

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

Tuesday, August 9, 2011

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, August 9, 2011, 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:	Demus L. Thompson
COUNCILMEN:	George W. Ballou Paul W. Cordova David Horton John F. Nelson
CITY MANAGER:	R. Randy Martin
CITY CLERK:	Jeanne M. Giblin
CITY ATTORNEY'S OFFICE:	Nelson Taylor, III, Derek Taylor
OTHERS:	Marshall Weeks, James Wells, Louella Nelson, Lindsay Lutz,

Shannon Nelson, Lisa Nelson, Shane Nelson, Kevin Gaskill, Jason Morris, Henry C. Murrell, Sr., Richard E. Murry, Frank Phillips, Jenny Toney, Frank Tursi, Leigh Johnson, Jerome R. Eatmon, Jr., Dania Dahe, James Fitts, F. J. Hunt, William Abreo, Vernon Bullock, William Ackers, Richard Davis, Paul Harris, Sherry Arthur, Charles Arthur, Amanda Lewis, Paul Rickman, Woody Enrick, Donald R. Thomas, Terri Thomas, Ryan Mayer, Zoe Baily, Lindsay Baily, Richard Mantrop, Michael Mayer, Paul Lokey D. J. Femia-Leuuenburg, W. Charles Leuuenburg, Suzy Wilson, Lin Holmes, Teresa Edwards, Rex Edwards, Dennis Davis, Robert Lewis, Anthony Nelson, Greg Rice, Rhonda Wright, Davis Cottrell, Audrey Caveness, Charles Chadwick, Dennis Garner, Durwood Garner, Richard Davis, Kellyl Beveridge, James Norris, Larry Norris, Wilbur Becton, Thelma Becton, George Pennuell, Ashley Pennuell, Charlene Pennuell, William E. Piner, Daniel Piner, Corinne Geer, Lennie Griffin, Judi Creech, Janet Woodward, John Nelson, Lisa Nelson, A. Darryl Davis, Rebecca Lumsden, Michael Leighton, Bill Taylor, Tom Kies, Jason Sanders, Anthony Nelson, Wardell Johnson, Linberg Frazier, Jr., Calvin Carter, Alton Leon Frazier, Carroll Rice, Bill Bailey, John W. Ellis, Art Gill, Jerry Eborn, Tom Glasgow, Ken Wood, Craig Weber, Vernon Weeks, Russell Hultz, Mark Hooper, Kenneth Royal, Dominic Brugnolotti, Mike Shutak, Reporter, THE CARTERET NEWS TIMES 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 remarked on the larger than normal audience and stated that it was representative of government in action and he hoped that the room would be this full for every Council meeting. He then gave the invocation and all joined in The Pledge of Allegiance.

II. Adoption of the CONSENT AGENDA

**II.A. Approval of Minutes: Tuesday, July 12, 2011, Regular Meeting
Thursday, July 21, 2011, Special Meeting
Thursday, July 28, 2011, Special Meeting**

Councilman Ballou requested to amend the July 12, 2011, Regular Meeting Minutes regarding his comments on the proposed sulfur plant. The Council concurred.

Approved the Minutes of Tuesday, July 12, 2011, Regular Meeting, as amended; Thursday, July 21, 2011, Special Meeting; and Thursday, July 28, 2011, Special Meeting and dispensed with the reading.

II.B. Approve the Requests for Release of Overpayment of Ad Valorem Taxes for July 2011, in the amount of \$944.70; and Accept the Tax Collector and Finance Director Reports for July 2011

Approved the requests for release of overpayment of ad valorem taxes for July 2011, in the amount of \$944.70; and accepted the Tax Collector and Finance Director Reports for July 2011.

