

Belhaven Town Council
Regular Session Minutes – May 8, 2006

Call to Order/Invocation/Pledge of Allegiance

The Town Council of the Town of Belhaven met in regular session on Monday, May 8, 2006 at the Boyette Civic Center at 257 West Pungo Street. Mayor Adam W. O’Neal called the meeting to order with the following Council members present: Albert Baker, Charles O. Boyette, Steve W. Carawan George R. Ebron, Jr., Mayor Pro-Tem; and Cynthia M. Heath. Town Manager Tim M. Johnson, Town Attorney Keith B. Mason and Town Clerk Marie J. Adams were also present. Mayor O’Neal recognized and asked Minister Thom Perry of West Belhaven Church of Christ to give the invocation. Mayor O’Neal asked Mrs. Cindy Ross to lead the audience in the Pledge of Allegiance.

Approval of Minutes – April 10, 2006 Regular Session and May 1, 2006 Former Belhaven Fish & Oyster Property Sale Workshop Minutes

Mayor O’Neal stated that the minutes of the April 10, 2006 Regular Session and May 1, 2006 Workshop minutes were open for review and approval. There being no corrections, Councilman Ebron made the motion to approve the minutes as written. Councilman Boyette seconded the motion which carried unanimously.

Moving Item VII – Recognition for Past Service Awards To the Beginning of the Agenda

Councilman Carawan stated that one of the recipients of the Past Service Awards had asked that the item be moved to the beginning of the meeting due to commitments following the meeting. Councilman Carawan then made the motion to move that agenda item for presentation at this time. Councilman Boyette seconded the motion which carried unanimously.

Recognition of Citizen of the Year

Mayor O’Neal stated that he would like to recognize Mrs. Marie J. Adams, Town Clerk for receiving the Belhaven Community Chamber of Commerce Distinguished Citizen of the Year Award. The Council and audience applauded Mrs. Adams for her recognition.

Recognition for Past Service Awards

Mayor O’Neal stated that the Town Council needed to recognize three citizens for their past service to the Town and their community. Mayor O’Neal read the following plaque recognizing Mr. Wilber Logan for his service to the community by serving on the Planning Board/Board of Adjustment as a member and chairman. The Mayor, Council and audience applauded Mr. Logan.

The Belhaven Town Council
Would like to Recognize
Mr. Wilber E. Logan
For his dedicated public service to the
Town of Belhaven and her Citizens
By serving as a member of the
Belhaven Planning Board/Board of Adjustment
1986-1990
and

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1996-2006
Serving as Chairman
From
July 2002-January 2006
Presented to Mr. Logan
On Monday, April 10, 2006
At the Regular Meeting
Of the
Belhaven Town Council

Mayor O’Neal recognized Ms. Linda E. Wilkerson who served the Town and community as a Town Council member. Mayor O’Neal read the following plaque recognizing Ms. Linda Wilkerson for her service to Town. The Mayor, Council and audience applauded Ms. Wilkerson.

The Belhaven Town Council
Would like to recognize
Linda E. Wilkerson
For her dedicated public service to the
Town of Belhaven and her Citizens
By Serving as a member of the
Belhaven Town Council
From July 2001 – December 2005
Presented to Ms. Wilkerson
On Monday, April 10, 2006
At the Regular Meeting
Of the
Belhaven Town Council

Mayor O’Neal recognized Mr. James B. Hodges who served the Town and community as a Town Council member for 20+ years. Mayor O’Neal read the following plaque recognizing Mr. Hodges for his service to the Town. The Mayor, Council and audience applauded Mr. Hodges.

