

## Looking Good!

West Brunswick's Trojans square off against the North Myrtle Beach Chiefs at home Friday. For game details and a season preview, see Pages 10-B and 11-B.



## A Clean Sweep

Volunteers can sign up now for The Big Sweep '89 on Sept. 23, when teams will sweep litter from local beaches. Pick a beach, then find the local coordinator's phone number on Page 9-C.

## A Year Already?

Join Varnamtown for its Aug. 26-Sept. 3 Founder's Day Celebration. Activities include bidding for a chance to "dunk" Mayor Tracie Varnum. See Page 9-A.



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THIS GUARDHOUSE STANDS at the entrance to Holden Beach West, closing Ocean View Boulevard West to public traffic through the private subdivision on the western end of Holden Beach. The N.C. Court of Appeals ruled last week that the public cannot use the private road for access to Shallotte Inlet.

## IN HOLDEN BEACH WEST CASE

# Court: Access Should Not Come At Private Property Owners' Expense

BY RAHN ADAMS

The public has a right to use and enjoy North Carolina's beaches. The public does not have a right of access to those beaches at the expense of private property owners.

That, basically, is how N.C. Court of Appeals Judge Sidney Eagles closes his 13-page written opinion in the four-year-old lawsuit over whether Ocean View Boulevard West at Holden Beach is public or private.

In a unanimous decision issued last week, the three-judge panel affirmed a Brunswick County Superior Court ruling that the road is private, despite the contentions of a local citizens group and the N.C. Department of Natural Resources and Community Development to the contrary.

"We're disappointed that the Court of Appeals did not use this opportunity to protect the public right to access to Shallotte Inlet on the western end of Holden Beach," Durham attorney James Maxwell said last Wednesday. Maxwell represents Concerned Citizens of Brunswick County Taxpayers Association.

Assistant Attorney General Allen Jernigan's statement to the Beacon in a separate telephone interview last Wednesday was almost identical to Maxwell's comment. Also, both attorneys indicated that the N.C. Supreme Court probably will be petitioned to review the Holden Beach West case. According to Jernigan, the plaintiffs have until Sept. 20 to decide on seeking that review.

The lawsuit, initially filed in 1985, hinges on whether or not the public acquired a "prescriptive easement" over the seven-tenths of a mile from the subdivision entrance

to the far western end of the island, through—in legalese—a continuous and uninterrupted use of a definite and specific line of travel for at least a 20-year period.

Also at issue is whether or not the road was dedicated by the developer for public use and accepted by the public. The plaintiffs maintain that the road was presumed to be public because it was not marked as private on subdivision plats filed in 1963 and 1974, and because subdivision residents receive municipal services via the road without special assessments.

After hearing the case in November 1987, Superior Court Judge Bruce Briggs said a prescriptive easement does not exist, because the subdivision developers—Holden Beach Realty and later Holden Beach Enterprises, the current developer and defendant in the case—have interrupted public use since 1963 by blocking the road with various types of barriers: a telephone pole, a cable, a gate and finally the guardhouse that now stands.

On the "line of travel" issue, Briggs said in open court, "It would appear they drove anywhere they needed to go." Certain witnesses for both the plaintiffs and defendant had testified that several pathways used to exist on the subdivision property, with the defendant's witnesses claiming that none of the pathways was permanent.

Briggs also said he could not find that the road had been dedicated to public use and accepted. He also indicated that Holden Beach West residents are owed the same services provided other Holden Beach citizens, by virtue of the ad valorem taxes that the subdivision property owners pay.

Eagles opens his written opinion by pointing out the conflicting nature of evidence in the case. "Initially, we note that when the trial court is the fact-finder, its findings of fact are conclusive on appeal if supported by any competent evidence, even though there is evidence which might support a contrary finding," the judge writes.

Later, he notes, "On the issue of whether there existed through defendant's property a single line of travel whose use was continuous and uninterrupted, the evidence is conflicting...The evidence here permits but does not compel the findings of fact and conclusions of law drawn by the trial court...We hold that there is competent evidence to support the trial court's findings...."

