

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

Tuesday, February 9, 2010

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, February 9, 2010 at 5:30 p.m., in the Municipal Building Auditorium at 202 South 8th Street, Morehead City, North Carolina. Those in attendance were:

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| 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 |
| OTHERS: | Steve Chalk, Sammie E. Turner, Al, Felton, Corinne |

Geer, Scott Ensign, Erin LaBreque, Brooks Jernigan, Ron Ambrose, Jannette Pippin, Reporter, THE DAILY NEWS, Aisha Howard, NEWS CHANNEL 12/FOX, Lennie Griffin, Ed Fulcher, Michael Lewis, Johnathan Roberts, Tammie Ebron, Crystal Watters, Tom Bennett, Dylan Ray, Clyde Ebron, Paul Garner, Vincent Marton, Bridget Curran, Debbie Godwin, Julie Naegelen, Ruth Yearick-Jones, Buddy Bengel, Chris Marmo, Paul & Donna Getty, Sarah Shelton, Denny Lawrence, Mike Wagoner, Jaime Barefoot, Sherrie Ferraro, Gary Goldstein, Gavin Gaskill, Tony & Cindy Tucker, Tim & Liz Horn, Holly Fletcher, Keri Page, Sarah West, Mike A. Shutak, Reporter, THE CARTERET NEWS TIMES, Steve Bengel, Any Ipock, Matt Compton, Rusty Mills, Lila Simpson, Tom Kies, Ken Murphy, Charles Collier, Sr., Carol Lohr, Melvin Bright, Charles Collier, Jr., Heather B. Avery, Carol Collier for Stephanie Davis, Dawn Gaskill, Paul Getty 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., Councilman Thompson gave the invocation and all joined in The Pledge of Allegiance.

II. Special Presentation: Armed Forces Community Covenant -- Ron Ambrose, Membership Chairman, Department of North Carolina, American Legion representing Newport Post #203

During the North Carolina League of Municipalities Annual Conference held in Greenville, North Carolina on October 25-27, 2009, the communities of North Carolina were requested to execute a covenant between their community and the Armed Forces Community. This covenant is committed to building strong communities through recognition and support of our men and women in uniform and their families. By adopting this agreement, Morehead City will also strive to create a strong relationship between the community and the military personnel who live and work nearby.

Ron Ambrose, Membership Chairman, Department of North Carolina American Legion presented the covenant to the City Council.

Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to adopt the Town of Morehead City Armed Forces Community Covenant. Each Council member signed the covenant and pledged support. [Attached to and made a copy of these minutes is the covenant.]

III. Adoption of the CONSENT AGENDA

**III.A. Approval of Minutes: Tuesday, January 12, 2010, Regular Meeting
Monday, January 25, 2010, Recessed Meeting**

Approved the minutes of the Tuesday, January 12, 2010, Regular Meeting and Monday, January 25, 2010, Recessed Meeting, as amended, and dispensed with the reading.

III.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for January 2010, in the amount of \$323.43; and Accept the Tax Collector and Finance Director Reports for January 2010

Approved the Requests for release of overpayment of ad valorem taxes for January 2010, in the amount of \$323.43; and accepted the Tax Collector and Finance Director Reports for January 2010.

III.C. Submittal of 2009 Delinquent Real Estate and Personal Property Tax Lists as per G.S. 105-369[a] including Interest Due and Authorize Tax Collector to Post and Advertise the 2009 Delinquent Tax List

The Tax Collector is required by statute to report to the Council the total amount of unpaid taxes for the current fiscal year and the Council must act to charge the Tax Collector to advertise liens between March 1st and June 30th. After the Council approves the advertisement of tax liens, a notice will be sent by first class mail to each property owner's last known address 30 days prior to the notice in the newspaper. This is a notice to the listed owners on file with the county as of December 31st of the affected tax year.

Approved the submitted 2009 Delinquent Real Estate and Personal Property Tax Lists as per G.S. 105-369[a] including interest due and Authorized the Tax Collector to post and advertise the 2009 Delinquent Tax List. [Attached to and made a part of these minutes is the 2009 Delinquent Real Estate and Personal Property Tax Lists.]

III.D. Adopt Resolution 2010-03 Designating Official Signatory and City Representative for Mosquito Control

The North Carolina Department of Environment and Natural Resources, Division of Environmental Health requests that the Council adopt a resolution designating an agent to represent Morehead City in connection with mosquito control as part of the application for state aid for mosquito control. Lawrence Hopkins, Street & Sanitation Supervisor, has been selected by the City Manager and nominated to again be designated as agent. He has been so designated for several previous years and has the proper certification and training for this function.

Adopted Resolution 2010-03 Designating Official to sign papers and to otherwise represent the Town of Morehead City in connection with mosquito control. [Resolution 2010-03 is attached to and made a part of these minutes.]

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

IV.A. Public Hearing: Request for Contiguous Annexation from David & Karen Horton, PIN # 6366-1036-3878-000, located at 130 Wayne Drive, 0.91 acres, zoned CH [Highway Commercial] District – Adopt Ordinance 2010-04

Councilman Horton requested to be excused from this item on the AGENDA due to a personal conflict of interest as he owns the affected property.

Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to excuse Councilman Horton from this item on the AGENDA due to a personal conflict of interest.

Planning Director Linda Staab reported that the property under consideration for annexation is contiguous to the present City limits, contains approximately 0.91 acres and is currently zoned CH [Highway Commercial] District. The site in question is not part of a subdivision, and therefore, will not fragment a subdivision. The current tax value of the property is estimated to be \$200,925 and based on a 22 cent tax rate, \$442.04 in tax revenues would be generated.

Water and sewer service will be accessed from Wayne Drive. All costs associated with extending the water/sewer service to the newly annexed property will be the responsibility of the owners. The Planning Committee of the Council reviewed the proposed annexation.

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

Mayor Jones closed the public hearing

Councilman Thompson MOVED, seconded by Councilman Cordova, and carried unanimously, [Councilman Horton, excused], to adopt Ordinance 2010-04 granting contiguous annexation requested by David & Karen Horton for PIN # 6366-1036-3878-000, located at 130 Wayne Drive, Morehead City, 0.91 acres, zoned CH [Highway Commercial] District. [Ordinance 2010-04 is attached to Ordinance Book #6 in the vault.]

IV.B. Public Hearing: Request for a Certificate of Convenience and Necessity [Taxi Franchise] from Tri-City Taxi of Carteret County, LLC., Sammie & Janice Turner, Owners, 3212 Arendell Street – Adopt Ordinance 2010-05

Manager Martin reported that the application is for a taxi franchise permit in Morehead City for the operation of six [6] vehicles. Tri-City Taxi of Carteret County is a newly established business. The City Code provides that a Certificate of Convenience and Necessity be granted for a two [2] year period, unless approved otherwise by Council. A taxi franchise must pass two [2] readings by the Council; the initial reading was held January 25, 2010. The application and background information is attached. The Public Safety Committee of the Council reviewed the application.

Councilman Horton questioned that when a taxi franchise application states six [6] vehicles is that limit adhered to?

City Attorney replied that the franchise would be limited to those six [6] vehicles; if more are needed or requested, the ordinance must be amended.

Mayor Jones opened the public hearing.

Sammie Turner, 408 Sound Drive, Morehead City, the applicant, stated that he has observed the taxi business for years, did some research and feels that another taxi service in Morehead City is justified. He continued that his taxi franchise has marketing ideas which they think will be beneficial to the town. He stated that any consideration of the application for the taxi franchise is appreciated.

When questioned by Councilman Thompson, it was ascertained that all the taxi vehicles will be parked on his business property at 3212 Arendell Street.

Mayor Jones closed the public hearing.

Councilman Horton questioned Manager Martin on how franchises are granted and the procedures.

Manager Martin replied that this taxi franchise is not an exclusive franchise within Morehead City as there are several others within the township. The need for a taxi franchise is driven by the private sector. The City through the Police Department makes sure the taxi franchise drivers and vehicles are licensed, have insurance, have proper and safe equipment, etc.

Councilman Cordova questioned the difference between a limousine service and a taxi franchise.

Martin stated that the requirements for taxi franchises are regulated by state statutes and local codes. Morehead City does not have local code requirements for other types of vehicles for hire.

City Attorney Nelson Taylor confirmed that Morehead City does not have a local ordinance that addresses vehicles for hire. If a limousine service meets the requirements of state law they are allowed to conduct business.

Councilman Ballou advised that the Public Safety Committee of the Council has for sometime been reviewing the City's taxi franchise policy. Morehead City currently has three [3] franchises with a total of 26 vehicles on the road. He continued that during the Public Safety Committee of the Council Meeting, Police Chief Wrenn Johnson stated that in her opinion there was a need for more taxi franchises. The Public Safety Committee of the Council will be further considering recommendations for revising the City's taxi ordinance.

Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to adopt Ordinance 2010-05 granting a Certificate of Convenience and Necessity [Taxi Franchise] to Tri-City Taxi of Carteret County, LLC, Sammie & Janice Turner, Owners, 3212 Arendell Street, Morehead City. [Ordinance 2010-05 is attached to Ordinance Book #6 in the vault.]

IV.C. Public Hearing: Adopt Resolution 2010-04 Authorizing the Application for an Installment Financing Contract to Provide Interim Funding for Expenditures for Purchase, Renovation and other Costs related to the Fire/EMS Station No. #2 Replacement Project

Manager Martin reported that on October 13, 2009, the Council formally adopted Ordinance 2009-48 which authorized up to \$2,000,000 for the capital project ordinance to acquire 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. Although construction plans have not been developed as yet, it is preliminarily estimated that the total cost of the project, including design, furnishings and contingencies, will not exceed \$2,500,000. The City anticipates borrowing up to \$2M through an installment financing contract with any additional costs funded from City and district restricted reserves. The adoption of Resolution 2010-04 formally declares the intent of the Town of Morehead City to authorize an application for an installment financing contract to borrow funding for the project expenditures incurred during the construction phase of the project. The City has applied for and anticipates long-term financing for the project from the United States Department of Agriculture which routinely funds public safety facilities. The long-term financing will be used to pay off the interim financing upon project completion. This resolution is standard procedure for the period while the City undertakes requesting financial proposals from interested banks for providing the interim financing and while awaiting the required formal State Local Government Commission approval of the loan terms. This process is a requirement for the use of tax exempt financing instruments by local governments. The Finance Committee of the Council reviewed the proposed resolution prior to the meeting and recommended approval. Grant funding has been applied for.

