

Appeals Court Upholds Beacon In Copyright Infringement Case

BY MARJORIE MEGIVERN

In a precedent-setting Jan. 23 ruling, the U.S. Fourth District Court of Appeals upheld in its entirety the decision of lower courts in finding The Brunswick Beacon should be awarded a permanent injunction and damages in its 1984 copyright infringement suit against The Free Press.

Beacon attorney W. Thad Adams III of Charlotte was informed Tuesday of the decision by the Fourth District Clerk of Court in Richmond, Va.

After hearing an Associated Press radio report of the ruling, Adams was told his copy of the order had been delayed in the mails, due to weekend snowstorms.

The suit was filed in U.S. District Court in Wilmington in April 1984, citing three specific infringements of the copyright law in 1983. The Free Press, another

Shallotte newspaper, was charged with copying ads produced by The Brunswick Beacon and publishing them in the Free Press after having been notified to discontinue the illegal practice.

In June 1985, in U.S. District Court in Wilmington, the Beacon was awarded damages of \$8,000, plus "reasonable attorney's fees." However, the appeals court granted a stay of execution of the civil judgment against the Free Press pending a decision in the case.

An order signed by Judge Earl W. Britt found the Free Press guilty of copying the three ads and the newspaper was permanently enjoined from publishing further copyrighted material from the Beacon.

Britt had upheld the earlier findings of federal Magistrate Charles K. McCotter Jr., who first heard oral

arguments in the case on Aug. 30, 1984.

The Free Press is owned and published by Bernard Charles (Rocky) and Priscilla (Lou) Hopchas and Mrs. Hopchas's mother, Caroline Schock.

The Free Press had appealed all findings of the lower court to the U.S. Court of Appeals, with the publishers maintaining they have a right to copy ads from the Beacon since, in their opinion, the ads are owned by the advertisers who place them. They contended the Beacon's use of the copyright notice constitutes a restraint of trade and that the paper has no right to copyright its work.

The Beacon had appealed only the lower court's release of Mrs. Schock from personal liability in the case.

The Beacon's suit was based on the Copyright Act of 1976, which went into effect Jan. 1, 1978. Under the revised

law, ownership of advertising created by a newspaper can be protected by copyright.

The case has set a legal precedent, in that no newspaper has been previously found guilty of copyright violations. A similar case in Louisiana in 1983 resulted in a lower court decision for the plaintiff being reversed by the Court of Appeals, because of inadequate notification of copyright.

Eddie Sweatt, owner and publisher of the Beacon with his wife, Carolyn, was jubilant over last week's ruling. "It can only be reviewed now by the U.S. Supreme Court," he said.

Raleigh Attorney Larry Coats, who represents The Brunswick Free Press, was in Jamaica and could not be reached for a comment.

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STAFF PHOTO BY SUSAN USHER

Commissioners Tour Campus

Brunswick Technical College trustees hosted county commissioners on a campus tour Monday, followed by a steak dinner and slide show at the Sizzling Sirloin Steakhouse in Shallotte and cups inscribed with the college logo, "We Believe In You." Commissioners reviewed plans for a vocational classroom building now being built as well as for an auditorium, a combination administration, library and student center building and a Brunswick Interagency Program building, for which

the state has provided \$402,500. Much of the new work will be financed with proceeds of \$9 million in bonds approved in 1985, the first of which will be sold Feb. 17. From the left above are Grace Beasley, commission chairman; Regina White, clerk to the commissioners; Frankie Rabon, commissioner/trustee; Kelly Holden, trustee; and facing the welding shop, James Rabon, trustee.

ON HOLDEN BEACH CAUSEWAY

Opposition To Annexation Continues To Gather Steam

BY ETTA SMITH

Efforts to prevent annexation of the Holden Beach causeway gathered momentum this week—and opponents of the move say they must continue to move fast or they'll lose the chance altogether.

Opponent Cletis Clemmons said unless residents can convince Rep. E. David "Butch" Redwine and Sen. R.C. Soles Jr. to help them, the area will certainly be annexed by Holden Beach.

Redwine and Soles are expected to attend a meeting at 4 p.m. Saturday at the Seafood Barn Restaurant. At that meeting, Clemmons said he will present the two with petitions for help containing about 74 signatures.

Soles, of Tabor City, is a member of the State Senate's Municipal Incorporations Committee.

