

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

**Tuesday, July 14, 2009**

The Honorable Council of the Town of Morehead City met in regular session on Tuesday, July 14, 2009, at 5:30 p.m., in the Municipal Building Auditorium at 202 South 8<sup>th</sup> 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 [Absent, excused]
	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: Planning Director Linda Staab; Bill Taylor; Ila Walker, Reporter THE GAM; Mike Shutak, Reporter, THE NEWS TIMES; Fred Morton; David Radford; Ronetta Gaskill; Jan and Ruth Rolar; Phil Munden; Zachary Miller; Hugh Campbell

**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.

Mayor Jones announced that Councilman Horton had advised he would not be able to attend the meeting due to family illness.

***Councilman Ballou MOVED, seconded by Councilman Cordova to excuse Councilman David Horton.***

Mayor Jones introduced David Radford, who has served as the City's representative on the Beaufort/Morehead City Airport Authority for the past two [2] years.

Mr. Radford stated that he has lived in Carteret County for over 30 years, has served on Airport Authority for the past two [2] years as the representative for the Town of Morehead City and he would like to continue to represent the City and is willing to serve another two [2] years in this capacity.

**II. Adoption of CONSENT AGENDA**

**II.A. Approval of Minutes:** Thursday, May 21, 2009 – Special Meeting  
 Tuesday, June 2, 2009 – Special Meeting  
 Tuesday, June 2, 2009 – Budget Public Hearing  
 Tuesday, June 9, 2009 – Regular Meeting  
 Wednesday, June 24, 2009 – Special Meeting

*Approved the minutes of Thursday, May 21, 2009, Special Meeting; Tuesday, June 2, 2009, Special Meeting; Tuesday, June 2, Budget Public Hearing; Tuesday, June 9, 2009, Regular Meeting and Wednesday, June 24, 2009, Special Meeting and dispensed with the reading.*

**II.B. Accept the Tax Collector and Finance Director Reports for June 2009**

**Note:** There were no requests for release of overpayment of ad valorem taxes for June 2009.

*Accepted the Tax Collector and Finance Director Reports for June 2009.*

**II.C. Receipt of Tax Collector's Settlement for FY 2008/2009; Distribution of Tax Records/Receipts; Tax Collections for FY 2008/2009; Outstanding Taxes FY 2008/2009; Real Estate Delinquent Report for Tax Year 2008; Barred Tax List Effective September 1, 2009; and Insolvents List**

The Tax Collector's Tax Settlement for the FY2008/2009 taxes as of June 30, 2009, are attached. The total disposition of tax records and receipts for the 2008 tax year was \$5,046,376.60 with the percentage of collection at 99.41 percent as of June 30, 2009. Morehead City's Outstanding Taxes as of June 30, 2009, was \$41,188.93 and the Real Estate Delinquent Report for Tax Year 2008 was \$20,971.57. The Barred Tax List effective September 1, 2009, is \$102.20. The Insolvents List, which is a list of taxpayers who listed no real estate for taxes and who have not paid their personal taxes by the time the report was filed, was presented. The collection efforts on these accounts will continue.

*Acknowledged and Accepted Receipt of Tax Collector's Settlement for FY 2008/2009; Distribution of Tax Records/Receipts; Tax Collections for FY 2008/2009; Outstanding Taxes FY 2008/2009; Real Estate Delinquent Report for Tax Year 2008; Barred Tax List Effective September 1, 2009; and Insolvents List. [All reports are attached to and made a part of these minutes.]*

#### **II.D. Authorize Collection of FY 2009/2010 Ad Valorem Taxes**

As per G.S. 205.321, the Council must adopt and enter into the minutes [after July 1<sup>st</sup> and prior to September 1<sup>st</sup>] an order charging the Tax Collector with the duty of collecting FY 2009/2010 Ad Valorem Taxes. By the adoption of this directive, the governing body is authorizing the Tax Collector to comply. The tax bills are projected to be mailed in late July.

*Authorized Collection of FY 2009/2010 Ad Valorem Taxes. [The authorization to the Tax Collector is attached to and made a part of these minutes.]*

#### **II.E. Appointment of Morehead City Representative to the Beaufort/Morehead City Airport Authority for a Two [2] Year Term from August 2009 to August 2011**

This appointment is for a two [2] year term of office. David Radford, our current representative to the Beaufort/Morehead City Airport Authority, recently sent a letter to the City requesting that he be permitted to serve an additional two [2] years.

