

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, November 19, 2007**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, November 19, 2007 at 6:00 p.m. in the Council Meeting Room.

Members Present: Mayor Joyce Vinson; Mayor Pro Tem Eddie Dawkins; Council members Jim Bailey, Ruth Barnes, Joe Tarascio and Michael Warren

Members Absent: None

Others Present: Dave Harvell, Town Manager; Derek Taylor, Town Attorney; Marc Schulze, Public Services Director; Landin Holland, Planner Consultant; Jessica Fiester, Planning Director; Allen Smith, Police Chief; A.K. Miller, Deputy Chief; Adam Snyder, Fire Chief; Laura Buda, Tax Collector; Sabrina Simpson, Administration Supervisor; Kelly Nash, Town Clerk.

CALL TO ORDER AND ROLL CALL

Mayor Vinson called the meeting to order at 6:00 p.m.
Kelly Nash, Town Clerk took roll call.

INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Herbert Pate led the assembly in the Invocation and Pledge of Allegiance

APPROVAL OF THE AGENDA

Councilman Dawkins made a motion to excuse Councilman Bailey from the meeting. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 4-0. Motion was carried.

Councilman Dawkins made a motion to approve the Action Agenda as written. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0. Motion was carried.

Councilwoman Barnes made a motion to amend and approve the Consent Agenda to include a donation made to the Town of Atlantic Beach from the Estate of Tom Doe. Motion was seconded by Councilman Dawkins. Vote was unanimous, 4-0. Motion was carried.

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 2007: (FYI Item)

Tax Collector Laura Buda submitted the tax collection report for October, 2007 which showed that \$298,652.71 had been collected. The year-to-date total at the end of June was \$774,398.54.

2. TAX RELEASES FOR OCTOBER, 2007:

Tax releases are submitted for approval totaling \$3,422.64.

3. BUDGET TRANSFERS:

N.C.G.S. Section 159-15 allows the Town's Budget Officer (Town Manager) to make periodic budget transfers from one line item to another within the same fund. While these transfers do not affect the total budget, the statute requires that the Council be notified of the transfers at its next scheduled meeting following the transfers. The following budget transfers were made:

Budget Transfer 1: Transfer of monies in Police Department from Police/Dental Insurance to Police Communications Dental Insurance for the purpose of not enough funds being placed in the line item at the start of the budget year.

Budget Transfer 2: Transfer of monies in Inspections Department from Inspections Salaries to Inspections Contracted Services for the purpose of covering the temporary services while employee is out on medical leave and to cover inspector services due to lack of inspectors.

Budget Transfer 3: Transfer of monies in Administration from Admin./Dental to Finance/Other Insurance; from Finance/Ckg Service Charges, Admin/EAP Program, Admin/Other Insurance and Admin/Equipment Rental to Admin/Advertising; and from Clerk/Health/Life/STD Insurance and Clerk/Printing/Publications to Gov Body/Dental for the purposes of to cover increased insurance premiums over FY06-07; to cover increased employee advertising – increased recruitment base to try to get qualified management level vacancy applications in Inspections and Finance and transfer to cover increased dental reimbursements over historical trend budgeted.

Budget Transfer 4: Transfer of monies in the Police Department from Police/Capital Outlay to Admin/Computers/Small Equipment for the purposes of covering cost of replacement computers for outdated systems presently on hand. \$4,000.00 of this money is a 50% reimbursement from county Emergency Management for the 9-1-1 data recorder that was purchased to replace another outdated system.

Budget Transfer 5: Transfer of monies in Public Services from Public Services/Bldg. Maintenance to Public Services/Capital Outlay for the purposes of to cover tree replacement – 26 foot tree with four foot star, to cover annual Christmas festivities.

4. APPROVAL OF MINUTES: August 20, 2007 Town Council Meeting Minutes.

(Clerk's Note: a copy of the Tax Collection Report, Tax Releases, Budget Transfers and minutes is hereby attached and therefore made a part of these minutes.)

CITIZEN REQUESTS/COMMENTS

Mr. Buddy Cooper – 700 East Fort Macon Rd., Atlantic Beach, NC

Mr. Cooper wanted to thank the Town Council for all the work and efforts that they have put forth throughout their term.

At this time, with no further public comments, Mayor Vinson closed the floor for Public Comments.

PRESENTATIONS

1. PRESENTATION OF PROCLAMATION 07-11-01 – Mayor Vinson

Mayor Vinson took the floor at this time to thank Councilman Joe Tarascio for his years of dedicated service to the Atlantic Beach Planning Board. Mayor Vinson read and presented Proclamation 07-11-01 and a plaque to Councilman Tarascio. Councilman Tarascio thanked everyone for their support and made a challenge to the citizens of Atlantic Beach to “heal” the town.

(Clerk’s Note: A copy of Proclamation 07-11-01 is hereby attached and therefore made a part of these minutes.)

a. DONATION FROM THE TOM DOE ESTATE: Mayor Vinson stated that the Estate of Tom Doe left a donation of \$10,000.00 to the town for the preservation and presentation of the history of Atlantic Beach.

2. UNRESERVED FUND BALANCE/OPTIONS – Town Manager

Town Manager, Dave Harvell gave a presentation on the Unreserved Fund Balance and possible options. Mayor Vinson asked the Town Manager if the current Town Council is leaving the Town with this good fund. The Town Manager confirmed that yes, the current Town Council is leaving the Town with a good fund balance. Councilman Tarascio asked if a high fund balance is maintained, can the Town use the interest from the fund for items needed instead of using taxpayers money. The Town Manager also confirmed that yes that can be done.

(Clerk’s Note: A copy of the Town Manager’s presentation is hereby attached and therefore made a part of these minutes.)

3. FINANCIAL/CASH/INVESTMENT REPORT – Sabrina Simpson

Mrs. Simpson presented the monthly reports for the Finances, Cash and Investments for the month ending October 31, 2007. It was stated that the Unreserved Fund Balance, pending this night’s approval of the requested budget amendment (#2), the June 30, 2008 pre-audited estimated Unreserved Fund Balance in General Fund will be \$2,688,719 or 42.6%. Several notes of interest are: the interest rate for First Citizens checking account remained the same from September to October, at 4.35%. The interest rates for NCCMT investment accounts decreased from 5.33% in September to 5.19% in October. The Water Fund CD for approximately \$1.2 million matured on November 6th. Renewal interest rate on this CD decreased from 5.26% for 180 days to 4.96% for 180 days. The three General Fund CD’s will renew in December, valuing a total of \$2.1 million. Auditors are still working on field work for FY06-07. The audit will be presented to Council upon completion.

(Clerk’s Note: A copy of the Financial Statement, Investment Report and Cash Report are hereby attached and therefore made a part of these minutes.)

4. POLICE DEPARTMENT MONTHLY REPORT – Chief Smith

Chief Smith gave an overview of the Police Departments monthly activities for service for the month of October. The following statistics were presented: 21 Arrests; 37 Reports Initiated; 63 State Citations Issued; 102 Verbal Warnings Issued; 23 Written Warnings Issued; 213 Total 9-1-1 Call received by Dispatch; 1371 Total calls officers responded to; 4929 Total calls received by telephone.

5. FIRE DEPARTMENT MONTHLY REPORT – Chief Snyder:

Chief Snyder gave an overview of the Fire Department’s monthly activities for service for the month of October. The following statistics were presented: 36 Fire Calls; 31 Total EMS calls; 77 Total calls combined, averaging 2.5 calls per day; and a total of 19 Inspections calls. Chief Snyder did state that the Code Red Emergency Warning System has been approved by Carteret County and is now available to all municipalities in Carteret Co.

Councilwoman Barnes made a motion to recognize the arrival of Councilman Bailey at 6:33 p.m.. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0.

6. PLANNING BOARD MONTHLY REPORT – Jessica Fiester, Planning Director:

Planning Director, Jessica Fiester gave an overview of the Planning Board activities for the month of October. She stated that the Town is currently accepting applications for various boards and committees. There is currently work being done on the site development plan by Beach Hut, LLC for the old Jungle Land property. Also Miss Fiester suggested that, in the near future, a joint meeting be held by the incoming Town Council and Planning Board regarding the Unified Development Ordinance and Land Use Plan. She advised that there is landscaping work currently being implemented at the Tom Doe Beach Access and Ice Machine vending areas.