The Belhaven Town Council
Would like to recognize
Mr. James B. “Jimmy” Hodges
For his dedicated public service to the
Town of Belhaven and her Citizens
By Serving as a member of the
Belhaven Town Council
From December 1979 – December 1991
And
From December 1995 – February 2006
Presented to Mr. Hodges
On Monday, April 10, 2006

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Community House Swimming Discussion

Mayor O’Neal stated that Mr. J. D. Potts with the North Carolina Division of Marine Fisheries (Shellfish Sanitation) was present to give information to the Council concerning the possibility of opening the Community House (Beach) for swimming. Mayor O’Neal stated that he felt it was important for the town to provide a place for children to swim as there was no other public access in town for swimming. Mayor O’Neal introduced Mr. Potts who gave some background information on the Community House (Beach). Mr. Potts stated that his department had started testing swimming areas in 1995/1996) and found that the enterococci (fecal coli form) counts were too high for swimming at the Community House. Mr. Potts explained that he felt that the contamination was from the number of waterfowl in the area and that fact that the beach area has limited water movement due to the rock jetties on both side of the beach area and the break water. Mr. Potts explained that additional testing would need to be done at the beach to determine if the contamination counts could safely allow swimming and that the test would be more frequent as the beach would be classified according to the proposed use. Mr. Potts gave some contamination counts from the power point presentation. There was some discussion concerning the safety, liability, feasibility and health issues of opening the beach for swimming. Councilman Boyette suggested that the town consider furnishing a swimming pool for swimming. Mayor O’Neal stated that the goal was to provide an area at the beach for swimming with a lifeguard at the beach with no pier. Mayor O’Neal stated that utilizing the beach for swimming would be much more feasible than a swimming pool. Councilman Ebron stated that a safe area was needed for swimming and suggested that maybe ways of funding a swimming pool could be sought. Mr. Potts suggested that a break be made in the jetties which would allow the water to flow and possibly reduce the contamination counts. Councilwoman Heath stated that she was concerned with the contamination, the possibility of illness with children swimming at the beach area, snakes and debris which cannot be seen. Town Manager Johnson asked Mr. Potts, in his opinion, would he allow his own children to swim at the beach area. Mr. Potts stated, “No”. Mayor O’Neal stated that was Mr. Potts’ opinion and that he wanted the beach area tested more frequently to ascertain if swimming could be permitted the next swimming season. The Council agreed to more frequent testing. Mr. Potts stated that he would be glad to forward information to Mayor O’Neal and Town Manager Johnson via e-mail.

Emergency Services Center (ESC) Update

Mayor O’Neal introduced Mr. Robert Runyans, Architect for the Emergency Services Center. Mr. Runyans stated that breaking ground for this project should start soon that the plans had been submitted to USDA and appropriate state agencies for their approval. Councilman Boyette asked had the elevation of the area surrounding the building designed for parking was elevated. Mr. Runyans stated that the parking area was elevated on a slope with the area closer to the building being the highest elevation and gradually decreases away from the building. Councilman Boyette pointed out that this

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area could possibly be used during hurricanes to park vehicles to keep them from flooding. Mayor O'Neal questioned the timeline for construction. Mr. Runyans stated that the completion was set for December 2007 but he felt the building could be completed by the summer of 2007. Councilman Carawan questioned the total cost of the ESC. Town Manager Johnson estimated the cost \$1.72 million. Councilman Carawan questioned if the funding was secured. Town Manager Johnson stated that the closing on the loan has not taken place but the money is guaranteed. Mayor O'Neal questioned how the town would pay for this building. Town Manager Johnson stated that payment for the loan may be obtained through the fire tax and proposed rescue billing which would estimate \$35,000 - \$40,000 per year. Mayor O'Neal stated that the funding of this building could be discussed at the next meeting. Mayor O'Neal stated that the Police Department and Fire Department both had buildings. Councilman Boyette stated that currently the Police Department floods during hurricanes and that the Fire Department facilities are very antiquated.

Belhaven Library Funding Request – Ms. M. J. Carbo, Beaufort-Hyde Martin Director

Mayor O'Neal recognized and introduced Ms. M. J. Carbo, the Beaufort-Hyde-Martin (BHM), Regional Director. Ms. Carbo stated that she was present to thank the Council for their past support of \$6,300 for the local Belhaven Library. Ms. Carbo stated that this year BHM was requesting the same amount of \$6,300 as an appropriation from the Town. Ms. Carbo summarized the many uses that the citizens and general community of Belhaven utilize such as computers, internet, free classes, etc... Mayor O'Neal thanked Ms. Carbo for the presentation while stating that the library was an asset to Belhaven and the community as a whole. Mayor O'Neal also stated that he hoped that the Town could maintain the appropriation of \$6,300 for the upcoming 2006-07 budget.