*Appointed David Radford of 117 Taylor Lane, Morehead City as the Morehead City Representative to the Beaufort/Morehead City Airport Authority for a two [2] year term from August 2009 to August 2011.*

#### **II.F. Adopt Resolution 2009-34 in Support of Affirming Partnership with 2010 Census**

The United States Census Bureau is required by the Constitution to conduct a count of the population every ten [10] years. Accuracy in the Census ensures political representation and federal and state revenues are fairly distributed. Census counts are used for congressional reapportionment, legislative redistricting and the distribution of billions of dollars in federal, and state funding every year. The Council was requested to support the goals and ideals for the 2010 Census and agrees that the City will disseminate 2010 Census information to encourage participation to achieve an accurate and complete count.

*Adopted Resolution 2009-34 in Support of Affirming Partnership with 2010 Census. [Resolution 2009-34 is attached to and made a part of these minutes.]*

#### **II.G. Adopt Resolution 2009-35 Accepting the North Carolina Department of Cultural Resources Records Retention and Disposition Schedule Issued May 19, 2009**

The 1997 Municipal Records Retention and Disposition Schedule was adopted by the Morehead City Council on September 30, 1997, and is in effect. The North Carolina Department of Cultural Resources, Division of Archives and History, has totally revised the Municipal Records Retention and Disposition Schedule incorporating many changes and making the document more user friendly. The acceptance of this updated manual must be approved by the Council and sets the guidelines for record retention and disposition.

*Adopted Resolution 2009-35 Accepting the North Carolina Department of Cultural Resources Records Retention and Disposition Schedule Issued May 19, 2009.*

[Resolution 2009-35 is attached to and made a part of these minutes.]

## **II.H. Adopt Resolution of Sympathy 2009-36 in Memory of Sally Brown Smith**

The City Council wishes to express its condolences to the family of Sally Brown Smith who passed away on June 11, 2009. Sally Smith was a long standing member of both the Morehead City Planning Board and the Morehead City Board of Adjustment in addition to serving in many civic and community organizations in Morehead City. She will be remembered for her joy of life and her dedication to the welfare of others.

*Adopted Resolution of Sympathy 2009-36 in Memory of Sally Brown Smith.*  
[Resolution of Sympathy 2009-36 is attached to and made a part of these minutes.]

***Councilman Nelson MOVED, seconded by Councilman Ballou, and carried unanimously, [Councilman Horton absent, excused] to adopt the CONSENT AGENDA in one [1] motion.***

## **III.A. Public Hearing: Request from Kelly Webb Matthews to rezone 138 Harris Street, PIN #6356-0877-6794 from CH [Highway Commercial] District to R15M [Single-Family Residential/Mobile Home] District – Adopt Ordinance 2009-27**

Planning Director Staab reported that Kelly Webb Matthews submitted a request to rezone approximately 0.52 acres located at 138 Harris Street from CH [Highway Commercial] District to R15M [Single-Family Residential/Mobile Home] District. The zoning classifications of the properties surrounding the rezoning site include R15M to the north and west; CH to the south and east; and a small portion of IP [Port-Industrial] District to the east. Surrounding development includes a single-family residence to the north and west; a metal shop, office and rental service to the east; and retail and a restaurant to the south. The parcel is located in the corporate limits and is occupied by a mobile home. The applicant has indicated the existing mobile home on the site will be removed.

The property is located in Neighborhood 10 of the CAMA Land Use Plan and is classified as General Commercial. The proposal does not appear to conflict with any policies of the Land Use Plan. The property was posted and property owners within 300 feet of the property were notified of the Planning Board Meeting as well as the public hearing.

The Planning Board members at their meeting on June 16, 2009, felt the rezoning was appropriate for the location and unanimously recommended approval of the rezoning request. The Planning Committee of the Council reviewed the request.

Councilman Thompson questioned if there were a number of mobile homes located in that vicinity.

Planning Director Staab answered there are quite a few mobile homes in that area.

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

Mayor Jones closed the public hearing.

For the record Mr. Matthews the property owner was present if there were any questions.

Councilman Ballou questioned the letter in the agenda packet which was in opposition to the rezoning request.

Planning Director Staab explained that Larry Baldwin, the owner of the property next to the requested rezoning, may in the future want to rezone his property to commercial or an industrial district.

