

**Belhaven Town Council
Minutes – Regular Session
Monday, September 11, 2006
D R A F T**

Call to Order/Invocation/Pledge of Allegiance

The Town Council of the Town of Belhaven met in regular session on Monday, September 11, 2006 at 7:00 P.M. in the Council Chambers at Town Hall. Mayor Adam W. O’Neal called the meeting to order with the following Council members present: Albert Baker, 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 introduced and recognized Rev. Amos Wilson of Pentecostal Faith church who gave the invocation. Mayor O’Neal asked Mr. Alba Harris to lead the audience in the Pledge of Allegiance.

Approval of Minutes – Public Hearing/Regular Session – August 14, 2006

Mayor O’Neal stated that the minutes of the public hearing/regular session of the August 14, 2006 meeting were open for review and approval. There being no corrections to the minutes, Councilman Ebron made the motion to adopt the August 14, 2006 public hearing/regular session minutes. Councilman Baker seconded the motion which carried unanimously.

East End Council Seat – Appointment

Mayor O’Neal stated that at the last Council meeting the appointment of a person to fill the vacant position of the East End Council seat was tabled. Councilman Carawan stated that a petition was presented at the August 14, 2006 Council meeting supporting Mac Pigott to fill that position with over 300 names of supporters and that more supporters had been added. Councilman Carawan made the motion to appoint Mr. Mac Pigott to fill the East End Council seat position. There was no second to the motion. Councilman Baker made the motion to appoint Dr. Charles O. Boyette to the East End council seat. Councilwoman Heath seconded the motion. The motion carried 3 to 1 with Councilman Carawan voting against the motion.

Town Clerk Adams then administered the oath of office to Dr. Boyette and he joined the Mayor and Council members at the table.

**Oath of Office
Town of Belhaven
Council Member**

“I, Dr. Charles O. Boyette, do solemnly swear that I will support and defend the Constitution of the United States and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully perform the duties of the office of Council Member, on which I am about to enter, according to my best skill and ability; so help me God.”

Dr. Charles O. Boyette
Councilman

ATTEST:

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Marie J. Adams, CMC
Town Clerk

Mutual Aid Agreement with Hyde County

Mayor O’Neal stated that Hyde County Emergency Management was requesting a mutual aid agreement with Belhaven Fire & EMS Department in case of the need of mutual assistance by Hyde County from Belhaven Fire & EMS. Councilman Ebron made the motion authorizing the Town Manager and Fire Chief to execute on behalf of the Town of Belhaven. Councilman Carawan seconded the motion which carried unanimously.

Haslin Street Right-of-Way Abandonment

Mayor O’Neal stated that the abandonment of the right-of-way on the south end of Haslin Street was brought back to the council from the August 14 meeting, where the Town Council asked Town Attorney Keith Mason to research information from surveys. Town Attorney Mason stated that he had spoken with Mr. Martin Mayo, surveyor, who had performed surveys in that same area earlier. It was suggested that Mr. Hood Richardson be contacted to ascertain information from surveys in that area. Councilman Boyette stated that there was a 1986 survey map that could be reviewed. Councilman Boyette also stated that Belhaven consider maintaining visibility of the water and that the fire department would need that area to draft water should the ground tanks not have enough water during a large fire. Town Attorney Mason stated that he was familiar with the 1986 map but needed to review the attached documents. Mayor O’Neal questioned if the property would be deeded or the right-of-way. Town Attorney Mason stated that he was not certain and that source documents would need to be researched. Mayor O’Neal suggested that the best information concerning this issue be obtained and also the town needed to consider what could be done with that property such as public pier, parking lot, etc... Mayor O’Neal stated that Attorney Mason should research to ascertain if someone was paying taxes on that portion of Haslin Street right-of-way. Ms. Cheryl Coleman one of the adjacent property owners of the right-of-way on the south end of Haslin Street stated that one side of Haslin Street had a 40’ right-of-way and the end adjacent to her property was 100’ right-of-way and that the information had been researched and could not determine the basis in the right-of-way differential. Councilman Carawan suggested that the Council support Town Attorney Mason’s recommendation to further research before making any decisions. Following further discussion, Councilman Ebron made the motion to table the proposed abandonment of the right of way for further research. Councilman Baker seconded the motion. Mayor O’Neal recognized Mr. Larry Pleasant, Chairman of the Belhaven Planning Board who stated that the planning board was very interested and would be cautious to abandon the right-of-way due to fact that the property could be a significant property size for public use. Mr. Pleasant also offered any assistance in which the planning board could give the Town Council. The motion carried unanimously.

Local Government Commission Response Letter

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Mayor O’Neal stated that the Town of Belhaven had received a response from the Local Government Commission. Mayor O’Neal read the letter dated August 31, 2007 on the State of North Carolina Department of State Treasurer as follows:

August 31, 2006

The Honorable Adam W. O’Neal, Mayor
Town of Belhaven
PO Box 220
Belhaven, NC 27810

Dear Mayor O’Neal:

The staff of the Local Government Commission has received and analyzed the Town’s responses to our letter dated June 12, 2006. After careful consideration of the data we received, we feel the Town has addressed our concerns in a satisfactory manner. We wish to thank you, the Board, and the staff for your cooperation and effort in resolving these matters.

We noted in our June 12, 2006, letter that it appeared that excessive amounts were being charged to the Electric and Water and Sewer Funds by the General Fund for administrative costs. The internally prepared cost allocation reports that your staff provided to us appear to support reimbursement at these amounts. We recommend that the Town consider having a formal cost allocation study completed in the near future to assist the staff in its efforts to determine actual costs by fund.

We also noted in our letter that these cost reimbursements were being recorded in the General Fund as revenue instead of a reduction in expenditures or expenses as required by generally accepted accounting principals. Your budget amendment #1 FY 06/07 indicates that the Town has changed how it is handling these cost reimbursements to be in compliance with generally accepted accounting principals. Further, we have discussed this with your independent auditors and are assured by them that these transactions will be reported as reductions of expenditures or expenses in the General fund and will be assigned to the appropriate functional expense in the Enterprise Funds.

Again, thank you and your staff for their efforts in responding to our questions and concerns. If you have any questions please contact me at (919) 807-2380.

Sincerely,

Sharon G. Edmundson CPA,
Director, Fiscal Management Section

cc: Tim M. Johnson, Town Manager

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Ms. Robin J. Godsell, Finance Officer
Pittard, Perry & Crone, Inc. CPAs

Mayor O’Neal stated that he and Councilman Carawan had another meeting with the Local Government Commission concerning additional concerns on September 19, 2006. Councilman Carawan questioned if the LGC endorsed the town’s budget process. Town Manager Johnson that the LGC approval was in the letter that the Mayor previously read. Councilwoman Heath questioned the Mayor of his concerns for the meeting he has scheduled on September 19 with LGC. Mayor O’Neal stated that he will share the utility information and the LGC findings of his September 19 meeting at the October 9 Council meeting.

Sale of Former Belhaven Fish & Oyster Property

Mayor O’Neal stated that there was a lot of concern over the proposed sale of the former Belhaven Fish & Oyster (BF&O) property. Mayor O’Neal asked for any comments from the public. Mayor O’Neal recognized Mr. Larry Pleasant, Planning Board Chairman, who stated that the Planning Board had received the preliminary plan for the proposed development at the former BF&O property at their September meeting. Mr. Pleasant stated that the planning board could place restrictive covenants on the development of that property. Town Manager Johnson stated that the planning board will have the opportunity to impose restrictive covenants at the site plan review. Mr. Pleasant stated that restrictions could be imposed if the developer should “flip” (resale) the property. Councilman Carawan referred to (8) in the Option to Purchase which reads: 8.

Restrictive Covenants. Grantor shall have the right to convey the above described property subject to such covenants, conditions and restrictions as it may deem to be in the public interest or to carry out the purposes of Article 19, Part 8 of chapter 160A of the North Carolina General Statutes. Councilman Carawan stressed that the restrictions need to be imposed on the property before it is sold. Councilman Carawan further stated that the Town had gotten into a bad deal some years ago but that the restrictive covenants should be imposed with the sale of the property and suggested that the planning board review and impose restrictive covenants before the sale. Mayor O’Neal referred to (7) of in the Option to Purchase which reads: 7. Option to Repurchase. If Grantee does exercise its option to purchase under this Option Agreement, title to the property shall be subject to an Option to Repurchase in favor of the Grantor in the event that Dixon & Hoyle, LLC does not commence construction on the subject property in accordance with the community development plan within two (2) years of the date of this Agreement, for the same Purchase Price specified in this Option Agreement. Town Attorney Mason stated that the intent was not to have vacant property and have the development “just to sit on it” these options gets the project underway by the developer. Town Attorney Mason stated that .8 gives the town authority of imposing covenant restrictions that are part of the land and the development of such no matter who owns it or how many times the property may change ownership. Town Attorney Mason stated that the 15’ easement was the same easement as was imposed on the property conveyed to Pungo District Hospital and stated that fuller restrictions may be made. Town Attorney Mason stated that the planning board enforces the zoning and that anything more restrictive than the

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zoning would be covenants. Mayor O’Neal suggested that the planning board review the covenants and restrictions that are needed for this property and to bring the issue back at the October 9 meetings. Councilman Carawan made the motion that the planning board review the necessary restrictions/covenants for the former BF&O property and to bring back the issue with their suggestions at the October 9 meeting of the Town Council. Councilman Ebron seconded the motion which carried unanimously.

Capital Improvements Plan – Amendments

Mayor O’Neal stated that the Capital Improvements Plan had been recently adopted by the Town Council and that amendments to this plan were needed as recommended by the funding agency. Councilman Ebron made the motion that amendments 1 – 4 be incorporated into the Town of Belhaven’s Capital Improvement Plan. Councilman Boyette seconded the motion which carried unanimously. (Insert CIP Amendments)

Mayor’s Agenda Items

Mayor O’Neal stated that he would like for the items of the public to be included in the agenda at the beginning of the agenda. Mayor O’Neal stated that these items were citizens concerns, not his agenda. Item A) Summary of Utility Service Research – Mayor O’Neal stated that this would be reviewed at the October 8 meeting. Item B) Tropical Storm Ernesto – Mayor O’Neal and Councilman Carawan went door to door at the downtown businesses that flooded – the Mayor stated that he was proud to see Town employees cleaning up – Mayor O’Neal stated that next time have Pamlico Street blocked. Town Manager Johnson stated that Pamlico Street was blocked. Town Manager Johnson stated that the Town will have to build some type of barricades as the barrels used, not matter how much weight is imposed, still seem to float. Mayor O’Neal stated that police officers be stationed at the barrels to insure that traffic does not impede through areas restricted. Mayor O’Neal stated that he was very concerned because Town Manager Johnson had no contact with him concerning the tropical storm. Mayor O’Neal stated that the Town Manager showed disrespect to him by not contacting him during the tropical storm. Town Manager Johnson stated that he only had Mayor O’Neal’s business telephone number. Mr. Walt Allen, resident of Water Street, stated that the Mayor could have contacted the town office. Councilman Boyette suggested that contact could have been made by the Mayor to the town office during the tropical storm.

Mayor O’Neal suggested that next month he would like the Summary of Utility Services as one of the first items on the agenda. Councilman Boyette asked that the information be shared with the Council members as the other items’ on the agenda’s information is included. Councilman Ebron reiterated Councilman Boyette’s request of the inclusion of the information in the packets for the agenda items. Mayor O’Neal stated that if he has the information in time he will forward to the Council.

Councilwoman Heath stated that “out of respect” of the 5th anniversary of the 9-11-01 the Council should quit their bickering and stated that when respect is given you receive respect. Councilwoman Heath asked what was Mayor O’Neal’s concern with the LGC since he had another meeting set with them for September 19. Mayor O’Neal did not allude to the nature of his meeting with LGC.

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- C. Community Watch Report – Mayor O’Neal stated that he had requested that the Chief of Police be present at the meeting for this issue. Mayor O’Neal also stated that Community Water could also assist with the Disaster Plan.

Councilman Boyette asked that there be a moment of silent prayer for those involved in the Terror of 9-11 and for those serving their country in the military.

Town Manager’s Report

Town Manger Johnson stated that the monthly reports of the departments were included in the packets and if there were specific questions, he would be glad to answer.

Citizens Comments

Mayor O’Neal recognized Mr. Roy O’Neal, resident of Tooley Street who questioned the Town Council on the placement of Dr. Charles O. Boyette as Councilman instead of Mr. Mac Pigott, who had a petition submitted on his behalf with over 300 names.

Councilman Ebron stated that the replacement of a Council member, when one resigns before his term is ended, is appointed by the Town Council not a vote of the people.

Councilman Ebron further explained by this appointment the board can appoint someone that they feel is experienced and one that can contribute to the meeting instead of being new to the process and issues at hand. Councilman Ebron elaborated that the Council followed the charter in the appointment of the council member. Councilwoman Heath stated that the petition to have Mr. Mac Pigott appointed to the Town Council was not included in the Town records as it was not in the town’s possession. Mr. Phil Reynolds, resident of East Street – stated that the petition was not used for the appointment of the council member.

Mayor O’Neal recognized Mrs. Shirley Tolan, resident of East Street, who stated that Old County Road (where the post office is located) is one of the most traveled streets and complained that the street is very narrow. Town Manager Johnson stated that Powell Bill funds are scheduled to be expended to widen that street. Mrs. Tolan also stated that on Lee Street and Pantego Street there are two stops on Lee Street and that it would be better to make one stop on Pantego Street. Town Manager Johnson stated that the Town Council can make change or add stop streets by a vote. Town Manager Johnson stated that the area in question can be reviewed and brought back at the October 8, meeting.

Mayor O’Neal recognized Mr. Johnnie Clark, resident, who was complaining of ditches that are stopped up on the west end of town.

Closed Session – Personnel GS 143-318.11(5)

Councilman Boyette made the motion to close regular session and to reconvene into closed session for personnel according to GS 143-318.11(5). Councilwoman Heath seconded the motion which carried unanimously. The regular session meeting convened at 8:12 P.M.

Reconvene and Adjournment

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Councilman Ebron made the motion to reconvene into regular session. Councilwoman Heath seconded the motion which carried unanimously. The meeting reconvened into regular session at 8:44 P.M. There being no further business, Mayor O’Neal declared the meeting adjourned at 8:45 P.M.

Respectfully submitted,

Marie J. Adams, CMC
Town Clerk