

1. Closed Session Minutes – Monday, December 12, 2005, at 9:00 a.m.

RELEASED AND SPREAD UPON THE MINUTES ON FEBRUARY 12, 2019

APPROVED AND SEALED AT THE JANUARY 10, 2006 TOWN COUNCIL MEETING

CLOSED SESSION MINUTES
MOREHEAD CITY, NORTH CAROLINA

MONDAY, DECEMBER 12, 2005
AT 9:00 A.M.

The Morehead City Town Council met in CLOSED SESSION on Monday, December 12, 2005, at 9:00 a.m., in the City Hall Conference Room at 706 Arendell Street, Morehead City, N.C. Those in attendance were: Mayor Gerald A. Jones, Jr., Councilmembers Paul W. Cordova, David Horton, John F. Nelson, Demus L. Thompson, Councilmember-Elect George W. Ballou, City Manager R. Randy Martin, City Attorney Derek Taylor and City Clerk Jeanne M. Giblin. The purpose of the meeting was to consult with the City Attorney regarding matters of attorney/client privilege.

Mayor Jones opened the meeting at 9:00 a.m.

Councilman Horton MOVED, seconded by Councilman Cordova, and carried unanimously to enter into CLOSED SESSION.

Mayor Jones stated that the purpose was to secure the advice of the City Attorney regarding the alley closing policy currently used by Morehead City, specifically Article #7 which states that, "The City will have the right to request a dedication to the public of property deemed by it to be suitable in size, and comparable in value and location to that of the alley proposed to be closed."

It was the opinion of City Attorney Derek Taylor that there are legal issues in providing offsite property or money for the closure of an alley.

He continued that it was the opinion of City Attorney Nelson W. Taylor that the current alley closing policy was prompted by an alley that was moved. It was the consensus of the Council at that time that alleys should remain, however, maybe not necessarily at their present site, and if they had to be closed, that the City should not necessarily be compensated.

City Attorney Derek Taylor was of the opinion that Article #7 is ambiguous at best. He was of the opinion that the policy should be made clear.

Discussion ensued about various past alley and street closings.

City Attorney Derek Taylor stated that the City does not own the alleys, but must protect the public's right to use them. The property is held in fee title and resides with the original owner in the dedication which in Morehead City's case is from the Shepard Land Company. The City only owns the easement. The state statutes allow a City to close an alley, and there are instances when land swaps have been made. He continued that if it were warranted to be exchanged, the property [in real estate value] would be treated as an easement and would be worth approximately 10 to 20 percent of market value.

City Attorney Derek Taylor continued that the underlying feature is that according to state statute, when an alley is closed it is presumed to be owned by the adjoining property owners to the center of the specific alley. A determination must be made by the Council in closing requests as to whether the alley or roadway is necessary for the public.

Manager Martin cautioned that as with any proposed policy change that it sets a precedent and that it should be reviewed in its totality, not just for any specific request.

City Attorney Derek Taylor advised that the statutory test for an alley closing is:

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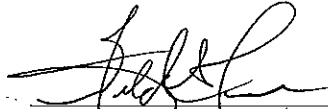
1. Is it in the best public interest?
2. Does it provide ingress/egress to a specific property?

The consensus of the Council was to protect the public interest. It was felt by some of the Councilmembers that receiving some compensation, be it a land swap or monetary, was in the best public interest.

It was the consensus of the Council that they are concerned with the public perception of closing alleys and their intrinsic value to the public.

There being no further business, the meeting was adjourned.

TOWN OF MOREHEAD CITY



Gerald A. Jones, Jr., Mayor

Attest:



Cathy Campbell

