

**VILLAGE OF BALD HEAD ISLAND
COUNCIL MEETING
January 21, 2011
Bald Head Association**

COUNCILORS IN ATTENDANCE: Mayor Andrew Sayre
Mayor Pro Tempore John Fisher
Councilor Gene Douglas
Councilor John Pitera

STAFF PRESENT: Calvin R. Peck, Jr., Village Manager
Chris McCall, Asst. Manager/ &
Shoreline Protection Manager
Chip Munna, Chief of Public Safety
Deb Straub, Finance Officer
Steven Boyett, Building Inspector/ Planner
Jason Kessler, Attorney
Daralyn Spivey, Deputy Clerk(recording minutes)

1. Call to Order / Approval of Agenda

Mayor Sayre called the January 21, 2011 Council Meeting to order at 3:00 p.m. Mayor Sayre entertained a motion to approve the agenda. Councilor Pitera made the motion, with all in approval.

(MOTION CARRIED 4-0)

2. Public Hearing

2.1 Amending Section 28, Article II, Division 4- Regulating Taxicabs and Taxicab drivers

Calvin reviewed the revised text amendment to Section 28, Article II, Division 4.

Mayor Sayre opened the Public Hearing for comments:

Woody Fulton, BHI Limited Director of Operations reviewed the September 2010 Council meeting when Joyce Fulton had emphasized Limited interest in gas powered taxi service. Limited would like consideration for this policy.

Mr. Fulton recited Section 28-94(b)(1) and inquired if this would include storage on private property. He also had concerns with the length not being specified for electric vehicles on the island.

Mr. Fulton questioned Section 28-94(c) *Request Contents* of whom the Village shall approve, the owner or operator.

Calvin replied the Village would approve both the owner and operator.

Calvin gave clarification the Public Safety/ Transportation Committee made recommendation and suggested electric vehicles only due to the ICE ordinance.

Calvin stated the restrictions for parking for commercial vehicles and all out-of-service taxicabs will be kept in an approved designated area.

Calvin and the Chief of Public Safety will verify that the vehicle is not a hazard for operation on the island. There is not a vehicle that has been presented and will be analyzed when operational.

Larry Lammert, Resident asked if the taxis will be operational with luggage trailers.

Mayor Sayre stated this has not been approved at this time, yet is at the will of the Village Manager.

With no other comments or questions, Mayor Sayre closed the public hearing.

2.2 2010 Hazard Mitigation Plan

Chris introduced Reid Whitesale with Holland Consulting Planners, Inc. Mr. Whitesale gave a presentation on the process undertaken prior to a disaster striking and the requirements of FEMA that the plan must be reviewed and updated every 5 (five) years to meet the statutory requirement. The planning staff for the Village will be gathering data on the Community Rating System Initiative and if successful may reduce flood insurance rates on the island. The project schedule was reviewed along with the Hazard Mitigation Plan components. Mr. Whitesale reviewed the 2010 Hazard Mitigation Plan Adoption summary of key changes.

Mayor Sayre opened the Public Hearing for comments.

With no comments or questions, Mayor Sayre closed the public hearing.

3. Consent Agenda

3.1 Approval of Minutes

December 2, 2010 Special Meeting

December 10, 2010 Work Session

December 10, 2010 Council Meeting

Mayor Sayre asked for approval of the Consent Agenda as presented. Councilor Douglas made the motion, with all in approval. **(MOTION CARRIED 4-0)**

4. Old Business

4.1 Consideration/ Adoption of text amendment to Section 28, Article II, Division 4- Regulating Taxicabs and Taxicab drivers

Mayor Sayre asked for approval of the presented text amendment to Section 28, Article II, Division 4- Regulation Taxicabs and Taxicab drivers. Mayor Pro Tempore Fisher made the motion, with all in approval. **(MOTION CARRIED 4-0)**

❖ *Ordinance as follows:*

AN ORDINANCE OF THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA AMENDING SECTION 28-1 AND ADDING CHAPTER 28, ARTICLE II, DIVISION 4 OF THE VILLAGE CODE REGULATING TAXICABS AND TAXICAB DRIVERS.