ACTION AGENDA

1. BUDGET AMENDMENTS – Sabrina Simpson

a. Budget Amendment #2 – FY2007-08

Mrs. Simpson advised that the renovations/construction in progress at the Circle property has allowed staff, in October 2007, to transfer the Circle Infrastructure monies to the General Fund. These monies were comprised of the proceeds from the sale of public property to FMB which were held separate from the Unreserved General Fund fund balance in case the Town needed to repurchase the property back from FMB. In order for the Circle Fund to be closed, this amendment to transfer the currently budgeted investment monies (\$1,271,080.40) and interest earned on these investments (\$65,000.00) from the Circle Fund to the General Fund would need to occur. This amendment does not involve appropriation of unreserved fund balance monies but will increase the unreserved fund balance by \$1,336,080.40. She also noted that after including Budget Amendment #2, the estimated pre-audited General Fund Unreserved Fund Balance at June 30, 2008 would increase to \$2,688,719, or 42.6%.

Councilman Bailey made a motion to approve Budget Amendment #2 for FY2007-08. Motion was seconded by Councilman Tarascio. Vote was unanimous, 5-0. Motion was carried.

(Clerk's Note: a copy of Budget Amendment #2 is hereby attached and therefore made a part of these minutes.)

b. Budget Amendment #3 – FY2007-08

Mrs. Simpson advised on Budget Amendment #3 that this would provide for an amendment in General Fund for insurance monies received for reimbursement of vehicle repairs caused by accident involving Fire Department vehicle for \$3,724 and for the replacement of Rescue Randy for \$773.18. This amendment does not involve appropriation on unreserved fund balance monies. She also noted that after including Budget Amendment #3, the estimated pre-audited General Fund Unreserved Fund Balance at June 30, 2008 is \$2,688,719 or 42.6%.

Councilwoman Barnes made a motion to approve Budget Amendment #3. Motion was seconded by Councilman Warren. Vote was unanimous, 5-0. Motion was carried.

(Clerk's Note: a copy of Budget Amendment #3 is hereby attached and therefore made a part of these minutes.)

2. MEMORANDUM OF UNDERSTANDING (Carteret County and Town of Atlantic Beach) – Town Manager:

Town Manager, Dave Harvell explained that Mr. John Yost's, temporary-part-time Building Inspector, last day of employment was November 16, 2007 and in order to maintain an acceptable level of service in this area, he entered into a Memorandum of Understanding with the Carteret County Manager – Mr. John Langdon. He stated that what this does is transfer the building inspection tasking-process to Carteret County and that this agreement is intended to be a temporary measure.

Councilwoman Barnes made a motion to adopt and ratify the Memorandum of Understanding between the Town of Atlantic Beach and Carteret County to temporarily provide building inspection services per the Carteret County fee schedule. Motion was seconded by Councilman Dawkins. Vote was unanimous, 5-0, Motion was carried.

(Clerk's Note: a copy of the Memorandum of Understanding is hereby attached and therefore made a part of these minutes.)

3. PUBLIC HEARING ON PROPOSED RESOLUTION 07-11-01; Resolution To Close A Portion of East Boardwalk – Planning and Fire Departments

Mayor Vinson asked for the public hearing sign-up sheets for Action Item #3.

Jessica Fiester, Planning Director: "Alright, I'll get started. I'm just going to give a brief introduction to this. At the October 15th Town Council meeting, a public hearing was set up on for Resolution 07-11-01, which is a resolution to close a portion of East Boardwalk. We've taken the necessary steps to advertise this properly. I have fielded a high volume of phone calls on this issue. Much higher than normal, I think. Prior to this week or the end of last week, I had only gotten about eleven (11) when I prepared all the packets and in the last week it shot up to somewhere in the mid-20's. I've done my best to just answer the questions of the people that called and inquired about this. I will say the highest questions that were asked of me are, the most common questions that were asked of me were: 1. "Haven't we already been through this before?" Well we've been through something similar to this before. The proposal has been changed quite a bit and that's why it is back before you again. The second question was "Will this affect me or how will this affect me?" And I did my best to simply lay out for the caller the facts and let them make their own decisions on that. Another question that was asked a lot was "Will this affect safety at all?" To answer that, we have asked our fire department to go through and do a study which they will be presenting to you tonight on that issue. And the last question that I heard the most was "How will I be able to get out onto the circle?" And that will be explained to you tonight also. Landin Holland is our planning consultant. He has been with the town for over two (2) years and worked on this issue from the first time the street was asked to be closed. And I'm going to turn this over to him so he can go through and explain some of the changes that were made to the first proposal. And then we'll hand it over to the fire department. Mike Simpson and he'll go through a presentation and will open it up to any questions you might have before we open the public hearing."

Landin Holland, Planning Consultant: "Well, ask Jessica stated, we're here to discuss the Notice of Intent to close East Boardwalk Drive. This is technically, well this is the first time that this issue has gone to public hearing. There has been two (2) former, previous requests to adopt the Notice of Intent to close the street. In neither of those cases was the Notice of Intent adopted by the Council therefore this is the first public hearing regarding this issue. So we're not continuing to hold public hearings. Those were Notices of Intent essentially scheduling a public hearing. The initial request was approximately a year ago. At that point in time, the proposal before the Council was to close East Boardwalk. The request was to close East Boardwalk Drive right here at this line. At that point in time, there was no additional plans to provide access or ingress or egress to that portion of East Boardwalk Drive. And since that point in time there's been several modifications to the plan, the latest of which is to provide a twenty-foot (20') access to East Boardwalk Drive that assuming that the Town decides to accept it, it would be dedicated to the town therefore it would become part of the town's public street system. This is the request. It is before the Council tonight and that the public hearing was scheduled for. Next point, there is that the changes have been made enabling Ocean King, LLC to come before the Council and request that the street be closed. And I think it is important to note tonight that the, this property here is the bulk of which involves the proposed project in the CDD. This property right here is Mr. Herb Corey's property. And I will just note that he is listed on the request to close the street. So, I think that is an important piece of information as well. In the effort leading up to the public hearing, sixty-four (64) letters were sent by certified mail to all individuals that live along East Boardwalk Drive that will be impacted, directly impacted by the street closing. We did receive all but, I believe six, of the certified mail tickets or...back in town hall. Signs were posted at each end, that portion of East Boardwalk Drive and newspapers ads were run for four (4) consecutive weeks per the requirements of North Carolina general statutes. In addition to these efforts, town had asked, the Council had asked the fire department to perform a thorough analysis determining the facts associated with public safety along East Boardwalk Drive and addressing the concerns of how this street closing could potentially impact those citizens in relation to public safety. So at this point, I'm going to turn it over to Mike Simpson and allow him to go through his presentation."

Mike Simpson, Deputy Chief, Atlantic Beach Fire Department: "Mayor, Council. The Atlantic Beach Fire Department has been asked to provide a factual analysis of the proposed right-of-way and subsequent closure of the western end of East Boardwalk also known as 'suicide hill'. This analysis is to determine the accessibility of emergency vehicles in compliance of the North Carolina fire prevention code and all applicable town ordinances. The intent is to provide all parties involved with information to assist in the decision making process concerning this issue. This analysis in no way reflects the opinion or support of the Atlantic Beach Fire Department. During this analysis, we concluded that the proposed twenty-foot (20') right-of-way as described by Mr. Holland would provide acceptable access and egress and

Town Council Meeting

November 19, 2007

Page 6 of 24

operability of emergency vehicles. I'd like to say at this time that it is not the policy of the Atlantic Beach Fire Department to disregard directional movement laws to travel the wrong way on a one-way street except in emergency situations where the flow of traffic has been controlled and opposing end has been, has had clearance and been given to the emergency vehicles. This new proposed right-of-way would increase driver visibility due to greater road width and less of an angle. It would also apply less stress and torque to the larger emergency vehicles. We've enclosed several slides that we took on this. We controlled the access flow of traffic and we used an ambulance, the smaller of our emergency vehicles, to travel up this direction, the area known as 'suicide hill'. Of the complaints and concerns that we heard about the possible closure of this end was 'would the fire department be able to shoot up the hill and get to my house fast enough?' or "could you get down there and still get out and get me to the hospital quick enough?". Ok, again we stated we do not practice the policy of traveling the wrong way up a one-way street and these photos are to illustrate why. This also illustrates why the street is a one-way street because traveling this direction up here obscures the driver's visibility. As you can see, this is the beginning of coming up this hill. This is what you're looking at from an ambulance as you start to crest the hill. Once you reach the crest of the hill, you can see that your visibility is still limited for some distance as you can notice the top of the car in the background."

Unknown audience member: "Are you going the wrong way here?"

