

VILLAGE OF BALD HEAD ISLAND
June 18, 2010
Council Meeting
Public Safety Operation Center

COUNCILORS IN ATTENDANCE:

Mayor Andrew Sayre
Mayor Pro Tempore John Fisher
Councilor Gene Douglas
Councilor Art Morris
Councilor John Pitera
Calvin R. Peck Jr., Village Manager
Deb Straub, Finance Manager
David Cox, System Administrator
Russell Hayworth, Lieutenant Public Safety
Charles Baldwin, Village Attorney
Daralyn Spivey, Deputy Clerk (recording minutes)

STAFF PRESENT:

1. Call to Order / Approval of Agenda

Mayor Sayre called the June 18, 2010 Council Meeting to order at 3:00 p.m. Mayor Sayre entertained the motion to approve the agenda with revisions with all in approval.

(MOTION CARRIED 5-0)

2. Consent Agenda

2.1 Approval of Minutes

May 7, 2010 Special Budget Meeting
May 28, 2010 Work Session
May 28, 2010 Council Meeting

Mayor Sayre asked for the approval of the consent agenda as presented. Councilor Douglas made the motion, with all in approval. **(MOTION CARRIED 5-0)**

2.2 Resolution – Public Safety Oak

Manager Peck presented the below resolution to Council.

RESOLUTION HONORING THE VILLAGE OF BALD HEAD ISLAND PUBLIC SAFETY

DEPARTMENT BY REGISTRATION OF LIVEOAK

WHEREAS, Dr. Thad Wester has called the Village Council's attention to the majestic, inspiring and timeless qualities of the live oak tree located in the roadway median in the vicinity of 205 Stede Bonnet Wynd.

WHEREAS, Dr. Wester has suggested that registration of the live oak with the Live Oak Society may be an appropriate way to express honor and appreciation to the members of the Village Public Safety Department, past present and future.

WHEREAS, the Village Council wholeheartedly endorses this suggestion and wishes to honor the Department.

NOW, THEREFORE, BE IT RESLOVED by the Village of Bald Head Island Council that the aforesaid live oak shall henceforth be known as "The Public Safety Oak"

BE IT FURTHER RESOLVED that the Public Safety Oak may from time to time be identified with a commemorative plaque or other suitable identification
BE IT FURTHER RESOLVED that Dr. Westler is requested to register the Public Safety Oak with the Secretary (and only human member) of the Live Oak Society.

Mayor Sayre asked for approval of the resolution as presented. In a voice vote all approved. **(MOTION CARRIED 5-0)**

2.3 Amend Personnel Policy – Salary Schedule and Position Classifications

Manager Peck advised that with the reduction in force layoffs that were done in March there is a need to re-write the job descriptions for the following positions: Assistant Village Manager/ Shoreline Protection Manager, Administrative Assistant, Assistant Finance Director, and Development Services Administrator. There will be no adjustment in the salary schedule at this time. Mayor Sayre made the motion to pass the salary schedule and position classification as written, with all in favor, **(MOTION CARRIED 5-0)**

3. Old Business

3.1 FY 2010/11 Budget Approval

Manager Peck summarized the proposed budget for fiscal year 2010-11. Recommended rate will be 32.75 cents per \$100 tax rate in addition to 5.5 cents for those in Zone A and 3.5% in Zone B. Creek dredging will be something that is considered only if necessary to fill in a “hot spot” on the beach. Council will also pursue permitting and engineering of Harbor Groin Project. Mayor Sayre made the motion to set the budget at 32.75% in addition to applicable zones. Councilor Douglas stated that “The deficit should come from the General Fund. During good times you save and during bad times you use your savings. I am opposed to raising taxes except to pay the General Bond debt and believe the deficit (\$900K) should be taken from the General Fund.” Mayor Sayre made motion to pass the proposed budget as written, with Dr. Douglas descending **(MOTION CARRIED 4-1)**

3.2 Resolution – Condemnation to provide beach access for Public Safety Department and emergency vehicles on Bald Head Island. Charles Baldwin spoke in reference to communication with property owners and Bald Head Island LLC.

RESOLUTION OF THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA AUTHORIZING FILING OF CONDEMNATION ACTION TO PROVIDE FOR BEACH ACCESS BY PUBLIC SAFETY DEPARTMENT AND EMERGENCY VEHICLES ON BALD HEAD ISLAND

North Carolina General Statutes § 40A-3, § 160A-4 and § 160A-296 vest in the Village of Bald Head Island (“Village”) the power of eminent domain to condemn property for the purposes of establishing access for the public to public trust beaches, and opening, maintaining and improving public roads, sidewalks and other structures.

The Village needs to provide access for emergency and Public Safety Department vehicles to the beach on Bald Head Island. It is therefore necessary for the Village to condemn a contract right owned by Bald Head Island Limited, LLC in unplatted land the Village holds in fee simple

("subject property"). Said restrictive covenant currently limits use of the subject property to pedestrian access.

A description of the property affected by the condemnation is attached as Exhibit A and the property is illustrated in Exhibit B. The Village plans to improve the current walkway on the subject property into a pathway over which emergency and public safety vehicles and pedestrians may both access the beach.

It is therefore necessary for the Village to condemn the restrictive covenant currently reserved by Bald Head Island Limited, LLC. To-date, the Village Staff has been unable to acquire the necessary contract right by negotiation.

Notice of Intent to file a condemnation action was sent to the affected property owner as well as to other property owners in the vicinity. Staff has pursued and continues to pursue settlement terms which are reasonable, fair and equitable.

The Village has offered the owner an amount estimated to be the fair value of the contract right. To date, the Village has been unable to reach acceptable terms for the acquisition of the contract right.

The interest of public safety requires the Village to proceed with a condemnation action to acquire the necessary contract right.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF BALD HEAD ISLAND THAT:

- 1. The Village Attorney is hereby directed and authorized to institute the necessary proceedings under Chapter 404 of the North Carolina General Statutes to acquire the contract right.*
- 2. The Village Manager and Village Attorney are hereby authorized to obtain necessary appraisals, title opinions, surveys, consulting services and make all deposits of the estimated fair market value required for filing the condemnation action.*

Mayor Sayre asked for approval the Resolution with all in favor.

(MOTION CARRIED 5-0)

4. New Business

4.1 Pre-Positioned Debris Removal Contract Approval

Manager Peck explained the need to have these contracts in place in order to get funding from FEMA should a storm hit the Island. Sand Debris awarded to Byrd Brothers Emergency Services LLC, Vegetative C&D awarded to Bamaco Inc and Dangerous Trees and Limbs to Bamaco Inc. Second Call Contractors will be for Sand Debris, Bamaco Inc. Vegetative C&D to Ceres Emergency Services Inc and Dangerous Tree and Hanging Limbs to Byrd Brothers Emergency Services LLC. Mayor Sayre asked for approval of contract with all in favor.

(MOTION CARRIED 5-0)

4.2 May Financial Statement Report

Deb Straub commented on the financial statement for the month of May 2010. It is based on the amounts at the close of business on May 31, 2010. In the General Fund Revenues, the Ad Valorem Tax Revenues is currently at 98.9% of budget. The Total Operating Revenues will exceed budget at year-end. In the expenditure, all departments are below target and are holding the expenditures down. The total operating expenditures are below current year budget. In the Utility Fund total revenues, Service Revenues are close to budget after the February budget amendments. The Utilities fund total operating expenditures are below budget. The Capital Projects Beach Fund balance at the end of the month is

\$1037M. The bond proceeds were depleted April 23, 2010. The projected beach Fund balance at the end of the project is \$861K.

4.3

Appointment of Committee Members

Mayor Sayre spoke to the appointment of committee members to the Planning Board and to the Board of Adjustments. Planning Board member re-appointments are Robert Porter and Ken Miller. The Board of Adjustments member re-appointments are Judy Porter, Dana Quanstrom and Ann Carrie Hevener. Mayor Sayre made the motion for approval with all in favor.

(MOTION CARRIED 5-0)

4.4

NCIT

Tom Hayden presented Council with a report from the ADHOC Committee defining their role in the either supporting or opposition of the NCIT. A survey was sent to stakeholders throughout the Bald Head Island Community asking for input on the NCIT. After receiving near unanimous support from the community the ADHOC Committee recommends that the Council opposes the NCIT Port and funding of the study. Brooke Williams form the Shoreline Protection Committee has received the report from the ADHOC Committee and states that now is the time for the Council to oppose the NCIT Port. The resolution was read and is an official part of the minutes. Mayor Sayre thanked both of the committees for their hard work and dedication. There will be a letter going out next week to multiple enterprises and tax payers explaining the Council official position on the NCIT. Mayor Sayre read the following Resolution to Council:

A RESOLUTION OF THE VILLAGE OF BALD HEAD ISLAND OPPOSING THE NORTH CAROLINA INTERNATIONAL TERMINAL

WHEREAS, the Village Council of the Village of Bald Head Island ("Village") appointed an Ad Hoc Committee to work in conjunction with the Village Shoreline Protection Committee to study and make recommendations concerning the proposed North Carolina International Terminal ("NCIT"); and

WHEREAS, the proposed NCIT would involve construction of an intermodal shipping container terminal for ocean going vessels at Southport, North Carolina, including shipping channel ("Channel") deepening and widening in the vicinity of Bald Head Island; and

WHEREAS, the Ad Hoc Committee attended public hearings; reviewed studies and documents from the North Carolina State Ports Authority, U.S. Army Corps of Engineers ("USACE") and other stakeholders regarding the NCIT; and conducted a survey of Island property owners and residents regarding the NCIT; and

WHEREAS, the Ad Hoc Committee and Shoreline Protection Committee provided information and recommendations to the Village Council regarding the NCIT which have been duly considered; and

WHEREAS, the Ad Hoc Committee and Shoreline Protection Committee strongly recommend the adoption of the herein Resolution; and

WHEREAS, opposition to the NCIT is overwhelmingly supported by local residents and communities, including Bald Head Island ("BHI") residents, and local property owners residing in other municipalities throughout North Carolina; and

WHEREAS, BHI has been severely damaged since 2000, if not before, by accelerated beach and protective shoal erosion caused by expansion and continuing maintenance of the navigation Channel serving the Port of Wilmington; and

WHEREAS, documented damage to BHI includes adverse environmental impact on the unique area ecologies, habitat loss, and permanent loss of Island infrastructure, public beaches and private property; and

WHEREAS, Mitigation programs promised by the USACE and the State of North Carolina in conjunction with the 2000 expansion of the navigation Channel have not been funded or completed; and

WHEREAS, the federal government has not allocated funds for the USACE scheduled 2010-2011 maintenance dredging of the Channel, which would provide sand to BHI under the Channel Project's Sand Management Plan; and

WHEREAS, further expansion of the shipping Channel is certain to exacerbate the rate and extent of damage to BHI and its unique ecosystems, as well as to the thousands of acres of adjacent natural areas under the care and protection of state and federal authorities; and

WHEREAS, the premises underlying the NCIT project appear flawed, as current cost estimates are unrealistically low and resilient jobs creation and economic benefits are overstated; and

WHEREAS, the environmental impacts are beyond quantification and not realistically capable of mitigation. Increased light, air, sound, and water pollution, as well as security issues at the adjacent Brunswick Nuclear Power Plant and Sunny Point Military Ocean Terminal, would result from the NCIT; and

WHEREAS, the annual transport of many thousands or millions of shipping containers would be unduly disruptive and harmful to many Brunswick County communities; and

WHEREAS, the highly desirable natural resource-based recreation, tourism, and retirement nature of the Brunswick County coast would be lost forever to the citizens of North Carolina.

***NOW, THEREFORE, BE IT RESOLVED** by the Village Council of the Village of Bald Head Island that:*

1. *The Village opposes further study or construction of the NCIT.*
2. *The Village urges the General Assembly and Agencies of North Carolina to:*
 - a. *fund all unaddressed and outstanding mitigation commitments made in support of the 2000 Channel;*
 - b. *find and fund a solution to Channel-caused erosion of state-owned BHI beaches and protective shoals; and*
 - c. *maximize the performance of the existing Wilmington Harbor Project*

Mayor Sayre asked for approval of the Resolution as presented. In a voice vote
(**MOTION CARRIED 5-0**)

5. Committee Reports

5.1 Shoreline Protection

No comment

5.2

Finance

Mayor Sayre asked Deb Straub to present information to the Finance Committee in reference to tax revaluation.

5.3

Public Safety & Transportation

The following issues were discussed: better markings at beach accesses, the PET issues, feasibility of a private taxi service on Island, this committee will not be taking a lead role in rate case and will take no action.

5.4

Public Works & Utilities

No Comment

5.5 Communication

The committee is asking for any assistance from those if the community interested in the NCTT issues to be a part of this committee.

5.6 Parks & Recreation

Thanks to Public Works and Utilities for the hard work in getting the dog park up and running and to the BHA for allowing the lease of their property. The park is a work in progress and if it is utilized by the public then better things will come in the future. Dog Park rules are posted at the gate and all dogs must be registered at Public Safety prior to using the park.

6. Monthly Reports

6.1 Manager's Report

Manager Peck will be attending UNC Wilmington in Celebration of National Public Administration Week. UNCW sponsored the Public Organization of the Year Award which the Bald Head Island Public Safety Department was nominated. Councilor Morris will attend to represent the Council as well as two volunteers.

6.2 Department of Public Safety Report No Comment

6.3 Development Services Monthly Report

Stephen Boyett reported that there were 20 new minor permits issued this month with no CAMA permits issued. The contractors with the State Flood Mapping Branch have completed their Island wide evaluation to identify the first floor elevation of all structures in the flood plain. For the NFP all requested information has been received and Village staff is awaiting preliminary comments in regards to CRS. The Hazard Mitigation Plan is in motion with requested minor changes to be made by the consultant. They are currently making those changes and will be resubmitting.

7. Comments, Reports and Questions

7.1 Citizens

Anne Kane commented on her concern of removing the Timber Groins from the budget. Should a storm come and the groins are damaged can they be repaired as they are river structures not beach structures. Manager Peck explained that the permitting of the groins would still be pursued and there was still money in the budget for the dredging and permitting process leaving only the solicitation of bids for the actual reconstruction of the timber groins. Win Stevens asked if anyone had been to Raleigh to put pressure on Governor Purdue as she is on the fence of the issue of the NCTT. Mr. Stevens recommends that citizens send e-mails to the Governors office stating opposition to NCTT. Dianne Hayden asked the Council or the Staff to explain why a crofter building was permitted to be

altered when she was not allowed to do the same project not long ago. Manager Peck invited her to come to his office on Monday to discuss in detail her concern. Larry Leonard asked for tangible results from lobbying. Attorney Baldwin explained the meeting with Col. Rescavage and his staff was very informative. He has spoken with our team of lobbyists and they are diligently pursuing a resolution of the matter and applying as much pressure as possible. The Shoreline Protection Committee is very involved.

7.2
Bald Head Association
No Comment

7.3
Bald Head Island, LTD
Limited would encourage Council to finalize the agreement and move swiftly on the repairing of the 4 groins and extended an invitation to the Manager to explain the actions of the Council as far as removing the groin project from the budget.

7.4
Bald Head Island Conservancy
Dr. Dorsey reported that there are currently 25 sea turtle nests on Island with only 2 of them being violated. She reminded the public not to feed the fox population especially on Federal Road. There is also a Leatherback turtle that has nested here and as a reminder to the public there is only 14 days left to the annual picnic and the pie eating contest.

7.5
Bald Head Island Club
No comment

7.6
Mayor and Council
No Comment

8.
Adjournment
Mayor Sayre entertained a motion to adjourn at 3:45 p.m., with all in favor.
(MOTION CARRIED 5-0)

ATTEST:


J. Andrew Sayre, Mayor


Daralyn Spivey
Deputy Clerk