WHEREAS, the Village Council of the Village of Bald Head Island, North Carolina has determined there are not enough point-to- point transportation options within the Village to fulfill the transportation needs of the Village;

WHEREAS, the Village Council has determined that allowing a limited number of taxicabs would increase the efficiency of point- to-point travel and help alleviate problems associated with parking in the Village;

WHEREAS, the Village Council has determined it to be in the best interest of the Village to allow a limited number of Taxicabs;

WHEREAS, the Village Council has determined it necessary, in the interest of public safety, to regulate both Taxicabs and Taxicab drivers; and

WHEREAS, pursuant to authority granted by North Carolina General Statutes 160A, Article 15, Section 304 and Session Law 1997-324, Village Charter, the Village Council wishes to amend Section 28-1 and adopt Division 4 of the Village of Bald Head Island Code of Ordinances;

NOW, THEREFORE, BE IT ORDAINED, BY THE VILLAGE OF BALD HEAD ISLAND, NORTH CAROLINA:

Chapter 28, Article I, Section 28-1. Definitions. Shall be amended to add the following definitions, to be codified in alphabetical order with those definitions currently in that Section:

Seasonal Hiatus means discontinuing Taxicab service during any portion of time from September 15th of one year through May 15th of the next year.

Taxicab means any Electrically-powered Vehicle, seating nine (9) or fewer passengers, operated upon Streets, as authorized and approved under this Chapter, on-call or on a standing basis, accepting or soliciting passengers indiscriminately for hire between such points as may be directed by the passenger so being transported. Taxicab also includes any Electrically-powered Vehicle, seating twelve (12) or fewer passengers upon Streets, as authorized and approved under this Chapter, on a fixed route, accepting or soliciting passengers indiscriminately for hire. Taxicab includes both in-service and out-of-service vehicles. Taxicab shall not mean the trams operated for delivery of ferry passengers by Bald Head Island Transportation, Inc.

Taxicab Operator means the person, business, or entity which operates a Taxicab within the Village jurisdiction.

Chapter 28, Article II, Division 4. Taxicabs and Taxicab Drivers. Shall be added to read as follows:

Sec. 28-93. General.

(a) *Operation of Taxicabs within the Village shall be in accord with Chapter 28, as well as all other applicable laws, regulations, and other ordinances.*

- (b) The Village Manager, or his designee, in his discretion and in the interest of public health and safety, may revoke, modify or deny a Taxicab approval or Taxicab driver permit.
- (c) All Taxicabs within the Village, both in-service and out-of-service, shall park and operate only in areas, upon roadways, and during operating hours as designated by the Village Manager or his designee.
- (d) Taxicabs shall operate on an on-call basis unless otherwise approved by the Village Manager or his designee.
- (e) The Village Manager or his designee may determine a fee schedule for Taxicab fares, a copy of which must be posted in each Taxicab in a location visible from the passenger area of the vehicle.
- (f) No Taxicab shall be allowed to pull a trailer or other additional storage device which extends the vehicle's total length beyond that at the time of approval under Section 28-94.
- (g) All Taxicab Operators shall maintain such insurance coverage with limits and provisions as the Village may from time to time require for motor vehicle and commercial general liability coverage with minimum limits of One Million Dollars per occurrence and Two Million Dollars aggregate. Coverage must be issued by reputable insurers acceptable to the Village in its sole discretion. The policies shall name the Village as an additional named insured and contain a waiver of subrogation against the Village. The Taxicab Operator shall maintain worker's compensation coverage, as required by law. The Taxicab Operator must provide proof of coverage prior to commencing operation and upon request by Village.

Sec. 28-94. Written Approval of Taxicabs Required.

(a) Filing of request. Pursuant to Session Law 1997-324, The Village of Bald Head Island Charter, Article X, Section 10.1, all Taxicabs operating within the Village must receive written approval by the Village. A Taxicab Operator must submit a written request for Village approval to the Village Manager or his designee.

(b) Taxicab approval limit. The Village shall approve no more than three (3) Taxicabs for any Taxicab Operator and not more than six (6) Taxicabs to operate within the Village, with the following exceptions:

(1) A Taxicab Operator approved by the Village pursuant to this Division may also apply for, and at the Village Managers discretion, be granted approval for backup Taxicabs. Only three of the Taxicabs of any Taxicab Operator may be in service at any given time. The approval of the backup Taxicabs shall not be counted when determining how many Taxicabs the Village has approved. The out-of-service Taxicabs may be kept on-island in a location approved by the Village Manager or his designee.

(2) If the operation of an approved and permitted Taxicab ceases for greater than thirty (30) days, or fails to begin within thirty (30) days of the application for approval, for any reason other than a Seasonal Hiatus, the Village may cancel the approval and approve another Taxicab.

(c) Request contents. The request for Village approval shall include the following:

- (1) The owner of the vehicle's full legal name and address;
- (2) A copy of the vehicle registration;
- (3) Proof of insurance in accordance with this Division;
- (4) Proposed fare rates;
- (5) Proposed hours of operation;
- (6) Proposed dispatch location; and
- (7) Other requirements as determined by the Village Manager or his designee.