Councilman Ballou then questioned the type of buffer necessary between residential and commercial property. He was concerned that if the property under question becomes residential it could impact the type of buffer necessary for the developer of the adjoining commercial properties.

Planning Director Staab explained that the buffer would have to be a minimum of ten [10] feet. She further explained that residential property is not required to buffer for commercial zoning, however, commercial zoning must buffer for residential property.

***Councilman Thompson MOVED, seconded by Councilman Cordova, and carried unanimously [Councilman Horton absent, excused] to adopt Ordinance 2009-27 granting the request from Kelly Webb Matthews to rezone 138 Harris Street, PIN #6356-0877-6794 from CH [Highway Commercial] District to R15M [Single-Family Residential/Mobile Home] District. [Ordinance 2009-27 is attached to Ordinance Book #6 in the vault.]***

**III.C. Public Hearing: Request from Best Ventures, LLC to rezone a portion of 222 Friendly Road, Tax PIN #6376-1314-7055, from R20 [Single-Family Residential] District to MA/CU [Medical Arts/Condition Use] District -- Adopt Ordinance 2009-28**

Planning Director Staab reported that Stroud Engineering on behalf of Best Ventures, LLC, submitted a request to rezone 11.21 acres located at 222 Friendly Road from R20 [Residential] District to MA/CU Medical Arts/Conditional Use] District. The property is located within Morehead City's corporate limits and is vacant. Adjacent property is zoned R20 to the north, east and west; and R5S to the south. Surrounding land use consists of single-family residential to the north; vacant area to the south and east; and single-family residential and a church to the west. The developer is proposing to locate a 110 bed nursing home facility with expected employment to total 85 positions with a maximum of 30 employees per shift. The capital investment is estimated at \$7.3 million for the project. The project applied for and has been approved by the state for the necessary Certificate of Need to provide the service.

The proposed use [Nursing home/assisted living facility] is permitted in the MA District. The site is located within Neighborhood 5 of the CAMA Land Use Plan and is classified as low density residential. The plan as proposed does not appear to conflict with any policy statements. The proposed building is one [1] story and will not exceed 40 feet in height. The parking requirements have been exceeded with a total of 77 spaces and the setback requirements have been met. A Type B buffer is shown along the west property line, a Type B screen is shown along the east property line and a landscape strip is shown along the south property line. The developer has requested that the Progress Energy easement serve as the buffer requirement to the north.

A drainage impact statement has been submitted and any approval should be contingent upon receipt of the following permits/approvals: 1] State Stormwater; 2] Sedimentation and Erosion Control and 3] North Carolina Department of Transportation [NCDOT].

The property was posted and owners within 300 feet of the proposed rezoning were notified of the Planning Board Meeting as well as the public hearing.

At the Planning Board Meeting on June 16, 2009, the applicant responded to questions posed by several owners of property within the area. The Planning Board was concerned over safety issues related to the stormwater pond and the neighboring residential area; and potential traffic issues related to the alignment of the proposed driveway and Gordon Court. The Planning Board unanimously recommended approval of the request with the following conditions: 1] Receipt of State Stormwater Permit; 2] Receipt of Sedimentation and Erosion Control Permit; 3] Receipt of NCDOT Permit; 4] Construction by the developer of a cul-de-sac at the terminus of Hedrick Boulevard; 5] Construction to NCDOT standards of the street right-of-way from the current end of the pavement of Plantation Road to intersect with Friendly Road by the developer; and 6] Improvement of Galantis Drive to Council-approved standards in the event Galantis Drive is dedicated.

Councilman Cordova questioned if Galantis Drive will become a through street to Friendly Road.

Planning Director Staab advised that Galantis Drive will be extended with this proposed project and when the remaining undeveloped property to the east of the rezoning site is further developed in the future it will be connected to the current dead end of

Galantis Drive completing a connection to Friendly Road and the entire street section dedicated to the City in like fashion to the existing Galantis Drive.

As the request is for a conditional use permit, Mayor Jones swore in those wishing to give testimony.

Mayor Jones opened the public hearing.

Hugh Campbell of Wilmington, N.C., one of the investors of the project, shared briefly the ideas for the project. He stated that the project consists of a 110 bed assisted living facility located on approximately 10 acres of land. He affirmed that they have received permission from the state to do the project. It will consist of a 46,000 square foot building, cost approximately \$7.3 million dollars, and provide 85 jobs for the community. His company currently operates two [2] assisted living facilities and two [2] nursing homes.