II.C. Adopt Resolution 2011-29 Opposing Merger of Carteret Community College With another Community College

A legislative proposal has been initiated to merge the smallest North Carolina community colleges, including Carteret County Community College, with larger neighbors in an administrative cost-saving move. The study still needs to go to an education oversight committee, then a bill developed and presented to the joint education commission for consideration. If approved by the commission, it would then move on to the General Assembly for adoption. Senator Jean Preston, who serves on the joint education commission is opposed to the proposal and has encouraged citizens to voice their feelings on the merger proposal. Carteret County Commissioners, the Carteret County Chamber of Commerce, the State Board of Community Colleges and the Carteret Community College Board of Trustees have adopted resolutions or spoke out against the proposal that would cut the administration at 15 small colleges and merge them into bigger campuses. The adoption of Resolution 2011-29 would show that the Council of Morehead City stands opposed to any merger of Carteret Community College with another community college.

Adopted Resolution 2011-29 Opposing Merger of Carteret Community College with another Community College. [Resolution 2011-29 is attached to and made a part of these minutes.]

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

III.A. Public Hearing: City Initiated Request to Amend Articles 4-28.1[E] and 4-29.3[I] of the Unified Development Ordinance [UDO] to Remove the Notary Certificate Requirement for Minor and Major Subdivision Plats – Adopt Ordinance 2011-22

Planning Director Staab reported that the Unified Development Ordinance [UDO] requires certain certificates to be included on final plats for major and minor subdivisions. In the past, the North Carolina General Statutes required that a notary certificate be contained on each final plat. In 1997, the notarization requirement was deleted by the legislature. The proposed amendment would remove the notarization requirement from the Unified Development Ordinance to provide consistency with G.S. 47-30.

At the Planning Board Meeting on July 19, 2011, Gordon Thayer made the Motion, seconded by Jackie Maucher, and carried unanimously, to recommend approval of the amendment.

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

Mayor Jones closed the public hearing.

Councilman Thompson MOVED, seconded by Councilman Horton, and carried unanimously, to adopt Ordinance 2011-22 approving the City Initiated Request to Amend Articles 4-28.1[E] and 4-29.3[I] of the Unified Development Ordinance [UDO] to Remove the Notary Certificate Requirement for Minor and Major Subdivision Plats. [Ordinance 2011-22 is attached to Ordinance Book #6 in the vault.]

IV.A. New Business: Request from Gary S. Miller, on Behalf of ITAC 192, LLC for Sketch and Preliminary Plat Review and Approval for Crystal Coast Plaza

Planning Director Staab reported that the developer is requesting sketch and preliminary plat review and approval for a two-lot subdivision in Crystal Coast Plaza, consisting of two [2] lots totaling 33.8 acres. The proposal would subdivide Dick's Sporting Goods from the remainder of the shopping center. Existing development consists of a variety of retail, restaurants and personal services. The development is located in the corporate limits and is zoned CH [Highway Commercial]. State sedimentation/erosion control, stormwater and North Carolina Department of Transportation [NCDOT] permits as well as water and sewer impact and sidewalk fees are submitted as part of the building permit application process.

At the Planning Board meeting on July 19, 2011, Attorney Jeremy Eatmon spoke on behalf of ITAC 192, LLC and explained that Dick's Sporting Goods requires a separate tax parcel from the remainder of the shopping center. Construction supervisor Dan Ray also spoke in favor of the request. Gordon Thayer made the Motion, seconded by Curtis Fleshman, and carried unanimously, to recommend approval of the sketch plan and to approve the preliminary plat contingent upon approval of the sketch plans.

Councilman Horton questioned if the parcel will not be a part of the shopping center.

Planning Director Staab explained that the request makes this specific parcel a separate parcel, however, it will still be a part of the shopping center, it will be a deed restriction.

Councilman Horton questioned how the intended parcel will connect to the parking lots of the shopping center.

Planning Director Staab explained that this parcel will open up to the shopping center which will connect with an adjoining parcel at the rear of the property once both tracts are fully developed.

Councilman Thompson commented that the request is not unlike what was done at The Morehead Plaza with BB & T Bank and the realtors building being subdivided previously.