2005/2006 Budget Amendment #6

Mayor O'Neal stated that the Council needed to adopt the budget amendment which reflected the rehabilitation of Well #1 as presented in a previous meeting to the Town Council. Councilwoman Heath made the motion to increase revenue account 30-399-000 (Fund Balance Appropriated) by \$127,250 from \$106,405 to \$233,655 and increase expenditure account 30-810-075 (Well Rehab) by \$127,250 from \$0 to \$127,250. Councilman Ebron seconded the motion which carried unanimously.

Cornerstone Tabernacle Church Request

Mayor O'Neal recognized and introduced Ms. Josephine O'Neal, Associate Pastor of Cornerstone Tabernacle Church. Ms. O'Neal stated that the church would like to hold a tent revival on Town property adjacent to the Multi-Purpose Building at 225 West Pantego Street. Ms. O'Neal stated that the revival was scheduled to take place June 12 – 16, 2006 at 6:30 P.M. nightly. Ms. O'Neal stated that the purpose of the revival was to transform the people. Mayor O'Neal recognized Mr. Martin Overholt, Code Enforcement Officer, who stated that the church would comply with all safety codes involved with tent revivals. Councilman Baker made the motion to approve the request for Cornerstone Tabernacle Church to use town property to conduct a tent revival June 12

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– 16, 2006 and to abide by conditions outlined in the request. Councilwoman Heath seconded the motion which carried unanimously.

New Vision Community Youth Choir Request for Free Use of the Multi-Purpose Building

Mayor O’Neal stated that the New Vision Community Youth Choir, Mr. Derrell Ward, Director had contacted the Town and requested free use of the Multi-Purpose building to conduct a family fun day as a fundraiser. Mayor O’Neal asked for someone to speak on this request. Ms. Barbara C. Turner stated that the choir would like to use the building as stated on Saturday, May 27. There was some discussion concerning previously “no free use of this building”. Ms. Turner was also asked if the Civic Center could be utilized for the fundraiser and Ms. Turner stated, no. There was some discussion concerning that the proposed fundraiser would benefit the Martin County Community Action Head Start program and the fact that the program will not exist next year, due to the lack of children. Following some additional discussion, Ms. Turner was advised to pay the deposit of \$150.00 and leave the building in good condition. Councilman Carawan made the motion that the New Vision Community Youth Choir is allowed to use the Multi-Purpose Building on Saturday, May 27 in order to conduct a family fun day fundraiser. Councilman Ebron seconded the motion which carried unanimously. Councilwoman Heath asked that the Boys and Girls Club be notified of this use.

Belle Port Site Plan Approval (Former Robb’s Boatyard)

Mayor O’Neal stated that the Town Council needed to consider the approval of the Belle Port Site Plan as recommended from the Belhaven Planning Board. Mayor O’Neal recognized and introduced Mr. John Tucker, Engineer for the Belle Port development at the former Robb’s Boatyard site. Mr. Tucker stated that the condominiums would be three story units meeting the town’s height restrictions and other state rules and regulations. Following some discussion, Councilman Baker made the motion to approve the final site plan of Belle Port as recommended by the Belhaven Planning Board. Councilman Boyette seconded the motion which carried unanimously.

