision, and therefore, will not fragment a subdivision. The Town of Morehead City currently has

257.59 acres located in satellite annexed areas. The addition of this satellite annexation [42.76 acres] when added to the area within all other satellite corporate limits totals 300.35 acres and does not exceed 25 percent [1,401.41] of the area within the primary corporate limits. There is a pending rezoning of the property from CH/CU [Highway Commercial/Conditional Use] to RMF/CU [Residential Multifamily/Conditional Use] and CH/CU District.

The current tax value is estimated to be \$3,105,193 and based on a 22 cent tax rate, \$6,831.42 in tax revenues would be generated. Water lines will be extended from an existing 12 inch main on Highway 70. Sewer will be accessed via a lift station and gravity sewer lines which must be constructed by the developer. All costs associated with extending the water/sewer service to the newly annexed property will be the responsibility of the owner.

Adopted Resolution 2009-45 Requesting the Clerk to Investigate the Petition and Resolution 2009-46 Setting the date of the public hearing for Tuesday, November 10, 2009, at 5:30 p.m. for consideration of Voluntary Noncontiguous Annexation for Sailfish Wildwood, LLC for PIN #6357-0310-2518 located at 133 Wildwood Road, 42.76 acres, RMF/CU and CH/CU District zoning pending. [Resolutions 2009-45 and 2009-46 are attached to and made a part of these minutes.]

III.H. Approve Withdrawal of Bid for Jaycee Park Amenities from J. Harrelson Company, Inc. of Ayden, North Carolina

At the bid opening on August 25, 2009, for the Jaycee Park amenities, J. Harrelson Company, Inc. was the apparent low bidder. Following the bid within the 72 hour statutory time limitation, Mr. Harrelson requested a withdrawal of his bid citing mathematical errors and provided documentation of such. As authorized by N.C.G.S. 143-129, it is recommended that J. Harrelson Company, Inc. be allowed to withdraw their bid. This action will also prohibit the owners and employees of J. Harrelson Company, Inc. from providing any labor or material or perform any subcontract on the referenced project without written consent from the Town of Morehead City. The Public Works Committee of the Council reviewed the requested withdrawal and recommended approval.

Approved the withdrawal of bid for Jaycee Park Amenities from J. Harrelson Company, Inc. of Ayden, North Carolina.

III.I. Authorize a Contract for Jaycee Park Amenities with Jerry Lawrence General Contractor, Inc. with a base bid of \$199,999 less negotiated reductions totaling \$23,116 plus \$1.00 for the alternate M-1 yielding a contract price of \$176,884

The bids received for the Jaycee Park Amenities are attached to and made a part of these minutes. After the withdrawal of the bid by J. Harrelson Company, Inc. the next lowest bidder for the Jaycee Park Amenities was Jerry Lawrence General Contractor, Inc. After negotiations and agreement with the contractor's suggestions, it was recommended that Jerry Lawrence General Contractor, Inc. be awarded the project for the base bid of \$199,999 less negotiated reductions totaling \$23,116 plus \$1.00 for the alternate M-1 yielding a contract price of \$176,884. The Public Works Committee of the Council

reviewed the recommendations and changes. The Committee agreed to recommend awarding the contract but was not in consensus on the \$1.00 alternate.

Award of Bid for Jaycee Park Amenities to Jerry Lawrence General Contractor, Inc., with a base bid of \$199,999 less the negotiated reductions totaling \$23,116 plus \$1.00 for the alternate M-1 yielding a contract price of \$176,884. [Attached to and made a part of these minutes are the bid results for the Jaycee Park Amenities.]

III.J. Adopt Ordinance 2009-48 Fire/EMS Station #2 Replacement Capital Project Fund in the amount of \$2,000,000 and Resolution 2009-47 Official Intent to Reimburse for the Acquisition and Renovation of an existing building for Fire/EMS Station #2 Replacement

At the request of Councilmen Horton, this item was removed from the CONSENT AGENDA and placed as Item VII.D. New Business.

III.K. Set the date of the November Town Council Meeting to the Regular Meeting Schedule of the Second Tuesday of the Month Meeting date Tuesday, November 10, 2009

When the original Town Council calendar was set last year, there was a conflict with the November meeting date. At the present time this conflict has been resolved and with Council approval the November Town Council Meeting date will revert back to the regular second Tuesday of the month for a date of Tuesday, November 10, 2009, at 5:30 p.m.