Councilman Horton MOVED, seconded by Councilman Thompson, and carried unanimously, to approve the request from Gary S. Miller on behalf of ITAC 192, LLC for Sketch and Preliminary Plat Review and Approval for the Crystal Coast Plaza.

IV.B. New Business: Authorize the Execution of a Letter of Agreement between the Town of Morehead City and Crystal Coast Ferry Service, LLC for Use of the End of the 6th Street Right-of-Way Dock Area

Manager Martin reported that Morehead City received a proposal to lease to Crystal Coast Ferry Service, LLC the right to use the public dock area located at the end of the 6th Street right-of-way on an annual basis for \$100.00 per month. The agreement would allow the commercial use of a section of the fixed dock as well as the shared use of a portion of the City's floating day docks for dockage and the loading and unloading of passengers. Also requested is the use of an area located at the entrance of the ramp area for a booth that would allow ticket sales. The booth would be removable and no larger than 5' by 5' with a canvas top or umbrella. No electrical or phone service is required. The ferry service plans to utilize a 27 foot vessel that is permitted for up to 20 passengers.

To make this service available to the community, Crystal Coast Ferry Service, LLC is leasing a boat slip from an intermediary through the North Carolina Railroad on the west side of the westernmost finger of the day docks. The Public Works Committee of the Council recommended approval of the proposed lease agreement.

Councilman Nelson explained that the proposed service will not use the day dock space.

Councilman Horton commented that the proposed service will be good for downtown Morehead City and that the Downtown Morehead City Revitalization Association [DMCRA] was excited about it.

Michael Lupton, the owner of the proposed business, stated that the service will be available seven [7] days a week from 9:00 a.m. every hour until 6:00 or 7:00 p.m. The proposed ferry service has secured a national park service permit. They will be doing trips to Sugarloaf Island, Shackleford Banks, etc., and hope to make it year round. The location is located between Jack's Bar and The Carolina Princess. The captain of the vessel is Billy Downum.

Councilman Nelson MOVED, seconded by Councilman Cordova, and carried unanimously, to authorize the execution of a letter of agreement between the Town of Morehead City and Crystal Coast Ferry Service, LLC for use of the 6th Street right-of-way dock area as described. [Attached to and made a part of these minutes is the letter of agreement.]

V. Citizen Requests/Comments: Proposed Sulfur Activities at the North Carolina State Port

Mayor Jones opened the meeting to comments from those in attendance. He noted that the representatives of the Clean County Coalition [CCC] had requested 20 minutes. Representatives from the Morehead City Port Committee also requested 20 minutes. After these two parties spoke, Mayor Jones also opened the floor for anyone else wishing to speak and requested a two [2] minute time limit on each.

Leigh Johnson representing the Clean County Coalition, stated that the organization is not anti-port or anti-business. The organization would like to see quality industry recruited for business at the port. The object of concerned citizens should be that everything that goes into the port should be good for the community. The port is in the center of Morehead City. PCS Phosphate has withdrawn

their plans for a sulfur melting plant, but has plans to construct a warehouse for sulfur. She spoke about sulfur and fire safety and stated that the sulfur processing could cause sulfur dust to ignite. She requested that Morehead City rewrite the zoning ordinance in order to eliminate hazardous chemical elements from the port.

Frank Tursi, Assistant Director of the North Carolina Coastal Federation, spoke about a letter which was sent last week to the Morehead City Council requesting that the Council take a hard look at the zoning code and that Morehead City should declare a moratorium on local building permits in the IP [Port Industrial] District.

Jerry Eborn, Chairman of the Morehead City Port Committee, stated that he would be introducing persons who have interest in the port. He stated some facts about the port and distributed to the City Clerk a petition signed by supporters of the Morehead City Port. He requested that Morehead City continue to support the port and its employees. The port is a big investment which pours tax dollars into the economy, causes the inlet to be dredged and access maintained, supports many port jobs as well as numerous associated jobs in eastern North Carolina. He continued that the port is on one of the deepest channels on the east coast and is one of the largest importers of rubber. PCS Phosphate is a big customer and generates a large amount of ship traffic. The port is used also for dry bulk storage and has again begun processing wood chips. He spoke about the many products which are imported and exported from the port. He concluded that the port is a valuable asset to our people and our state.