Eagles goes on to say that the evidence "is undisputed that the Town of Holden Beach took no action expressly accepting any offer of dedication" related to the aforementioned subdivision plats. He adds that the presence of municipal services in Holden Beach West does not constitute an "implied acceptance" of the purported road dedication.

In oral arguments before the appellate court in May, Jernigan emphasized the "public trust doctrine," which says the state must protect the public's right to "reasonable access" to the shoreline.

The opinion filed last week concludes, "We are not persuaded that we should extend the public trust doctrine to deprive individual property owners of some portion of their property rights without compensation...Rather, we believe that the doctrine should be used to shield those properties in the public trust from unlawful use."

just a 5.2-cent tax increase."

Grace Beasley, the only other commissioner to comment specifically on the proposal Monday, said the issue isn't whether or not to build a new school; the "bottom line" is finding a viable funding method. She also pointed out that the county currently is struggling to find funds for several other capital projects.

School officials took the commissioners' cautious reception of the proposal in stride. "We're not trying to stampede you into doing something you're not comfortable with," said school board Chairman Baxley. Also, in response to Rabon's remark about needing more time to review the plan, Slockett said, "That sounds reasonable to me."

The two boards have been at

# Calabash, Carolina Shores Vote To Become One Town

BY DOUG RUTTER

The Town of Calabash will grow by approximately 1,000 people and 875 acres in another week.

Residents of the once small fishing village and those of the neighboring golf course community of Carolina Shores both voted in favor of consolidation in a special election Tuesday. By mutual consent, the two areas will become one municipality Aug. 31.

The measure squeaked by in Calabash with a six vote edge; Carolina Shores voters approved the merger by a margin of better than 3 to 1.

Calabash voted 42 to 36 in favor of consolidation. The vote at Carolina Shores was more one-sided with 458 voting for the merger and 142 opposing it. The results of the election will not become official until the vote is canvassed today (Thursday).

Voter turnout Tuesday was between 60 percent and 65 percent in both areas. In Calabash, 78 of the town's 129 registered voters cast ballots. Six hundred of the 916 registered voters in Carolina Shores turned out for the election.

Calabash Mayor Doug Simmons said following the election that he was glad it went the way it did. "I figured it would be close," he said.

Robert Cook, president of the Carolina Shores Property Owners Association, said he was "surprised" and "pleased" by the positive vote in Calabash.

"Despite all of the rumblings that there might have been, I think the two areas can get together," said Cook. "We're looking forward to really making it work."

The present Calabash Town Council will continue to run the enlarged town through November. In the Nov. 7 election, five residents from Carolina Shores and two Calabash residents will be elected to the board of commissioners. The mayor will be elected at large.

"I hope they just don't take the bull by the horns and take off with him."

—Doug Simmons  
Mayor of Calabash

An emergency filing period is scheduled Aug. 25 through Sept. 8 for persons who want to run for office this fall. Residents can file at the county elections office in Bolivia. The fee is \$5.

Mayor Simmons said he hopes the leaders elected from Carolina Shores will be fair to all town residents. "I hope they just don't take the bull by the horns and take off with him," he said.

In the meantime, he said the present town council will "take matters as they come." They will serve until new board members are sworn in at the first meeting in December.

Simmons said it may be "tough going" for a while using the town's \$150,000 budget to support the entire area. He said he hopes the Carolina Shores POA will continue some of its maintenance functions until the town boosts its revenues.

During a special meeting last Thursday in Calabash Town Hall, most of the 20 town residents in attendance said they favored the merger as a means of improving the town.

Mayor Simmons also said he liked the plan because he thought it would help Calabash grow. He admitted, however, that it held more benefits for Carolina Shores than for his town.

"The Town of Calabash is just about over a barrel now," he said. "We have to take a chance—Columbus did."

Councilman John High was the only board member who had voted against sending the merger proposal to a referendum. He said again last week that he opposed the 5-to-2

split set up for the town board of the consolidated area.

"That's like giving the town away," he said. High proposed doing away with the two districts and having all officers elected at large. But residents pointed out that Calabash might not have any representation without districts.