Set the date of the November Town Council Meeting to the regular second Tuesday of the Month Meeting date Tuesday, November 10, 2009.

Councilman Thompson MOVED, seconded by Councilman Ballou, and carried unanimously to adopt the CONSENT AGENDA with the exception of Items III.D., III.E., III.F. & III.J., which were removed for further discussion and placed under Items VII. A. B. C. & D., New Business after the public hearings.

IV.A. Public Hearing: Request from Vinings at Morehead, LLC, on behalf of Sailfish Wildwood, LLC to Rezone Tax PIN #6357-0310-2518 located at 133 Wildwood Road from CH/CU [Highway Commercial/Conditional Use] District to RMF/CU [Residential Multi-Family/Conditional Use] District and CH/CU District – Adopt Ordinance 2009-44 [Annexation Request Pending]

Planning Director Linda Staab reported that Hunter Gibson, agent for Sailfish Wildwood, LLC, submitted a request to rezone approximately 46 acres located at 133 Wildwood Road from CH/CU [Highway Commercial/Conditional Use] District to RMF/CU [Residential Multifamily/Conditional Use] District and CH/CU District. The property is located at the intersection of Highway 70 and Wildwood Road. A request to annex the property was submitted by the developer. Adjacent property is zoned as follows: R20 to the east, west and north and, with the exception of one [1] small parcel which is zoned R20, CH to the south. A variety of commercial establishments and vacant land is located to the south, while a variety of single-family residential development is located to the east, west and north.

In July 2005, the property was rezoned to CH/CU. The current zoning on the total 46 acres allows up to 300,000 square feet of commercial space plus the three [3] outparcels with various conditions.

For the CH/CU zone, the developer is proposing to construct a shopping center up to 150,000 square feet with three [3] outparcels which cumulatively total a site of 24.48 acres of the 46 acre tract. The conditional use permit is for up to 150,000 square feet of commercial area, however, the configuration and/or footprint of the structures may be adjusted upon final determination of the establishment to be located on the property. Access to the property will be from Wildwood Road with a second direct access proposed on Highway 70. The outparcels will be accessed via an internal drive.

For the RMF/CU zone, the developer is proposing to locate 168 multifamily units [60 one-bedroom units and 108 two plus-bedroom units] with a clubhouse, pool and playground on the remaining 21.6 acres of the 46 acre total property. The conditional use review will meet the requirements of multifamily developments on parcels over 18,000 square feet. The main access to the multifamily site is via Wildwood Road. A 50 foot easement has been reserved along the driveway. A secondary access is provided on the west side of the property via Highway 70 for emergency vehicle access. The developer is proposing to develop three [3] story buildings with an approximate height of 42 feet. The parking requirement has been met with 366 parking spaces plus 24 spaces located within four garages. The developer will use the wetland areas to the north, east and west as a modified landscaping buffer with a Buffer "A" along the south side of the multifamily development. The extension of the utility lines to the site will be the financial responsibility of the property owner.

The property is located in Neighborhood 10 of the CAMA Land Use Plan, is classified as General Commercial and Low Density Residential and 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 public hearing and the property was posted.

At the Planning Board Meeting on September 15, 2009, staff provided a comparison of the approved and proposed plans and read aloud an e-mail from Planning Board Member Gordon Thayer regarding his desire to see two [2] large oak trees preserved. The Board members agreed that affordable housing is needed and that the submitted proposal is an improvement over the previously approved concept. Curtis Fleshman made the motion, seconded by Corinne Geer, to recommend approval of the rezoning request subject to meeting the 15 conditions set by the Planning Board and development occurring in accordance with the site plan dated September 3, 2009. The motion carried unanimously with the following conditions:

1. That the developer shall reserve a drainage easement along the northern property line.
2. That the retail portion of the development shall not exceed 150,000 square feet, excluding outparcels.
3. That the City Engineer will review the stormwater plan before final approval.
4. That the owner shall cleanout the drainage culvert prior to commencement of the project and periodically clean trash and debris from the drainage culvert under the railroad track near the northeast corner of the property as needed.