Councilman Ballou expressed his concern with the estimated cost of the project not exceeding \$2.5 million; he stated he hoped that the \$2 million estimated for the project would suffice.

Councilman Thompson questioned could the Local Government Commission [LGC] approve \$2.5 million for the project? He wanted to be sure that adequate funding to complete the project would be available if costs exceeded \$2 million.

Manager Martin replied the LGC will likely approve more than \$2.0 million but that is the maximum amount of borrowing recommended with reserves available for any cost overruns when the project is designed and bid.

Councilman Horton stated that in his opinion, the projected costs should be less than \$2 million and he would still like to see a proposal on the project. He stated that when this project was discussed at the October meeting in 2009, the estimated borrowing was up to \$2 million for purchase and renovation, based upon an architect's estimate. Councilman Horton read an excerpt of the October 9, 2009, minutes quoting comments attributed to the Manager on the project projections on borrowing up to \$2 million. Councilman Horton also noted that he, the Manager and Councilman Nelson agreed the project would be less than \$2 million or worst case \$2 million. He continued that the City's goal should be \$1.7 million for the entire project with projected overruns being at the \$2 million mark. He stated that nothing had been done since October to know more about the costs so \$2.5 million should not be mentioned. It was his opinion that the project should cost less than \$2 million.

Councilman Ballou also noted his concern expressed in Committee and he objected to the \$2.5 million language being in the agenda report.

It was the consensus of the Council that the minutes should reflect that only up to \$2 million should be the estimated cost of the project.

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

Mayor Jones closed the public hearing.

Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to adopt Resolution 2010-04 authorizing the application for an installment financing contract to provide interim funding for expenditures for purchase, renovation and other costs related to the Fire/EMS Station No. #2 Replacement Capital Project up to \$2 million. [Resolution 2010-04 is attached to and made a part of these minutes.]

IV.D. Public Hearing: Adopt Resolution 2010-05 Authorizing the Application for an Installment Financing Contract to Provide Interim Funding for Expenditures for Design, Construction and other Costs Related to the Police Station/E911 Center

Manager Martin explained that at the August 11, 2009 Council meeting, the Council authorized a contract with D. H. Griffin Construction Company for up to \$5,105,500 for the proposed Morehead City Police Station/County E-911 Center to be located on a portion of the Wallace School property site on 12th Street. On September 8, 2009, the Council adopted Resolution 2009-43 Declaration of Official Intent for Morehead City to be reimbursed for expenditures incurred prior to borrowing funds for Police Station/E-911 Center construction. In April 2009, the Council adopted a budget ordinance amendment of \$6 million for the total budget appropriation for all related expenses for the project. This included total costs for the building construction, equipment, furnishings, architectural fees, contingencies and alternates, etc. Carteret County will share in the project expenses. Since all costs are not finalized including the county and City share, the City anticipates borrowing \$5M for the financing of the project. This borrowed amount reflects the actual amount of CITY ONLY costs for the project. By adopting Resolution 2010-05 the Council formally declares its official intent to pursue interim financing to provide funding during the construction phase of the project. The City has applied for and anticipates long-term financing for this project from the United States Department of Agriculture which routinely funds public safety facilities. The long-term financing will be used to pay off the interim financing upon project completion. This resolution is standard procedure for the period while the City undertakes requesting financial proposals from interested banks and while awaiting the required formal State Local Government Commission approval of the loan terms. This is a requirement for the use of tax exempt financing instruments by local governments. Applications have been made for grant funding from the United States Department of Agriculture [USDA] as well.

The Finance Committee of the Council reviewed the proposed Resolution and recommended approval.

Manager Martin stated that at the time the project was bid it was thought that the project could be funded by long term financing from banks, however, there are currently several opportunities for grant and loan funding especially from the federal government. The financing for this project was delayed to ascertain if the City could also take advantage of additional funds from the United States Department of Agriculture [USDA]. In the short term the City reserve funds which will be reimbursed are funding project expenditures.

Mayor Jones opened the public hearing.

Ruth Jones, 707 Fisher Street, stated that on September 11 2009, she had the opportunity to attend a ceremony to honor the fallen heroes from 9/11. At that time she toured the present police station facilities and was shocked at the conditions of the building. She charged the Council with the responsibility of acquiring the funds to give the individuals who put their lives on the line for the citizens to have the kind of building they deserve.

Mayor Jones closed the public hearing.