Both Simmons and High said they thought State Rep. David Redwine was trying to gain Republican votes from Carolina Shores by supporting the 5-to-2 split on the board. The mayor said Redwine was "courting" Carolina Shores residents. High accused him of "playing favorites."

On Monday, Redwine denied that politics played any part in setting up the proposed charter. He said it's the "law of the land" that representation is based on population. Carolina Shores has close to 1,000 residents; Calabash has about 200.

At least two letters regarding Tuesday's vote were circulated last week and made their way into both communities. Jon and Dolores Sanborn of Carolina Shores wrote one promoting consolidation as "essential to the future of Carolina Shores."

Carolina Shores resident Warren "Bud" Knapp passed out another leaflet after last week's meeting in Calabash. It listed five reasons to vote against consolidation.

This week's election ended months of talk in the two areas but will likely create more. The merger plan came from a committee organized at the request of elected state officials to work out conflicts between the two areas.

A bill introduced in March would have allowed Carolina Shores residents to vote on the incorporation of their subdivision as a separate municipality. But that plan drew opposition from Calabash officials. They argued that another town so close to Calabash would hurt the growth of both areas.

# Major Electronics Firm Announces Plans To Locate In Industrial Park

BY RAHN ADAMS

A Raleigh-based electronics company billed as "the world's largest dedicated developer and manufacturer of uninterruptible power supply products" announced Tuesday that it plans to build a new plant in Leland Industrial Park.

The company expects to bring at least 100 new jobs to Brunswick County.

The announcement was made Tuesday afternoon in Bolivia at a joint press conference held by Exide Electronics President James A. Risher, N.C. Business and Industry Development Division Director Alvah Ward, Brunswick County Resources Development Commission Director Michael de Sherbinin

and Brunswick County Commission Chairman Frankie Rabon.

Company officials indicated that the initial development phase calls for construction of a 100,000-square-foot manufacturing plant on a 20-acre site fronting U.S. 74-76 in the industrial park. Work on the \$5 million facility is expected to begin in December. The plant should be in full production sometime next year.

The expansion will be funded through industrial revenue bonds, Risher said. The company's headquarters and primary manufacturing facilities are located in Raleigh. A secondary manufacturing and assembly plant is located in Ontario, Canada.

After the press conference, de

Sherbinin said the plant site is being bought by the Brunswick County Economic Development Corporation (BCEDC) and will be given to Exide Electronics as an "inducement" to locate here. He said that sort of arrangement is "quite common today on things as large as this."

The BCEDC will pay for the land with a \$300,000 allocation unanimously approved Monday night by county commissioners. The action followed a one-hour, 45-minute executive session called by Commissioner Grace Beasley to discuss, in part, "industrial location and expansion." The funds will come from the county's operating reserve account.

(See FIRM, Page 2-A)

# Board Asks For Time To Consider School Request

BY RAHN ADAMS

County school officials should find out in about two weeks how receptive Brunswick County Commissioners really were Monday to a revised funding proposal for a new elementary school at Supply.

The plan, which was approved by the Brunswick County Board of Education last week, was presented to commissioners Monday night by school board member Bob Slockett and Wilmington architects Charles Boney Sr. and Charles Boney Jr.

All five commissioners were present. School board members Doug Baxley, James Clemmons and Donna Baxter, Superintendent John Kaufhold and Assistant Superintendent William Turner also were on hand.

The funding proposal involves

the county and school system splitting the cost of the \$5.5 million school construction project. Slockett said the plan would require a 5.2-cent property tax rate increase in the 1990-91 fiscal year and a 2.6-cent rate hike the following year.

Commissioners had little to say about the proposal Monday; however, Chairman Frankie Rabon indicated that the board would act on the matter at its next meeting, which will be held Sept. 5, due to the Labor Day holiday.

"I feel like the board needs a little time to consider this recommendation you've presented to us," Rabon said. He later added that the county board answers to all Brunswick County citizens about tax increases, and "it's just not as simple as stating to a small group like this that it's



SCHOOL BOARD ARCHITECTS Charles Boney Sr. (standing, left) and Charles Boney Jr. (standing, right) show county officials the school board's latest proposal to fund construction of a new elementary school at Supply.