(d) Amendments. A Taxicab Operator must immediately inform the Village of any changes to the required contents above and the Village may modify or revoke its prior approval.

(e) Term. The term of any approval shall be Two (2) years. Thereafter, the Taxicab Operator must reapply.

Sec. 28-95. Taxicab Driver's Permit Required. All Taxicab drivers must maintain a valid Taxicab driver's permit. Such permit may be issued by the Chief of Public Safety or his designee. All Taxicab drivers must submit a written application to the Chief of Public Safety and may be required to submit to drug screening and provide driving records. Other requirements or conditions regarding the applications may be imposed by the Village Manager, or his designee, as he may see fit in the interest of public health and safety, and in accord with Session Law 1997-324, The Village of Bald Head Island Charter, Article X, Section 10.1, and N.C.G.S. §160A-304, except that no background check shall be required. A permit fee may be determined by the Village Manager, not to exceed the statutory limits set forth in N.C.G.S. §160A-304. Additionally, all Taxicab drivers shall maintain valid driver's licenses and insurance as required by all applicable laws, regulations, and ordinances.

Passed and adopted by the Village Council, this the 21st day of January, 2011.

4.2 Consideration/ Adoption of 2010 Hazard Mitigation Plan

Mayor Sayre asked for approval of the adoption of 2010 Hazard Mitigation Plan with the following Resolution. Councilor Douglas made the motion, with all in approval.

(MOTION CARRIED 4-0)

❖ Resolution as follows:

RESOLUTION ADOPTING THE BALD HEAD ISLAND HAZARD MITIGATION PLAN UPDATE

WHEREAS, the citizens and property within the Village of Bald Head Island are subject to the effects of natural hazards and man-made hazard events that pose threats to lives and cause damages to property, and with the knowledge and experience that certain areas, i.e., flood hazard areas, are particularly susceptible to flood hazard events; and

WHEREAS, the Village of Bald Head Island desires to seek ways to mitigate situations that may aggravate such circumstances; and

WHEREAS, the Legislature of the State of North Carolina, in Part 6, Article 21 of Chapter 143; Parts 3, 5, and 8 of Article 19 of Chapter 60A;

and Article 8 of Chapter 160A of the North Carolina General Statutes, has delegated to local governmental units the responsibility to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and **WHEREAS**, the Legislature of the State of North Carolina, in Section 1 Part 166A of the North Carolina General Statutes (adopted in Session Law 2001-214 – Senate Bill 300 effective July 1, 2001), has stated in Item (a) (2): “For a state of disaster proclaimed pursuant to G.S. 166A-6(a) after August 1, 2002, the eligible entity shall have a hazard mitigation plan approved pursuant to the Stafford Act that is updated every five years”; and

WHEREAS, it is the intent of the Village Council of Bald Head Island to fulfill this obligation in order that the village will be eligible for federal and state assistance in the event that a state of disaster is declared for a hazard event affecting the village; and

WHEREAS, Section 322 of the Federal Disaster Mitigation Act of 2000 states that local governments must develop an All-Hazards Mitigation Plan and update it every five years in order to receive future Hazard Mitigation Grant Program Funds; and

NOW, THEREFORE, be it resolved that the Village Council of Bald Head Island hereby:

1. Adopts the Village of Bald Head Island Hazard Mitigation Plan; and
2. Vests the Planning Director with the responsibility, authority, and the means to:
 - (a) Inform all concerned parties of this action.
 - (b) Cooperate with Federal, State and local agencies and private firms which undertake to study, survey, map, and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation of existing hazards.
3. Appoints the Planning Director to assure that the Hazard Mitigation Plan is reviewed annually and in greater detail at least once every five years.
4. Agrees to take such other official action as may be reasonably necessary to carry out the strategies outlined within the 2010 Village of Bald Head Island Hazard Mitigation Plan.

Adopted this 21 day of January, 2011.

5. New Business

5.1 Akerman Senterfitt, LLP Contract

Mayor Sayre asked for approval of the contract with Akerman Senterfitt, LLP. Councilor Pitera made the motion, with all in approval. **(MOTION CARRIED 4-0)**

❖ See attachment with official minutes

5.2 McGuireWoods Contract

Mayor Sayre asked for approval of the contract with McGuireWoods. Councilor Pitera made the motion, with all in approval. **(MOTION CARRIED 4-0)**

❖ See attachment with official minutes

5.3 Interlocal Undertaking Agreement

Calvin reviewed the agreement with Council. Mayor Sayre stated the Village will be contributing five thousand dollars to enter this agreement.

