



# NEWS RELEASE

**For immediate release**

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## **Beaufort City Council settles Waterfront Park renovation lawsuit**

After five days of testimony, thousands of documents and two failed attempts at mediation, the City of Beaufort agreed to settle a six-year-old lawsuit with Brantley Construction Company related to renovations made a decade ago to the Henry C. Chambers Waterfront Park.

At its Tuesday night meeting, the Beaufort City Council voted to settle the lawsuit by payment of \$200,000.

This case involved seven contested change order claims totaling \$1.1 million arising from the Waterfront Park renovations in 2005-2006.

“All along, the City wanted to resolve these change orders and close out this project completely,” Beaufort Mayor Billy Keyserling said. “We made offers earlier that were in good faith and in keeping with what we thought was fair for the work done. We are pleased with this settlement.”

In 2009, shortly before this lawsuit was filed, the City offered to Brantley to resolve the various issues by paying the company \$278,568. They rejected that offer and the lawsuit followed. After multiple depositions, the parties engaged in two mediations, in 2012 and most recently in December 2014, both of which were unsuccessful, said Bill Harvey, the city attorney.

The lawsuit against the city was in its fifth day Tuesday when both sides agreed to the settlement before Judge Marvin Dukes. “This is a complex case, involving thousands of documents, civil and geotechnical engineers, and construction decisions involving issues of subsurface soil, groundwater and tidal influence. This is a very good settlement for the City,” Harvey said.

Although the change order requests amounted to \$1.1 million, the City recognized that it has received the benefit of materials alone which exceed the settlement amount of \$200,000.

The settlement will be paid from the City of Beaufort's current resources and committed fund balance, City Manager Scott Dadson said.

The construction change orders contested in the lawsuit were:

- (1) Extra stone and related expenses for bedding the storm drain pipe arising out of the subsurface soil conditions;
- (2) Repair of multiple large gaps in the sea wall discovered by the diving subcontractor in relation to the installation of the 48-inch storm water outfall at the west end of the seawall;
- (3) Conflicts between the architect and engineering drawings in connection with the location of certain storm drain pipes;
- (4) Unknown utility conflicts in the area behind the Common Ground coffee shop that were discovered upon excavation of the soil;
- (5) Replacement of multiple large trees that died unexpectedly during construction, and which were replaced by the Contractor -- the claim being that the issues with the drain pipe installation made the preservation of these trees impossible;
- (6) Ambiguity on the bottom grade elevation of the sitting wall surrounding the pavilion as shown on the architect's plans, which required the wall to have to be rebuilt;
- (7) Ambiguity on the ramp dimensions of the Americans with Disabilities Act (ADA) ramp next to the Yacht Club, which required the ramp to be rebuilt.

Additionally, Brantley Construction Company was claiming attorneys' fees and other legal expenses.

**END**