

**RELEASED AT THE TUESDAY, NOVEMBER 8, 2016 COUNCIL MEETING****PORTION ON THE NORTH 7<sup>TH</sup> STREET LAWSUIT RELEASED AT THE TUESDAY,  
AUGUST 11, 2009, TOWN COUNCIL MEETING****APPROVED AND SEALED AT THE TOWN COUNCIL MEETING ON  
TUESDAY, OCTOBER 7, 2008****CLOSED SESSION MINUTES  
MOREHEAD CITY, N.C.****THURSDAY, AUGUST 21, 2008**

The Council met in CLOSED SESSION on Thursday, August 21, 2008, in the City Hall Conference Room at 706 Arendell Street, Morehead City, N.C. Those in attendance were: Mayor Gerald A. Jones, Jr., Councilmen George W. Ballou, Paul W. Cordova, David Horton, John F. Nelson, Demus L. Thompson, City Manager R. Randy Martin, City Attorneys Nelson W. Taylor, III, Mike Thomas and City Clerk Jeanne M. Giblin.

**Acquisition of Alton Davis & Avery Properties adjacent to the Ballfield Property**

City Attorney Nelson Taylor recommended that the Council not pursue grant funding for that portion of the Alton Davis property [back portion] for which there is a title issue. He advised that the City could acquire the entire property by purchase from Mr. Davis and not proceed with the condemnation proceedings at this time as previously authorized. Once the City acquired the property, clear title would be granted if the City maintains it for seven [7] years, any title other than the City's would be erased. He would recommend only placing utility lines underground on the front portion of the property and not place the re-use water tank on the back portion of the Davis property. This procedure would have the same result and avoid considerable expense.

He continued that Alton Davis sincerely believes that he purchased and owned the entire portion of the property and has paid taxes on the entire portion of the property since the 1960's, however, his deed description does not include the entire property. Mr. Taylor, however, stated that Mr. Davis has the best claim of all the potential interested parties that could claim an interest in that portion of the property.

Manager Martin noted that City Engineer Tyndall Lewis recommended that the City acquire both the Davis and Avery properties for the re-use water tank project and the Council approved the funding to purchase the properties in the FY2008-2009 budget. The Council also approved a grant application which was not funded in the recent cycle utilizing the acquisition of both parcels as a match. The City Manager reviewed maps with the Council of the two [2] tracts and discussed boundary issues related to the two [2] tracts which will also be resolved if the tracts are acquired.

Manager Martin further elaborated on the discrepancies between two [2] surveys obtained by the City, one [1] by Mr. Phillips and one [1] by Mr. Suit, for the ballfield property which impacts the future Phase II of the ballfield project and affects the preferred location of the walking trail which is part of Phase I. If the City pursues the acquisition of both the Davis and Avery properties, it would be a moot point on the survey discrepancies and no redesign of the park plans would be necessary. These properties would also provide significantly less expensive access to the utilities for the park and provide ample property to site the future re-use water elevated tank with proper buffering of the adjoining privately owned properties which contain single-family residences.

City Attorney Taylor advised that he does not believe that there is anyone with a significant interest in the back portion of the Davis property that would cause a problem in its acquisition by the City. He suggested that rather than go through a costly condemnation procedure, the City purchase the Davis property and deal with any other interests as they appear.

Councilman Horton was concerned with the City "taking" property from individuals who may own it and was of the opinion that the City should obtain clear title by pursuing the condemnation.

Councilman Ballou was also concerned with the public's perception of the City taking property without clear ownership.

The City Attorney outlined the options for the acquisition of the Davis property:

- Take a deed from Mr. Davis for whatever interest he has, file the map and let the title "ripen" in seven [7] years. If claimants appear, negotiate with the claimant and/or file condemnation proceedings at that time if necessary.
- Condemn the property now and serve everyone notice.
- Do not acquire the property.

The main question is to either condemn the property now or purchase it now and take the title from Mr. Davis.

In discussion, it was ascertained that the appraised value of the Davis property was \$50,000, however, he has been paying taxes on the most recent assessed value of \$82,000. It was noted that the property was originally obtained by Mr. Davis through a foreclosure sale.

Manager Martin recommended that the City place the condemnation proceedings on hold at this time and proceed with the alternate course of action to acquire the property from Mr. Davis thus avoiding the potentially unnecessary expense of condemnation.

Councilman Horton stated he would rather pay for the condemnation proceedings now and acquire a clear title to the property.

City Attorney Taylor offered to place an ad in the newspaper with all the names of the potential owners and heirs of the back portion of the Davis property requesting them to come forward to state their claim.

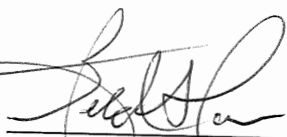
The Council concurred to authorize the Manager to go forward as recommended and acquire a contract on the Davis property as the funds have been appropriated in the budget.

Councilman Horton wanted the record to reflect that he was against the acquisition of the property.

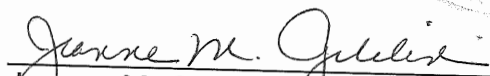
***Councilman Cordova MOVED, seconded by Councilman Nelson, and carried unanimously, to return to OPEN SESSION.***

Town of Morehead City



  
Gerald A. Jones, Jr., Mayor

Attest:

  
Jeanne M. Giblin, City Clerk