



...As Pretty Does

A re-emerging Keep America Beautiful program emphasizes education. Page 9-A.

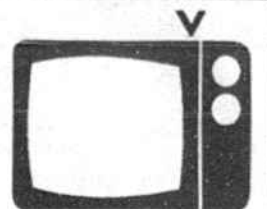
Round 2

The Trojans face Clinton in playoff action after beating Tabor City 47-0. Pages 8-9B.



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NICK BEACON

Thirty-First Year, Number 3

Shalotte, North Carolina, Thursday, November 19, 1992

50¢ Per Copy

32 Pages, 3 Sections, 4 Inserts

Fired Contractor Awarded \$50,000 In Suit Against County

BY ERIC CARLSON

Both sides claimed victory Monday after a jury agreed that Brunswick County breached its contract with water system designers Houston and Associates, yet it awarded only a fraction of the damages sought by the firm.

Following a week of civil court testimony, the jury took about an hour to find that the board of commissioners was wrong when it voted Aug. 5, 1991, to terminate its contract with Houston. It awarded the company \$50,000 in damages.

Calling the verdict both "strange" and a "vindication," Houston's lawyer said the company is likely to ask an appeals court to set aside the award and grant the firm the \$396,202 it claims to have lost as a result of being fired by the county.

"The jury knew that the county did wrong. It just didn't appreciate the damage the county's action did to this firm," said attorney Richard Evans. "There was no evidence offered to support an award that was lower or higher than what we requested."

Brunswick County officials took a different view. The five commissioners were in court throughout the trial, as

"The jury knew that the county did wrong. It just didn't appreciate the damage the county's action did to this firm." —Attorney Richard Evans

was County Attorney David Clegg and County Engineer Robert Tucker. Commissioners Chairman Kelly Holden and Commissioner Gene Pinkerton testified in the case Monday.

"I look at it as a victory for the county," said Holden. "The thing to remember is that we got the water system built despite the delays (caused by Houston and Associates.)"

Calling the verdict a "compromise decision" and the damage award "minimal," Clegg said the jury gave Houston "less than one-sixth of what they asked for." He noted that two of the four claims against the county

"I look at it as a victory for the county. The thing to remember is that we got the water system built despite the delays." —Kelly Holden

were dismissed by Judge George Fountain before the case went to the jury.

"The jury awarded nominal damages because it did not accept the figure that was claimed (by Houston)," said Allen Singer, one of two lawyers hired to aid Clegg in the county's defense.

Company President Jay Houston said he was "flabbergasted" by the \$50,000 award.

"I'm delighted the jury found the weight of evidence in our favor," Houston said. "However, if the county breached its contract, we are certainly entitled to more than that."

Evans charged that in firing Houston and Associates, the county commissioners "got political interests confused with what was good for the county." He said the decision cost the county "months of delay and millions in additional costs."

Both sides have a month to decide whether or not to appeal the decision. Holden said he would not request further legal action in the case.

In addition to its probable appeal, Houston and Associates also hopes that an incoming majority on the board of commissioners might look differently at the prospect of defending the damage award in a higher court. He said a new board might consider a settlement to save the county the expense of a second trial.

"I would hope that someone with a fresh set of eyes might take a look at this," Evans said. "There may be lines of communication opening that might not have been open before."

Houston and Associates filed suit against the county Aug. 30, 1991 after commissioners Holden, Pinkerton and Frankie Rabon voted to terminate a contract under which the firm was to prepare preliminary designs for (See BOTH SIDES, Page 2-A)

SHAW CHANGES VOTE TO SUPPORT

Zoning Law Approved In Split Vote

BY ERIC CARLSON

The long-awaited county zoning law not only got final approval Monday night, but it gained the support of a Brunswick County commissioner who openly opposed the draft ordinance at an earlier meeting and voted against it in a first reading.

Changing sides on the issue was Commissioner Donald Shaw, who joined Chairman Kelly Holden and commissioners Gene Pinkerton and Jerry Jones in a second vote to enact the zoning law. Commissioner Frankie Rabon voted against the ordinance, as he did at a first reading Nov. 2.

In another split vote, the board of commissioners voted to approve a county-wide leash law. Rabon and Pinkerton voted against the ordinance.

Because the vote was not unanimous, the leash law must pass a second reading, leaving a final decision to the three newly elected commissioners who will take office Dec. 7.

If he maintains his position, Shaw's support for the zoning law reduces the likelihood that the in-

coming board will vote to repeal it.

Shaw and Jones will retain their seats. Commissioners-elect Don Warren and Tom Rabon have said they would not vote to throw out the ordinance. Wayland Vereen has said he would support repeal of the law.

Asked to explain his change of position on zoning, Shaw said that "about 100 things had changed in the law" since he announced at an earlier meeting that he could not support the ordinance as drafted.

"I made my stand and that brought forth a lot of changes," Shaw said. "It seems that with all the new changes, more people are willing to accept county-wide zoning. I have to represent a majority of the people."

Rabon called the zoning issue "a done deal" and said people "need to accept it and go forward." He said he has not changed his opinion that county zoning is needed only in tourist-oriented areas south of U.S. 17.

"You don't need to be telling people in the rural areas how to use their land," Rabon said. "Tourists aren't going to go to Exum. They're

going to the beach."

While he was pleased to see the modifications made to the law during months of joint workshops with the planning board, Rabon said he still could not support the law. Still, he said he did not feel the zoning ordinance should be repealed.

"A lot of work and time and expense went into it. They've got a right to change it, but I don't feel they should repeal it. I don't think that would be a wise move," Rabon said.

The zoning law goes into effect July 1. At the request of County Planner John Harvey, the board agreed to adopt an interim policy for handling requests to amend the law. Rabon voted against the plan.

The measure imposes a \$100 fee for each application to modify the ordinance or the map. Harvey called the price "standard" and said it was needed to help pay the cost of required public hearings, advertising and mailings to notify affected property owners.

In a first step toward implementing the zoning ordinance, the board appointed four of five members to

the county's first zoning board of adjustment. That board will hear requests for changes to the zoning law and make recommendations to the commissioners.

As agreed at an earlier meeting, each commissioner nominated a resident of an unincorporated area of his district to sit on the adjustments board.

Holden nominated Nick Newton as the District 1 member. Jones suggested Graham Justice for District 2. Pinkerton chose Richard Marshall from District 3. Shaw named John Wright Butler to represent District 5. Rabon said he did not have a nomination, but would offer one at a later meeting.

In other business the board: Reappointed all expired-term members of the Brunswick County Airport Commission, The Brunswick Hospital Authority and the Utility Operations Board. The commissioners appointed Dr. Brad Kerr as the board of health veterinarian to replace Dr. Bill Rabon, who is unable to serve another term. All other members were re-appointed. (See ZONING, Page 2-A)



STAFF PHOTO BY SUSAN USHER

ELECTIONS SUPERVISOR Lynda Britt (left) reviews precinct results with candidates Thurman Gause and Janet Pope during the recount last Thursday as Franklin Randolph (left rear) looks on.

Outcome Same Following Recount

BY SUSAN USHER

Democrat Thurman Gause will represent District 1 on the Brunswick County Board of Education for the next two years, following a recount last Thursday that left the outcome of the Nov. 3 election unchanged.

"I'm just glad it's over," said Gause. He said he had expected to face—and again beat—his Republican opponent in two years, but not in two weeks.

The recount was requested by Republican candidate Janet Pope, who received 10,549 votes to Gause's 10,657 votes, a difference of 108 votes.

Lynda Britt, supervisor of the Brunswick County Board of Elections said the recount had found "just what we'd expected, nothing of consequence." Gause picked up eight votes and Pope lost four, for a net gain for Gause of 12 votes.

Generally the adjustments came in reviewing ballots that voting machines could not read for one reason or another. Britt said the recount was a learning experience for both candidates as they saw the variations in how voters had marked their ballots and how election officials handled those ballots.

In a telephone interview later, Pope said that Gause and the other two candidates who won election "will either become part of the solution or part of the problem," and that if they opt to maintain the status quo they will become the latter.

"I don't plan to go away," she said, noting that the concerns that prompted her to run still exist. However, Pope said she's excited about the new superintendent of schools and the "possibilities that exist for real change, change for the better, not more of the same."

Pope qualified for a recount under a statute adopted by the North Carolina General Assembly in 1988, said Britt. It allows a candidate to qualify for a recount on request if the difference between the number of votes received by that candidate and another is 1 percent or less of the total votes cast in that race. In the Pope-Gause race, for instance, even if the difference in the results had been 202 votes, Pope would still have been eligible for a recount.