Mayor Sayre asked for approval of the agreement with Interlocal Undertaking. Councilor Pitera made the motion, with all in approval. **(MOTION CARRIED 4-0)**

❖ Agreement as follows:

WHEREAS, North Carolina General Statute Sections 160A-460 through 464 and 466 authorize counties and municipalities to enter into agreements; and to enter into interlocal undertakings; and

WHEREAS, certain counties and municipalities in North Carolina, hereinafter called Members, desire to enter into an Agreement to establish an undertaking for a joint program to seek changes in North Carolina’s laws and rules pertaining to beach sediment management at ocean inlets; and

WHEREAS, the Bald Head Island is a municipality of Brunswick County that would benefit from participation in an inter-local agreement; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNCILORS OF THE VILLAGE OF BALD HEAD ISLAND as follows:

1. **The Undertaking**

That the Town enters into an agreement with other local governments to participate in an inter-local Undertaking to affect changes to current policy as it pertains to beach sediment management at ocean inlets. The Undertaking shall be a distinct entity, separate and apart from any of the local governments involved. The Undertaking will be responsible for compliance with NCGS Chapter 138A and Chapter 120C rules.

2. **Authorization**

That the Mayor is authorized to enter into an agreement that creates an Inlet Committee which shall be defined and established as follows:

a) The Inlet Committee

The Inlet Committee, hereinafter called Committee, is a joint agency as defined in NCGS 160A-462, established to assist the local governments participating in the Agreement to plan, provide funding for, and execute a program to seek changes in North Carolina's laws and rules pertaining to beach sediment management at ocean inlets.

b) Membership

Each signatory to this Agreement shall be a Member of the committee. Each member shall have one representative appointed by that Member to serve as the point of contact for the Member (hereinafter "Representative") throughout this Undertaking. Each Representative so appointed shall speak on behalf of the Member in matters pertaining to this Undertaking.

c) Funding

There will be no set formula for funding the Undertaking. Each Member shall provide funding at its own discretion in an amount it deems to be sufficient for its level of interest in the undertaking. The County of Brunswick shall be designated as agent solely for the purpose of receiving and disbursing funds in accordance with the wishes of the Committee, and disbursements shall be as approved by a majority vote of the members of the Committee.

d) Power and Duties

The Committee has the following powers and duties:

- i) To keep Members informed about the progress of the undertaking
- ii) To provide public information and advocacy pertaining to the goals of the undertaking;
- iii) To coordinate with each other on the best methods for reaching the goals of the undertaking.

e) Personnel

The Committee shall have the power to appoint or retain qualified employees or agents as may be required to implement its plans, provide day to day management and represent the Committee, in accordance with available funding.

f) Addition of Members, Amendment of Agreement Any New Member must be a North Carolina local government and may be added upon execution of this Agreement by an authorized representative of said New Member. This Agreement may only be amended with the approval, by resolution, of all Members.

g) Term and Dissolution; Remaining Funds

This Agreement shall terminate on the last day of the 2010-2011 session of the North Carolina Legislature unless terminated before that date due to completion of the goals of the undertaking. Any remaining funds will be reimbursed to each Member in direct proportion to the amount that Member contributed to the total.

Adopted this the 21 day of January, 2011.

5.4 Supporting the Atlantic Intracoastal Waterway Association's

Mayor Sayre asked for approval of the Resolution supporting the Atlantic Intracoastal Waterway Association. Councilor Douglas made the motion, with all in approval.

(MOTION CARRIED 4-0)

❖ *Resolution as follows:*

RESOLUTION

SUPPORTING THE ATLANTIC INTRACOASTAL WATERWAY ASSOCIATION'S EFFORT TO HAVE THE FEDERAL GOVERNMENT MAINTAIN THE INTRACOASTAL WATERWAY AT DESIGNED DEPTHS

WHEREAS, the Atlantic Intracoastal Waterway Association's mission is to support proper maintenance of the Atlantic Intracoastal Waterway throughout its entire length within the five Atlantic Coast states of Virginia, North Carolina, South Carolina, Georgia, and Florida, and;

WHEREAS, the Waterway is as a vital transportation artery along the Atlantic coast, providing safe navigation for commercial and recreational vessels, and;

WHEREAS, economic studies have shown that the Waterway is an important economic engine for the five Atlantic Coast states; and

WHEREAS, the Waterway is authorized by the U.S. Congress to be maintained at a navigation depth of 12 feet deep at mean low water throughout its entire length within the five Atlantic Coast states; and

WHEREAS, naturally occurring shoaling reduces the depth and width of navigation channels in numerous sections of the Waterway and;

WHEREAS, this shoaling results in unsafe conditions for commercial and recreation vessels and decreases the economic output of the Waterway within the five state region; and

WHEREAS, the Waterway is not receiving adequate funding to maintain a safe navigation channel; and

THEREFORE, BE IT RESOLVED, that Village of Bald Head Island supports the Atlantic Intracoastal Waterway Association's advocacy on behalf of the Atlantic Intracoastal Waterway including their requests to Members of Congress seeking the funding needed to dredge and maintain the Waterway at a safe depth.