Mike Simpson, Deputy Chief, Atlantic Beach Fire Department: "Again, sir, we're addressing the concern...we've heard it mentioned. Good question sir. One of the concerns we had was 'well, we've seen the fire department come up here before coming this direction. If you close this end of the street, fire department can not come up here and get to my house fast enough.' Ok, we're saying that that is not a normal practice of the fire department unless the other end of the street is controlled." *A statement was made from an unknown audience member which was inaudible for recording.* "Exactly or an officer or another firefighter down at the end to make sure that the traffic is clear and safe for us to enter. Again, that is not a normal practice and these photos are to demonstrate the reasons why. In looking at the angle of this, the top angle, the fourteen point seven percent (14.7%) slope is approximately the current existing slope of the 'suicide hill' area. If you look down at the bottom, if the proposed right-of-way were to be installed, you're looking at roughly an eight point three percent (8.3%) slope which is somewhere in the neighborhood of a handicap ramp slope. So for our operations, that is a big decrease in the slope angle. Another concern that was addressed to the fire department was the time delay in response. To address this issue, we conducted several tests on response taking several routes and we concluded that there will be no significant time delay in emergency vehicle travel to or from East Boardwalk Ave. During the first test, we left the fire station, traveled east to Beaufort Ave. We went through one intersection and four (4) stop signs, turned right on East Boardwalk Ave. and traveled to the point where the decline at what is known as 'suicide hill' starts to go down. During that time, we timed that at a minute and thirty-six (36) seconds from the fire station. The second route, we traveled from the fire station down West Dr. on the circle, down Atlantic Blvd. and up the existing East Boardwalk 'suicide hill' route to the same location. So you can see that was a minute and twenty-six (26) seconds. The third trip, we secured the area and traveled the wrong way down East Dr., turned onto East Atlantic Dr. and then simulated the turn up the new proposed right-of-way to the same point which averaged out to approximately a minute and thirty-two (32) seconds. Total time difference between any of the times was ten (10) seconds, not significant enough for us to justify traveling the wrong way up a one-way street. During this test, again, times were obtained through controlled traffic flow. This was around 3:00 p.m. The emergency vehicle had a green light at the main intersection on all timed runs and traffic was minimal. Be important to note that the times, especially around the circle area, would have the potential to increase during peak seasonal traffic. Also, there's currently no room for turnaround for emergency vehicles on East Boardwalk as it currently sits. The proposed right-of-way would create several options for emergency vehicles to redirect in the event of traffic congestion on the circle area or East Dr. In conclusion, the proposed right-of-way and changes to East Boardwalk meet all applicable fire codes and appendices as adopted by town ordinance. Those are North Carolina Fire Code Section 503 and North Carolina Fire Code Appendix D, which was adopted as town ordinance in July of this past year. In reference to that, I have a letter if I may read. This letter is from Mr. Richard Strickland, he is the chief Fire Code Consultant with the Office of the State Fire Marshal's office. This is the person that is my boss when it comes to fire code issues and code interpretation. And I wrote Mr. Strickland concerning this issue and this is the response that we received.

Mr. Strickland's letter: 'Chief Simpson, I have reviewed the letter and other documents that you faxed me on eight (8), twenty-one (21) '07 regarding the proposed closing of East Boardwalk Ave. to allow for the construction of a new multi-story high rise and condominiums. Section 503.1 of the North Carolina State fire code states that fire apparatus access roads shall be provided and maintained in accordance with Sections 503.1.1 through 503.1.3.'

Mike Simpson, Deputy Chief, Atlantic Beach Fire Department: "And I'll explain those in a minute."

Continuation of the reading of Mr. Strickland's letter by Deputy Chief Simpson: 'Section 503.2.5 states that dead end fire apparatus access roads in excess of one hundred fifty feet (150') in length shall be provided with an approved area for turning around fire apparatus. I do not think that the code would require a turnaround of an existing dead-end street constructed prior to the adoption of the fire code. However I am of the opinion in the case where an existing street

Town Council Meeting

November 19, 2007

Page 7 of 24

design is modified or changed creating a dead-end street that the North Carolina state fire code does address this and that you have the authority to require a turnaround in accordance with Section 503.2.5.'

Mike Simpson, Deputy Chief, Atlantic Beach Fire Department: "Now this turnaround would only be required if the dead-end created by closing down that section known as 'suicide hill' would exceed one hundred fifty feet (150'). By the measurements taken from the proposal, it would not exceed that. Therefore no turnaround would be required. Therefore it is correct to say that this proposal would meet the applicable fire codes. In addition, emergency vehicles are discouraged from entering the wrong way on a one-way street unless traffic flow is controlled to ensure safety. And the current degree of angle obscures driver visibility and places excessive stress and torque on larger emergency vehicles. It is important to note that entry onto East Boardwalk by way of Atlantic Blvd. or any other way traveling the wrong way up a one-way street should not be a weighable factor in this decision."

Councilman Joe Tarascio: "Explain that last statement to be sure I understand that that means entry onto East Boardwalk."

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "Mr. Tarascio what we're referring to that is by accessing East Boardwalk by traveling down Atlantic Blvd. or any other direction and going up the 'suicide hill' area the wrong way."

Councilman Joe Tarascio: "That should not be...."

Mike Simpson, Deputy chief – Atlantic Beach Fire Department: "That should not be a weighable factor as the possibility of us using that route to go that direction the wrong way. In other words, we should not break the law."

Mayor Vinson: "Anybody else on the board got anything for him?"

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "Yes sir?"

Councilman Jim Bailey: "Mike, let me ask you something. If this was reversed, if we were closing the proposed new street, green area and going to substituted it with 'suicide hill', would the analysis be the reverse?"

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "That is correct. The analysis would just the opposite. Because the resulting dead-end would in excess of one hundred fifty feet (150') therefore...."

Councilman Jim Bailey: "I mean it would be open. I'm just saying if we were.....lets just say 'suicide hill' didn't exist and we had been going for years down green area if we were going to reverse it and say 'ok, we're going to close the green area and open up suicide hill' what would you be hear telling us?"

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "That the fire code would not apply to that because you are not creating a dead-end."

Councilman Jim Bailey: "It wouldn't matter to ya'll?"

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "No sir. The only contingency there would be that any new road constructed at that point would have to meet current fire codes requirements as far as construction and road width."

Councilwoman Ruth Barnes: "But it wouldn't, as is, it wouldn't."

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "That's correct."

Councilman Jim Bailey: "So what you're saying is this proposal is a non-event as far as ya'll are concerned?"

Mike Simpson, Deputy Chief – Atlantic Beach Fire Department: "What we're saying is that this proposal is an appropriate roadway and is acceptable and it meets all fire code requirements. The actual proposal, I have spoken with Mr. Cooper and his project manager. I think one of the original proposals this, the green section on the map over there, the proposed right-of-way was actually fourteen feet (14') which was unacceptable. Mr. Cooper went back and addressed that issue, the road was widen to the required twenty feet (20') as required by fire code. The road is set to be constructed of an appropriate service capable of handling the weight of our apparatus and the corners of those have been constructed as to accommodate for the turning radius of our largest vehicle."

Mayor Vinson: "We'll ask the audience if they will hold their questions until we get through with the presentation. Are you through? Are you ready to go into a public hearing?"

Derek Taylor, Town Attorney – Taylor & Taylor, PA: "Madam Mayor, before you go into the public hearing if I can have just a minute. This road closure is under a statutory scheme that we must follow in this public hearing. It is unlike others, it has very specific instructions. Under 168-299, the public hearing is for the purposes of hearing from folks out there what detrimental effect will this have on the public interest and what detrimental effect will it be on the property rights of any individual. That's what they will be speaking to and these are the questions that you will be asking of them during the hearing. Upon completion of the hearing and before you can close this road, you must determine to your satisfaction that closing the road will not be contrary to public interest and that no individual owning 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. That means getting to and coming from. Ok, so those are the things that you're looking for to make a determination on after the public hearing. So, if you're not getting your questions answered so you can find those two (2) things please ask those questions during the public hearing. Thank you."

Mayor Vinson: "Um, I would entertain a motion now to go into Public Hearing on closing a portion of East Boardwalk."

Town Council Meeting

November 19, 2007

Page 8 of 24

Mayor Pro Tem Eddie Dawkins: "So moved."

Mayor Vinson: "Got a motion, second?"

Councilmember Joe Tarascio: "Second."

Mayor Vinson: "Any other thing from the board? All in favor? We're not into a Public Hearing. Ok, each one as you're called I would ask you to please, if you can limit it to three (3) minutes. We have quite a number of names. We also have four (4) other public hearings tonight. So, if you could go ahead and state what you want to. Want everybody to talk. Want you to say everything you need to say. Mr. Joe Goodson. Everybody come to the front, state your name and your address."

Joe Goodson: "Mayor, is it too loud?"

Mayor Vinson: "No sir. You're fine."

Joe Goodson: "Mayor, members of the Council. I'm delighted to come here and speak tonight. And I am opposed of all of that verbal mess I have just listened to. I call it verbal garbage, but I'm trying to be polite because I think that Joe Tarascio brought it out. We all need to cooperate and stop this mess that's been going on for months and years in Atlantic Beach City councils. First of all, I want to make a correction. I heard a comment made at one of the last meetings we had of Mr. Jim Bailey, my friend sitting over here that our group was known as anti-development. Well, there's always a need for good development. We are not anti-development. We are for controlled development and right now Atlantic Beach is totaling uncontrolled. I have nothing against condominiums, but I don't believe we ought to have one (1) on every piece of ground that is left in Atlantic Beach. Sorry 'bout that Jim. You're a good man. My purpose tonight is to speak about a concept of East Boardwalk relocation. As you know, the proposal has been turned down many times, but for some reason it continues to keep coming back. And I hate to say it, because he's my friend too, Brother Cooper over there refuses to listen to the will of the public. And he continues to bring it forward because of a condo he wants to build. Well he built it with a pencil and he can change it with a pencil. It doesn't need to be on every square inch of the property which he has a half of block. If you can't build a condo on a half a block of land you don't need to build it. The resolution would definitely be a hardship on the residents of East Boardwalk. As I said many, many times before we have cited the follie of this proposal and it will still be a detriment to the service of fire department, police department, rescue service. I can't help, but the fire department said tonight. I respect you gentlemen. I think you're wonderful. You did a good job on some of it and some of it I don't think you did so good. I'm being blunt with you. But I don't have time to tell ya all about what I really think at this meeting 'cause we have to move along."

Mayor Vinson: "Yes, you have Mr. Goodson. You've talked three (3). Gonna give ya another minute or two, ok? We have a lot of people."

Joe Goodson: "I'll jump right on it. First of all, East Boardwalk is a hurricane route for us to get out of there in the event of a hurricane. My main purpose here tonight, and I'll get right on it with respect to you Mayor is a document that I have that we went and looked up. Was written September the eighth (8th), 1937, book 86, page 335. Counsel, write that down. Book 86, page 335. This indenture made the 17th day of August, 1937 by Atlantic and Bridge Company, Inc. organized under the existing laws of the State of North Carolina party of the first part to the Town of Atlantic Beach, a Municipal Corporation of the State of North Carolina, party to the second part. Witness that is consideration of the sum of one (1) dollar in hand paid to the party of the first part and said part of the second part and said party of the first part does hereby give and grant unto said party of the second part a permanent assessment, I'm sorry, a permanent easement. Now this is permanent, that's not just something temporary. The right of way and the width of fourteen feet (14') across the property of the party of the first part connecting, listen, this is connecting, Counsel, East Drive and Highway Circle and the fourteen foot (14') alley through block E, that's our block, for the purpose of connecting up said alley with the Highway Circle, that's what it was known at the time, on which said right of way is now constructed a share road which is to be proposed, um paved, um, in the future. I won't read the rest of it, but this is signed by Atlantic Beach and Bridge Company, Mr. W. P. Dunn, Jr. President of the Corporation. It is witnessed by Mr. J. Newman Willis, Assistant Secretary. That road cannot be closed to start with, Buddy. Wake up. I hope so. I like ya. You're a good man. I have nothing but compliments. Ah, I'm winding up right now Mayor. Quick as I can. The other thing is, I resent grossly, Buddy Cooper's coinage of the words "Suicide Hill". I've been down here since 1935 and nobody ever heard of 'Suicide Hill'. It's something that you've dreamed up to make our street sound terrible and I don't like it. First of all, there's nobody been killed. Nobody's been hurt. We had a few kids to fall down and scrap their knee, but do that in the backyard anyway. So, Buddy, get off the 'Suicide Hill' bit. I hope what I've said here will be taken seriously and this Board, uh, Council will turn this proposal down. Thank you Ma'am."

Mayor Vinson: "Thank you, Mr. Goodson. Mr. Archer."

Harry Archer: "Hello, Jim, Mayor, distinguished Commissioners, due to circumstances beyond the taxpayers control."

Mayor Vinson: "Mr. Archer, repeat your name and address."

Harry Archer: "Oh yes, thank you very much. I'm Harry Archer, 411 West Boardwalk, Atlantic Beach, 28512. Due to circumstances beyond the control of the individual taxpayer, who was a former resident here approximately a year ago, he called on us and I read this letter to the Council and to request that it be inclusive into the Public Hearing as a public

Town Council Meeting

November 19, 2007

Page 9 of 24

record of public document. 'Town of Atlantic Beach, 125 West Fort Macon Road, Atlantic Beach, 28512. Attention Jessica S. Fiester, MPA, Director of Planning and Zoning. Dear Ms. Fiester, I am writing to you regarding the proposed closing or rerouting of the west end of East Boardwalk. I own a house at 201 East Boardwalk Drive, the corner of East Boardwalk and Beaufort Avenue and was a year long resident at that address until late last year. I cannot see any benefit to any property owners on East Boardwalk or East Atlantic from closing and/or rerouting East Boardwalk. I attended the last public hearing for proposed closing of East Boardwalk and heard the applicant, Mr. Cooper, state that he had spoken with the Fire Chief and the Chief of Police and that they did not see any problems arising from the street closure. However, I have not heard the fire or police chief say that they approved of the street closure in a public hearing. I will be surprised if either the fire or the police chief have anything good to say about backing fire trucks or emergency vehicles several hundred feet on a very narrow street. I would hate to see two garbage trucks and a recycle truck backing out of the street every week during the summer with the cottages and parking all full. Unfortunately, I have to be out of town tonight and I can't personally attend the public hearing to express my concern for the proposed closing or rerouting of East Boardwalk. Please accept this letter as my comment against this street closure and if a vote takes place tonight, let's hope that common sense prevails. Yours truly, Dewey L. Bordeau. And in as much as you have been addressed before earlier by Commissioner then I will say to this group of concerned and dedicated citizens, of citizens, you look pretty healthy and I believe you've healed a lot. Thank you."

Mayor Vinson: "Thank you, sir. Uh, John, how do you say your last name? John S-c-h-l-i-e. Not me."

John Schlie: "My name is John Schlie. 309 East Boardwalk. I've been in the fire service since 1984. As far as the Chief was asked, the questions that he was asked, he gave answers to that were just factual. They weren't his feelings on it, I don't think. I know from personal experience it is never a good idea to have a fire down a dead-end street. You've got down there, all this equipment in there, if you have to re-setup, you've got problems getting things moved. If you've got an ambulance, people behind it, you can't get out. You're wasting precious time. You have a lot of dead-end streets here that were built way back. I don't think you need to add to them. Time is of the essence in an emergency and it's not a good idea to bottle all that equipment up and then try to get it out of there. If you get a second call, it takes time to get your trucks out to go to the second call after you've got the first one under control. I think it's a mistake for the safety of the people here even if the people down there at the end of the closure say, 'it's fine with us', property changes hand. He may be willing to risk his life down there, but the new owners may not. I don't think it's a good policy to make dead-end streets out of through streets. It's not good policy to close public highways for the benefit of someone to make a profit. If his people need to get from his parking lot to his condo, I think the town can put a crosswalk in there or he could build a bridge over it. But from a safety standpoint, I do not think it's a good idea to make a dead-end street. That's all I've got to say. Thank you."

Mayor Vinson: "Thank you, sir. Brenda that belongs to him. I could say 'Schlie', right? Thank you."

Brenda Schlie: "I had to learn too. There's not very many of them. I'm Brenda Schlie and I'm from 309 East Boardwalk. Also Catawba County. Being from the western part of the state, and it's a wonderful state ya'll, I don't believe that if I had known back in the seventies, whenever we were looking at property in this area. I don't believe I would have chosen this area if I'd thought it was going to be 'condo city'. I would have gone to Myrtle Beach for that. I think this a beautiful town and I've loved it from the first time I saw it. I just want to keep it somewhat that way. No, I am not opposed to development, but I am into controlled development. I think that's the way to go. Thank you for your time. I appreciate all that you have done. The fire chief and the police chief, thank you for what you do. You have a thankless job. Thank you."

Mayor Vinson: "Thank you, Brenda. Mrs. Abbitt."