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5. That the owner shall implement all traffic control features required by the North Carolina Department of Transportation [NCDOT].
6. That the owner must submit proposed development plans, to include building elevations and types of materials and color schemes to the Planning Department for comments by the Planning staff with respect to aesthetics for the proposed construction prior to the application for building permits.
7. That the buildings, driveways, and parking areas as show on the site plan dated September 3, 2009, define the maximum extent of the area to be built upon, excluding the outparcels and detention ponds. [Wetlands and maximum open areas shown on the site plan to remain as buffers. Detention ponds and landscaping are allowed in open areas subject to state requirements. Actual location of buildings, driveways and parking areas may be rearranged within the built upon area.]
8. That access to the property is to be as shown on the site plan unless the NCDOT requires changes.
9. That approval is contingent upon receipt of all federal and state permits.
10. That landscaping be installed in accordance with Ordinance requirements.
11. That approval is contingent upon submittal of a lighting plan.
12. That the subject property will comply with local drainage requirements as stated in Sections 13-2 and 13-3 of the Morehead City Unified Development Ordinance [UDO]. Also, all developed property shall meet the current requirements for stormwater controls as per the North Carolina Division of Water Quality [NC-DWQ].
13. That no outside storage containers shall be located on-site after construction is complete.
14. That any subdivisions be in accordance with the Unified Development Ordinance.
15. That the dedicated emergency access to the multifamily development shall be installed within 24 months of issuance date of the certificate of occupancy.

The Planning Committee of the Council reviewed the proposed rezoning at their last meeting.

Planning Director Stabb stated that the developer agreed to all the conditions including No. #17 listed on the proposed ordinance regarding the dedicated emergency access being installed at the issuance of the first certificate of occupancy. This requirement was worked out with the Morehead City Fire Department. Planning Director Staab continued that the developers have not received any state permits at this point and she stated that if the state does not permit an entrance off Highway #70 the developers must return before the Council for any revisions.

Councilman Horton pointed out the conditions seem to be the usual conditions required by ordinance.

Planning Director Staab stated that these conditions were placed on the first rezoning that was done previously as part of the conditional use permit.

Mayor Jones opened the public hearing. Mayor Jones swore in those wishing to give testimony.

Hunter Gibson, representing Eastland Capital of South Carolina, one of the developers, stated that the company has developed over 20 properties such as the one

proposed for Morehead City. The apartment complex will serve both the Morehead City and Havelock areas. The development would be an asset to the community with such amenities as a pool, clubhouse, beautiful grounds, etc.

Lindsay Sewell, of Sailfish Wildwood, LLC. of Raleigh, North Carolina, stated he was a partner in the proposal. He continued that there are no plans at present for development of the retail area. His partnership viewed the requested rezoning as a lesser impact than what had been previously proposed. A slideshow of a similar development which was built in Georgia by the developers was shown.

When Mayor Jones questioned the time line on project, the developers replied that beyond the early stages of financing, things look favorable and they anticipate getting started in April or May of 2010. There will be handicapped accessible homes in the proposed development.

Upon a question by Councilman Horton regarding lift stations, the developers stated they had several meetings with the Morehead City utility staff; and City Engineer Tyndall Lewis is doing preliminary work for the lift station, whether on site or off site, which will depend on its size.

Councilman Horton stated that according to long term plans, the City really wants and needs a regional designed lift station in that area.

Councilman Thompson questioned the number of inches of rain to be held in the proposed retention ponds. He reminded them that the water table is 4 to 5 feet below grade here. It was ascertained that the new state stormwater regulations regarding the release water have to be the same pre and post development.

The developers stated that it is proposed to have three [3] retention ponds for the site plan. When the development is engineered and permitted, there will be a better understanding of the precise needs for water retention.

Councilman Nelson questioned if the retention ponds will be fenced for safety.

The developers replied they would prefer not to, for aesthetic purposes, but will do what is required. The responsibility for maintenance of ponds would be the property managers as the development is rental properties.

It was ascertained that the access onto Highway #70 would be only for emergency access to the residential development until the future commercial property is developed.

Councilman Nelson stated that the lighting plan has to be subject to the approval of the City. With this inference, Number #11 of the proposed ordinance will be reworded with this intention.

Steve Murdoch, who resides on Wildwood Road, had several concerns with the proposed development. He stated that the Highway #70 speed limit needs to be reduced from where it is presently 45 mph to Sam Garner Road. A stop light is also necessary. He felt that this plan is better than the previous all commercial development plan. He mentioned that where PHD Furniture is, located across the street on Wildwood Road, it is

not possible to get through the road when there is unloading and loading of trucks parked at the facility. He also questioned the difference of three [3] acres between the initial surveys and those for this development. He requested that the Council think about the beautiful trees on the property and wanted them to be saved as much as possible. The drainage ditch under the railroad culvert will be on the development's property and will need attention. He also requested as much of a screen [buffer] between his property and the development as possible. Ideally, he would like the development to be scaled back.

Mayor Jones closed the public hearing.

Councilman Horton questioned the conditional use of the prohibition of storage containers on the property. Since the initial proposal the City has instituted standards regarding storage containers and he felt that the developers should abide by the current ordinance requirements and not be specially prohibited from having containers on the property.

City Attorney Nelson Taylor commented that in a conditional use rezoning, the Council is within its right to require any condition.

Planning Director Staab stated that the developers agreed to all the conditional uses including the prohibition against outside storage containers. She mentioned the upkeep of the drainage ditch and the culvert under the railroad tracks because it was a condition of the previous proposed project. She explained that the aesthetic designs of the property would be a conditional use of the site plan which would meet City guidelines. Pictures could be attached as part of the conditional use.

The Council was concerned with the wording of Condition #17 regarding the emergency access. They wanted it installed prior to the date of issuance of the first certificate of occupancy, not within two [2] years of the final certificate of occupancy. This will be so noted on the ordinance.

Hunter Gibson stated that the developers would prefer that construction storage boxes not be kept on the developed commercial property.

Councilman Thompson clarified the definition of storage boxes on commercial property once the development is completed. The developers agreed that they did not want storage containers placed on the commercial property in view of the housing development once both commercial and residential areas were completed.

Councilman Thompson MOVED, seconded by Councilman Horton, and carried unanimously, to adopt Ordinance 2009-44 granting the request from Vinings at Morehead, LLC, on behalf of Sailfish Wildwood, LLC to Rezone Tax PIN #6357-0310-2518 located at 133 Wildwood Road from CH/CU [Highway Commercial/Conditional Use] District to RMF/CU [Residential Multi-Family/Conditional Use] District and CH/CU District with changes to the ordinance of rewording Condition #13 regarding an approved lighting plan; rewording of Condition #17 regarding the dedicated emergency access to the multifamily development shall be installed prior to the date of issuance of the first certificate of occupancy; to removing Condition #15 regarding storage containers and

renumbering the conditions on the ordinance. [Ordinance 2009-44 is attached to Ordinance Book #6 in the vault.]

IV.B. Public Hearing: Adopt Ordinance 2009-45 Amending Article 22-7 of the Unified Development Ordinance to Establish a Policy for Providing a Single Notice to Chronic Violators of the Nuisance Ordinance

Planning Director Linda Staab explained that Article 2-2.54.1 of the Unified Development Ordinance [UDO] defines a chronic violator as, “A person who owns property whereupon, in the previous calendar year, the municipality gave notice of violation at least three [3] times under any provisions of the public nuisance ordinance.”

There is a new state law concerning chronic nuisance violators which amends the notification requirements after a site is processed three [3] times in one calendar year. To comply with the requirements of Session Law 2009-287 of the North Carolina Legislature, the following amendment is proposed:

Add: 22-7.3 The town may notify a chronic violator of the town’s nuisance ordinance that, if the violator’s property is found to be in violation of the ordinance, the town shall, without further notice in the calendar year in which notice has been given, take action to remedy the violation, and the expense of the action shall become a lien upon the property and shall be collected as unpaid taxes. The notice shall be sent by certified mail.

At the Planning Board Meeting on September 15, 2009, Jackie Maucher made the motion, seconded by Gordy Patrick to recommend approval of the amendment. The motion carried unanimously. The Planning Committee of the Council reviewed the proposed ordinance and recommended adoption.

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

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilman Ballou, and carried unanimously, to adopt Ordinance 2009-45 Amending Article 22-7 of the Unified Development Ordinance to Establish a Policy for Providing a Single Notice to Chronic Violators of the Nuisance Ordinance. [Ordinance 2009-45 is attached to Ordinance Book #6 in the vault.]

V.A. Old Business: Adopt Ordinance 2009-37 granting the City Initiated Request Amending the Unified Development Ordinance [UDO] and Map of the Town of Morehead City to include in the CH [Highway Commercial] District all Properties currently zoned CS [Shopping Center] District; and adopt Ordinance 2009-41 Amending Articles 9, 11, 13 and 15 of the UDO to Eliminate Language Associated with the CS District – [Public Hearing continued from September 8, 2009, Town Council Meeting]

As background information, Planning Director Staab reported that during the September 8, 2009, Town Council Meeting, Councilman Horton expressed concern that although property owners were notified of the zoning change through the regular

procedure, tenants were not. He proposed that commercial tenants in the areas affected by the proposed ordinance change, especially those with long term leases, should also be notified of the proposed amendment. He requested that City staff contact those tenants.

After much discussion and listening to the public comments received, the members of the Council concurred that Morehead City should make an effort to notify tenants of the proposed rezoning and agreed to continue the public hearing to the October 13, 2009, Town Council Meeting to allow the City staff the opportunity to notify the lease tenants about the proposed rezoning.

At the Planning Committee Meeting held on September 28, 2009, the Planning Department reported that the lease tenants of the shopping centers of the proposed rezoning were notified of the proposed zoning change and the continuation of the public hearing. To date, no comments have been received from tenants or others since the September 8, 2009, Council Meeting.

Mayor Jones stated that the public hearing remained open for comments. No one spoke for or against the proposed amendment.

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilman Cordova, and carried unanimously, to adopt Ordinance 2009-37 granting the City Initiated Request Amending the Unified Development Ordinance [UDO] and Map of the Town of Morehead City to include in the CH [Highway Commercial] District all Properties currently zoned CS [Shopping Center] District; and adopt Ordinance 2009-41 Amending Articles 9, 11, 13 and 15 of the UDO to Eliminate Language Associated with the CS District. [Ordinance 2009-37 and Ordinance 2009-41 are attached to Ordinance Book #6 in the vault.]

VI. Citizen Requests/Comments

Sue Hall, of 608 Arendell Street related a problem she has with the Downtown Business District [DB] zoning designation and her property. She reported that she owned and has lived at 608 Arendell Street for five [5] years. She obtained a residential mortgage when she bought the property. She has since listed the house on the market for sale and received an acceptable offer. The problem is that potential buyers could not get the residential loan from the VA because the house is zoned business. She stated that the house was zoned commercial when she purchased, however, due to economic conditions it is now not possible to obtain a residential mortgage for her house nor can she refinance. She hired a lawyer to see if this could be resolved. He offered that the sticking point is the zoning ordinance stating that if the property were destroyed 75 percent or more it could not be rebuilt. He suggested that maybe an amendment could be made to the Unified Development Ordinance regarding this. Another option would be to have every lot on Bridges Street which backs up to the rear of the houses on Arendell Street request to become residentially zoned, then her lot could be rezoned residential. She asked the City to find a way to resolve this problem.

Mayor Jones stated that this situation will be reviewed by the Planning Committee of the Council for possible resolution.

Linda Rike, a local realtor, stated that the banks do not want to give a residential mortgage to commercial property. The banks are requesting a letter from Morehead City that the house could be rebuilt 100 percent.

Councilman Horton commented that the ordinance should be reviewed and possibly amended to allow if a house exists and is destroyed it could be rebuilt in the Downtown Business District.

Dale Edwards of 108 North 7th Street, stated he was also concerned with possible insurance replacement in the Office & Professional [O & P] District as well.

VII.A. New Business: Adopt Resolution 2009-44 Authorizing Local Government Execution of a Public Beach & Estuarine Access Grant Contract for the Jib Property Acquisition

Morehead City has been approved for receipt of a grant in the amount of \$300,000 from the North Carolina Department of Environment and Natural Resources [DENR] for the project known as the Morehead City Downtown “Jib” property acquisition. The adoption of Resolution 2009-44 acknowledges that Morehead City accepts the grant and authorizes a contract with DENR for the receipt of the grant funds.

This grant added to the previously approved \$200,000 Division of Water Resources grant provides \$500,000 of the total cash necessary to acquire the Jib property and associated riparian rights. The total acquisition price is \$1.1 million in cash and a \$200,000 credit toward future development fees.

The Finance Committee of the Council recommended adoption of the resolution and acceptance of the grant.

Councilman Horton stated that the appraisal for the property was done more than a year ago when the supposed use was for high rise condominiums. He previously requested that a reappraisal be done because the economy has changed as well as property values. He was of the opinion that the City was paying too much for the property and should not pay more than the current appraised value.

Councilman Thompson replied that he was of the opinion from previous meetings that the Council was in complete agreement to purchase the property for the City. He commented that the property would give citizens both a view and access to public waters and the property could become a showplace for downtown Morehead City.

Councilman Horton commented that the City as yet had no definitive project or plans for the property and that property values have fallen. He conceded that he agreed with the rest of the Council to acquire the property for the citizens but not paying more than the actual value of the land. He stated he was not in agreement with buying this piece of property for the stated price.

Manager Martin remarked that the City entered into a contract with the specific terms for the acquisition of the Jib property prior to the third party closing on the property which occurred in December 2008. The North Carolina Coastal Land Trust acquired the

property and agreed to a transfer of the property to the City with closing on the property deferred in order for the City to have the opportunity to pursue and obtain grants. With the acceptance of this grant and the previously accepted grant, Morehead City would acquire the jib property, the riparian rights, the CAMA permit for ten [10] boat slips, the ability to build over the water and the rights to an adjoining riparian lease area at a net cost to the City of \$600,000 in cash. This set of circumstances has not changed. An appraisal was completed in August 2008, for the City with a value determined to be \$1.525 million by a qualified appraiser. The owner had another appraisal completed some weeks later that indicated a value in excess of \$3 million. The total consideration of cash and development credits of \$1.3 million is less than both appraised values. The terms were established based upon the information available at the time the agreements to purchase were approved by all parties. There is no opportunity to renegotiate without defaulting on the contract which would result in a loss of the fee consideration which contributed earnest money for the agreement. [NOTE: See action and related discussion that follows VII.C. New Business.]

VII.B. New Business: Adopt Ordinance 2009-47 Jib Property Waterfront Public Access Grant Project Fund Ordinance in the amount of \$1,150,000

The project authorized includes acquisition of property in the 700 block of Shepard Street commonly referred to as the “Jib”. Also authorized in the project activities will be future expenditures for improvements to the property for the purpose of public water access. These costs are not appropriated yet because they have not been determined. The following revenues and other funding sources are anticipated to be available for this grant project:

DENR/DWQ Grant	\$ 200,000
DENR/CAMA Grant	\$ 300,000
Interfund Loan from Water/Sewer Fund	\$ 650,000
TOTAL	\$1,150,000

The adoption of this ordinance would authorize the City to proceed with the project within the terms of the grant documents, rules and regulations of the Department of Natural Resources Division of Water Quality [DENR/DWQ] and DENR/CAMA and any other grants and funding sources that may be received in conjunction with the project. The Finance Committee of the Council reviewed and recommended adoption of Ordinance 2009-47.

Councilman Horton stated he was not comfortable borrowing money from the water/sewer fund to pay for the City’s cash portion for the acquisition of the Jib property. He continued that in his opinion the water/sewer fund should only be used for water and sewer projects. He stated that the water/sewer rates will be increasing and he would prefer to pay down the water/sewer debt. He continued that he did not want “his” water/sewer bills to help pay for waterfront property.

Upon a question regarding the increase of \$50,000 from the original of \$600,000, Manager Martin explained that the proposed borrowing includes the costs of closing on the property and the interest incurred on the deferred closing since June 30th. The Manager went on to address the concern expressed about an interfund loan from the utility fund to

the general fund. The alternative would be to fund the acquisition of the property by private loan at a much higher cost to the City. If the City were to borrow the money privately the City would pay interest to a third party at a rate higher than the City is making in any reserve funds. The City currently has reserve funds sufficient to handle water/sewer needs projected after the Area 5 water/sewer loan was recently retired and this loan is made. If the City were to use the general fund for acquisition of the property, Manager Martin expressed concern that this procedure would be “a one-way door” and he and the Finance Director are more comfortable with the flexibility of doing an extended repayment over a short period of years through the borrowing from the water/sewer fund, rather than through the fund balance from the general fund. However, there may be enough money in the general fund next year to repay the entire debt.

Manager Martin continued that as to the rates for water/sewer service, the state mandates policies on fees for water/sewer service and sets them at specific amounts in order for cities to qualify for and obtain grants. The City some years ago made a conscious decision to increase water/sewer rates in order to be eligible for grant awards. This has saved City taxpayers and utility customers millions in local dollars. This has also prepared the City for the new debt service increase associated with the new wastewater treatment plant recently completed. The result is that rates were incrementally increased over a period of years and has resulted in increased reserve amounts. This is beneficial to the City in getting an improved financial rating for future third party borrowings and allows the opportunity for a limited amount of short term interfund borrowing with interest earnings at least equal to the investment earnings.

Councilman Cordova replied that this whole matter had been discussed previously and the majority of the Council was in agreement to proceed with the borrowing of funding in this manner.

[NOTE: See action and related discussion as follows in VII. C, New Business.]

VII.C. Adopt Budget Ordinance Amendment 2009-49 to Appropriate \$650,000 of Utility Fund Reserves to the Jib Property Waterfront Public Access Project Fund

This proposed action is connected to the proposed action and discussion of aforementioned items VII. A. & B.

The purpose of this budget ordinance amendment was to appropriate \$650,000 of utility fund reserves for an interfund loan to the Jib Property Waterfront Public Access Grant Project in order to acquire property and associated riparian rights in the 700 block of Shepard Street to be used as public water access. Repayment of the interfund loan will be made from the general fund including interest and repaid to the utility fund. The Finance Committee of the Council reviewed and recommended adoption of Budget Ordinance Amendment 2009-49.

Councilman Ballou MOVED, seconded by Councilman Cordova to adopt Resolution 2009-44 Authorizing local government execution of a Public Beach & Estuarine Access Grant contract for the project known as the Morehead City Downtown “Jib” property with the North Carolina Department of Natural Resources with a grant receipt of \$300,000; to adopt Ordinance 2009-47 Jib Property Waterfront

Public Access Grant Project Fund Ordinance in the amount of \$1,150,000; and to adopt Budget Ordinance Amendment 2009-49 to Appropriate \$650,000 of Utility Fund Reserves, in the form of a loan to the General Fund, to the Jib Property Waterfront Public Access Project Fund. The motion carried with a vote of four [4] to one [1] with Councilman Horton casting the dissenting vote. [Resolution 2009-44 is attached to and made a part of these minutes. Ordinances 2009-47 and 2009-49 are attached to Ordinance Book #6 in the vault.]

VII.D. Adopt Ordinance 2009-48 Fire/EMS Station #2 Replacement Capital Project Fund in the amount of \$2,000,000 and Resolution 2009-47 Official Intent to Reimburse for the Acquisition and Renovation of an existing building for Fire/EMS Station #2 Replacement

The adoption of Ordinance 2009-48 formally authorizes up to \$2,000,000 for the acquisition of property located at 4032 Arendell Street [former Carteret County NEWS TIMES Building] and for expenditures for improvements to the property including renovation of an existing building, land improvements for parking and landscaping and the purchase of items such as furniture and equipment as well as other costs related to using the property for public safety purposes. The City anticipates borrowing these funds. The adoption of Resolution 2009-47 formally declares the intent of the Town of Morehead City to reimburse itself with the proceeds of the borrowing for any of the project expenditures incurred by it prior to the issuance of the borrowing. The Finance Committee of the Council reviewed and recommended adoption of both the ordinance and resolution.

Councilman Nelson was of the opinion that the proposed ordinance should only take into consideration the purchase price of the property. He stated that at this point there are no formal plans for the renovation of the property and, therefore, no set amount of the costs for the improvements to the property. He preferred that meetings be set to discuss how the property should be improved before approving an amount for improvements.

Councilman Horton concurred.