Planning Board Special Funding Request

Mayor O’Neal recognized Mr. Larry Pleasant, Chairman of the Belhaven Planning Board who was present to request immediate funding for the review and re-writing of the Town’s zoning and land use policies. Mr. Pleasant stated that the zoning needed to be in a much better state to meet the town’s growth. Mr. Pleasant suggested that the funding of this come from the monies appropriated for the DARE (Downtown Area Revitalization Enhancement) as all the funds were not expended. Councilman Baker questioned the status of the DARE organization. Mr. Pleasant stated that the organization was basically at a standstill. Town Manager Johnson stated that originally the funding for the DARE project, which was a downtown design plan, had been funded with \$15,000 from Beaufort County, \$15,000 from the Town, which all the funds were not spent and \$15,000 to be raised by group. Councilman Baker made the motion to authorize the Town Manager to proceed with notifying DARE of the funding change proposed and to assist the Planning Board in their efforts to hire a consultant. Councilwoman Heath seconded the motion. Mayor O’Neal questioned if public hearing would be held

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concerning the zoning/land use policies. Mr. Pleasant stated yes. The motion carried unanimously.

Lead Ditch Request – Mr. Topper Bateman

Mayor O’Neal stated that the Council needed to consider opening a ditch near his crab factory property on East Pantego Street. Town Manager Johnson explained that this would be similar to the procedure of getting right-of-way easements as was done for the ditch behind Dr. Wright’s Property on Latham Street. Town Manager Johnson stated that if a right-of-way is given for the ditch then the town could maintain that ditch.

Councilman Ebron made the motion to authorize the Town Attorney to draw up the legal right-of-way agreements for the ditch as requested by Mr. Topper Bateman. Councilman Baker seconded the motion which carried unanimously. Mr. Walt Allen was recognized by Mayor O’Neal and stated that CAMA permits may be needed for that particular ditch.

Mayor O’Neal recognized Mr. Phil Reynolds, resident of East Street who stated that the Town had not looked into the drainage problem which he had brought to the Council’s attention at the last Council meeting.

Audit Contract Approval

Mayor O’Neal stated that the Town Council needed to consider the audit contract for fiscal year 2005/2006 from Pittard, Perry and Crone, Inc. in the amount of \$13,500 which is a 5% increase from last year. Councilman Carawan stated that additional bids should be solicited. Mayor O’Neal stated that other Certified Public Accountants should be given the opportunity to bid. Following some discussion, Councilman Carawan made the motion that the appropriate requests for bids be advertised. Councilman Ebron seconded the motion. Councilman Boyette abstained, which without permission from the Council, resulted in an affirmative vote. Council members Baker and Heath voted against the motion. The motion carried 3 to 2.

Belhaven Fish & Oyster Property Disposition – Setting of Public Hearing

Mayor O’Neal stated that a public hearing needed to be set to hear public comment concerning the sale of the former Belhaven Fish & Oyster property. Councilman Ebron made the motion to hold the public hearing on Monday, June 12 at 7:00 P.M. immediately prior to the regularly scheduled Council meeting at the Boyette Civic Center.

Councilman Baker seconded the motion which carried unanimously.

Budget Workshop for Fiscal Year 2006/2007 – Scheduling

Mayor O’Neal stated that the Town Council needed to set a budget workshop to review for next years’ budget (Fiscal Year 2006/2007). Following some discussion, Councilman Ebron made the motion to hold a budget workshop on Monday, May 15, 2006 at 7:00 P.M. at the Boyette Civic Center. Councilwoman Heath seconded the motion which carried unanimously.

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Dr. Charles O. Boyette – Residency Resolution

Mayor O’Neal stated that Councilman Ebron had requested that the Council adopt the resolution supporting Councilman Boyette’s residency. Mayor O’Neal read the resolution.

Resolution of Residency
May 8, 2006

WHEREAS, Dr. Charles O. Boyette has resided in East Belhaven since 1965; and

WHEREAS, Dr. Charles O. Boyette is now and has been since 1965 a registered voter in East Belhaven; and

WHEREAS, Dr. Charles O. Boyette has been elected to and has held public office in the Town of Belhaven in excess of 30 years; and

WHEREAS, Dr. Charles O. Boyette maintains his permanent residence at 330 Edward Street, Belhaven and has maintained his residence at that location since 1995; and

WHEREAS, Dr. Charles O. Boyette was duly sworn in as a member of the Town Council on March 13, 2006; and

WHEREAS, Belhaven Town Council has determined, pursuant to Town of Belhaven Code of Ordinances 30.12, that Dr. Charles O. Boyette meets all of the statutory and constitutional requirements to serve as a member of the Belhaven Town Council.