Katherine Abbitt: "I'm Katherine Abbitt from 314 East Boardwalk and I challenged Mr. Cooper a couple of months ago and by the way, I will give you a copy of what you've been after. I have sent out two (2) letters to the people living on East Boardwalk and East Atlantic because as far as I was concerned they are the only ones that should be or were concerned in this. I have over a hundred and fifty (150) signatures for both letters plus I'm sure you got right many today. As far as I'm concerned, I think Mr. Cooper's idea and unfortunately the fire, as far as I know from school. That's two (2) ninety degree angles and they are far more dangerous than going straight. If you go down that way at five o'clock (5:00) in the afternoon with the sun in your eyes, people are used to this, people are not used to that. There are quite a few of us that are elderly, of which I am there, that have been on Atlantic Beach for a very, very long time. To me, when we get in a mess, like a hurricane, the only way I can get out is to go that way. I cannot get on Fort Macon Boulevard neither can anybody else there because the flow of traffic is constant and steady. I have to go where there is a stop light. Mr. Cooper's desire to make money, I think he can work something else out rather than inconveniencing two (2) whole streets, people that have been here for forty five (45) or fifty (50) years that can remember when they were putting down oyster shells to make a street and a road. It's been there a long time, don't tear it up. Thank you."

Mayor Vinson: "Thank you, Mrs. Abbitt. Mrs. Abbitt"

Derek Taylor, Town Attorney: "Mrs. Abbitt."

Mayor Vinson: "Mrs. Abbitt. Do you want to turn in your name.."

Town Council Meeting

November 19, 2007

Page 10 of 24

Derek Taylor, Town Attorney: "Did you want to turn in those names?"

Mrs. Abbitt: "If anybody needs or wants them."

Derek Taylor, Town Attorney: "Well, it's up to you whether you want them to consider them"

Mayor Vinson: "If you want to make them part of the record, you need to turn them in and if don't, that's fine."

Mrs. Abbitt: "I've got two (2) letters. Therefore I have two (2) sections of , they'll identify it."

Mayor Vinson: "Oh, ok, we'll make them part of the record."

Councilmember Joe Tarascio: "Do you have your own copy of those?"

Mrs. Abbitt: "Um, I think so. I think so."

Mayor Vinson: "Well, if you don't you can see.....ok"

Mrs. Abbitt: "These are the two (2) letters that I sent which should be..."

Mayor Vinson: "Ok, you want to make that part of the record?"

Mrs. Abbitt: "I think so, cause that's all I did and that's all I said, so..."

Mayor Vinson: "Ok, yes ma'am"

Mrs. Abbitt: "You may have any of this that you need."

Mayor Vinson: "Ok, we'll take it for the record. Let me have those letters separately."

At this time, the gavel was struck to bring order to the room and the meeting continued.

Derek Taylor, Town Attorney: "Mrs. Abbitt, I'm sorry, but we can't let you off the hook yet. If you'll come forward a Councilman has a question for ya."

Mayor Vinson: "He has..."

Derek Taylor, Town Attorney: "Come back over to the microphone where he can hear ya."

Mrs. Abbitt: "Sure."

Councilmember Jim Bailey: "I just want to make sure I understood something. The, what you have us or something, if you say you had a hundred and fifty (150) signatures opposing this, these weren't just the letters you wrote, these are letters from people opposing it?"

Mrs. Abbitt: "No, no. That's why I gave you a copy of the letter and it had on the bottom 'Please return' and I even included a stamped envelope or addressed envelope. You'll know what you've got."

Councilmember Jim Bailey: "I just want to make sure of what we have. I haven't seen it yet."

Mrs. Abbitt: "I didn't show it to many people. You don't live on my street."

Mayor Vinson: "Ok, thank you. Mrs. Abbitt. Bob Woodard. Bob Woodard."

Derek Taylor: "Madam Mayor, if I may, if any of the Council people would like to look at these letters during this hearing process they are free to do so. If you want to examine it, it's not a secret."

Bobby Woodard: "I'm Bobby Woodard, my wife, Grazelle and I live at 124 East Boardwalk or have a cottage there. I have questions. I don't know who they should be...(part of statement lost due to change over of tape)...and with the new proposal will the, will the street become private?"

Mayor Vinson: "Will the street what"

Bobby Woodard: "Yes, it there was an issue upfront if it would close then East Boardwalk would become a private street?"

Buddy Cooper: "The orange part?"

Bobby Woodard: "Ah, no, the green part that..."

Buddy Cooper: "That would be dedicated and dedeed to the town."

Bobby Woodard: "Ok, and the green part that we live on now would not become private?"

Buddy Cooper: "Nothing would change."

Bobby Woodard: "Ok, which means that it would still be paved and cared for by the city."

Mayor Vinson: "It would be a public street."

Councilmember Joe Tarascio: "Sir, there is a portion of that road that does become a dead-end."

Councilmember Ruth Barnes: "The orange."

Bobby Woodard: "Yes, I understand."

Councilmember Joe Tarascio: "I heard you say something about it wasn't a dead-end. I just wanted to..."

Bobby Woodard: "Right, well from my point of view. I'm at the other end of East Boardwalk so it doesn't become a dead-end for me. I understand the guy in the, um, the gray duplex would like to have a dead-end so he can use it that parking."

Councilmember Jim Bailey: "That part would become private though, right? The orange?"

Mayor Vinson: "Right, the orange part"

Bobby Woodard: "That's what he would like to use for parking I guess. At any rate, I oppose it. Thank you."

Mayor Vinson: "Thank you, sir. Mrs. Woodard. Mr. Floyd Bledsoe."

Floyd Bledsoe: "My name is Floyd Bledsoe. I live at 127 East Atlantic Boulevard and, um, I'll say upfront, I oppose closing it or diverting it, ah, East, ah East Boardwalk. As you can see it cuts into East Atlantic Boulevard which right

Town Council Meeting

November 19, 2007

Page 11 of 24

now, it is a one-way street. But it looks awful wide to me. Ah, what I'm afraid of, from this point of view, is once all this building, ah congestion will occur down at the stop light. Then the next move is to make East Atlantic Boulevard a two-way street, which will take up just about all of our parking area, what we've lived with for years and years and years, what has been there for years. If you take the right-of-way or easement from that street over to the limits of it, which I believe is twenty five feet (25') on either side. Is that correct? Somebody can tell me. Fifty foot (50'). Right, twenty five foot (25'), either side of center. Which, ah, it would change a lot of people's lives and I just see the handwriting on the wall. You give an inch, you take a mile. Now the other thing that bothers me. Everyone is saying what detriment is. I haven't heard anyone say how this improves Atlantic Beach for the people who live here now and the people that are to come (applause). I haven't heard one word of how it improves our livelihood here. What does it do for us? What does it do for the future? I don't know. I have asked the question and I haven't gotten an answer yet from this Board and you know what I'm going to ask. Right, I've kept hearing 'family beach' ever since all of this started and all I can see is there possibility of moving more families on the beach. And I've not seen anything of the condos or the routing of, ah, any of the construction going on as to how it makes it more of a family beach unless you're trying to get more families on the beach or near the beach with nothing for them to do except sit and look at the beach or tickle their feet in the water. That's all I can see unless you put a lot of malls and some theaters to keep them entertained. But I would like to hear something positive about of how the building is going to affect us. So far, I haven't heard that. I'm still looking for that picture of that family beach. Thank you."

Mayor Vinson: "Maybe the next Board can give it to you. Thank you, Mr. Bledsoe. Mr. Buddy Cooper. Do you have your stopwatch? You got your stopwatch?"

Buddy Cooper: "No, I do have a great deal of trepidation."

Mayor Vinson: "Ok, please state your name and address, please."

Buddy Cooper: "Buddy Cooper, 700 East Fort Macon Road, Atlantic Beach. Um, I'll try to respond to some of the statements that were made. But I must say that a lot of the statements were made, um, as if the fire department's presentation had not been listened to. Somehow this thing has gotten into a Buddy Cooper issue. It's not a Buddy Cooper issue, it never should have been a Buddy Cooper issue. This proposed project is owned by Ocean King. Limited Liability Corporation of which there are thirteen (13) members. I'm one of the thirteen (13), fourteen (14) if you count my IRA's got a little piece of it. I'm not a majority owner. I own less than fifty percent (50%). I own less than thirty percent (30%). Why it has become a Buddy Cooper issue I don't know. I thought I kept a low profile. It, ah, frankly, it hasn't, it's not longer a development issue. It has become a safety issue. After a couple of months ago, I had a meeting with fire deputy chief Simpson, Councilman Jim Bailey and Landin Holland of the Planning Department and the objections to our proposal as it existed at that time were enumerated. They included, um, we had some parking spaces that were angled and the people would have to park, back out of those parking spaces into the flow of traffic. We didn't need those parking spaces. We were putting them there for the general public. We said 'fine, we won't put the parking spaces there'. There was concern that the width of the proposed new route was fourteen feet (14'). That was simply arrived at because the existing route was fourteen feet (14'). Fire department said twenty feet (20') is what we need. We said fine, we'll make it twenty feet (20'). The fire department expressed some concern about the tightness of the corners. We got the specifications from their largest truck and the corners were, the radii of the various corners were expanded to as large as they could possibly be expanded and they actually exceed the requirements of that truck. Um, I understand from the fire department and anything I say of course the fire department can say that I misunderstood something. But I understand that the strain of equipment going up 'suicide hill' is great. The strain on the equipment, that they've actually had a fire truck break going up a hill similar to 'suicide hill'. Incidentally, I didn't coin the phrase 'suicide hill', when my children were four (4) and six (6) years old, skateboarding down there. That's what everybody called it then. The, Jim I'll answer a question that Chief Simpson, ah, Deputy Chief Simpson did not know. You asked if the situation were reversed and you were closing the green area and opening the orange area it might meet that particular section of the fire code that Mike was talking about but it would not meet the required specification for a street of the state building code. Ah, Mrs. Albritton presented a petition she said signed by one hundred fifty (150) people. We contacted her and asked if we could have the names of those people so that we could ask them if they were fully informed and apprised of our proposal of if they were signing something partially in ignorance or perhaps by misdirection. We were denied access to those names and I think that at the very least cast a shadow of doubt on the validity of that petition. The police chief that was mentioned was not Allen Smith, it was Scott Kilpatrick. Ah, I believe I recall someone in the fire department saying that a fire truck could not be staged on 'suicide hill' so as to fight a fire. But it could be staged on this new, our proposed route. It should be clear to everybody that this proposed route is better. Its, the incline is less, it's wider, it's adequate in every way. It provides better egress from the people that need to get off East Boardwalk. It makes the property owners and residents of East Boardwalk safer. As Landin pointed out, it would allow us to continue the, ah, brick sidewalk and tree planting around that corner which would improve the esthetics of the town. It would make, ah, continue the appearance of the CDD altogether. Incidentally, there's been some, some things said tonight about building condos. The CDD was created before we started this project. The CDD was created to say 'let's build some condos'. The gentleman

Town Council Meeting

November 19, 2007

Page 12 of 24

said that the traffic being routed down Atlantic Blvd. in that green, as wide as it may look is...I colored that myself and I colored it to the marks made by the surveyors so that the asphalt that is painted green. The number of cars wouldn't be increased at all. There would be no more congestion at the traffic light than there is now. I just want to make sure I haven't overlooked anything. We have two (2) alternatives which we consider and which we're...frankly not good. One alternative would be to bring a lawsuit against the Town of Atlantic Beach and all the residents and property owners of East Boardwalk to remove a cloud on our title, in essence to declare this so-called easement invalid. And there are problems with that easement. The description mainly is a problem. We think it would be an "ify" lawsuit. It would be on both sides and it would take time. And so that's just not a good side. We don't want to sue the Town of Atlantic Beach. I don't want to sue the Town of Atlantic Beach. There might be a member or two of the audience that I'd be willing to sue, but I don't want to sue the Town of Atlantic Beach."

Mayor Vinson: "We need to keep this under control."

Buddy Cooper: "Our other alternative would be to candeliver over the street which would allow pedestrians, bicycles, skateboarders and individual vehicles to pass under that corner of the building but the emergency vehicles would not be able to get under there. So that's even worse than what we've got now. It's clear to me that this proposal would create a safer condition than what we have now. And I'll remind you of what Thomas Jefferson said, I tried to find my barletts today, I couldn't find them so this is not a direct quote. But he said...our elected officials are not set to the seat of government to exercise our judgment. We send them to the seat of government to exercise their judgment. And I'll ask ya'll to exercise your judgment and do what is right for the Town of Atlantic Beach and that is to accept this proposal. Thank you very much."

Mayor Vinson: "Thank you. Mr. Blades."

Andrew Blades: "Madam Mayor, Councilmembers. My name is Andy Blades and I live at the end of the first block East of where all this dispute is going on, right at the corner of East Boardwalk and Beaufort Ave. And, um, I'm really amazed about how much Buddy is concerned about our welfare. He's, um, he started this issue awhile back, ah, forming LLC's for the man up the street who just moved in. A man, who just in a very short while after moving, I guess decided he wanted more parking. That's the trade-off, isn't it Buddy? So he gets parking, Buddy, with this new LLC purchases land on the other side of the street, now he has, um, opportunity to see us if he wishes, if he can. That's what he's trying to do, it's a taking. I'd just like to get it straight that we understand what's going on and I don't think you're taking care of our health. This 'suicide hill' was coined 'suicide hill' by skateboarders. It's sort of a passage of rite and I don't think it should be taken too seriously. Certainly history says volumes here. It hasn't got a history of accidents, so maybe skinned knees, maybe beat up skateboards, but none of this, "suicide" hill that is trying to be referred to. This new proposal here has a lot of new issues that haven't been, um, thoroughly looked at. First of all, it has been brought to our attention that there's a right turn and a left turn. Pretty hard right and a pretty hard left. Now, um, East Atlantic there, though it looks wide right there, if you go down along side Mary Margaret's house, you're going to find that's street all but non-existent. It's looks about twelve (12), fourteen (14) feet wide. As you're taking that left turn, have to remember East Boardwalk is a one way and this is an egress, egress for the people that live on the oceanfront. So, we're taking a hard right here and cruising down this street and we take another hard turn, a left, but now we're dealing with another egress, one-way egress, which is East Atlantic. Now, no sooner do we take a left there, but that, there is a potential, you have to remember Fred Bunn is building something on the north side of the street. We haven't seen it yet, we've seen pictures of it, but he's building a little community on the far side of the street that may very well access into it. Now, we're talking about a street that's no wider, than say from here to that wood over there. So we're taking a hard left and now we're dealing with Fred Bunn's development on the far side and as we take a turn and we go a couple of feet up we're going to be dealing with potentially Buddy Cooper's, Buddy Cooper's development on the left side. We have a parking lot on one side and a development on the other side. Now this our egress, this is what we're going to be doing day and day out, going in, going out. We're going to be making this loop. You already take a loop off of the light, go up, um, Beaufort Ave or whatever and then we're cruising back down and to get down, we're gonna have to, we're being run through a maze. Now the shortest distance from our street to, um to Atlantic Blvd. was recognized many years ago and that's what we've got now. It's in place, it's worked beautifully. If it ain't broke, why fix it? Thank you."

Mayor Vinson: "Thank you Mr. Blades. Mr. Phil Moore, Jr."

Phil Moore: "Mrs. Mayor and Council, my name is Phil Moore. I'm a permanent resident of Atlantic Beach now. I've changed my reservation, my residence permanently because I spend more time here than I do in Greenville and I figured I would benefit better by being a voting member of Atlantic Beach, than Greenville."

Mayor Vinson: "Would you state your address, please."

Phil Moore: "My address is 109 East Atlantic Blvd, Atlantic Beach. I think I can speak loud enough that I can walk over there and still make ya'll be able to here me. I want to point out one thing. Until today, on a sketch we had, this piece of property here was butted up against Mary Margaret's property. From what I saw today for the first time, there was a five foot (5') section put in there to be a landscaped area. There's been no mention of what this section in between is. But I also noticed from what, ah, Andy Blades said what Mr. Bunn is proposing over here is the entrance into a parking area."

Town Council Meeting

November 19, 2007

Page 13 of 24

There's a restaurant shown to be built up here and some small residential places with a parking area here that's got about sixteen (16) parking spaces in it. So at this intersection here, you're gonna have people coming in and out of that parking lot. You're gonna have people coming down East Atlantic Blvd. You're going to have people coming in from here and you're going to have nothing but pure traffic jam right there in that section. This a little deviation from it, but it impinges on it. On page U6 of Mr. Bunn's blueprints for the utility's work being done, ah, it needs to be corrected because East Atlantic Blvd, is incorrectly labeled Terminal and Terminal is over where East Atlantic Blvd. is. The two are...and they're engineering prints, but they just got named wrong. So that needs to be something that has been corrected. My family has been associated with Atlantic Beach since 1934 when my father built the house that we live in permanently now to give a place for my mother and me to my aunt and her two (2) children to come down and stay cool when we had no fans and no air conditioning and all the men were going off on all the tobacco markets, all spring and summer and fall and we were left home with nothing to do except burn up. So I had been associated since I was seven (7) years old, when that house was built and at the time it was built, it was built totally in my mother's name and when I was nine (9) years old, she deeded her, half of her interest in it to me and up until the time about four (4) years or five (5) years before she deceased, I got her to deed sixteen percent (16%) of her own, of the total ownership to my three (3) children and two (2%) to my wife and I so that we could have control of the house for our lifetime. We've tried to do everything we could to make a nice appearing house. It looked horrible for a long time but it was because we were doing all the work ourselves. But I do want the traffic issue to have some easement done to it."

Mayor Vinson: "Thank you. Tiffany Woodard."

Tiffany Woodard: "Tiffany Woodard. 308 Club Colony. I am here this evening to protest the closing of East Boardwalk Ave. The families who live on this street do not want it closed. I believe that it will put an undo burden on the fire and rescue despite what I've heard tonight. Not that I am ignoring it, but I do believe that, I believe fire trucks turning at ninety (90) degree angles on those narrow streets are going to problematic. Um, furthermore, I feel that it's wrong for one man or one company to request, that one man's request or one man's company's request could affect the quality of life for so many others. I ask that once again you reject the request to close that street and require signatures of at least half the residents of the street before it can be, the request can be heard again. We live in a democracy and the will of the majority of the citizens and property owners of this town should be upheld over any developer or any other citizen. The citizens of this town, rightly or wrongly, feel betrayed by the high rise development that has been allowed to run rampant. There, you think right...I'm sorry?"

Councilmember Ruth Barnes: "I said, and we did this? I mean, I haven't even been on the...."

Tiffany Woodard: "Hang on."

Councilmember Ruth Barnes: "I mean I didn't go the CDD. I did not even approve the CDD."

Tiffany Woodard: "Ma'am, you're not even suppose to address me while I'm making my statement."

Councilmember Ruth Barnes: "Excuse me. Give her an extra second."

Mayor Vinson: "She takes it anyway, go ahead. Go ahead, you've got...go ahead."

Tiffany Woodard: "I take it anyway, Tootsie."

Mayor Vinson: "I said you take it anyway. Everybody else has tonight. I haven't cut anybody off."

Tiffany Woodard: "Again, I reiterate what good is this doing for the citizens of this town? It's not doing anything. It's just helping one person's development. One development and one development only and if the citizens don't want it, it should not happen. Thank you very much."

Mayor Vinson: "Mary Margaret. Mary Margaret. There you are. I didn't even see you."

Mary Margaret Morton: "I'm Mary Margaret Morton. I live at 107 East Boardwalk. This, um, proposed new road. I'm directly adjacent to it and it would definitely be detrimental to my quality of life with all the traffic right there, congestion of traffic in front of my house, beside my house, behind my house. The noise, um, as it is now, everybody just goes straight down the hill. An easy thoroughfare, no turns. Um, I've lived up there a long time. I've owned it twenty three (23) years and I've never seen anybody get hurt on that hill. And I have a good, I live right at it everyday. Um, it would just be detrimental to me and my lifestyle and I'm sort of nervous, but I'm cold too so I'm sort of shaking. And I definitely oppose this and I appreciate you listening."

Mayor Vinson: "Thank you, Mary Margaret."

(Clerk's note: A female member of the audience spoke at this time, but due to the individual not being at a microphone, the statements made were inaudible for recording.)

Mayor Vinson: "Ok, would the board agree for her to be heard?"

Councilmember Mike Warren: "That's fine."

Councilmember Ruth Barnes: "Fine."

Mayor Vinson: "Yes, ma'am. You may come on up now and state your name and your address, please."

Councilmember Joe Tarascio: "Is there anybody else that might want to?"

Town Council Meeting

November 19, 2007

Page 14 of 24

Mayor Vinson: "If you would just come right up here and sign this paper for me. Ma'am, you're going to have to come sign the paper, then go to the podium and state your name and your address and then if you want to point something out you can, ok?"

Councilmember Jim Bailey: "Please watch your step."

Mayor Vinson: "That's a big step there. Ok, well you be careful. Ok, well you be careful, ok? This is Nell Leigh Hayes. Ok. State your name and your address."

Nell Leigh Hayes: "My name is Nell Leigh Hayes. Um, my, I am, I own one quarter interest with the rest of my family of 106 East Boardwalk. The clarification I ask for right now is the address."

(Clerk's note: at this time, Mrs. Hayes stepped away from the microphone and the rest of her statement was inaudible for recording.)

Derek Taylor, Town Attorney: "I'm sorry to call you by your first name, but that's all I could. Here's a pointer for you, if you want to point to things while you're talking over there. You're wearing a hard disk so I presume you know how to operate a laser pointer."

Nell Leigh Hayes: "Actually, I don't use pointers. They're not allowed in school. Thank you. I need to know the add.... Look, I'm shaking too, Mary Margaret. Right there. Tell me what that address is, please, please, someone."

Mayor Pro Tem Eddie Dawkins: "You'll have to ask Landin that."

Nell Leigh Hayes: "I mean, I'm looking at it, this is either Barbara's cottage or it's my cottage."

(Clerk's note: At this point of the public hearing, due to Mr. Holland not being at a microphone, some of his statements were inaudible for recording.)

Landin Holland, Planning Consultant: "Ma'am, correct me if I'm misspeaking. But I believe that the street closing would occur right at the duplex property line. So that..."

Nell Leigh Hayes: "All right, well there. Alright, what's this? What...there's two (2) structures here, right?"

Landin Holland, Planning Consultant: "It...I though it was my understanding that...(inaudible) at the duplex..."

Dave Harvell, Town Manager: "Let Mr. Cooper answer that, Landin. Landin..."

Nell Leigh Hayes: "I need to know what...yea, so you're putting an intersection...your proposal puts an intersection right at my driveway. Yes, puts an intersection right at my...look, this house was purchased by my family in 1979 and we would not have purchased a cottage at an intersection. We don't want a cottage at an intersection. Now this cottage, the duplex that was built at an intersection. So, why in the world would the person who bought the cottage, built the cottage, at an intersection be allowed to change now his to not exist at an intersection while imposing an intersection on me? I mean I think that's dead wrong."

Mayor Vinson: "Ok, we skip way down the page. James Newman Willis, the third. "Cuse me. Ya'll see where he signed to make sure he was the last one?"

James Willis: "James Newman Willis, the Third. 104 Atlantic Beach Causeway. Speaking for the defense of East Atlantic Ave, alley, whatever you want to call it. I don't think exactly like the rest of you do. This is going to be a little different, cause remember I was raised here in the thirty's (30's) when no one else was over here and I was kind of unrestrained there for awhile. I have a brief question to ask you all at first. It may wind things up right now. Why is it that a positive response tonight, the adoption of Resolution 07-11-01 would merely result in another public hearing on the 10th of December on this very same issue?"

Derek Taylor, Town Attorney: "Your point is well taken and it has been corrected. There is actually an Order here that you can look at that would be the act that they would take."

James Willis: "So you've changed this completely? In other words, the resolution of intent was going to call for another public hearing on the same issue next month. You see why I'm concerned a little bit. I'm tired of coming to them. I know you must be too, Buddy. Ah, let's see here, this has been changed here to ah, if I can find it, well, looks like, well that's enough reason right there to table everything, isn't it Joe? I mean the whole issue has been changed. I'll go ahead and speak on the topic I was going to speak on. There are two (2) easements here that are in question. They're preceding one by statue, the, um, the easement on the, ah, East Boardwalk alley. A, um, easement required by the map being recorded in the court house and the lot sold and all that. It's called an implied easement. Then there's another one as you go down the hill called an express easement and it was given by the developer to the town. Joe Goodson has read. And LLC, Ocean King, LLC and Mr. Corey that want to do away with those. They want ya'll to give the easements back so to speak. Abolish those and let them have unencumbered land. You know, if the town gives those up, the town will be a trespasser on that land from then on. You realize that? We won't have any right to have anything on that land. The person who should have been addressing everything tonight is sitting right here conspicuous for his absence. Right here before us. And he knows who he is, Marc Schulze. You've got a water main running down the middle of that street. Two (2) manholes there. You've got a fire hydrant on it. Oh, that's going have to be removed. Oh, that's infrastructure, cause they don't want that under the building, you know that Eddie. Have to move that to this green area. That'll have to be moved around. You've got electric utilities there, going have to move out the way of this new, um, relocated road plus that. Buddy wants to give you a deed to a hole. Somebody has got to fill that hole in there. Where's the deed? I

Town Council Meeting

November 19, 2007

Page 15 of 24

haven't seen any deed laying out here, um, for it. Where's the contract for doing anything? Well, Ruth, who's going to be paying for this stuff if you've got to relocate these utilities, got to fill in this hole, compact that and it's fourteen and a half feet (14 ½') away from Mary Margaret's plus another twenty feet (20') plus you got to have a shoulder there. Somebody's got to tear the end of that building down before you can build this. Got to build it, compact it and pave it at someone's expense, then all that water's gonna be rushing down East Atlantic every time it rains to wash out the North end of East Atlantic and wash all that stuff over there on Fred. Alright, now Fred, you got a contract with him and Fred got his deed from the state. You've got no contract with Buddy here and you've got no deed from him. Looking back on the past issue of Atlantic Beach I can just see this. The developer makes a profit and the taxpayers of Atlantic Beach pay the bills and it's wrong."