Councilman Ballou MOVED, seconded by Councilman Cordova, and carried unanimously, to adopt Resolution 2010-05 authorizing the application for an installment financing contract in the amount of \$5M to provide interim funding for expenditures for design, construction and other costs related to the Police Station/E911 Center. [Resolution 2010-05 is attached to and made a part of these minutes.]

Councilman Thompson commented that in his opinion Morehead City has an excellent Finance Director who has assured the Council that the City is by no means in trouble with borrowing. He wanted to assure the citizens that Morehead City is in good shape financially.

V. Old Business: Consideration of an Agreement between Riverfront Sports & Entertainment, Inc., of New Bern and the Town of Morehead City for use of O’Neal Baseball Field at Big Rock Stadium

At the Council work session on January 29, 2010, several questions and potential contract revisions were discussed by members of the Council with input received from the franchise representatives. The Council did not reach a consensus or give direction to the City Manager on which revisions were acceptable to the majority of the Council. The City Manager since the work session has received a few further comments from some members of the Council on the draft contract and potential revisions.

Mayor Jones commented that the legal terms of the contract between Morehead City and the Morehead Marlins was released to the public and that the Council was present to consider this contract. He continued that he was very proud of the passion of the community which has voiced both their pros and cons. He continued that this item is not a public hearing, but public comments would be received during the meeting.

City Manager Martin gave a summary history of the baseball park project and addressed potential revisions, concerns and issues raised concerning the contract. He continued that he met with the owners of the franchise and has received a substantial amount of public comment in the form of petitions, letters and e-mails both pro and con. Some comments were received very late, thus the packets are only being presented before the Council this evening. He distributed a report to the City Council and shared it aloud placing it into the record for the benefit of the community members present. [Attached to and made a part of these minutes is the City Manager’s Report entitled “Morehead City Municipal Park Planning Report” dated February 2010.] The Manager concluded the report with a recommendation for allowing use of the field during the upcoming 2010 season while contract negotiations for future years continue. The Manager advised a draft resolution had been prepared by the City Attorney for this purpose.

Councilman Ballou stated he was concerned with the lateness of receiving this report as he would have preferred to have time to review it.

Councilman Horton stated that he was a member of Blair Pointe LLC. This organization donated the land for the specific idea of a soccer park, however, the City preferred to purchase the land from Blair Pointe LLC because of the opportunity of acquiring the land through grant funding thereby using the funds for a matching grant for development of the park. For the purpose of this discussion, however, the land was a donation from Blair Pointe, LLC. He continued that an update in January 2008, alluded to the possibility of the proposed baseball field to be used for collegiate aged players. He continued that he was under the impression that the baseball community has known that this park was being developed for a wooden bat team for some time. However, he, himself was not aware of this and was not aware of the scope and size of the proposal and that the project was to include a commercial entity. He did not want the public to think that as a member of the Council he was aware about the project for many years.

Manager Martin replied that all the information regarding a collegiate wooden bat team utilizing O’Neal Field has been a matter of record for some time and has been in numerous newspaper articles, City documents and reports all of which had been shared with the City Council over the years since the project was initially discussed beginning in 2003-2004.

Councilman Ballou stated that in his mind, the first time for a formal open session discussion of the proposed lease was Friday, January 29, 2010, at which time the Council heard the requested proposal from the baseball franchise owners.

Councilman Horton stated that he voted for the original \$900,000 project to build a baseball park. He continued that in his opinion, the problem is when you get cost overruns, sometimes the grant funding does not suffice. He felt that the initial \$400,000 commitment of the City has mushroomed into this big project. He was also concerned that the facility amenities are not sufficient for this type of commercial venture. He questioned whether it would be wise to enter into an agreement at this time for this reason.

Councilman Cordova commented that to use a baseball field for all types of sports is the wrong idea for a baseball park. He questioned that now that the field has been built for what purpose should it be used if not for older youth and adult aged baseball?

Councilman Horton commented that the field should be used for American Legion Baseball.

Councilman Cordova questioned if any of the Council members had been to a baseball game such as what is proposed. He continued that there are a lot of baseball fans who attend games. He continued that American Legion Baseball often draws in more than 400 people per game.

Manager Martin replied that the baseball park was developed for as many uses of the park as possible for older youth and adult aged baseball. He continued that the Council insisted that the field not be just for American Legion Baseball.

Councilman Horton questioned whether it would be wise to enter an agreement if there were zoning problems with the use.

Manager Martin noted that the Planning Director was prepared to comment on zoning as it related to the proposed short term use if the Council desires.

Councilman Nelson commented that other people should be able to use the park and that the baseball fields could also be utilized for soccer.

Mayor Jones recommended that Morehead City treat this opportunity for a collegiate wooden bat baseball team like any nonprofit organization and do it for a one [1] year trial period. He commented that the Council was elected to represent all the people and that he was elected to guide the Council. It was his recommendation to have the wooden bat team come to Morehead City and play baseball on O'Neal Field. He supports the collegiate team and wants to see them here in Morehead City.

