

**Minutes  
Town of Atlantic Beach, North Carolina  
Town Council Meeting  
Monday, March 20, 2006**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, March 20, 2006 at 6:00 p.m. in the Council Meeting Room.

**Members Present:** Mayor Tootsie Vinson; Mayor Pro Tem Doug Creech, Council members Jim Bailey, Eddie Dawkins and Tom Doe.

**Members Absent:** Council seat #5 is vacant.

**Others Present:** Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Marc Schulze, Public Works Director; Lee Smith, Planning Director; Donna Turner, Inspections Director; Adam Snyder, Fire Chief; Scott Kilpatrick, Police Chief; Sabrina Simpson, Town Clerk.

**CALL TO ORDER AND ROLL CALL**

Mayor Vinson called the meeting to order at 6:00 p.m. All Council members were present.

**PRAYER AND PLEDGE OF ALLEGIANCE**

Atlantic Beach Fire Department Chaplin Claude Andrews led the assembly in the prayer and Pledge of Allegiance.

**APPROVAL OF THE AGENDA**

Councilman Jim Bailey made a motion to revise and approve the agenda as revised by adding Resolution 06-03-05 Approving Vehicle Financing as item number 9 in the Consent Agenda. Seconded by Councilman Tom Doe, vote was 4-0, unanimous.

**CONSENT AGENDA**

All items listed below are considered to be routine and will be enacted by one introduction/motion/second/roll call vote. There will be no separate discussion of these items unless a Council Member so requests, in which event the item will be removed from the Consent Agenda and considered separately.

**1. Tax Collection Report for February, 2006 (FYI)**

Ms. Buda submitted the tax collection report for February 2006 which showed that \$31,742.29 had been collected. The year-to-date collection total for 2006 at the end of February was \$1,962,785.00.

**2. Tax Releases (\$1,359.23)**

The Tax Collector submitted the following 2006 tax releases for approval:

<u>NAME</u>	<u>ACCOUNT#</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>REASON</u>
Cooper Jr, A B	1614	\$ 118.65	2005	Incorrect value
Knick, Vincent C	244342	\$ 211.60	2005	Incorrect owner
Loughry, Gershom J	42073	\$ 18.88	2005	Release interest-Post Office delay
Kincaid Jr, E M	52470	\$ 13.69	2005	Billed in error
Pegram, Gray W	145899	\$ 56.93	2005	Located in Forsyth County
Drew, Richard M	405	\$ 39.40	2005	Located in Cape Carteret
Bland, Robert E	45427	\$ 611.80	2005	Located on Hwy 101
Peppertree Associates	51992	\$ 56.03	2005	Billed in error
Wenborne, Curtis	389513	\$ 199.11	2005	Double billed
Peoples, Ronald	406319	\$ 33.14	2005	Located in Pitt County
	<b>TOTAL</b>	<b>\$ 1,359.23</b>		

**3. Resolution No. 06-03-02 Approving the Disposition of Town Property**

This resolution authorized the Town Manager to dispose of the listed items by any means available including offering for sale at public auction, donation to a nonprofit organization, internet online offering, private negotiation and sale, upset bid process, or destruction.

**4. Resolution No. 06-03-03 Amending Town Water Department Policy**

This resolution amended the Town's Water Department Policy to clarify inconsistent language and provide for more effective enforcement of water policy procedures. This resolution will provide the Town's water customers with clearer rules with which to receive service from the Town's staff.

**5. Ordinance No. 06-03-01 Amending Chapter 2 – Criminal History Checks**

This ordinance allowed the Town to continue to do effective background checks on prospective employees. Recently it came to the attention of the Police Chief that the use of the North Carolina state-operated DCI system was no longer available for background checks unless such an ordinance was adopted by the Town Council.

**6. Ordinance No. 06-03-02 Amending Chapter 1 – Civil Penalties**

This ordinance amendment corrected the Town Ordinances related to fire code violations. Currently, the Town civil penalties are set in an amount in excess of those allowed by the North Carolina General Statutes and this amendment brings the Town into compliance.

**7. Ordinance No. 06-03-03 Amending Cable Franchise Fees**

This ordinance amended the current Franchise Agreement to provide for a franchise fee payment of 5% to the Town as now allowed by State law. By General Statute 160A-76, will require a second approval at the Council's April meeting before becoming effective.

**8. Town Council Meeting Minutes – February 21, 2006 and March 3, 2006**

The Town Manager requested approval of these meeting minutes.

**9. Resolution No. 06-03-05 Approving Vehicle Financing**

This resolution approved financing for a four-wheel drive Ford Escape costing \$18,650 at State Contract price. This resolution is required by BB&T approving the financing terms, which are 3.96% for three (3) years with annual payments of \$3,550. The Town will pay \$8,000 down from the Planning Department's capital outlay budget line. This will keep the payments within the \$400 per month budget and allow for maintenance and fuel expenses.

A motion was made by Councilman Bailey to approve the Consent Agenda. Seconded by Mayor Pro Tem Creech, vote was 4-0, unanimous.

<b>CITIZEN REQUESTS/COMMENTS</b>
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**1. Captain James Willis, III, 104 Atlantic Beach Causeway, Atlantic Beach, NC**

Captain Jim Willis spoke in response to Councilman Bailey's comments during the February 21, 2006 meeting. Councilman Bailey stated during that meeting that Captain Jim's math was wrong. As Captain Jim did not use any numbers last meeting, he decided he should come up with some as a rebuttal. During a presentation on the blackboard to the Council, Captain Jim showed that as one property value increases, it causes an increase on other similar properties during a revaluation. Captain Jim believes this will increase the taxes he will have to pay, assuming the Town Council does not decide to lower the tax rate which would keep the tax revenue level.

Councilman Doe stated that he would like the Council to pledge before the revaluation that we would not try to slide more revenue in during the budget process. He said that the citizens of Atlantic Beach are too smart not to catch on to that tactic.

Councilman Bailey stated his opinion during the February meeting was the tax revenue would have remained level, which would cause the tax rate to go down as values increase. Therefore, surrounding properties would show a decrease in taxes they actually have to pay, while the properties they purchased over the stated tax value or made tremendous improvements would pay more.

**2. Mickey Stokes, 414 E. Glenn, Atlantic Beach, NC**

Mr. Stokes does not understand why he was denied sand during the last beach nourishment project. He understood the easement process. He understood the possibility of having his property condemned if he opted to not sign the easement. He signed, but he believes that the Town folded when others decided they may try to sue the Town. He wants to make sure the next time the beach is nourished that his property is not overlooked.

<b>ACTION AGENDA</b>
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**1. Planning Board Report - Planning Board Chairman**

Joe Tarascio, Planning Board Chairman, stated the last Planning Board meeting was spent discussing the Land Use Plan. It has come time to sit down with the Town Council and go over some of the areas that have been identified that the Planning Board needs to address. The Board and Council seem to be working in the same direction. The Planning Board will be meeting again in two days. The items that have been identified are ones that have been looked at already. They are beach nourishment, sewer, land use conflicts that may be caused by sewer, landscaping versus maintaining our natural vegetation, public shoreline access, storm water run-off, traffic, and town facilities. Those eight items are the ones they will begin to discuss at this meeting. The Council was advised if they have an issue not mentioned already please let the board know.

**2. Public Hearing-Rezoning of 202and 208 West Atlantic Boulevard from RC (Resort Commercial) to CDD (Circle Development District)-Planning Director**

Mayor Pro Tem Creech made a motion to go into Public Hearing. Seconded by Councilman Doe, vote was 4-0, unanimous.

Lee Smith, Planning Director stated the Planning Board recommends the rezoning by a vote of 6-1. The staff was concerned that this could be considered as spot zoning.

Councilman Bailey asked Mr. Smith if the CDD zone was more restrictive than the RC. He also asked him about the height restrictions.

Mr. Smith said the CDD would be more restrictive and the height restrictions would be 45 feet. The density would be more in the CDD than the RC.

Councilman Dawkins asked Attorney Taylor if the Town was okay in regards to “spot zoning”.

Derek Taylor, Town Attorney stated he thought the rezoning would be okay and that it really is not “spot zoning”.

Craig Griffin had signed up to speak and he decided to pass.

Mayor Pro Tem Creech made a motion to come out of public hearing. Seconded by Councilman Doe, vote was unanimous, 4-0.

Councilman Doe stated that he and Craig Griffin had spoken about this situation. He is troubled with this concept of “spot zoning”. He thinks the Council should have a concept of exactly which parcels would have the ability to be included in the CDD. He is also concerned that we are already expanding the CDD without seeing what the CDD would look like.

Councilman Dawkins stated he thinks we have plenty of guidelines in place and that we should not have to wait until we see the finished project.

Councilman Bailey stated he was on the Planning Board when the CDD was developed and they thought the expansion concept over and they created all the limitations as a guideline.

Councilman Creech believed the CDD was more restrictive than the RC. He was very concerned about 204 W. Atlantic Blvd. The gentleman has not responded so in his opinion if you do not respond, you do not care.

Councilman Dawkins made a motion to approve the Rezoning Request for 202 and 208 West Atlantic Boulevard from RC (Resort Commercial) to CDD (Circle Development District). The motion was seconded by Mayor Pro Tem Creech. Councilman Doe thinks it is a mistake to pass this request because this vote will set the precedent and we will end up with a checkerboard. Councilman Dawkins amended his motion making his motion to approve Rezoning Request for parcel ID # 6375.16-92-0989 & 6375.16-82-9939. Seconded by Mayor Pro Tem Creech, vote was 3-1, with Councilman Doe voting in the negative.

Mayor Vinson welcomed Mr. and Mrs. Gene Hollowell to the Town Meeting. She thanked them for coming and thanked Mr. Hollowell for serving on past Councils.

### **3. W. K. Dickson-Introduction and Plan of Action-Town Manger**

Town Manager, Chuck Cooper stated the Town has engaged the engineering firm of W. K. Dickson & Company, Inc. to provide engineering support for Town projects that are currently underway or envisioned, especially in the areas of sewer and storm water management.

Dan Dawkins, Vice President of the Wilmington office of W.K. Dickson introduced himself and the company. He thanked the Council for the opportunity to work with the Town of Atlantic Beach. He gave the Council a handout showing the service agreement for Task Order #1 to evaluate the Sugarloaf Wastewater Treatment Plant. He said the company would be reporting back to the Town at their May 15, 2006 Council meeting.

#### **4. Recognition of Retiring Police Officer Hugh Flynn-Police Chief**

Scott Kilpatrick, Police Chief stated he would like to recognize Lieutenant Hugh Flynn, who was hired on August, 1988. After seventeen years of service, Lieutenant Flynn has decided to retire. The Town of Atlantic Beach Police Department would like to present him with his badge and sidearm as permitted by G.S. 20-187.2. Councilman Doe made a motion to adopt Resolution 06-03-04 Rewarding Badge and Service Sidearm to Lieutenant Hugh Flynn. Seconded by Mayor Pro Tem Creech, vote was 4-0, unanimous.

#### **5. Board of Adjustment Rules of Procedure-Town Attorney**

Attorney Taylor stated nothing had changed with the proposed Board of Adjustment Rules of Procedure on February 7, 2006 he had provided them. He had added some things the Council had suggested. It is a new written policy he would like for the Council to approve.

Councilman Doe said he was very happy with the new policy and he would like to see it go forward. He asked if it would be a problem to not vote on this until the Council and Board of Adjustment had their retreat. Attorney Taylor stated he would like the Council to approve this policy tonight knowing we could amend it and make changes at a later date.

Mayor Vinson asked if the Board of Adjustment was in favor of the new policy. Attorney Taylor said that no one really liked the policy but realized they had to get use to it.

Councilman Doe made a motion to approve the Town of Atlantic Beach Zoning Board of Adjustment Rules of Procedure as presented in the policy. Seconded by Mayor Pro Tem Creech. Mayor Pro Tem Creech believed the Board of Adjustment needed to use the rules before the joint retreat so they will be able to discuss and/or criticize it. The vote was 4-0, unanimous.

#### **6. Council Vacancy-Town Council**

Mayor Vinson said there had been a vacant seat on the Council since election time. This item was placed on the agenda tonight and up for discussion.

Councilman Dawkins made a motion to appoint Ruth Barnes to fill the unexpired term of the vacant position on the Town of Atlantic Beach Town Council. Seconded by Mayor Pro Tem Creech.

Councilman Doe read from prepared comments to the Council.

**(Clerk's note: Prepared comments written by Councilman Doe was submitted and hereby made a part of these minutes.)**

The vote was 3-1 with Councilman Doe voting in the negative.

#### **TOWN MANAGER'S REPORT**

The Town Manager had nothing to report.

#### **TOWN ATTORNEY'S REPORT**

Attorney Taylor informed the Council that as of today, the Town of Atlantic Beach officially owns Coral Bay Shopping Center.

#### **MAYOR/COUNCIL REQUESTS/COMMENTS**

Councilman Dawkins discussed the dredging schedule. Councilman Doe said he believed we are ahead of schedule.

Councilman Doe informed the Council of the possible change in the CAMA lines. He hopes the Council understands the can of worms we would be opening if we let the CAMA lines be moved around. He would like for our Town Manager, Chuck Cooper to be allowed to attend the meeting on this subject on March 23 and March 24, 2006 at Kill Devil Hills, NC and represent our Town.

Councilman Doe made a motion to authorize Chuck Cooper, Town Manager to attend the CAMA meeting on March 23 and March 24, 2006 at Kill Devil Hills, NC and if it appears that action would be taken to move the CAMA line, he could speak for the Town of Atlantic Beach, NC saying we are happy with where our CAMA line is and would not like it moved. Seconded by Mayor Pro Tem Creech. Vote was unanimous 4-0.

Dr. Scott Rice, 402 Henderson Boulevard, Atlantic Beach, NC thanked the Council and staff for their help in pursuit and attempts to acquire some public access to the beach at the end of Henderson Boulevard.

## CLOSED SESSION

**Consult with Town Attorney re: (1) To protect the attorney-client privilege and (2) to consider and give instructions concerning a potential or actual claim, administrative procedure, or judicial action pursuant to N.C.G.S. 143-318.11(a) (3).**

Mayor Pro Tem Creech made a motion to go into closed session with a request for Ruth Barnes, Lee Smith, Donna Turner and Marc Schulze to attend the closed session. Councilman Doe seconded the motion. The vote was 4-0, unanimous. It was 7:31 p.m.

A motion was made by Councilman Doe to go out of closed session and back into open session, seconded by Councilman Dawkins; the motion carried unanimously 4-0. It was 8:20 p.m.

## ADJOURNMENT

There being no further business before the Town Council, a motion was made by Mayor Pro Tem Creech to adjourn the meeting. It was seconded by Councilman Doe and carried unanimously, 4-0. It was 8:22 p.m.

Submitted by:

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Kim Glover, Deputy Town Clerk

These minutes were approved at April 17, 2006 meeting of the Atlantic Beach Town Council.

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Tootsie Vinson, Mayor