



THIS FENCED-IN lot adjoining the Sunset Beach Pier Beach Taxpayers Association, which says the public may become the subject of legal action by the Sunset should have a right to park there.

Building Inspection Help Requested

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Harvey said the towns would be charged full cost of service under such a contract, so it would not cost the county anything to provide the building inspections. However, Harvey also noted that other municipalities have also contacted the county and have asked about seeking contracted services.

"They're going to keep wanting the county to take over and we don't feel we can now," Harvey said.

County Attorney David Clegg said the decision for the commissioners would be a "matter of weighing priorities as it occurs. The towns have known just as long as the county of Brunswick that they were going to have to do this."

Commission Chairman Chris Chappell requested that letters from the mayors of the two towns first be obtained that request the services before the board take any action on the matter.

Other Business

In other business Tuesday, the board:

- Extended the penalty fee charge for work begun without a building permit to begin Dec. 16 rather than Sept. 15. The public needs to be more informed on the building code program, Harvey noted.

- Approved a contract with D.W. Griffith and Associates of Raleigh to conduct a classification study of county personnel, including 155 positions not subject to the State Personnel Act, for a price of \$15,884. Another bid, submitted by Lewis and Lewis Inc. of Lillington, for \$5,632 would have to use county personnel to perform portions of the study, County Manager Billy Carter said.

- Met in executive session for 90 minutes before voting to purchase 35 acres of land from Dr. Hunter Heath of Southport to be used for the county water system. Two personnel matters were also discussed in executive session, as requested by Carter, but no action was taken.

- Approved a resolution requested by former County Commission Chairman Pearly Vereen urging U.S. Congressman Charlie Rose and Senators John East and Jesse Helms to address the nation's agricultural problems. The resolution charges the lawmakers with turning the agricultural situation into a "political issue" and states they "have refused to find workable solutions" for the problems facing today's farmers.

- Joined the N.C. Association of County Commissioners Joint Risk Management Agency that will provide a risk-sharing program for workers compensation claims for county employees. The self-insurance program will save the county approximately \$15,000 to \$20,000 per year, Carter said.

- Approved a contract amendment with Jerry Lewis and Associates of Charlotte to redesign a water line for segment 5 of the county's water project to 24 inch mains rather than 20 inch mains.

- Set a public hearing for Sept. 16, at 6 p.m., for the first reading of the resolution to hold an \$8 million bond referendum to fund classroom buildings at Brunswick Technical College. The board will meet at 4:30 p.m. the same day to continue discussion of the Caw Caw drainage project.

Sunset Taxpayers To Sue To Establish Public Claim

BY SUSAN USHER

Sunset Beach Taxpayers Association members expect to file suit before November in an attempt to gain public use of an oceanfront lot once intended for that purpose.

"We will file suit," Taxpayers Secretary Minnie K. Hunt, a candidate for the town council, told more than 140 members gathered at the fire station Saturday morning. "We intend to bring suit before November."

At question is the availability of Lot 1-A for public use, preferably as a parking/beach access area. The group had delayed a decision on legal action pending action by the town council, which Thursday night declared the Lot 1-A matter "closed."

The association's attorney, member James B. Maxwell of Durham, describes the legal question as "whether or not a piece of property, once platted, which shows a street or road for public usage can thereafter be withdrawn."

Attorneys for the town and N.C. League of Municipalities agree that the tract was apparently properly withdrawn from public dedication, based on available information. But the League attorney added that the common law doctrine of "easement by prescription" might provide an alternate basis for a public claim.

The tract was once platted as a public road—the oceanward extension of Sunset Boulevard—and offered to the town by its previous owners, M.C. and Mina Gore. But in 1970 the town apparently refused the property, returning any rights it had to the former property owners. Withdrawal documents to that effect were filed in the Brunswick County Register of Deeds office on Nov. 2 and Dec. 5, 1970.

Based on this information, in a written opinion Town Attorney Michael R. Isenberg concludes that the property has been properly withdrawn from dedication. He said the town "has no rights in it" since 15 years have elapsed since the offer of

dedication was made and the land was never accepted and opened for public use.

His opinion was requested after the town received a letter from Taxpayers Association officers John G. McCarthy and Minnie K. Hunt, who recommended the lot be used by the town for parking since, in the association's opinion, it had already been platted for public use.

"We believe the (withdrawal) was not particularly correct in its filing," Ms. Hunt added Saturday morning, noting there had been prior public use of the property.

After the withdrawal documents were filed, the property was encircled with fencing and barbed wire, barring its future use by the public.

The land is now owned by Beach Enterprises, of which Mayor Pro tem Ed Gore is president.

In the second legal opinion, issued by a former Brunswick County attorney, Ellis Hankins of the N.C. League of Municipalities agrees generally with Isenberg's analysis regarding the withdrawal, as was pointed out at the Thursday night meeting of the town board.

Based on that consensus, board members took no action on a request from the SBTa to make the lot available for public parking.

"If there are no comments," said Mayor Jim Gordon, "the matter's closed."

However, Hankins' opinion continues:

"It appears that any claim that the public, represented by the Town, retains any interest in the land would have to rest upon another legal theory, such as easement by prescription.

"I have seen a newspaper clipping which indicates that the members of the Sunset Beach Property Owners (Taxpayers) Association are of the opinion that some public rights are retained because of adverse public use between 1955 and 1970.

"Let me emphasize that such a claim could possibly be established through litigation. The judgment of

the court would rest on a determination of whether the facts satisfied each of the several elements of the common law doctrine of easement by prescription.

"I have no personal knowledge of any facts which would substantiate such a claim in this case," he concluded.