Councilman Ballou read a prepared statement: "I am concerned with the emotion and conflict the baseball park has brought upon our community. From the phone calls I have received and the many citizens of our town that have come to me personally and expressed their concerns for and against with me. It concerns me we have such a dividing issue before us. I feel it has brought division among our city's tax payers, our churches, pastors, congregations, neighborhoods, organizations and also has tried to divide this council. I have put a lot of heart and soul and prayer in this issue and I think we might be moving a little too fast. I think we should step back, take a deep breath and re-evaluate this issue before us and not make a hasty or uninformed decision.

Being newly elected to my second term, I have supported and will continue to support the completion of our baseball park. I hope we can have it completed this spring so our kids including the American Legion, high school ball, AAU, Babe Ruth, Little League and maybe some county leagues can use it. I think we could learn a lot and have a better understanding of some of the issues we are having with the impact on neighborhood, traffic, parking, bathrooms, etc. I certainly thank the Bengels of the Morehead Marlins for their interest and efforts of bringing baseball of this level to Morehead City, but somewhere along the way, we have put the cart before the horse.

I think there are a lot of issues and impacts that bringing this level of baseball will have that maybe we have not truly had enough time or discussion to make an informed decision. I think we need to table the contract negotiations with the Marlins for one year so we as a council can have a better understanding from the team owners of their needs and wants and a better understanding of the impacts we can expect with a commercial for profit use team on our park, the neighborhood and the surrounding areas.

With all this being said, please do not ask me as your city councilman to make a rushed or hasty decision before I feel like I have had the proper time on a decision that will affect us all. Thank you."

Councilman Cordova commented that he has received numerous phone calls from extraterritorial jurisdiction [ETJ] individuals who are reluctant to give names. He felt that the majority of people from within the City were in favor of the proposal.

Councilman Ballou stated that he was not against the Morehead Marlins, but he thought the Council needed more time to work on the issues of the contract.

Councilman Horton stated that it was his opinion that the Council also has an obligation to extra-territorial jurisdiction residents [ETJ] because their zoning issues are controlled by Morehead City and thereby has an effect on them.

Councilman Thompson commented that in his opinion the main concern of the residents is not against the Morehead Marlins it is the sale of beer in a public area and having a commercial venture in a public park. He continued that commercial entities however, are the only thing that keeps the world running. Without the need to buy things, the world would stop. It was his opinion that the proposed baseball team is for the entertainment of the community and the Council should continue the negotiations in good faith.

The Council took a brief recess to give people interested in speaking an opportunity to sign up.

Mayor Jones opened the floor for public comment and requested those who wished to speak to give their input or opinion on the adoption of the resolution to have the Morehead Marlins in Morehead City for one [1] year.

Sarah West, 601 Bridges Street, stated that the investment of the franchise is expensive and warrants more than a one [1] season opportunity. The resolution should be for two [2] years at least.

Ruth Jones, 707 Fisher Street, stated she has distributed to the Council a petition which was circulated in the community with many signatures of those in favor of the Morehead Marlins coming to Morehead City.

Ken Murphy, 215 North 35th Street said he was not opposed to the Morehead Marlins, however, he was opposed to where the field is located. One [1] year would at least allow the City to discover what kind of neighbors the franchise would be.

Charles Collier, Sr., 1505 Chip Shot Drive voiced his concern about the infrastructure needs, the impact on Tootle Road, the additional costs for the ballpark, parking issues, and DWI [driving while intoxicated] incidents with alcohol being present, etc. He is not against the ballpark, just the lack of planning. He is against the location of the ballpark in a residential area zoned R-15 M.

Carol Lohr, representing the Tourism Development Authority located at 3409 Arendell Street, stated she lives in the Promise Land. She advised that tourism is the Number #1 industry in Carteret County which brings in over \$260 million a year. She requested that the Council consider at least a one [1] year trial. It would give everyone something to do in the evenings. She also stated that in her opinion the beer sales could be controlled.

Gary Goldstein, Creek Road, stated that even if the agreement is just for one [1] year there are still zoning problems. He was concerned with the impact of the franchise on the surrounding community and the quality of life issue. He wanted to see this venture done in a commercial area. He was not in favor of the one [1] year trial.

Melvin Bright, 2418 Emeline Place, was concerned that the Council was moving too fast for the baseball agreement and did not make adequate preparation with roads and access to the site.

Clyde Ebron, 2304 Mayberry Loop Road, questioned the part of the proposed agreement regarding other entertainment.

Manager Martin assured him that any entertainment other than baseball would have to be authorized by the Council based upon Council policy on a case-by-case basis.

Tony Tucker, 2623 Mayberry Loop Road, stated that there is currently beer drinking elsewhere in the neighborhood around the area of the park and he is not sure that the City can control it. There is also a lot of rirffraff in the area vandalizing the park and homes. The lights impact him and his neighbors and the baseball park will negatively impact the value of his property.