Before passage of the law, a candidate had to allege some irregularity or misconduct in an election proceedings in order to obtain a recount.

On Tuesday, Nov. 17, the county elections board had to conduct a second recount, involving the state ballot. In an N.C. Court of Appeals race, Judge Robert F. Orr had defeated Judge Anthony M. Brannon by a margin of less than 5,000 votes statewide. Brannon sought the recount.

Britt said the notice of this second recount came to late to schedule it at the same time as the recount involving the local ballot.

Including elections board members and staff members, 10 people were involved in the recounts, at a cost of approximately \$840 a day, said Britt.

Holden Beach May Up Water Rates For Homes Overusing Septic Tanks

BY DOUG RUTTER

A Holden Beach committee is studying a proposal to "accelerate" water rates for homeowners who use more water than their septic tank systems are designed to handle.

The higher rates would be a type of penalty for overloading septic systems and causing pollution, said Sid Swarts, a town commissioner and chairman of the wastewater management committee.

"If you put more water in the septic tank than it's made for you get more pollution," Swarts said following a meeting of the committee last Friday. "That's the people we're trying to control."

Holden Beach reads water meters every three months and bills customers \$36 for the first 6,000 gallons and \$1.50 for each 1,000 gallons beyond 6,000.

If the accelerated rates are approved, Swarts said the \$1.50 charge for each extra 1,000 gallons would be increased. Committee members haven't settled on a higher figure.

Swarts said the town would plug septic system data for each house into its computer to help determine if the

homeowner uses more water each quarter than the wastewater system can handle.

As an example, Swarts said a house with a four-bedroom septic tank is designed to handle up to 43,200 gallons of wastewater every three months. If the owner of a four-bedroom house uses more than 43,200 gallons in a quarter, the town would charge a higher water rate for any excess usage.

Swarts stressed that people who don't use more water than their septic system can accommodate would not face any increase in water rates.

"We want to make sure if you're not abusing your septic system you're not overcharged," he said.

Swarts also said the committee is trying to figure out how the town could make exceptions for people who own swimming pools or water their lawns frequently. They might use more water than their septic tank system can accommodate, but not all of the water goes into the system.

Swarts said the plan to accelerate water rates has not been completed or approved by the committee. "This

is what we're discussing. All we do is recommend. We're shooting to have it to the commission by December 7."

Swarts said he's not sure how many homeowners on Holden Beach would be affected by the higher rates if they are approved.

"Percentage wise, it would be just a guess, but I don't think there would be that many because most people don't overload the system," he said.

Town commissioners indicated at a recent meeting that they would be open to the idea of accelerated water rates to control the abuse of septic systems.

Earlier this year, however, commissioners rejected an ordinance proposed by the committee that would have prohibited the "false advertising" of homes for sale or rent on the island.

The proposed rules would have made it illegal to advertise that a house has more bedrooms or can sleep more people than its septic system is designed to accommodate. Most systems are built for two people per bedroom.

Thanksgiving Closings Noted

Local government offices and schools will close for one or more days in observance of the Thanksgiving holiday next week.

The Brunswick County Government Center at Bolivia and the Calabash and Holden Beach town halls will be closed Thursday and Friday, Nov. 26 and 27.

Town halls at Sunset Beach, Ocean Isle Beach and Shallotte will be closed Thursday only, as is the case with local financial institutions.

Tuesday is the last day of class for students in the

Brunswick County Schools because of a teacher workday that day. Schools and the central office will be closed Thursday and Friday.

At Brunswick Community College, the last day of classes for students is Monday, Nov. 23. Students won't return to campus until the start of winter quarter on Dec. 2, following registration from 10 a.m. to 7 p.m. Dec. 1.

BCC offices will be closed Thursday and Friday, Nov. 26 and 27.

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Beacon Publishes Early Next Week

Because of the Thanksgiving holiday, *The Brunswick Beacon* will publish a day earlier next week and all advertising and news deadlines will be a day earlier.

All real estate advertising must be placed by 5 p.m. Thursday, Nov. 19, and classified advertising must be ordered by noon on Monday, Nov. 23.

The newspaper will be available in racks and at dealer locations Tuesday. Mail subscribers in Brunswick County should receive their paper on Wednesday. Other subscribers should get their papers about the same time as usual since post offices will be closed for the holiday on Thursday, Nov. 26.

The *Beacon* office will be closed Thursday, Nov. 26.