In a poll taken earlier this year on whether to pursue legal action, only five "nos" and one abstention were submitted. No answer was considered an affirmative vote. Two-thirds of the membership must approve any legal action taken by the organization.

Before Saturday the organization had collected \$5,500 toward the cost of the action.

The Taxpayers' Association newsletter also reports from Maxwell that a suit brought in 1968 against Gore regarding Lot 1-A was settled in fall 1970 at the time of the town council's action.

B.F. Industries Inc. (David B. Kanoys Jr. and his wife, Frances) filed action against M.C. Gore and Sunset Beach and Twin Lakes Inc. "The Kanoys sought and obtained a temporary restraining order to prevent Gore from building on that lot," indicates the newsletter. The suit was ultimately settled and the Kanoys signed an agreement waiving and quieting the Gores any interest they may have had in Lot 1-A."

In arguing on behalf of the suit to its membership, the association leadership listed four reasons to file the suit: To restore it to the town and public "as a matter of equity and justice; to solve the "ongoing need" for public parking; to provide access to the ocean and parking for owners and renters on the mainland and back side of the island; and helping property owners through the elimination of blocked driveways and littered property.

News of the pending suit brought an enthusiastic reaction from the members present at Saturday's meeting.

Access Problem Draws Attention

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Sunset's use as a "day beach" would be resolved if more development resulted from construction of a new bridge.

Access Problems

Problems with the bridge this year have focused attention on the safety and convenience of the existing access to the island. In January the bridge was struck by passing vessels twice, cutting off road access to the island for four days at one point.

More recently, the bridge failed to close properly on Aug. 17, delaying motorists for up to 3½ hours during the check-in, check-out transition period for vacationers.

In its resolution Thursday, council members said that "statistical facts gathered by the Department of Transportation clearly indicate that the project growth of the Sunset Beach area and the obsolescence of the present bridge lend support to the fact that demands for access to the beach will far exceed the capacity of the facilities now in use here."

High-Rise Favored

The N.C. Department of Transportation has proposed a \$5.2 million, 65-foot high fixed span bridge to replace the pontoon-type floating barge, the last of its kind along the coast. One of five alternatives presented at several public hearings, this model is considered the most cost-efficient, being less expensive than mid-level alternatives. Predominately federal funds will be used in construction of the bridge, with some matching from the state

and possibly a sum requested of the town, since the bridge lies within the town limits.

The current DOT improvement plan calls for right-of-way acquisition to begin in fiscal year 1986 and

actual construction in 1988. Because of divided support for the project, it has been given a lower level of priority in the past, though the state has proceeded gradually toward replacement of the span.

Weather Systems Affected Gulf And Local Conditions

The same upper level low pressure weather trough that brought rain to the South Brunswick Islands last week forced Hurricane Elena to stop her westward journey and turn east on a route that could have brought her across Florida and toward the Eastern Seaboard, says Charlotte Point meteorologist Jackson Canady.

Instead, after propelling Elena eastward for about 150 miles, the low pressure trough weakened and moved on, leaving the hurricane momentarily without any significant steering currents. The next weather system to affect her was a rich high, said Canady, that forced Elena to turn around and head west again.

"It was one of those storms where it was difficult to predict where it was going to go," he said. "It showed what a hurricane can do—that it can go anywhere and do anything."

While Elena bided her time in the

Gulf, the low pressure trough brought the local area 1.15 inch of rain, above the three-quarter inches of rain predicted for the period.

Temperatures for the period Aug. 27-Sept. 2 averaged about two degrees below normal, Canady said.

A daily average high of 85 degrees combined with an average nightly low of 69 degrees for an average daily temperature of 77 degrees, Canady said.

The maximum high reading of 88 degrees was recorded on Sept. 2. Temperatures reached the minimum nightly low of 67 four days during the period, Aug. 27 and 31 and Sept. 1 and 2.

During the next few days, he said, temperatures should average near normal for September, ranging from the 60s at night into daytime highs in the upper 80s. About three-quarters of an inch of rainfall is expected.

HBPOA Takes No Stance On Holden Beach West Closing

(Continued From Page 1-A)

tion, said the town has received a ruling from the attorney general's office that the road is privately owned. Amos explained why the town's water lines were run the entire length of the island, even through a private subdivision.

"At the time the water line was built, the county's overall plan was to go to Long Beach, under Lockwood Folly Inlet and then go the entire length of Holden Beach," Amos said. "This is how we got our money. It was to go under the Charlotte Inlet and down Ocean Isle Beach. That is the only way we got our FHA loan. It

has been proven."

Several members of the audience argued that the road should revert to public use under the "prescriptive easement" law, since the public has gained access to the west end by trail or road for more than 15 years.

One member said she has been going to the west end since 1952 by way of a road that would carry her sister's car. "If it was strong enough to carry a car, it was a road," she added.

"We're not attempting at all to close the beach off to anyone," Griffin said. "I've never stopped anybody from walking down the road."

Griffin said for years people seeking access to the west end had to obtain permission from the realty office. He said that three previous gates placed across the private road had been run down by motorists.

Former Mayor and longtime resident John Holden, who said he could "look all of you in the face and say I was here before you came," said there was always a trail that led to the west end.

"The question is, where does privacy begin and the public use end?" he asked. "The public is asking, how do we get to the beach?"

Holden said the closing of the west end raises important questions about beach access. His father had the task of providing public accesses for the first residents of the island, he added.

"I think it's time for somebody to accept the responsibility of providing public accesses from Jordan Boulevard all the way to the west end," Holden added to a round of applause.

One property owner who owns a home pass the barricade said Saturday he did not like the gate or private road because he did not believe in creating an "exclusive beach."

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