Charles Collier, Jr. 2633 Mayberry Loop Road, stated that in the City's testing of the lights last evening, they were disturbing. He was concerned that the noise issue will be even worse. The Seafood Festival is only once a year. He thought the field was supposed to be

for young youth, not for pros. He doesn't want it in his neighborhood. He is for baseball, but not in his front yard. He was opposed to the one [1] year agreement.

Mike Wagoner, 419 Hillcrest Drive representing the Carteret County Chamber of Commerce stated that the Chamber Board of Directors passed a resolution in support of an agreement between the City and the baseball franchise. They would support a one [1] year agreement to give a way to say yes because the Morehead Marlins bring tremendous potential benefit to our community and the community needs to give this opportunity a chance.

Heather B. Avery, 113 Lonnie Boyd Lane, said she also donated property [easement] to Morehead City to complete project. She was against the one [1] year contract. She stated that the schedule is during the school year when children have to get up to go to school and her husband is a ferry captain and gets up at 3:00 a.m. The baseball park was going to negatively impact her family.

Buddy Bengal, 1921 Oglesby Road, representing the Morehead Marlins stated he appreciated the Council's concern for the baseball franchise and felt that all parties could come to a resolution on this issue. He is here to propose this one [1] year agreement. He stated he really needed to start to make preparations for the players who needed a place to play this summer. His players are not professional athletes. He invited all to come to a game and to see what it is all about. The American Legion Team will still play in the evenings. The baseball park will be a controlled, safe, family environment. Collegiate wooden bat teams play all over the country and are great entertainment. The baseball franchise would be a good economic impact for the area. He stated he just wants the opportunity to use the field to play baseball this season.

When questioned by Councilman Horton about tickets being sold for the games, Mr. Bengal replied that the franchise has made reservations which are held by money.

Councilman Horton further commented that the City had the understanding only ticket reservations had been taken but people are actually having their credit cards debited. He felt it strange that they would sell tickets without a lease.

Mr. Bengal stated that refunds are available and not a single ticket has been handed out.

Councilman Ballou also questioned ticket sales and advertising "Thirsty Thursdays" and a beer garden without a contract.

Mr. Bengal replied they had to begin marketing, but they will refund any money if not approved.

Councilman Horton questioned the sale of beer at the baseball park and that the beer garden was advertised.

Mr. Bengal said it had been part of their plans from the start.

Councilman Horton stated the owners had said they could not operate without beer.

Mr. Bengal replied that they probably cannot make it, but he will give it a shot.

Steve Chalk, 214 Evans Street, stated he is the Athletic Director for American Legion Baseball. At Coastal Plain League games alcohol is served. He continued that even the Sanitary Restaurant sells beer. It was his contention that beer will not be a big issue at the park. The baseball franchise is good family entertainment. He was of the opinion that many were condemning the Morehead Marlins before they had a chance. The City has built a fine stadium, of the caliber a college [e.g. ECU, NC State] or minor league team would come and play on, but it was never meant to be built for football, soccer or Little League. It was built for American Legion Baseball and other older youth and adult aged users and was initiated through a generous donation by Puck O'Neal. Most games are over by 9:30 or 10:00 o'clock. He expressed that he thought one [1] year was a great compromise.

To a question from Councilman Horton, Mr. Chalk confirmed that alcohol could legally be sold at Legion games, but they had no intentions of doing so.

Carol Collier Chip Shot Drive, said she was appearing for Stephanie Davis, 2314 Mayberry Loop Road. She read a statement from Ms. Davis in which she stated that the community does not know all the facts. The project will be in her backyard and she will be adversely impacted by the traffic, lights, alcohol consumption and noise. Her quality of life will be adversely impacted.

Dawn Gaskill, 1208 Evans Street, was interested in how much the project cost and what additional funds would be necessary to make it viable.

Paul Getty, 409 North 35th Street, stated at first he was excited about the ballfield. However, he reviewed the neighborhood and thought it would be an illegal use of an R-15 zoning. He was concerned with the impact on the neighborhood. He wants a stadium, but he does not want to see people impacted negatively.

With public comments completed, Mayor Jones noted the Council had been considering a contract presented several weeks ago and tonight was considering the City Manager's recommended resolution for a one [1] year trial period.

Councilman Horton questioned details of the resolution.

At the request of the City Manager, City Attorney Nelson Taylor explained that the resolution allows the Morehead Marlins the use of the park exactly as anyone else may apply to use any of the City's parks. It is not a lease, if the Morehead Marlins want to use the park facilities they will apply for a permit from the Morehead City Recreation Department and will pay for each event. The amount will be set by the City Manager and Parks & Recreation Department. This procedure constitutes a way for the Morehead Marlins to use the park with certain conditions set out in the resolution for the upcoming baseball season. The Attorney distributed copies of the Resolution for review noting conditions similar to some of the provisions of the previously proposed lease. To a question regarding alcohol from Councilman Horton, the Attorney noted the Resolution draft does not mention alcohol but a provision was prepared for addition to the Resolution which would prohibit alcohol sales.

Councilman Horton then asked if alcohol is not mentioned in the Resolution then they could sell it.

The Manager advised they could with state permits.