He explained that in terms of increased area traffic the facility will operate 24 hours a day, with the first shift of the day having 25 to 30 employees and then fewer employees for the second and third shifts. He stated that the residents for the most part do not drive and family members usually visit on Friday and Saturday. He continued that he expects fewer than ten [10] commercial deliveries a week.

The property adjoins six [6] Friendly Road developed residential properties, and the facility has been sited on the property to minimize the impact of noise and lighting on these properties. There will be two [2] water retention ponds, one [1] in the front of the property and one [1] in the back to better capture the water runoff.

Ruth Rolar of 408 Friendly Road, Morehead City commented that the 40 foot height of the building is too high for the neighborhood. She inquired as to the screening that will be required to buffer the project from the residential area. She further commented that if this property was rezoned what is the implication that adjoining areas may be rezoned with a variety of other uses. She contended that the rezoning would negatively impact the property values of the area.

Mr. Campbell advised that the project is a single story structure on a slab, and he was fairly confident it would not be 40 feet or over. With regard to the buffer for the Friendly Road properties, the owners are proposing to leave a 20 foot buffer of whatever vegetation is currently there. The project will not remove or damage the natural barrier which exists today. The position of the building will have all the utility components on the rear of the building site away from the Friendly Road properties. He demonstrated with the site plan the patio area and existing doors on the back of the building. The entire property will be grassed and landscaped with the buffer consisting of grass, landscaping, and a natural area. There will be a total of 60 feet from the nearest property line of the Friendly Road residential properties to the proposed building.

Manager Martin commented that the current residential zoning in the area permits the construction of a building up to 50 feet in height. This is the same standard as the adjoining residential properties.

Councilman Thompson requested that as part of the conditional use that it be noted in the ordinance that the building is to be one [1] story on a slab, not to exceed 40 feet in height.

Councilman Ballou requested that the natural buffer be maintained along the western property line as part of the conditional use

Planning Director Staab explained that the ultimate goal is to have Galantis Drive connected from Friendly Road through to Medical Park. The City will require a stubbed out street now and the completion of Galantis Drive when the rest of the property is developed. She further commented that as to the question of this rezoning/conditional use having an impact on other properties in the area, there was currently 30 acres left in this tract of land. Any rezoning request would have to go through the complete rezoning process. Since this is a conditional use, it is site specific to only the affected property.

Mayor Jones closed the public hearing.

Mayor Jones reported that Councilman Horton remarked when he called to advise he would not be able to attend that he studied this project and supported the requested rezoning.

Councilman Ballou stated that it was his understanding that at the Planning Board Meeting in the other comments received from the area residents, the Bianco Family was in favor of the project, the McBride Family had questions which were answered favorably and that Steve Ballou of Egret Enterprises wrote a letter stating he wanted the area to remain residential.

Planning Director Staab confirmed the comments as accurate.

Councilman Nelson voiced his concern that even though the project met the parking requirements, he felt that there were not enough parking spaces to handle the staff, residents and visitors.

Mr. Campbell replied that there will be a maximum of 25 to 35 employees for the day shift and a number of employees will carpool and/or be dropped off. Their experience has shown that the project has provided enough parking.

Planning Director Staab commented that the minimum City requirement is 44 parking spaces and the plan shows 77 parking spaces.

It was ascertained that there will be fencing around the retention ponds.

Councilman Nelson commented that the project should be required to have turning lanes for ingress and egress to the property and it should be so delineated on the maps. He acknowledged this will be determined by the North Carolina Department of Transportation [NCDOT] because Friendly Road is state maintained.

Mr. Campbell replied that the developers will do the improvements that NCDOT requires.

To a question concerning the north side of the property which is the right-of-way of Progress Energy, it was ascertained that the developers would prefer to leave it as a natural buffer and will place landscaping in front of it on the site.

Councilman Thompson commented that he was pleased with the plans for the property, it is a good project and he commended the Planning Board for their review.

Councilman Nelson commented that the project plan is a vast improvement over what has been previously proposed for the site, however, he continued that his comments on the parking and other concerns were appropriate and the City needs the finest facility available.

***Councilman Thompson MOVED, seconded by Councilman Ballou, and carried unanimously, [Councilman Horton absent, excused], to adopt Ordinance 2009-28 granting the Request from Best Ventures, LLC to rezone a portion of 222 Friendly Road, Tax PIN #6376-1314-7055, from R20 [Single-Family Residential] District to MA/CU [Medical Arts/Condition Use] District with the Ordinance reflecting the conditions placed upon it by the Planning Board and those which were requested by the Council which were the buffer between the project and the Friendly Road properties remaining in its natural state and that the building be a single story on slab structure not to exceed 40 feet in height. [Ordinance 2009-28 is attached to Ordinance Book #6 in the vault].***

Councilman Ballou advised that as a courtesy the residences adjacent to the street extension of Plantation Road to Friendly Road be apprised when construction was to commence on that street section.

### **III.C. Public Hearing: Adopt Ordinance 2009-29 Amending Article 14 of the Unified Development Ordinance [UDO] to Provide Requirements for Solar Panels**

Planning Director Staab reported that in response to an inquiry regarding solar panels, the following amendment was proposed for addition to the UDO:

14-42 Solar Panels: Solar panels shall not project over the peak of the roof and shall only project five [5] feet above a flat roof. All solar panels shall require a building permit and must conform to all state and local codes and zoning ordinances.

14-42.1 Free Standing Solar Panels: Free standing panels that are not attached to the structure will be considered accessory use to the main structure. Free standing solar panels shall be considered as accessory structures. Free standing solar panels shall conform to all state and local building codes and zoning ordinances. Free standing solar panels are limited in height to that of the primary structure and the total square foot area of the panels will be calculated as part of the allowable lot coverage. Panels shall be situated as to minimize glare pollution to adjoining property owners.

At the Planning Board Meeting on June 16, 2009, the members suggested the removal of language related to the engineering requirements that were initially proposed to be included in the amendments. Jackie Maucher made the Motion to recommend approval of the ordinance, second by John Creech and carried unanimously. The Planning Committee of the Council reviewed the proposed amendments.

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

Mayor Jones closed the public hearing.

The Council discussed the implications of limiting the height of the panels over the peak of the roof and had further questions regarding the placement of the solar panels on roofs.

Councilman Thompson suggested that the proposed amendment be sent back to Committee for further review in consideration of the comments noted. The Council concurred.

**III.D. Public Hearing: Adopt Ordinance 2009-30 Amending Article 11-1 of the Unified Development Ordinance [UDO] to allow “Research facility” as a Permitted Use in the IP [Port/Industrial] District**

Planning Director Staab reported that Dave Inscoe, Director of the Carteret Economic Development Council submitted a request to amend Article 11-1 to include “Research facility” as a permitted use in the IP [Port/Industrial] District. A company wishes to locate a research facility which specializes in coastal and marine mapping, monitoring, data collection and analysis in the Carteret County Industrial Park, which is zoned IP.

At the Planning Board Meeting on June 16, 2009, Jackie Maucher made the Motion, second by Curtis Fleshman, and carried unanimously, to recommend approval of the ordinance amendment. The Planning Committee of the Council reviewed the proposed ordinance amendment.

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

Mayor Jones closed the public hearing.

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously [Councilman Horton absent, excused] to adopt Ordinance 2009-30 Amending Article 11-1 of the Unified Development Ordinance [UDO] to allow “research facility” as a Permitted Use in the IP [Port/Industrial] District. [Ordinance 2009-30 is attached to Ordinance Book #6 in the vault.]***

**IV. Citizen Requests/Comments:** There were no citizen requests or comments.

**V. City Manager’s Report:** Manager Martin stated he had no additional information to report at this time.

**VI. Council Requests/Comments:** There were no Council requests or comments.

**VII. CLOSED SESSION AS PER G.S. 1443.318.11 TO APPROVE CLOSED SESSION MINUTES OF THURSDAY, MAY 21, 2009, TUESDAY, JUNE 2, 2009, AND TUESDAY, JUNE 9, 2009**

There was no CLOSED SESSION.

***Councilman Ballou MOVED, seconded by Councilman Thompson, and carried unanimously, [Councilman Horton absent, excused], to approve and seal the CLOSED SESSION minutes of Thursday, May 21, 2009; Tuesday, June 2, 2009; and Tuesday, June 9, 2009.***

There being no further business, the meeting was adjourned at 6:50 p.m.

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Gerald A. Jones, Jr., Mayor

Attest:

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Jeanne M. Giblin, City Clerk