BE IT HEREBY RESOLVED by the Town Council of the Town of Belhaven that Dr. Charles O. Boyette is a duly qualified member of the Belhaven Town Council.

Attested this date, May 8, 2006.

Marie J. Adams, CMC
Town Clerk

Adam W. O’Neal, Mayor

Councilman Ebron made the motion to adopt the previously read resolution. Councilman Baker seconded the motion. Councilman Carawan stated that the resolution should not be passed due to a pending lawsuit against Councilman Boyette concerning his residency and his ability to serve as a Councilmember on the Town Council.

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Mayor O’Neal recognized the following in the audience who spoke against Councilman Boyette’s residency: Ms. Patricia King who stated that she has never seen him at the residence on Edward Street; Mrs. Lindsay Hubers who directly questioned Councilman Boyette if he lived at the residence on Edward Street and stated that she had never seen him there; additional open discussion by Mrs. Cindy Ross made reference to Council members making unnecessary comments with all of the ill feelings. Councilman Boyette stated that the General Statutes concerning residency should be reviewed by those concerned.

The motion carried 4 to 1 with Councilman Carawan voting against the motion. Councilman Boyette provided the Town Clerk with a copy of his voting records. Mayor O’Neal stated that he had made contact with Legal Counsel concerning the resolution and was advised to sign “under protest”.

UST Trust Fund – Tarkington Property Access Agreement

Mayor O’Neal stated that the Town had been notified of the UST which is the State Underground Storage Tank Section of North Carolina Department of Environment and Natural Resources. Town Manager Johnson explained that the Town had purchased the former Tarkington property directly behind the Municipal Building on Pamlico Street a few years ago. Town Manager Johnson further explained that the prior use of the property was a gas station and that even though no tanks were located the stated feels that there may be contamination. Town Manager Johnson stated that the Town Council should adopt the agreement which would allow the state to test the property at no cost to the town. Councilman Boyette made the motion to authorize the Town Manager to execute the access agreement on behalf of the Town. Councilwoman Heath seconded the motion which carried unanimously.

Underground Storage Tank (UST) Agreement

I am/We are the owner(s) of a parcel of property, located at or near the incident in question, and hereby permit the Department of Environment and Natural Resources (Department) or its contractor to enter upon said property for the purpose of conducting an investigation of the groundwater under the authority of GS 143-215.3(a)2. I am/We are granting permission with the understanding that:

1. The investigation shall be conducted by the UST Section of the Department’s Division of Waste Management or its contractor.
2. The costs of construction and maintenance of the site and access shall be borne by the Department or its contractor. The Department or its contractor shall protect and prevent damage to surrounding lands.
3. Unless otherwise agreed, the Department or its contractor shall have access to the site by the shortest feasible route to the nearest public road. The Department or its contractor may enter upon the land at reasonable times and have full right of access during the period of investigation.
4. Any claims which may arise against the Department or its contractor shall be governed by Article 31 of Chapter 143 of the North Carolina General Statutes, Tort Claims Against State Departments and Agencies, and as otherwise provided by law.

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5. The information derived from the investigation shall be made available to the owner upon request and is public record, in accordance with GS 132-1.
6. The activities to be carried out by the Department or its contractor are for the primary benefit of the Department of the State of North Carolina. Any benefits accruing to the owner are incidental. The Department or its contractor is not and shall not be construed to be an agent, employee, or contractor of the land owner.

I/We agree not to interfere with, remove or any way damage the Department's well(s) or its contractor's well(s) during the investigation.

Tim M. Johnson, Town Manager
Town of Belhaven (Agent)
(252) 943-3055, PO Box 220
Belhaven, NC 27810

Mayor's Agenda and Report

ElectriCities Request for Mr. Ken Raber to Attend Council Meeting

Mayor O'Neal stated that consistently his items of concern are at the end of the agenda. Mayor O'Neal stated that the Council should have Mr. Ken Raber with ElectriCities to be present at the meeting to go over electric rates. Councilman Carawan made the motion to have Mr. Ken Raber attend a meeting to review the electric rates. There was no second to the motion. Motion failed.

Request for Wireless Microphones for Mayor and Council

Mayor O'Neal stated that wireless microphones were needed for the Council's use so that the public and those members of the public watching the meeting at home could better hear. Councilman Carawan made the motion for the town to purchase wireless microphones at \$1,500.00. There was no second to the motion. The motion failed. Councilman Boyette suggested that a price range be decided for microphones and that the issue be discussed in the budget workshop.

Chamber of Commerce Banquet

Mayor O'Neal stated that the town purchased tickets for Council members and some employees to attend the Chamber of Commerce Annual Banquet. Mayor O'Neal stated that members of the Council should have purchased their own tickets. Mayor O'Neal questioned the Manager's discretion in spending town funds in this way. Councilwoman Heath stated that Town Manager Johnson was very conservative in spending town funds.

Miscellaneous Discussions

Mayor O'Neal stressed the request to have ditch cleaning records. Councilman Carawan reiterated his request for encumbrances put on properties which were elevated, rehabilitated and/or replaced during the grant monies received because of the hurricanes.

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There were discussions back and forth from members of the public and council members. Mrs. Bertha Baker stated that the Town and its' officials were in need of prayer and respect for each other.

Mayor's Presentation of Utilities - Rates on Overhead Projector

Mayor O'Neal again showed information to the public and Council members to attempt to discredit Town Manager's Johnson's report. Following much discussion and the subject matter of some of the towns in which Town Manager Johnson referenced being bi-monthly. Mayor O'Neal stated that in his opinion the Town Manager's report at the last meeting was misleading and that he (the town manager) purposely misled the Council. In closing, Mayor O'Neal stated that the Town of Hertford was comparatively the same size of town as Belhaven and was ½ of the budget. Mayor O'Neal asked that the budgets be compared.

Town Manager's Report

Town Manager Johnson stated that he or any of the town staff did not receive the information concerning utilities which Mayor O'Neal just presented. Town Manager Johnson explained that when he made his report he compiled the information from the North Carolina League of Municipalities (NCLM) lists which stated monthly fees. Town Manager Johnson further explained that the Town has debt that has to be paid on the new water system and the sewer upgrade. Town Manager Johnson further explained that older facilities can run cheaper and have little or no debt. Town Manager Johnson explained that it is hard to compare town to town based on population, etc. Town Manager Johnson stated that comparisons can not be logically made as it would be like comparing real estate in the desert to real estate on the ocean. Councilwoman Heath stated that utility rates have been discussed for several months and that now was the time to find some resolve instead of endlessly discussing our rates over and over each meeting.

Town Manager Johnson asked the Mayor for direction on the July 4 Dignitary Reception. Mayor O'Neal stated that this was ploy by the Town Manager to make (the Mayor) look bad. Town Clerk Adams stated that she asked Town Manager Johnson to ascertain direction as to the July 4th Dignitary Reception as it had been her responsibility to send out invitations, etc. over the past fifteen years. Mayor O'Neal stated that it was necessary to hold the reception. Town Clerk Adams stated that she would proceed with necessary plans. Mayor O'Neal also stated that Town Clerk Adams did not notify him of the National Day of Prayer which was held this past Thursday. Town Clerk Adams stated that she set up the proclamation signing and was not aware that the Mayor was on the agenda until she arrived at the function.

Town Manager Johnson announced that the departmental monthly reports were included in the packets.

Adjournment

There being no further business, Councilman Baker made the motion to adjourn. Councilwoman Heath seconded the motion which carried unanimously. The meeting adjourned at 10 P.M.

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Respectfully submitted,

Marie J. Adams, CMC
Town Clerk

Adam W. O'Neal, Mayor