Councilman Horton then stated that would be true for all the City Parks.

City Attorney Nelson Taylor advised that is true.

Councilman Horton then stated the Council has no policy to prevent someone with proper state permits from selling alcohol at Rotary Park.

City Attorney Taylor stated the City does not regulate the sale with proper permits now.

Councilman Horton asked were alcohol sales by the American Legion being contemplated.

Mayor Jones stated Mr. Chalk had addressed that they were not planning to sell alcohol.

Councilman Thompson stated it is up to Council to prohibit alcohol in parks. He was willing to meet tomorrow stating it was that important to him that the Council not allow it.

Councilman Ballou stated that he felt it was too much pressure for him to agree to a resolution that he has not reviewed. He felt he was not prepared to make a decision. He stated none of the Council had seen the Resolution prior to the meeting.

City Attorney Taylor acknowledged that was accurate.

Manager Martin commented that the Council had seen all the provisions in the draft lease essentially.

Councilman Ballou stated the Council was being asked to approve a Resolution not seen until now.

Councilman Horton stated that the Council did not get through its entire review of the lease at the last meeting and did not reach consensus after four [4] hours.

Mayor Jones suggested the Council consider the resolution for use for 2010 and to exclude the sale of malt beverages from the agreement during the trial period if desired by the Council.

City Manager Martin reported that if the resolution is approved, he would recommend the Morehead Marlins be charged \$500 a night to use the baseball park facilities. He advised that necessary language from the draft lease was included in the proposed resolution and that there were no inconsistent new provisions in the proposed resolution than was presented in the proposed lease.

Councilman Horton asked the City Attorney to explain the zoning to him.

In response to the comments about just receiving the Resolution, City Manager Martin attempted to review the Resolution.

Councilman Horton stated to the Manager that he had asked the City Attorney to explain the zoning.

City Attorney Taylor advised the Mayor that he has control of the meeting.

Councilman Horton stated the zoning is a huge issue that the Council needs to understand before voting.

Manager Martin attempted to again advise that the Planning Director was prepared to comment, but Councilman Horton wanted the City Attorney to give a legal opinion.

Councilman Ballou again noted that the Council had just received the Resolution tonight and that he was not prepared whether he was for it or against.

The Mayor suggested consideration of the lease previously distributed changed to one [1] year in the form of a Resolution without malt beverages.

Councilman Horton then commented that the City will not get a percentage of concession sales in the proposed Resolution.

The City Manager acknowledged that was accurate.

Councilman Horton stated the terms of the Resolution are worse. The City loses revenue and keeps expenses.

To a question from the Manager about days of usage, Buddy Bengel stated the schedule was for 28 nights and possibly a playoff game or two [2].

Manager Martin reminded the Council that games typically end by 10:00 p.m. Games start at 7:00 p.m.

Councilman Ballou reiterated that he could not believe the Council would take action on a Resolution being reviewed for the first time.

Manager Martin restated that there is nothing new in the Resolution and offered to review it.

Councilman Horton stated that the Council does not yet know the cost of the bleachers and that it is important because what we spend depends on the use and how many seats we need.

Councilman Ballou then offered a motion, seconded by Councilman Horton, to delay contract negotiations with the Morehead Marlins for one [1] season.

In discussion Councilman Horton read a prepared statement as follows: “We are in the middle of a great debate in MHC. On one side we have the Carteret County baseball community who very much want a college level commercially backed baseball team at Puck O’Neal Field next to the Rotary Soccer Park. This team will provide quality entertainment and be an economic boost to the whole county. The Carteret County Chamber and other groups agree. There will be benefits of coach’s clinics, and interactions with college players and youth. They say the area really needs something like this to provide family entertainment and I agree.

The other side of the debate concerns the cost to local MHC taxpayers who have already spent about 1.5 million dollars of direct MHC tax money and will be called upon to further subsidize this team for the benefits of these baseball fans, the owners of the team and the economic benefit to Carteret County.

Further, we all must, as a Council consider the social costs. How will this team impact a quiet R 15 neighborhood? And how do we deal with the expected volume of traffic and fans? What about the issue of alcohol next to a youth park and in the middle of a quiet residential neighborhood? What about residents who have to hear cheering and shouting at 11:30 a night or later? If the Marlins play and American Legion and other groups all use the park there could be games 6 or 7 nights a week in the summer? I personally go to bed long before those games would be ending. The real question each Council member must ask [sic] themselves is.... “Would I accept this right next to my house? We all have similar zoning to R15.....

Surely there will be economic benefit to the County from this project. WE don’t know what they will be but we do know this benefit will be provided to the County by MHC taxpayers. I’m a MHC taxpayer and I don’t see that as a good investment for MHC alone to pay.

The Park Exists. We paid \$197,000 for engineering, \$197,000 for lights \$285,000 just for the field surface and irrigation and we have the best field in Eastern NC now. IT exists. Coaches clinics, summer camps, hot stove dinners can continue. The Marlins don’t need to be here for those things. The only loss will be the unknown but evident economic benefit to the County if they don’t play here this year.

Costs --- property is not zoned for commercial. Risk of Lawsuits and/or unsuccessful rezoning attempt.

Additional Phase II costs.....bleachers, bathroom, Parking, concession area, possibly making turn lanes on both sides of the part for DOT. I estimate these costs at \$575,000 based on Information provided by the City Manager in applying for a Phase II grant. We have \$175,000 from Big Rock so that would be an additional 400k from MHC taxpayers to bring it up to Phase II standards.

MHC will have to subsidize the team.

The lease is \$15,000 per year but we pay for all utilities, trash removal, Field preparation before every game. This is big. Marlins get 100% of ticket sales, merchandise sales, banner sales on the city property and 95% of concession sales....Yet we are the ones with the huge investment.

Social costs..Infrastructure not in place—fans who attend the games would be angry if there is inadequate parking, seating, concession areas and if there are too many fans drinking beer and not enough bathrooms..even the fans would be mad about that. The more successful the project the worse the problems will be with inadequate capital investment.

Residents will be very angry, illegal zoning, alcohol in a neighborhood, breaking our own noise ordinance..Residents laying in bad [sic] awake at night many nights a week, light pollution. Traffic leaving after the game is over going through our neighborhoods. Safety issues for soccer park with incoming traffic competing with soccer uses, camps, games. We could risk the loss of our PARTF grant if we are not careful...that’s \$500,000 if we were to lose that.

When I add the benefits and the costs it comes to this...the actual costs of Phase II, subsidizing the team and the horrific social costs do not come close to offsetting the economic benefit to our County.

The field exists. Let's use it for its original intent, allow clinics, camps,--whatever is appropriate. If the Council chooses to complete the necessary elements of Phase II and the infrastructure, social cost are dealt with let's consider the issue again in the future..IN the meantime I suggest the baseball community appreciate what MHC taxpayers have provided to you. It is a valuable and expensive gift..and no one else but MHC has provided it to you.... Thank you. David Horton”

The motion failed by a vote of two [2] to three [3] with Councilmen Cordova, Nelson and Thompson voting opposed.

Councilman Thompson stated that this team needs a place to play this year and he was of the opinion that it was inconsiderate at this late date not to allow the Morehead Marlins the use of the City's baseball facility.

Councilman Nelson was of the opinion to try the contract for one season. He felt that the American Legion team was going to have the same impact on the community as the proposed Marlin's franchise.

Councilman Nelson MOVED, seconded by Councilman Cordova, to adopt Resolution 2010-06 to allow the Morehead Marlins the use of the baseball facilities of O'Neal Field at Big Rock Stadium for one [1] season with no beer sales for this one [1] season and both parties will re-evaluate the proposed contract agreement terms for next year.

Council Members engaged in further debate about the Resolution.

Councilman Ballou stated he cannot support the motion.

Councilman Horton then restated his desire for the City Attorney to address zoning.

Councilman Cordova challenged Councilmen Ballou and Horton to develop their own Resolution if they did not like this one.

Councilman Ballou responded that he had not had time to study this.

Mayor Jones then gaveled, took control of the meeting and stated he was calling the question.

Councilman Ballou asked about Councilman Horton's zoning question of the City Attorney.

Councilman Horton asked were we skipping the question to the City Attorney?

Mayor Jones responded that is correct stating Councilman Horton had been beating that up for about a month. Mayor Jones stated the City Attorney gave his opinion at the last meeting.

Councilman Horton said so his opinion has not changed and it was zoned adequately.

Mayor Jones responded for the purposes of this Resolution that is correct.

Councilman Horton said for commercial use.

Mayor Jones restated the motion and called for the vote.

The motion passed by a vote of three [3] to two [2] with Councilmen Horton and Ballou voting opposed. [Resolution 2010-06 is attached to and made a part of these minutes].

Mayor Jones called for a five [5] minute recess.

Councilman Nelson MOVED, seconded by Councilman Cordova to excuse Councilman Horton from the meeting at 8:55 p.m.

VI. Citizen Requests/Comments:

The Council wished a Happy 58th Anniversary to Mr. & Mrs. John Nelson.

VII. City Manager's Report: Manager Martin stated he had no other matters to report.

VIII. Council Requests/Comments: None

IX. CLOSED SESSION AS PER G.S. 143.318.11[a][3] TO APPROVE THE CLOSED SESSION MINUTES OF MONDAY, JANUARY 25, 2010, AND FRIDAY, JANUARY 29, 2010; AND TO CONSULT WITH THE CITY ATTORNEY CONCERNING CONTRACT NEGOTIATIONS

Councilman Thompson MOVED, seconded by Councilman Cordova, and carried unanimously, [Councilman Horton absent, excused], to enter into CLOSED SESSION as per G.S. 143.318.11[a][3] to consult with the City Attorney.

Councilman Nelson MOVED, seconded by Councilman Cordova, and carried unanimously, [Councilman Horton absent, excused] to return to OPEN SESSION.

There being no further business, the meeting was adjourned at 9:10 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk