

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

The regularly scheduled meeting of the Atlantic Beach Town Council was held on Monday, November 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, Ruth Barnes, Eddie Dawkins and Joe Tarascio

Members Absent: none

Others Present: Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Marc Schulze, Public Works Director; Donna Turner, Inspections Director; A.K. Miller Police Captain; Fred Bunn, FMB Enterprises; Buddy Cooper; Ray Cordon, W. K. Dickson; Kim Glover, Deputy 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

Deputy Town Clerk Kim Glover led the assembly in the prayer and Pledge of Allegiance.

APPROVAL OF THE AGENDA

Attorney Taylor asked that the Council make a motion for a Closed Session to be held after the regular meeting. Councilman Bailey made a motion to call for a Closed Session pursuant to N.C.G.S. 143-318.11(a) (3) and N.C.G.S. 143-318.11 (a) (6). Seconded by Mayor Pro Tem Creech, vote was 5-0, unanimous. Councilman Bailey asked that Item #4 be removed from the Consent Agenda. A motion was made by Mayor Pro Tem Creech to approve the Agenda with Item #4 removed, seconded by Councilman Bailey, vote was unanimous, 5-0.

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 October 2006 (FYI Item)

Ms. Buda submitted the tax collection report for October 2006 which showed that \$112,334.81 had been collected. The year-to-date collection total for 2006 at the end of January was \$599,568.53.

2. Tax Releases (1,009.42)

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>
Donnelly, William J III Time Warner	41124	11.46	2006	Billed in error
Entertainment	52719	48.88	2006	Incorrect value
Ng, Alex	324286	54.60	2006	Incorrect value
Bunch, Debbie L	398181	64.39	2006	Located in Morehead City
Howell, Barry G	420893	243.10	2006	Billed in error
Gaulden, Gary L	45505	37.05	2006	Located in Harkers Island
Magic Sport Fishing	57204	360.23	2006	Incorrect value
Royal, Cedric	419519	104.00	2006	Located in Harkers Island
Dunn, John A	424098	85.71	2006	Located in cape Carteret
	TOTAL	\$1,009.42		

3. Request for Tax Refund (63.29)

Tax Collector Laura Buda submitted the following request for tax refund:

- a. Kuhn, William O. \$63.26 Double listed per Carteret County

4. Town Council Meeting Minutes-October 11 & 16, 2006

The Town Manager requested approval of these meeting minutes.

Councilman Creech made a motion to approve the Consent Agenda. It was seconded by Councilman Bailey. The vote was 5-0, unanimous.

CITIZEN REQUESTS/COMMENTS

1. Joe Osborne, 137 Bowen St., Atlantic Beach, NC

Mr. Osborne stated he is concerned about the property at 122 West Fort Macon Road. He bought it on April 8, 1999. He has tried to rent it out and has not been able to. He has spent a little over two years and \$75,000 to have the lot cleaned up. It had been approved to build a storage unit on it until he found out about the two feet freeboard. Since then it has been rescinded. He has been to the Town Council, Planning Board and Board of Adjustment so many times he could not recall all the trips. He feels he has cleaned up everything and is having a hard time getting the Town to work with him. He is open to comments from anyone. He has worked on this for so long, the honest answer is he is just tired. He hopes that there is some way that everyone can work together to accomplish something that would work. Mr. Tarascio stated that the Town had an agreement with Mr. Osborne and it came back to the Town Council and Mr. Osborne changed it so it soured the deal. Mayor Vinson suggested he check with Ms. Turner and she would lead him down the right path.

2. Floyd Bedsole, 127 E. Atlantic Blvd., Atlantic Beach, NC

Mr. Bedsole has been a resident of Atlantic Beach since 1994. He is concerned that this beach used to be a family beach and now it is not. He wonders what we are going to do with the kids that come to this beach. He tasked this Mayor and Council to come up with a verbal or artistic picture of what a family beach is supposed to look like.

3. George Valentine, Beaufort, NC

Mr. Valentine stated he was at the beach the other day and he needed to use the restroom. He went to the public restrooms and they were locked. It was last Sunday around 3:30 p.m. He suggested the Town put up a couple of porta-potties for the public, so citizens can enjoy the beach during the off-season.

ACTION AGENDA

1. Public Hearing-Closing a Portion of East Boardwalk Avenue-Town Attorney

Attorney Taylor stated there had been an error in the notice and in the intention to give consideration to closing of the street that needs to be corrected. He asked Bud Cooper if what he was asking to do is to close an eighty-foot stretch which would basically transfer from the end of the originally mapped area of Atlantic Beach as it comes down and connects up with the Circle. Mr. Cooper said yes the western most eighty feet. Attorney Taylor said that the

Lot # is 26 and not 14, which is what should have been published. He thinks it should be re-published but feels we could still hear what the citizens have come to say tonight. Once the hearing is over for tonight, he would ask that the matter be continued. For the purpose of the Public Hearing to move forward, Councilman Tarascio made the motion to amend Resolution 06-11-01 by changing Lot #26 to Lot #14, seconded by Councilman Creech, vote was 5-0, unanimous.

Councilwoman Barnes made a motion to go into Public Hearing to discuss the Closure of a portion of East Boardwalk Avenue. Seconded by Councilman Tarascio, vote was 5-0, unanimous.

1. Bud Cooper, Atlantic Beach, NC

Mr. Cooper congratulated Councilman Tarascio on his appointment to the Town Council and wished him the best of luck. Mr. Cooper read a copy of the petition to close East Boardwalk into the record. He gave a copy to the Deputy Clerk. He gave the Deputy Clerk copies of all the deeds where each property owner conveyed their properties. He stated they propose to build a building pursuant to the CDD zoning ordinance. Mr. Cooper showed the Council and citizens pictures of what he would like to see done. He stated if the street remains open it could create a dangerous situation, hence the name given to the hill in the past-“Suicide Hill”. He submitted that by closing East Boardwalk it would improve the situation. He said he has spoken with the Fire Department and Police Department and they said it would not pose a problem. He had spoken with his friend Jimmy Willis and he said he couldn’t support closing the street for three reasons. One being, “Suicide Hill” is a part of the heritage of Atlantic Beach. Second, there is no consideration for the property, such as an increase in the tax basis. The third reason was because there is an easement there. Mr. Cooper said there was a real problem with that document but he would not get into that tonight because they were not dealing with that property only the first eighty feet of it. In summation, he stated the Council would be acting for safety reasons in the best interest of the Town of Atlantic Beach to close eighty feet of East Boardwalk.

Attorney Taylor stated we are currently working under a General Statue that requires this Council to find two matters if it is going to close this particular street that has been requested. Attorney Taylor read directly from the statute books to avoid any confusion. It stated “At the hearing any person may be heard on the question of whether or not the closing would be detrimental to the public interest or the property rights of any individual. If it appears to the satisfaction of the Council after the hearing that the closing of the street or alley is not contrary to the public interest and that no individual owing property in the vicinity of the street or alley or in the subdivision in which it is located would they be deprived of reasonable means of ingress and egress to his property, the Council may adopt an order closing the street or alley.”

Councilman Tarascio asked Mr. Cooper if he was asking for this closing for only the proposed project. Mr. Cooper said Mr. Corey had asked him to ask the Council to close this portion of the street for him. Regarding the potential conflict or safety issues with his building, what would these be? Mr. Cooper said he did not have any answers to that question tonight. Councilman Tarascio asked how the people who are used to coming from Beaufort Avenue for all those years will be able to deal with the dead end. Mr. Cooper suggested that at the intersection of Beaufort Avenue signs be erected advising the motoring public that there is a dead end street.

Councilman Bailey asked if any other people signed the petition other than those who abut the property. Mr. Cooper said no.

Councilwoman Barnes asked if East and West Boardwalk at one time were both dead end streets. Mr. Cooper said in his opinion yes. There were citizens who voiced out loud "no." Councilwoman Barnes said she remembers kids always playing there and it was not a street.

Councilman Dawkins asked if Mr. Cooper was going to follow through with his project if the changes he wants made fall through. Mr. Cooper said yes he would. He also said that the deed to every lot in that block of East Boardwalk refers to a map which was recorded prior to 1937. 1937 is the year this purported easement was dated and recorded. Everyone who owns property in this block has a chain of title that runs back to before this so-called easement was recorded.

Attorney Taylor asked Mr. Cooper if he knew who paved the street. He said no but his father paved the parking lot of the Ocean King Motel.

(Clerk's note: A copy of the petition to close East Boardwalk Drive is attached and hereby made a part of these minutes.)

2. Joe Goodson, Atlantic Beach, NC

Mr. Goodson said he had lived here since 1935 and the street was paved by the Town of Atlantic Beach. The citizens of Atlantic Beach want to see this beach remain a beautiful place for people to bring their families. He would like the street to remain as it is. He said around 1970 the old Garrett House burned and if the Fire Department had not been able to come up the street and put out the fire everything would have burned. He stated he had been a victim of a burglary years ago and the Police Department responded quickly by being able to use the street. If the street gets closed it could cause a lot of grief and pain for the property owners. It could also cause a problem with trash and delivery trucks. Traffic is now almost down to zero since the closing of the pier. The main water line runs down that street along with the fire hydrant that is there. Mr. Goodson intends to will his property to his children and none of them want to see the street closed either.

3. Andy Blades, 126 East Boardwalk Avenue, Atlantic Beach

Mr. Blades stated he has lived here for twenty-nine years. He felt it is important that the Council recognize that these properties are somewhat historically significant. He does not think we can say it is a mirror image of West Boardwalk because it was never connected. East Boardwalk has always been connected, whether with oyster shells or pavement. The neighborhood does not like being impacted by high condominiums. The property owners have given the Town an easement and the Town embraced it. They paved and put signs on it. It would be impossible to get across Fort Macon Road at certain times especially during a hurricane evacuation. What is being proposed is to diminish our lifestyle and he resents this could go this far. He feels the Town has a vested interest in this street. Mr. Blades stated he is dead opposed to the closing of this street.

4. Bill Lee, 106 East Boardwalk Avenue, Atlantic Beach

Mr. Lee said he owns his cottage with his sisters. He asked for a show of hands of who is against the closing of East Boardwalk Avenue. The majority of the citizens raised their hands indicating they are against it. He feels it is a detriment to the property rights of the owners. The street is of a non-conforming standard. It is only fourteen feet wide. It would limit the property owners their ability to ingress and egress. He feels the common good of the public outweighs the vested interest of one or two.

5. Kay Cocks, 111 East Boardwalk Avenue, Atlantic Beach

Mrs. Cocks stated she and her husband are here to speak in opposition to the street closing. Their neighbors, the Tuckers, are ill and are not able to be here tonight and have asked the Cocks to speak in opposition for them.

6. Peter Sautner, 112 East Boardwalk Avenue, Atlantic Beach, NC

Mr. Sautner stated he has a wife and four kids and has lived here for a couple of years. If the road is closed, it would be impossible for a school bus to come down the road and pick up kids. The road is very narrow and if you get stuck behind a garbage truck you could be there for awhile. Another concern could be fender benders.

7. Mickey Stokes, 414 East Glenn Street, Atlantic Beach, NC

Mr. Stokes stated that East Glenn Street abuts to Mr. Cooper's property. He said once you close a street people think they own it. The street is so narrow only one vehicle can get through it going one way. He said about three or four years ago, there was a fire on the corner of Money Island. The Fire Department had to run the fire hoses across Fort Macon Road and nobody could go up and down the road. This presented a real safety issue.

8. Michael Jones, 113 East Atlantic Blvd., Atlantic Beach, NC

Mr. Jones read aloud a letter to the Council from the residents of East Atlantic Blvd.

(Clerk's note: A copy of a letter to the Council from the residents of East Atlantic Blvd. is attached and hereby made a part of these minutes.)

9. Bobby Woodard, 125 East Boardwalk Avenue, Atlantic Beach, NC

Mr. Woodard said he and his wife drove down from Wake Forest, NC to voice their opposition to the street being closed.

10. Doug Goins, 911 Arendell Street, Morehead City, NC

Mr. Goins stated he is an attorney that sometimes does some work for Buddy Cooper. He stated there has been some reference to a 1937 document that is recorded that could purport to be an easement. The document seems to have some real problems with it and he suggested the Town Council consult with the Town Attorney before they give it too much wait.

11. James Willis, III, 104 Atlantic Beach Causeway, Atlantic Beach, NC

Captain Willis stated he has lived here since 1934. One good reason for not closing this street is for insurance purposes a dwelling needs to be within five hundred feet of a fire hydrant. Three-fourths of Lot # 3 would be outside the five hundred feet radius of the fire hydrant. He was not going to oppose this project at first until he found out it involved "Suicide Hill". He wants the street to stay just like it is. He wants to stand up for the public and stated it is so easy to just say no.

Mr. Bud Cooper stated he had been talking with Mr. Corey about parking. They have proposed to build a 30 x 120 feet parking deck across from his property to alleviate some of the problems that have been foreseen tonight.

12. Wally Courie, 400 Money Island Drive, Atlantic Beach, NC

Mr. Courie stated he is neither for nor against closing the street. He said back in the 1960's and 1970's there used to be a loop running from the circle, boardwalk, West Glenn Street to the Sportman's Pier. The traffic ran one way and it was horrible. Access could be a double-edged sword. When the condos at the Circle are built, something needs to be done to improve the flow of traffic around the loop.

A motion was made by Councilman Bailey to come out of Public Hearing. Seconded by Councilman Dawkins, vote was 5-0, unanimous.

Mayor Vinson called for a motion on the Resolution of Intent to Close East Boardwalk. There were no motions. Based on the testimony of the citizens who spoke tonight, the Town Council will not call for another Public Hearing on the issue.

2. Planning Board Report-Chairman Joe Tarascio

Chairman Tarascio stated most of their agenda involved some proposed text revisions to the Circle Development District. He said Attorney Taylor had given him direct input on who needed to recuse themselves on the Planning Board when voting. He also said he would step down as Chairman being he is also now a Councilman. At Mr. Cooper's request that he remain as Chairman of the Planning Board, he has decided to stay on for the time being. Councilman Tarascio said there are three issues to this report. First being, some of the request would require variances to the CDD. Second, is whether the changes asked for are appropriate, not just to Bud Cooper's property but to everything on the south side of the oceanfront road. The final thing comes down to philosophical issues. The district was developed as a mixed use district. The board had also set a work session for the second phase of our stormwater ordinance. Councilman Bailey asked if the board had taken any action on any of the requests and he said no. They plan to look at each issue separately at the work session. Councilwoman Barnes said it seems the issues with Ocean King has brought to our awareness that the CDD is very vague and has been left up to interpretation. Councilman Tarascio said there might be some of that but what he sees is flexibility. It may take a few readings and it is not as complicated as it seems. He does agree it is not a typical ordinance.

3. Grove Development Project Update-Fred Bunn

Mr. Bunn thanked the Council for having him and congratulated Councilman Tarascio on his appointment to the Council. He hoped to bring the Council up to date tonight on what is going on with The Grove. The construction drawings are about 70 % to 80% complete. There has been so much talk about Atlantic Beach losing their piers. Having lost two already, they decided to design a pier (not out into the ocean) on the old pavilion property with a movie screen that can be pulled down at night to watch some family movies. There will also be a stage to have music or fashion shows on. At the suggestion of an Atlantic Beach citizen they decided to design a little chapel, where people can go for prayer or meditation. Councilman Dawkins asked Mr. Bunn if the septic permitting has been approved and he said yes. Mr. Bunn hopes to see activity start in early spring.

4. Stormwater and Wastewater Project Update-Councilman Jim Bailey

Dan Dawson of W.K. Dickson is here tonight to report on the Stormwater and Wastewater project. He has information on the Public Forum which was held on October 28 to share with everyone. There were thirty-five speakers and the number of comments and questions totaled in the seventy or eighty range. There are several key issues he needs to bring up tonight. First being the wastewater system versus septic tank systems. The citizens expressed real concern about whether to rely on the septic tank systems and try to improve them. The term monitored septic tank system means the citizens are relying on the Health Department of Carteret County to permit and assist them when they need to repair their septic tanks. The

Town has no control over what is permitted and what is not. If there is a question of continuing with septic tanks then the Council needs to re-visit that and W.K. Dickson can help them do that. He feels it would be hard to bring the septic tanks up to current day standards without a lot of changes and costs. If things continue as is, at some point you run the risk of the Environmental Protection Agency coming and asking you to clean the Town up. The second issue is it seemed to be the conclusion of the attendees that you could address the stormwater and wastewater issues separately. It is of his opinion it would be hard to separate the two. The third item is the concerns about growth and development and how it is being managed to the satisfaction of everybody. The fourth item is costs. He understands everyone is concerned about this. The fifth item is communication and accurate information is going to be very important as the Town and Council make their decisions. He thinks it is very important for everyone to understand they need to be making these decisions based on fact. The results of the survey concluded that sixty-five percent of the residents were in favor of a Central Wastewater System. The non-residents support it up to fifty-two percent.

Councilman Tarascio asked how difficult it would be to determine from the soils in the Town, what percentage of septic tanks would be in trouble because they are in low lying areas. Mr. Dawson said that most of the soils here have been manipulated by man and are not in their natural condition. It would be cost prohibited to evaluate all these septic tanks. It would be difficult to find people who would let you come on their property and identify they have a septic tank problem. Councilman Tarascio stated in his opinion the Town has done a shuffle around the stormwater to the point where the State may come in and say we have to do something about it. What he would like to see is a balance between the pursuit of the wastewater system and this Town addressing some of its flooding problems.

Councilwoman Barnes asked how extensive the Town can get involved in monitoring septic tank systems. Mr. Dawson said this is where you would shift from engineering to legislation and have the Town Attorney check on that. Councilman Barnes stated that the citizens at the Public Forum voiced their approval of monitored septic systems.

Councilman Dawkins said we keep jumping from topic to topic. Where exactly are we now? Mr. Dawson said most of what we previously stated was what was said at the Public Forum. Right now, Mr. Dawson sees Atlantic Beach has an agreement on how to evaluate the feasibility of a sewer system. We are moving on schedule with that. We have determined that it is feasible but expensive. Public discussion has been engaged and we have discovered that not everyone is in agreement. Councilman Dawkins asked him based on the information we have would he recommend that the Town pursue it. Mr. Dawson stated the citizens truly need to be on board with this. Everything that has and will be done will be done in the light of day. There is nothing to hide. If someone wants information it will be provided to them. It would be great to have some citizens helping to understand this situation and be extensions out into the community.

Councilwoman Barnes stated that the citizens need to know if they would decide to do the monitored septic system that they could in essence not have enough land and their system might not be adequate enough to even keep their home. Mr. Dawson stated she was correct.

Mr. Dawson asked if this project will continue with the presumption that the septic tank systems are not adequate and that they perceive with determining a refined cost of a central system or does Council direct them to set up some type of septic tank system evaluation so that we can have more answers.

Councilman Bailey suggested we not abandon the efforts and answer the citizen's questions about septic tanks. He suggested they pick three or four areas such as canal areas, Ocean Ridge, Wilson Terminal and then behind Beach Tavern and Hoop Hole Creek to evaluate. What we have to look at is there physically enough square footage to repair it. He stated we need to develop scientific monitoring criteria for the storm water on the streets. Councilman Creech stated according to the survey results, our non-residents are the ones in favor of the sewer system not the residents. Councilman Bailey said the data from the surveys need to be put on the website and the Council needs to ask for a cross-section of people to form a committee. We definitely do not want to impose anything upon the citizens against their will. We want them to know all the facts to help them help make decisions. Councilman Dawkins stated we needed to remember that a mission statement would need to be made up for the committee to go by.

Councilman Bailey made a motion to go forward with picking three areas to check septic systems and Council to form an advisory committee to help inform the citizens of all the information being considered with the central wastewater system. Seconded by Councilman Dawkins, vote was 5-0, unanimous.

5. Resolution of Sympathy-Town Council

Councilman Bailey made a motion to approve Resolution 06-11-01 "Resolution of Sympathy to the Family of Councilman Tom Doe". Seconded by Councilman Tarascio, vote was 5-0, unanimous.

6. Resolution of Appreciation-Town Council

The Town of Atlantic Beach wish to express their appreciation to George and Carol Wainwright, Mack and Glenda Baker, and Harry and Pat Rippy for their generosity in the donation of Lots 1 and 2 of Asbury Beach to the Town of Atlantic Beach. This property will be used as the foundation for the creation of the Tom Doe Public Beach Access for the use and edification of all citizens and visitors to our Town. Councilman Dawkins made a motion to approve Resolution 06-11-02 "Resolution of Appreciation". Seconded by Mayor Pro Tem Creech, vote was 5-0, unanimous.

TOWN MANAGER'S REPORT

The Town Manager had nothing to report.

TOWN ATTORNEY'S REPORT

Attorney Taylor told the Council that the press is now represented by Mr. Mike Shutak.

MAYOR/COUNCIL REQUESTS/COMMENTS

The Mayor and Council had nothing to report.

CLOSED SESSION

Councilwoman Barnes moved that the Council enter closed session in accordance with N.C.G.S. 143-318.11 (a) (3) to protect the attorney-client privilege, to consider and give instructions concerning a potential or actual claim, administrative procedure or judicial action and to consider and give instructions concerning a judicial action titled Ford versus Atlantic Beach. The motion also included N.C.G.S. 143-318.11 (a) (5) to establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property located at 1001 Fort Macon Road. Councilman Bailey seconded, and the motion passed by a unanimous, 5-0 vote. It was 8:30 p.m.

Councilman Dawkins made a motion to go back into open session. Seconded by Mayor Pro Tem Creech, the vote was unanimous, 5-0. The Council reconvened at 9:30 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 Bailey and carried unanimously, 5-0. It was 9:35 p.m.

Submitted by:

Kim Glover, Deputy Town Clerk

Town Council Meeting
November 20, 2006
Page 12 of 12

These minutes were approved at the January 16, 2007 meeting of the Atlantic Beach Town Council.

Tootsie Vinson, Mayor