



AGENDA
TOWN OF MOREHEAD CITY
TOWN COUNCIL SPECIAL MEETING
Wednesday, September 8, 2021, at 11:40 a.m.
Morehead City Municipal Building
202 South 8th Street

1. CALL TO ORDER

2. NEW BUSINESS:

- 2.A. Consider Adoption Of Resolution 2021-R-40 Authorizing The City Attorney And Outside Counsel To File A Civil Action To Confirm The Town Of Morehead City's Authority And Control Over Certain Public Streets

Documents:

[2021-R-40 AUTHORIZATION TO FILE CIVIL SUIT.PDF](#)

3. ADJOURNMENT:

COUNCIL
Keri V. McCann, Mayor Pro Tem
George W. Ballou
David Horton
William F. Taylor
Diane C. Warrender



Gerald A. Jones, Jr., Mayor

RESOLUTION NO. 2021-R-40

A RESOLUTION AUTHORIZING THE CITY ATTORNEY AND OUTSIDE COUNSEL TO FILE A CIVIL ACTION TO CONFIRM THE TOWN OF MOREHEAD CITY'S AUTHORITY AND CONTROL OVER CERTAIN PUBLIC STREETS

WHEREAS, pursuant to North Carolina General Statutes 160A-11, 136-66.1(2), and 160A-296, the Town of Morehead City, as a North Carolina municipality, has authority to pursue civil actions and has authority and control over the municipal street system within its jurisdiction; and

WHEREAS, the owner(s) of Captain Bill's, Inc. claim ownership of and the right to control certain portions of Evans Street and Shepard Street;

WHEREAS, the Town denies the claims made by Captain Bills, Inc. and its owner(s) and seeks a judicial determination to resolve the issues in dispute;

WHEREAS, from time to time the assistance of outside legal counsel is advisable to effectively pursue certain types of legal matters on behalf of the Town, and when Council determines that the retention of outside legal counsel is beneficial and/or necessary for the pursuit of any such action, then the same should be authorized whenever it is in the best interests of the Town; and

WHEREAS, the Town Attorney has briefed the Council on the legal claims of Captain Bills, Inc. and its owner(s) and recommended that a civil action is necessary and should be pursued by the Town; and

WHEREAS, the Town Attorney has advised that a decision of the North Carolina Court of Appeals in *City of Albemarle v. Nance* has been interpreted by some to require the Council to authorize the Town Attorney and other outside counsel to bring the legal actions necessary to settle the matters at hand; and

NOW, THEREFORE, BE IT RESOLVED by the Town of Morehead City Council that:

Section 1. The Town Attorney is authorized to act and to retain the services of outside legal counsel from the law firm of Poyner Spruill LLP to file and maintain any and all civil actions in the name of the Town of Morehead City against Captain Bills, Inc., its owner(s), and any other necessary or proper party with respect to the matters described above and any other matters that are or may become related to the same.

Section 2. Any and all actions taken by the Town Attorney and/or the attorneys of the law firm of Poyner Spruill LLP prior to the enactment of this Resolution are retroactively ratified, approved, and authorized.

ADOPTED, this the 8th day of September 2021.

Gerald A. Jones, Jr., Mayor

Attest:

Cathy Campbell, City Clerk