Adopted this 21 day of January, 2011

5.5 December Financial Statement Report

Deb Straub reviewed the December 2010 financials. The General and Utility funds are operating within budgetary limits. Deb discussed the budget amendment for additional engineering and legal costs. Deb reviewed the Capital Projects fund balances as the following. The total Beach Fund balance is \$550k, Village Facilities Construction/ Expansion fund balance is less than \$1k, the Stormwater Management fund balance is \$142k and the Infiltration Pond System fund balance is \$270k.

Mayor Sayre stated the Council is very concerned with the loss of the general funds. The Council will be reviewing the expenditures during the 2011 Council Retreat.

5.5a- Budget Amendment

Mayor Sayre asked for approval of the budget amendment to appropriate General Fund Balance. Councilor Pitera made the motion, with all in favor.

(MOTION CARRIED 4-0)

5.6 Appointment of Committee Chair to Finance Committee

Mayor Sayre asked for approval of Barry Kane as Committee Chair to the Finance Committee. Mayor Pro Tempore Fisher made the motion, with all in favor.

(MOTION CARRIED 4-0)

6. Committee Reports

6.1 Shoreline Protection- Brooke Williams stated all information is in the monthly report

6.2 Finance- No Report

6.3 Public Safety & Transportation- No Report

6.4 Public Works & Utilities- No Report

6.5 Communication- Mayor Sayre stated the committee has been exchanging ideas for a Communications Director for the Village. Mayor Sayre stated a subject has been spoken to with essential experience and was not a job interview only gathering of information. The committee is mindful of not increasing staff and is further researching alternative issues. Mayor Sayre stated this is an important issue and could benefit the island. No decision has been made and will further be discussed at the Council Retreat.

6.6 Parks & Recreation – No Report

7. Monthly Reports

7.1 Manager's Report- Calvin spoke on the meeting attended between the Bureau of Ocean Energy Management Regulation and Enforcement NC Task Force concerning off shore wind energy. There are only three places accessible in North Carolina to benefit from the off shore wind energy transmission lines. They are Bayboro, Morehead City, and Southport/ Wilmington areas. Calvin attended the NC League of Municipalities Advocates Goal Conference. Discussion involved the list for email protection for possible state wide legislation and the reformation of the ABC system for North Carolina.

7.2 Department of Public Safety Report - Chief Munna reviewed the December Public Safety report. Chief Munna spoke on the Public Safety Dept. will be functioning the Operation Medicine Cabinet. More information will be disbursed on the date and time of the function at a later date.

7.3 Development Services Monthly Report- Steven Boyett reviewed the December Development Services report. Jeff Dawson with NC State Historic Preservation office will be on island for a site visit of the boathouse for further investigation in February 2011. Steven will report back to Council with information.

7.4 Shoreline Protection Manager Report - Chris McCall reviewed the meeting with State lobbyist McGuireWoods. The meeting consisted of the work completed and the concept of holding a legislative meeting on the Island to acknowledge the issues of Bald Head Island. Chris gave the legal update on the lawsuit against the Corps of Engineers. Chris stated Shoreline Protection will present 2011 objectives for alternative funding, lobbying, communication with the Corps of Engineers, and litigation at the Council Retreat.

8. Comments, Reports and Questions

8.1 Bald Head Association - Rachel stated the Association looks forward to meeting with Council at the Council Retreat.

8.2 Bald Head Island, LTD- No Comment

8.3 Bald Head Island Conservancy- John stated the Conservancy looks forward to meeting with Council at the Council Retreat.

8.4 Bald Head Island Club- No Comment

- 8.5 Citizens- No Comment
8.6 Mayor and Council- No Comment

9. **Adjournment** -

Mayor Sayre entertained a motion to adjourn at 3:40 p.m., with Mayor Pro Tempore Fisher made the motion with all in favor. **(MOTION CARRIED 4-0)**

Mayor Andy Sayre

ATTEST:

Daralyn Spivey, Deputy Clerk
Transcribed by Debra Talbert, Village Clerk