The latest effort to incorporate the area began after the Holden Beach town board voted Jan. 5 to prepare a notice of intent to annex approximately 1,500 feet on the waterway west of the bridge and about 1,000 feet on the east. The area also extends one mile down the causeway in a 55-foot strip.

The board hired a surveyor to prepare a description of the metes and bounds of the proposed area at the same meeting, but he refused to after he heard that residents in the proposed area were strongly opposed to annexation.

Clemmons said he expects Holden Beach commissioners to adopt the notice of intent to annex at its Feb. 2 meeting, making it harder for residents to incorporate the proposed town.

State laws allow towns to annex an area without the support of the residents, he said. Also the N.C. League of Municipalities, a strong lobbying group, discourages the incorporation of an area to avoid annexation.

"But we proposed incorporating this area back last June, before they (Holden Beach) ever decided to annex," said Clemmons.

Redwine introduced a bill to incorporate North Holden Beach in the N.C. General Assembly last June. But he dropped the bill after it sparked opposition from some residents of the proposed community and Holden Beach officials.

Clemmons said proponents of incorporation would rather have their own town than be annexed by Holden Beach. The only reason the town wants to annex them is for the \$200,000 in property taxes it can get

yearly from the causeway, he asserted. Clemmons based that figure on a tax rate of 25-cents per \$100 valuation, while the town's tax rate is actually 11 cents per \$100 valuation.

Holden Beach resident John M. Clarke compiled some property tax figures last week from the county tax records to find out how much the town could actually expect to collect in taxes should it annex the causeway area.

He said based on the 11-cent tax rate the causeway area would have paid \$7,174 in taxes to Holden Beach this year. He got the figure by using county tax maps and records, he said.

Buck said Clarke's figures look accurate to him, but the town would have to compile its own figures.

Some causeway property owners do favor annexation, like Inland Realty Owner Caison O'Neil and Community Hardware owner Billy Smith.

At a recent meeting of causeway residents and property owners, both said they prefer annexation by the town.

Carolina Shores Wants Manager

BY SUSAN USHER

With a decision not to incorporate behind them, Carolina Shores property owners are moving ahead to meet one of the needs that first prompted talk of becoming a town—full-time management.

The community could have a paid manager on the job in nine weeks or less, according to Al Houghton, chairman of the Carolina Shores Property Owners Association.

Robert Woodbury is chairman of a committee appointed to draft a job description and recruit someone to fill the post. Working with him, he said, are Charles Bingham, Jim McNamara, Ken Earl, Peg Sawyer and Darrell Peters, who serves as liaison to the property owners

association board of directors.

"We're just getting started," said Woodbury. "We've met once and laid the groundwork. We have our homework to do."

Houghton said the association is working with the League of Municipalities on the project, and that the person chosen could come from a town management background or some other combination of education and management experience, depending upon the criteria set by the search committee.

The POA expects to recruit locally and elsewhere, he added.

For now, "lots of volunteers" are required to run the community, he said. Tasks are divided among the

(See CAROLINA Page 2-A)

Calabash Acts On Water, Town Hall

BY MARJORIE MEGIVERN

Calabash residents will get water and a new town hall, following town council action Monday.

The Calabash Town Council voted to advertise for bids on a town water system and awarded a contract for construction of its town hall to Associate Builders Corp. of North Myrtle Beach, S.C., on a time contingency.

A decision on the water system was spurred by resident Gordon Ragsdale, who came to the meeting with cost figures he had assembled from a developer that were about half those cited in an engineering study done by Lewis and Associates of Shallotte.

In response to citizen demands for action on water at the last council meeting, members began a discussion of alternatives. Town Attorney Michael Ramos reported it was impractical to consider asking the county to provide water to the town as though it were an unincorporated area. "For one thing, that would require a feasibility study and it would take two or three years," he said.

As council members discussed the advisability of the town operating a water system, as opposed to turning the system over completely to the county, Ragsdale spoke up. "I'm uneasy about Calabash running a water system, because we can't grow enough to make it profitable," he

said. "We have 150 potential subscribers now, and we might double in population by 2005, but the Sunset Beach system is only moderately profitable with 600 subscribers."

Council Member Pati Lewellyn suggested opening an escrow account to receive contributions from residents wanting water. "Then we could see who's serious about this and work on their streets first," she said.

Ragsdale said, "How about an impact fee on everyone in town and doing it all at once? I don't see opening an account and waiting to see who'll pay. That might take from now to Doomsday."