John W. Ellis, President of the local International Longshoremen Association, stated that this organization's charter began in 1952 and has hosted third and fourth generations of longshoremen. The port is vital to the existence of North Carolina. He continued that the port needs the support of Morehead City and its neighbors. This waterway is deep. He spoke about the improvements to the Panama Canal and what it will mean for port business in the future. He spoke about Savannah, Georgia where ships go right through the city and where it has the support of the people. He continued that the port is vital to our families and our future.

Bill Bailey of the Morehead City Pilots Association, distributed a picture of sulfur pellets stored outside with a cruise ship docked in the background at the port in Galveston, Texas. He continued that he was a pilot at the port and responsible for the safe navigation of ships in and out of the port. He stated he understood the concerns about the proposed plant, however, most people do not understand what goes on at the port. He introduced many of the supporters of the port who were wearing orange tee-shirts.

Anthony Nelson, Jr. of Carteret County, requested elected officials and citizens to support the port. He stated he was employed by the port for 14 years. Carteret County is a great place to live, but unless industry comes to the county, our children will not have the same life. The port has the potential to grow if it has the support of local officials and Carteret County citizens.

Jason Sanders who is the Health, Safety and Environmental Director of the Gulf Region of Savage Services Corporation stated that his company has been in business since 1969. He continued that he wanted to calm some of the fears about sulfur. He explained that sulfur is the 13th most abundant element in the earth's crust. Most of the information given by opponents of the proposed sulfur plant was the worst case scenarios. If best management practices are in place those conditions do not exist. Sulfur handling at the port is not going to impact the community. The management of sulfur will be inside a warehouse and the solid sulfur will be handled the same way the port currently handles fertilizer. The dust will be controlled. The sulfur will be brought in on large ships and placed on barges for transportation to Aurora, North Carolina. He continued that he is responsible for the health and safety of persons for ten [10] sulfur terminals across the United States. Sulfur acid will not be made from stormwater runoff and the smell is like a match. If sulfur is handled according to best management practices, there should not be any issues.

Ken Wood of 910 Harrell Avenue, Morehead City, questioned why PCS Phosphate would go through with plans to construct a building when sulfur can be stored outside.

Leigh Johnson of the Clean County Coalition stated that all the information she has presented comes from the PCS Phosphate Company and they do not seem to have a problem with polluting. She stated she has been trying to get PCS Phosphate officials to speak.

Tom Glasgow of 602 Blair Pointe Road, Morehead City, stated that PCS Phosphate has 1,100 employees and questioned why are there no representatives from the company here to address the

residents and their concerns. Their permitting was done in 2010, and the company deceived the people to obtain grants and loans. He asked PCS Phosphate to be honest and to give good information.

Darryl Davis [no address given] raised concerns about the chemical properties of sulfur.

Art Gill of Evans Street, Morehead City, questioned if the dry facility is built, could the noxious levels of smells be monitored?

Jason Sanders replied that there are technologies available to counter the smells.

Dominic Brugnolotti of 1609 Calico Drive, Morehead city was concerned about an industrial accident at the port because of the sulfur dust and the best management practices not being followed. He questioned if the other port facilities in other parts of the country were within 200 yards of residential housing.

Jason Sanders replied not to his knowledge, but there is a sulfur facility across the way from a neighborhood with \$2M plus homes in Tampa, Florida.

Carol Rice of Morehead City stated he was a retired Morehead City firefighter and is a hazardous material technician at the port. He continued that the public would be surprised at what materials come through our streets on trucks. He stated he was not concerned about what goes on at the port because the port follows strict guidelines.

Craig Hassler of 1904 Evans Street, Morehead City, stated he volunteered for the Clean County Coalition. He spoke about PCS Phosphate and its mission and the crops which are grown in North Carolina.