Manager Martin replied that the figure of \$2 million in borrowing was derived utilizing an architect's assessment for potential costs for the renovation and exterior improvements to the building to bring it up to fire/EMS public safety standards established by building code requirements. He continued that the City has fund balance to apply to a portion of the costs for this project from the reserves the City accumulates and that the county accumulates for the fire/EMS department for fire/EMS needs for those county properties served by Morehead City Fire/EMS services. He continued that in projecting the potential worse case scenario in terms of costs for the property, the City staff felt comfortable with recommending up to \$2M in borrowed funds for the purchase and renovation of this property. As previously reported, this figure is estimated to be at least \$1 million less than what new property and a comparably sized new building would cost the City.

Manager Martin continued that it is not City policy to borrow more than what would be needed for any project. However, it makes sense for the City to seek financing and approval from the Local Government Commission [LGC] at the maximum cost which the City estimates will fully finance the project. He continued that only the Council can let a

contract to build and that will dictate the actual budget for the project. Until the plans are finalized and put out to bid, the exact costs will not be known. The building will have to comply with code requirements and the costs associated with a public safety building. The architect gave an estimate of \$1.3 million for renovation. The City will have approximately \$685,000 in fire/EMS reserves a portion of which can be designated to cover a share of costs for this project. The adoption of this ordinance would in essence establish the City's credit line for the project and allow for the City to proceed with the State Local Government Commission approval for the borrowing in a timely manner since the closing on the purchase of the property is scheduled for completion by December 31, 2009.

Councilman Horton stated that he has not seen any plans for the renovation and improvement of the property and would like to see a proposal of what the project would incur.

Councilman Cordova commented that under the workings of the committee system each Council member has their set committee with which they spend a lot of time and expertise and that the Finance Committee of the Council having discussed and reviewed all the budget ordinances presented at this meeting recommended approval. He continued that this is the procedure which has been done in the past to borrow funding and he is content with the financing arrangements.

Councilman Cordova MOVED, seconded by Councilman Thompson, to adopt Ordinance 2009-48 Fire/EMS Station #2 Replacement Capital Project Fund in the amount of \$2,000,000 and Resolution 2009-47 Official Intent to Reimburse for the acquisition and renovation of an existing building for Fire/EMS Station #2 replacement.

Councilman Ballou MOVED, that as Chairman of the Public Safety Committee of the Council, he would delay the action on this motion until next month in order for the Council to discuss plans for the renovations and to try to reach a consensus before the City commences with the project.

Upon further discussion, Councilman Ballou withdrew his motion.

The Council then considered the initial motion set by Councilman Cordova and seconded by Councilman Thompson. The motion carried with a vote of four [4] to one [1] with Councilman Horton casting the dissenting vote. [Ordinance 2009-48 is attached to Ordinance Book #6 in the vault. Resolution 2009-47 is attached to and made a part of these minutes.]

[NOTE: Near the conclusion of the meeting Councilman Horton requested that his vote be amended to approval of this resolution and ordinance making the vote unanimous. (See Section X. that follows)].

VIII. City Manager's Report: City Manager Randy Martin stated he had no further reports.

IX. Council Requests/Comments

Councilman Cordova reported that there are two [2] trailers which have been parked by the New Dawn Restaurant and the Quality Court Motel for quite a while.

Manager Martin responded that these will be checked.

X. CLOSED SESSION AS PER G.S. 143.318.11[a][3][5][i] TO APPROVE THE CLOSED SESSION MINUTES OF TUESDAY, SEPTEMBER 8, 2009, PROPERTY ACQUISITION AND TO DISCUSS CONTRACT NEGOTIATIONS AND CONSULT WITH THE CITY ATTORNEY

Councilman Cordova MOVED, seconded by Councilman Ballou, and carried unanimously to enter into CLOSED SESSION.

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

Councilman Thompson MOVED, seconded by Councilman Nelson, and carried unanimously, to approve the CLOSED SESSION minutes of Tuesday, September 8, 2009 and release the portions of the minutes referencing the Morehead City Fire/EMS Department and the Police Station.

Councilman Horton requested to change his vote on Item VII.D. Adopt Ordinance 2009-48 Fire/EMS Station #2 Replacement Capital Project Fund in the amount of \$2,000,000 and Resolution 2009-47 Official Intent to Reimburse for the Acquisition and Renovation of an existing building for Fire/EMS Station #2 Replacement to reflect that he was in favor of Budget Ordinance Amendment 2009-48 and Resolution 2009-47 and to note his vote as affirmative.

There being no further business, the meeting adjourned at 9:30 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk