

Belhaven Town Council
M I N U T E S
November 13, 2006 Regular Session

Call to Order/Invocation

The Town Council of the Town of Belhaven met in regular session on Monday, November 13, 2006 at 7:00 P.M. 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, Dr. Charles O. Boyette, George R. Ebron, Jr., and Cynthia M. Heath. Councilman Steve W. Carawan was not present, as Mayor O'Neal announced that Councilman Carawan was out of town. Town Manager Tim M. Johnson, Town Attorney Keith B. Mason and Town Clerk Marie J. Adams were also present. Mayor O'Neal recognized Mrs. Jennifer Boyd; Elder with St. Miller Missionary Baptist Church who gave the invocation.

Recognition of Members of Veterans of Foreign Wars (VFW) Post 249/Pledge of Allegiance

Mayor O'Neal stated that there were several members of the local VFW Post 249 present who would be leading the Pledge of Allegiance. Mayor O'Neal recognized each veteran who gave their military experience: Mr. Elwood Tinker, WWII Veteran; Mr. Walter Taylor, WWII Veteran and Korean War Veteran; Mr. Virgil Tucker who joined the Air Force in 1969 and then became an Air Force Recruiter; Mr. Wesley Bowman, Vietnam Veteran; Mr. Billy Millican joined the Army in 1957 and volunteered for Vietnam in 1969 and later became a Sea Bee until retirement in 1990; Mr. Damon Torrey served his country from 1958-1962. Mayor O'Neal thanked these gentlemen for their service to our country. Mayor O'Neal also stated that in conversations with Mr. Tinker, VFW Post 249 who encouraged all veterans to join their Post. The servicemen then lead the audience in the Pledge of Allegiance.

Approval of Minutes – October 9, 2006 Regular Session, Public Hearing and Closed Session

Mayor O'Neal stated that the minutes of the Regular Session/Public Hearing and the Closed Session were open for review and adoption. Mayor O'Neal stated that that regular session minutes did not reflect his fifty-five (55) minute presentation on transfer of funds and review of the budgets from 1994 until present. Mayor O'Neal stated that Town Clerk Adams should have reviewed the DVD which was recorded by Belhaven Cable Television to record the specific information. Mayor O'Neal stated that the minutes should not be adopted and this specific portion should be rewritten. There was no motion to reflect his request. Councilwoman Heath made the motion to adopt the regular session minutes of the October 9, 2006 meeting as written. Councilman Baker seconded the motion which carried unanimously, 4 to 0. Mayor O'Neal stated that the public hearing minutes were open for review and adoption. There being no corrections to the public hearing portion of the October 9, 2006 meeting, Councilman Boyette made the motion to adopt the minutes as written. Councilwoman Heath seconded the motion which carried unanimously, 4 to 0. Mayor O'Neal stated that the minutes of the October 9, 2006 closed session were open for review and adoption. Mayor O'Neal stated that this set of minutes were inaccurate and had nothing of him being threatened. Mayor O'Neal stated that this portion of the meeting was tape recorded and the general public would not believe that the recording and the written minutes were from the same meeting. Mayor O'Neal stated that Town Clerk Adams was not the recording secretary for this portion of

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the minutes but the minutes were not correct. Mayor O'Neal asked for a motion to adopt the inaccurate minutes of the October 9, 2006 closed session. Councilman Boyette made the motion to adopt the October 9, 2006 closed session minutes as written. Councilwoman Heath seconded the motion which carried unanimously, 4 to 0.

Budget Amendment #4 Fiscal Year 2006-2007; Wynne View, Inc. (\$5,000 Loan)

Mayor O'Neal stated that the Town Council had voted at the October 9, 2006 meeting to approve a \$5,000 loan to Northeastern Beaufort County Economic Development Commission (NEBCED) not Wynne View, Inc. Mayor O'Neal questioned the ownership of the Wynne View Building and the fact that Community Developers of Beaufort Hyde, Inc. (CDBH) and NEBCED were both non-profit agencies and that Wynne View, Inc. was a for-profit corporation. Mayor O'Neal stated that he was trying to get financial information on all three of the agencies but could not get the information on Wynne View because they were a for-profit corporation. Mayor O'Neal stated that he had a problem with loaning a for-profit corporation money. Mayor O'Neal questioned the ownership of Wynne View and the building's worth. Councilman Boyette stated that the building was worth approximately \$1.8 - \$2 million. Mayor O'Neal questioned the amount of debt owed on the building. Town Manager Johnson stated that a non-profit (NEBCED) owns a for-profit (Wynne View). Councilman Boyette stated that NEBCED owns 51% of Wynne's View and CDBH owns 49%. Mayor Boyette explained that the purpose of the loan was to cover legal expenses incurred while the architect, engineer and contractor were being taken to court to determine liability for the failed foundation that had to be repaired to save the building from complete deterioration. Councilman Boyette explained that a grant was received for \$485,000 to make the necessary repairs to the foundation and that at this time the building could not be rented, therefore revenue was lost. Councilman Boyette further explained that the court case was scheduled to go to trial the week of November 22. Councilman Boyette stated that it was hoped that the building could be sold after the lawsuit is settled. Mayor O'Neal stated that Councilman Boyette was Chairman of Wynne View, Inc. and asked Councilman Boyette did he own part of the building. Councilman Boyette stated there was no ownership and no money involved. Councilman Boyette further stated that a lot of man hours had been given to the grant application to construct the building, the repair and grant sought to repair the foundation and in the lawsuit to rectify the fault in the foundation failure. Councilman Boyette stated that by NEBCED owning 51%, technically the town and citizens owned 51% with the remaining 49% being CDBH – Wynne View. Mayor O'Neal stated that two non-profits combined to form a for-profit. Mayor O'Neal questioned this legality. Mayor O'Neal questioned who benefited from Wynne's View. Mayor O'Neal stated that Wynne View, Inc. should be paying 49% of the legal fees. Councilman Boyette stated that a motion was needed for the \$1.8 – \$2 million investment. Councilman Boyette made the motion to approve the following budget amendment to loan the \$5,000 to Wynne View, Inc. as follows: Increase revenue account 10-399-000 (Fund Balance Appropriated) by \$5,000 from \$379,185 to \$384,185 and increase expenditure account 10-690-012 (Loan Wynne View, Inc) by \$5,000 from \$0 to \$5,000. Councilman Baker seconded the motion. Mayor O'Neal referred to the General Statutes concerning conflict of interest (GS 143-234)? ;the Mayor also questioned who were the shareholders of Wynne View. The motion carried unanimously, 4 to 0.

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Budget Amendment #5 Fiscal Year 2006-2007; Belhaven Community Chamber of Commerce Celebration - \$1,000 Appropriation

Mayor O'Neal stated that the Town Council approved a \$1,000 appropriation towards the Christmas Parade Celebration at the October 9, 2006 Council Meeting. Mayor O'Neal stated that a budget amendment was necessary for that appropriation. Councilman Baker made the motion to approve that appropriation which will: increase revenue account 10-399-000 (Fund Balance Appropriated) by \$1,000 from \$384,185 to 385,185 and increase expenditure account 10-420-024 (Christmas parade, etc) by \$1,000 from \$1,000 to \$2,000. Councilman Ebron seconded the motion which carried unanimously, 4 to 0.

Belhaven Concession Banking Resolution and Authorization

Mayor O'Neal stated that a banking account was needed for the volunteers who operate the concession stand at the baseball fields. Mayor O'Neal explained that this would be a separate fund and would be for concession stand monies only. Councilman Ebron made the motion that Belhaven Concession be allowed a deposit/checking account with Southern Bank utilizing the Town's Tax Identification Number. The persons authorized for this account are Mrs. Lee T. Baynor and Mrs. Jenna B. Cooper. Councilman Ebron made the motion adopting the following resolution. Councilwoman Heath seconded the motion which carried unanimously, 4 to 0.

(Insert with signatures)

Financial Management Resolution for Isabel HMGP

Mayor O'Neal asked Town Manager Johnson to explain this agenda item. Town Manager Johnson stated that a Grant Finance Officer and banking institution had to be named in order to be in compliance with administrative codes as designated by FEMA for any funds received through Hazard Mitigation Grant Program (HMGP) Isabel. Councilman Baker made the motion adopting the following Financial Management Resolution for Hurricane Isabel. (Insert)

Councilman Boyette seconded the motion which carried unanimously, 4 to 0.

Project Ordinance HMGP Grant #1457-0005

Mayor O'Neal asked Town Manager Johnson to explain this agenda item. Town Manager Johnson stated that project ordinance was need for Hazard Mitigation Grant Program (HMGP) 1457-0005 to budget revenues and expenditures of the grant monies. Councilman Boyette made the motion to approve the following project ordinance.

Town of Belhaven

Hurricane Isabel Hazard Mitigation Grant Program

**Project Ordinance
HMGP Grant #1457-0005**

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Be it ordained by the Town Council of Belhaven, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project is hereby adopted:

Section 1. The project authorized is the Hurricane Isabel Hazard Mitigation Grant Project (HMGP) described in the work statement contained in the grant agreement (HMGP#1457-0005) between the Town of Belhaven and the North Carolina Department of Crime Control and Public Safety.

Section 2. The Belhaven staff is hereby directed to proceed with the grant project with the terms of the grant documents(s), the rules and regulations of the Department of Crime Control and Public Safety, and the budget contained herein.

Section 3. The following revenues and resources are anticipated to be available to complete the project activities:

Hurricane Isabel HMGP Grant

FEMA Funds	\$150,119
State Funds	\$ 50,040
FEMA Administration Funds	\$ 5,003
Total Project Resources	\$205,162

Section 4. The following amounts are appropriated for the project activities:

Hurricane Isabel HMGP Grant

Elevation	\$200,159
Administration	\$ 5,003
Total Project Budget	\$205,162

Section 5. The Grant Finance Officer is hereby directed to maintain within the Grant Project fund sufficient specific detailed accounting records to provide the accounting to the North Carolina Department of Crime Control and Public Safety required by the grant agreement(s) and federal and state regulations.

Section 6. Funds may be advanced from the General Funds for the purpose of making payments as due. Reimbursement requests should be made to the North Carolina Department of Crime Control and Public Safety in an orderly and timely manner.

Section 7. The Grant Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

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Section 8. The Grant Finance Officer is directed to include a detailed analysis of pas and future costs and revenues on this grant project in every budget submission made to this board.

Section 9. Copies of this grant project ordinance shall be made available to the Grant Finance Officer for direction in carrying out this project.

Adopted this the 13th day of November, 2006

Adam W. O'Neal, Mayor

ATTEST:

Marie J. Adams
Town Clerk

Councilwoman Heath seconded the motion which carried unanimously, 4 to 0.

Town Manager's Report

Mayor O'Neal recognized Town Manager Johnson who made the following report:

- 1) Pantego and Lee Street – an additional stop sign being needed was discussed at the October 9, 2006 Council meeting – reviewed ordinances and determined stop sign was named for that intersection; stop sign now installed with warning tickets issued; 2) Emergency Services Building – in process of getting permits and final approval then will bid out the construction; 3) Mayor O'Neal had referenced work notes being destroyed in flooding and the Mayor's comments were that no records for transfers of funds from electric and water and sewer to the general fund had been retained; Town Manager Johnson stated that the work notes for transfers were destroyed in the floods of 1996/97 where records were stored in the town's grey storage building behind Wachovia Bank, further stated that documents required to be retained have been; Town Manager Johnson stated that Mayor O'Neal reports that the Local Government Commission (LGC) had directed the Town to conduct another cost allocation study; that is not so; the LGC is requiring that the numbers be justified; 4) North Carolina Electric Municipal Power Agency (NCEMPA) has reported that rates will decrease in January 2007 by 1.48% due to fuel costs decreasing – will review to reduce rates by the amount of the impact and bring back to the Council at that time; and 5) Monthly reports included for review.

Miscellaneous Comments

Isabel Elevation Project Questions

Mr. Walt Allen, resident of 519 Water Street, questioned the elevation of homes through the Isabel grant project. Town Manager Johnson explained that some of the six homes that were scheduled to be elevated have exceeded their threshold of elevating versus benefit. Town Manager Johnson stated that two of the homes proposed to be elevated

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will proceed with elevation and that cost analysis will be conducted on the homes that were exceeding their cost benefit.

Sale of Former Belhaven Fish & Oyster Property

Mr. Walt Allen also questioned the sale of the former Belhaven Fish & Oyster property. Attorney Mason stated that following the October 9, 2006 meeting he had contacted the Attorney for Dixon and Hoyle and asked for a legal description of the portion of property that will be deeded back to the town. Town Attorney Mason stated that he had not received that legal description so therefore, could not complete the deed for sale of property.

Mayor's Noted Concerns

Mayor O'Neal replied that the problem is that things are wrong; cost allocation study was wrong; there were no Council members or town employees present at the flood committee meeting this past week when Department of Transportation and other state agencies were present; beach area swimming – Council not concerned that the children's have no place to swim and nothing has been reported on the testing of the waters; gun shots at Northside Park, no concern – a Community Watch program would be helpful; the Mayor was threatened in closed session; the Mayor is trying to clean ditches, have swimming at the beach and asking questions; the Mayor is getting no cooperation because of the calculating by the "Boyette Machine". At this time the audience became loud because of the terminology "Boyette Machine" that the Mayor stated. The Mayor called for order several times and stated that someone would be removed from the meeting if the audience did not come to order.

NEBCED and Downtown Drainage Comments

Mr. Walt Allen started to speak and told he was out of order. Mayor O'Neal then recognized Mr. Allen who stated that he was a part of NEBCED 3 – 4 years ago and that they have been loaned money before and contribute to the community; stated that he was pleased to see that Mr. Mac Pigott was pushing the downtown flooding issue and hoped that the \$100,000 from the DOT can be secured.

Emergency Services Building – Funding Secured

Mr. Don Stark, resident of Edward Street, questioned if all funding was in place for the Emergency Services Building. Town Manager Johnson stated yes, a grant had been secured for approximately \$300,000 with a long-term low interest rate loan.

Town Manager's Comments

As Town Manager Johnson began stating the Mayor's role in a Council-Manager form of government, he was immediately interrupted with the banging of the gavel, several times. During this time, Councilman Baker made the motion to allow Town Manager Johnson the opportunity to speak. Councilman Ebron seconded the motion which carried unanimously, 4 to 0. Town Manager Johnson then stated that it was the Mayor's duty to promote the town and all that Mayor O'Neal had done was to try and make the Town look bad. Town Manager Johnson further stated that state officials were concerned about getting in the middle of a battle whenever Mayor O'Neal called and questioned programs,

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procedures, etc. Town Manager Johnson used this time to try and clarify some of the statements which had been made by Mayor O'Neal; such as: the Mayor had spent 200 hours compiling the information he presented in his 55 minute presentation at the last Council meeting concerning transfers of funds, etc. Town Manager Johnson stated that this information could be obtained by reviewing the audits in minimal time. Town Manager Johnson further stated that the electric rates are high but the disparity in those rates had narrowed and he felt that the town was headed in the right direction. Town Manager Johnson stated that the Mayor references the budget (it being incorrect) and its adoption; Town Manager Johnson clarified that the Town has to have a balanced budget and that if revenues are cut then the expenditures would have to be cut. Town Manager Johnson stated he is always trying to get grants – and he's not giving up. Town Manager Johnson stated that the town provides the electric, water, sewer and garbage services.

Slowing Development

Mr. Walt Allen, resident of 519 Water Street, stated that he felt that the animosity between the Mayor, Council and Manager were slowing down the development undergoing in the town and the hope of proposed development. Town Manager Johnson agreed that there had been no accomplishments in the past year.

Mayor O'Neal "Boyette Machine" Comments

Mayor O'Neal stated that the "Boyette Machine" was responsible for the slow down in development. At the time when the Mayor made the statement "Boyette Machine" members of the audience made negative comments concerning the statement. Mayor O'Neal banged the gavel and demanded order several times. Mayor O'Neal stated that he would have people removed from the meeting if the audience did not come to order. Mayor O'Neal referenced Police Officer Pugh, who was standing at the back of the meeting. The entire time, Mayor O'Neal banged the gavel. The audience finally quieted.

Mayor's Request for Public Records

Mayor O'Neal stated that he was actively involved in the town. Mayor O'Neal distributed a letter to the Council, dated October 18, 2006 addressing Town Manager Johnson for copies of public records such as letter, memo, e-mails. (Insert)

Mayor O'Neal asked the Council to make a motion requiring Town Manager Johnson to forward this information to the Mayor.

Councilman Boyette stated that the Mayor's request be filed, tabled. Councilwoman Heath seconded the motion. Councilman Boyette further clarified that the Council had agreed that new materials submitted at the Council meetings would not be voted on as the request should be included as an agenda item. The motion carried unanimously, 4 to 0.

Mayor O'Neal stated that documents had been requested. Town Manager Johnson stated that he had not received all public information from the Mayor and that public documents had been destroyed while in the Mayor's possession (Petition to have Mac Pigott appointed as Councilmember). Mayor O'Neal stated that Mr. Pigott destroyed that information. Mayor O'Neal stated that a flood meeting was held on Thursday,

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November 9 and that no Council members attended the meeting or the Town Manager or Public Works Director. Councilwoman Heath stated that the Council did not attend in fear of not meeting the public meetings law.

Compliments to Veterans and Council Members

Councilwoman Heath also stated that she appreciated the veterans attending the meeting and being recognized. Councilwoman Heath also stated that some organization should have a ceremony to recognize veterans on Veteran's Day. Councilwoman Heath stated that Councilmen Boyette and Ebron both had served their county in the armed services. She also stated that Councilman Baker had been named to the Elizabeth City State University "Hall of Fame" for his successes during this football career.

Hardee's Utility Bill Complaint – Request for Explanation

Mayor O'Neal recognized Ms. Diane Lambert, District Manager and local manager, who requested some explanation for their utility bill stating that Hardee's had a \$9,000 bill. She stated that the bills for the restaurant in Belhaven are higher (almost doubled) than the other restaurants in her region. Town Manager Johnson asked that Ms. Lambert contact him and set up an appointment for review of her bills, readings, usage and an energy audit, if necessary.

Mayor O'Neal stated that when utility costs are mentioned the town administration is always mentioning conserving.

Concerns of the Proposed Sale of the Former Belhaven Fish & Oyster Property

Mayor O'Neal recognized Mr. Bob Holz, resident of Water Street, owner/operator of Thistle Dew Bed and Breakfast, who questioned the status of the sale of the former Belhaven Fish & Oyster property. Town Attorney Mason stated that he needed the legal description of the portion of that property that will be deed back to the town. Attorney Mason stated that he had contacted the attorney for the development and still had no legal description. Mr. Holz further questioned if all other issues had been addressed. Attorney Mason stated that he believed that he had done what the Town Council asked him to do. Mayor O'Neal recognized Mr. Larry Pleasant, Planning Board Chairman; who asked that the Planning Board review the final transfer. Following some discussion, Councilman Boyette made the motion that the information concerning the transfer (sale) of the former Belhaven Fish & Oyster property and the transfer of property back to the town be copied to the Planning Board also. Town Manager Johnson stated that when the information is received he will see that the Planning Board gets a copy to review. Councilman Boyette stated that the information should be shared with the planning board so as to not create any more division.

Request for Belhaven Cable to Air October 9, 2006 Meeting in its Entirety

Mayor O'Neal recognized Ms. Linda Wilkerson, resident of E. Main Street, who stated that the recording of the October 9, 2006 Council meeting does not show any of the meeting past the point where Mr. Dixon spoke. Mr. Guinn Leverett, representative of Belhaven Cable Television, stated that he would look into the problem.

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Dollars Realized – Passed in Entirety to Customers - (Utility Rates)

Councilman Boyette made the motion that any dollars saved through a rate reduction be passed entirely to the consumers. Councilwoman Heath seconded the motion which carried unanimously, 4 to 0.

Adjournment

There being no further business, Mayor O’Neal declared the meeting adjourned at 8:23 P.M.

Respectfully submitted,

Marie J. Adams, CMC
Town Clerk