Russell Hultz of Blair Farms stated he was an internal supervisor for PCS Phosphate at the port. He stated that the public does not notice now what is unloaded and loaded at the port and the sulfur would be treated the same. The system would be safe. He described the procedures for sulfur handling at the port.

James Phillips of Leeward Harbor located on the Morehead City waterfront stated he enjoyed watching the activities at the port. He continued that PCS Phosphate and the politicians made everyone wonder about what was happening at the port. He questioned what would be the worst case scenario which could happen with sulfur at the port. He felt that the 35 year old permits which PCS Phosphate has need to be reviewed.

John Nelson of Hammock Lane, Beaufort, read a letter from Drs. John Johnson and Robert Coles.

Mark Hooper of Smyrna and a member of the Crossroads organization stated that the original proposal by PCS Phosphate flew in the face of common sense and not letting the public know what was happening. He requested that PCS Phosphate should let the people have a look at what is being proposed. He offered that PCS Phosphate should clear the slate and start over.

Lindsay Bailey of Morehead City remarked on the picture of the port at Galveston, Texas depicting a cruise ship with a storage pile of sulfur pellets in the same vicinity and stated that tourism and sulfur can exist side by side. She lived in Galveston and stated there were never any problems of which she was aware.

Craig Weber of 1212 Noyes Avenue, Morehead City stated that common ground needs to be found. He requested that the Clean County Coalition refrain from flying the American Flag upside down as a sign of distress.

Vernon Weeks of Crab Point, Morehead City questioned how many individuals have been killed by drunk drivers? How many have been killed by sulfur?

Kenneth Royal of Radio Island stated he faults Homeland Security mainly because of the incident with the chemical PETN at the port last year, when it took officials five [5] hours before the public was advised. In his opinion that incident was the best example of the insensitivity that port officials have for the wellbeing of the public.

Mayor Jones thanked all for expressing their views and remarked that as the speakers stated, it is all about community and balance. Morehead City was born a port city, and will continue to support the port. But everyone has been a product of changing times and there is a lot to consider.

Councilman Horton questioned Jason Sanders on how one can reconcile the picture of the Galveston Port to statements that the sulfur dust is dangerous and flammable.

Jason Sanders replied that when the moisture content is greater than three percent [3%] there is no dust or smell problems.

Councilman Horton continued about the proximity of storing sulfur at the port which is really very close to the center of Morehead City, the concern about those individuals with breathing issues and would special precautions be necessary.

Jason Sanders replied that if one were sensitive to sulfur, one would have to be working inside the warehouse to have any affect.

Councilman Ballou asked about the procedures as depicted in the picture with the close proximity of sulfur to a cruise ship.

Jason Sanders explained the sulfur procedures at a port.

Councilman Nelson felt that the letter read from Drs. Johnson and Coles about the hazards of sulfur was scare tactics and he further advised Kenneth Royal to place his name on the county's emergency services "Red Alert". He also was concerned about the sensitivity to the byproduct of hydrogen sulfide because many of the county's residents have breathing problems. It was ascertained that Mr. Bill Bailey got the picture of the port in Galveston off the internet.

Council Thompson requested that PCS Phosphate should be made aware that all of this situation could have been avoided if everything had been laid on the table from the start. He continued that somebody knew something right up the line at PCS Phosphate and was involved in it. He continued that Morehead City has not been dealt with fairly concerning the whole situation.

Upon a question from Mayor Jones about the sulfur and spontaneous combustion, the reply from Mr. Sanders was no, special conditions would have to occur.

Mayor Jones questioned why PCS Phosphate did not hold a public forum which would have helped eliminate a lot of uncertainty about the proposed project.

VI. City Manager's Report:

Manager Martin reported that he has received information from the North Carolina Seafood Festival [NCSF] that due to starting the Festival earlier on Friday, they are requesting an earlier time adjustment to adopted Resolution 2011-20. The NCSF would like to start some of the street closings at 6:00 a.m. on Friday, September 30th. They will notify all affected businesses and will allow for deliveries. They are requesting a "soft closing" of the streets so that people cannot park in the streets which would interfere with vendors. This year there will be vendors beginning on Friday.

Councilman Ballou, who is also the Chairman of the NCSF, stated the Festival would be a three [3] day event and open at 12:00 noon on Friday. The Police Department concurred with agreeing to close the streets earlier for safety purposes.

Councilman Nelson asked the staff and volunteers of the NCSF to be sure that people delivering goods to the waterfront are not hassled. He continued that sometimes the vendor tents can be blocking businesses, so please be sure that access is maintained.

Councilman Ballou replied that the Festival will do everything possible to make sure that deliveries to local businesses are allowed and further commented that most of the businesses agree with the three [3] day event and understand that vendors will be coming in on Friday. There will be some inconveniences with making deliveries but the Festival will do its best to accommodate everyone.

Manager Martin commented that if the local businesses know the situation, plans can be made in advance.

Councilman Nelson MOVED, seconded by Councilman Horton, and carried unanimously, to amend Resolution 2011-20 to close the streets at 6:00 a.m. as requested by the NCSF. [Attached to and made a part of these minutes is Revised Resolution 2011-20.]

VII. Council Requests/Comments

Councilman Horton requested an update on a long term contract on use of the O'Neal Baseball Field by the Morehead Marlins.

Manager Martin informed the Council that discussions are ongoing and deferred to the Public Works Committee of the Council for comment.

Councilman Nelson stated that the Public works Committee of the Council at their latest meeting discussed the current contract being unsatisfactory and has been working on it.

Councilman Horton requested an update on the Fire/EMS Station #2 bids.

Councilman Ballou stated that the Public Safety Committee of the Council met and questioned the City Manager and architect for a response about some concerns. The status of the project will be brought before the entire Council in the future. The project estimated total costs would exceed the Council approved budget by approximately \$400,000 to \$590,000 depending upon options available before considering potential reductions. The project low bid would require additional appropriation to the budget to award the contract and no recommendation was made in committee.

Councilman Horton was concerned that the City spent money to design a project that he anticipated would come in over budget. He continued that the City needs to understand the costs of any project before it is overdesigned and should approach a project looking at our budget and expected costs.

VIII. SUBJECT: CLOSED SESSION AS PER G.S. 143.318.11[A] 3 TO CONSULT WITH THE CITY ATTORNEY

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

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

Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, to authorize Mayor Jones to read the following statement:

“The Council has directed the Town Attorneys to assure that the request of PCS Phosphate Company, in its letter of August 3, 2011, to the Division of Air Quality, to revert back to its previous permit without the modification to allow sulfur processing, has been effected. Upon such assurance, in writing, the petition filed by the Town of Morehead City opposing the modification of the permit to allow sulfur processing at the state port should be dismissed.

The Council also recognizes that it has been requested to review the Town’s zoning ordinances. While such review is indicated, the Town’s authority over the state port is limited. The port’s receiving, shipping and transient storage functions are state controlled by several state agencies with jurisdiction superior to municipal authority. The Town will proceed to protect and represent the interests of its citizens in every respect, mindful that the port is an important asset providing needful employment. The Town will communicate with the State Port Authority and the Governor’s office about appropriate, future uses and plans for the local port facilities, while at the same time reviewing our current ordinances, the Town’s Land Use Plan and our legal authority to make changes.”

Councilman Cordova informed the Council that he will not run for re-election in 2011, due to health reasons. He has requested the Carteret County Board of Elections remove his name from the ballot. He continued that it has been a pleasure working on the Council and for the Town of Morehead City.

Mayor Jones thanked Councilman Cordova for his many years of service to the community.

There being no further business, the meeting was adjourned at 10:05 p.m.

Gerald A. Jones, Jr., Mayor

Attest:

Jeanne M. Giblin, City Clerk