He then presented estimates on the cost of running 12,000 feet of line along all Calabash streets, (except where county lines already exist on N.C. 179) showing the complete job could be done for about \$80,000. The Lewis study had estimated a cost of \$169,000.

One difference in the two estimates was the cost of fire hydrants. Compared to Lewis' \$800 per hydrant, Ragsdale's figure was \$585. "Also, the number of hydrants can be reduced from the number called for in this study," he said.

Another difference was in the cost of the lines. Whereas Lewis' estimate was \$8 per foot, Ragsdale's was \$3.90. "The man who gave me these doesn't want to be identified, but he's just built some homes and these are current figures. He has nothing to gain by providing this information," Ragsdale explained.

Council members quickly came to the conclusion they could build an entire system in one phase, and they

voted to advertise for bids immediately, with lines to be constructed to county specifications.

It was decided to wait until bids are received, then decide what impact fees would be assessed on commercial and residential property.

Lewellyn asked, "Why should we then give the system to the county, if impact assessments will pay for it?"

Ramos replied that the town could own the system but lease it to the county to operate.

"If we advertise for bids, we need to say we're serious about these assessments," Lewellyn added. "We'd better enforce them better than we have with taxes."

She also suggested the town continue to pursue a loan from Farmers Home Administration, for which application began several months ago.

Council members then turned their attention to two bids the town had received for construction of the town hall.

Associated Builders submitted a bid of \$28,000 to construct a 952-square-foot building of cedar siding. Wood Duck Construction of Supply bid the project at \$27,490.75, for a 900-square-foot metal building with brick veneer.

Wood Duck representatives pointed out their plan was for a completely fire-resistant building that would be almost maintenance-free and could save on fire insurance.

Lewellyn pointed out the metal building might not take future expansion as easily as the one constructed of siding.

Members also preferred the appearance of siding.

The contract went to Associated (See CALABASH, Page 2-A)

Snowfall Was Only A Dusting

Brunswick County Schools closed today in anticipation of hazardous road conditions, but the area received only a light dusting of snow from a storm moving up the coast.

The National Weather Service late Monday had predicted a 60 percent chance of overnight snow accumulation in Southeastern North Carolina, with a 50 percent chance of morning snow.

There was snow—a little. Shallotte Point meteorologist Jackson Canady said when melted it might add up to one-tenth of an inch of water.

Still, he said, the depth of winter has just about arrived for Brunswick County.

"Overall we've fared very well, though it's wet," he said. But freezer-like temperatures are still in the

forecast, along with above-average precipitation.

Nighttime lows should average in the low 30s, rising to daytime highs averaging in the lower 50s. He expects three-quarters of an inch of precipitation, mostly rain.

For the period Jan. 21 through 26, Canady recorded a maximum high of 58 degrees, on the 25th. The minimum low of 23 degrees occurred on the morning of the 24th.

An average daily high of 49 degrees combined with an average daily low of 33 degrees for a daily average temperature of 41 degrees, about four degrees below normal.

For the period, Canady recorded 2.65 inches of precipitation, almost all of it rain.

As for tracings of snow, he said, "We might get a little more."

Plan To Open Gun Shop On Holden Beach Draws Fire

BY MARJORIE MEGIVERN

Issuance of a permit for a gun shop on Holden Beach has aroused considerable protest among residents.

Town Manager Bob Buck said the permit was issued last week to Jeff Williams and George Atkins, Holden Beach police officers. The shop is to be located in the old Holden Beach Realty building on Jordan Boulevard in an area zoned for commercial establishments.

Town Commissioner Gay Atkins said, "There's no ordinance against it, unfortunately. I searched the ordinances and didn't find one, but I don't like it. I don't feel this is the place for it."

She also explained there is no ordinance or policy prohibiting town employees from other employment or business enterprise on their own time.

Margaret Vasco, a Holden Beach resident, said "lots of people" were very upset over the news. "I've called people from one end to the other of this beach, and everyone is against it," she said. "We've talked about a petition, but we really don't know what to do."

According to Vasco, permitting a gun shop is contradictory to other town ordinances. "We have an ordinance against fireworks and against slingshots, and even against discharging firearms, so how can we allow the sale of firearms?" she asked.

She said this action was "against the concept of a family beach." Also, she described the location, abutting the proposed 90-space parking lot soon to be built, as "atrocious," adding, "It's a perfect location to break into a gun shop."

Vasco said residents intended to let planning and zoning board members know that "we've been derelict in planning."