Mayor Vinson: "Thank you. Ok that was the last name on the list. So if I could have a motion from one of the Councilman to please go out of public hearing."

Councilmember Joe Tarascio: "So moved."

Councilmember Mike Warren: "Second."

Mayor Vinson: "Any other discussion by the board? All in favor. Motion's carried. We're out of public hearing."

Councilmember Joe Tarascio: "Derek, I have a question for you. Ah, being that Mr. Cooper has expressed the opinion that I cannot be fair with him, ah, basically expressed it in writing. Is there any legal basis for me to recuse myself from this vote? I'm prepared to vote, but I'd like to give him that option."

Derek Taylor, Town Attorney: "No, you can't be recused from a vote unless you have a direct financial interest in the issue he's brought before you and you don't in this case."

Councilmember Joe Tarascio: "Ok, thank you."

Mayor Vinson: "Any of the board members have anything that they want to say?"

Councilmember Jim Bailey: "I got a question. I'm concerned about the same thing. I have a concerned about, ah, as I read this resolution. The...what...I mean if we close this before we have all these agreements in place to dedicate and improve the green portion what would be the obligation of Ocean King to follow through and do all of that?"

Derek Taylor, Town Attorney: "Actually what Mr. Willis brought up was also a concern of mine at what you have before you tonight is an Order closing a portion of East Boardwalk Avenue. It should be an Order instead of a Resolution. I am not saying this for your doing. You decide what you want to do tonight, but if you were to proceed to close this road, I've incorporated into this Order two (2) things which I think must be there. One (1) of them is the issue of the utilities that was brought up. Those utilities would either remain or be removed but you will continue to have a utility easement in the roadway. That's a necessity under the circumstances and it is allowed by the statute. The second component is giving up one before having the other. The way I have drafted this Order is the roadway as planned would have to be completed and accepted by the Town before the closure actually becomes effective. Now that was the only way I could address this alternate route concept that was actually being provided to address the very thing that Mr. Willis was talking about, don't give up the one before you get the other. Now I'm not saying this is the plan you want to adopt but to me, it's the only the way you could proceed to close this roadway and still provide for the access that was necessary."

Councilmember Jim Bailey: "I mean the order I looked at was the one that was in our packet."

Derek Taylor, Town Attorney: "Yea, and I reviewed the agenda."

Councilmember Jim Bailey: "I mean I've got this one in front of me, but I mean, we just got it."

Derek Taylor, Town Attorney: "Yea, I reviewed the agenda over the weekend and spotted this, talked to some folks this morning and drafted this Order because that, frankly, s the only way I think you could proceed for the closure."

Mayor Vinson: "Ok, well the board can make a motion, the board can do nothing."

Councilmember Ruth Barnes: "Can we ask some questions and stuff?"

Mayor Vinson: "Yea, we're discussing it. Just telling you what your options are. Or you can finish discussing and whatever your pleasure is."

Councilmember Ruth Barnes: "I got a couple of questions. I got one or two for the fire department and one or two for Mr. Cooper. Um, on the fire department, um, I got from the audience that they don't believe you. I don't why they would think that you would do anything detrimental to the town, but obviously they do. Like you're out to get them, but the...my understanding of what you were trying to say or what I understood anyway, was that our fire equipment, currently, the larger trucks, etcetera, would not be able to go up and down East Boardwalk as it currently is the hill the wrong way."

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: "Not going down the hill. We have had some problems down at, such as Sea Dreams, responding to call with the torque of the apparatus, um, going up those hills. Again, likewise, going up that side of the street should not be a factor in reference to this because it is a one-way street."

Councilmember Ruth Barnes: "So we're not suppose to be going up it anyway, we're only suppose to be going down?"

Town Council Meeting

November 19, 2007

Page 16 of 24

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Correct, the biggest problem that we have in that general location, if that condo on that corner right there at the proposed site of Mr. Cooper’s, which is adjacent to it, for some reason if they had a fire there, we would not be able to stick our ladder truck there because of the incline there. You cannot expect us to stick a fire apparatus and the jacks down on the street with the apparatus in that angle. It’s dangerous, we would not do it. Most likely that apparatus would fail. The one thing that was a positive thing that Mr. Cooper that he would do and again, these are not, we’re not giving Council recommendations, again we’re just providing the facts that the questions that was rised to us by citizens. What Mr. Cooper did tell us that he would do to correct that problem was talk to the property owner of the duplexes on the corner and flatten the entire road out totally level. So if that place did catch on fire, we were able to stick our ladder truck up safely. Right now, we could not do it down there. I know, “suicide hill”, but that’s the only thing I know to call it right now ‘cause that’s all I’ve ever heard it be called. We could not stick our ladder tuck with the jacks out on that corner right there. It is just too dangerous. Our apparatus are not meant to do that. So that would be the biggest problem that we would have. Does that answer your questions, Mrs. Barnes?”

Councilmember Ruth Barnes: “So it would only be the one (1) property, it would only affect the one (1) property, it wouldn’t affect others on East Boardwalk?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Correct, the property only affected by that hill really is the corner property of the large, I guess it’s the duplex, the large structure.”

Councilmember Ruth Barnes: “Other than Mary Margaret. It might affect her a little bit.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Again, we were just looking at the safety issues pertaining to it. Again, there is nothing in fire code that inhibits us to say ‘No, you can’t do it’. That’s our biggest thing that we’re telling you is that it really doesn’t play a factor when it come to the fire department because we really can’t do anything by the state fire code. And as the letter that Mike Simpson got from the Office of the State Fire Marshal clearly explains that. Mr. Harvell, I know you want....”

Dave Harvell, Town Manager: “Yea, Mayor and Council, that , the fire department reflected their report analysis based on fire apparatuses, they are not traffic engineers and that is not the analysis portrayed.”

Adam Snyder, Fire Chief: “Correct.”

Dave Harvell, Town Manager: “And I’m not sure if the level of trust factor, that is the fire apparatus transportation process. It has nothing to do with traffic engineering. I want to make that perfectly clear.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “That’s a good point, Mr. Harvell. Again, we were just asked to gather information pertaining to our fire apparatus and what we presented is factual data.”

Councilmember Ruth Barnes: “Ok, my next question is on the streets in the entire circle area, Atlantic, um, all the different streets that are being affected by the CDD, ok, are they all going to have to be brought up to code so that our fire equipment can get in and out to these duplexes, houses, um, whatever. Would they have to....for instance, they were talking about how wide the green area is down there on Atlantic. Well, technically we could go in there and make it fifty foot (50’) wide. I mean, the street.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yea, if it was practical. I’m not sure....”

Councilmember Ruth Barnes: “Well, I know. But is the fire code going to take care of this. What I’m trying to say....”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, correct, fire code....”

Councilmember Ruth Barnes: “Say for instance, because they’re talking about Mr. Bunn on the other side of Atlantic is developing property. Ok, on this side of Atlantic where there is currently the hotel, Ocean King is going to make either a parking lot or a building or something there. So, just because, whether we reroute or not, I guess is what I’m trying to say, the CDD approves and has already approved all of this construction. They can still put in their high rise, they can still put in their parking lot and that kind of thing. So that’s already been approved under the CDD before my day. So if, I’m trying to ask, are these streets going to be make to handle, um, all this extra....”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Correct, well once each individual project comes forward, each one is going to be evaluated. The roads everything in reference to fire protection is going to be evaluated just like it was when Mr. Cooper or anyone else brings a project over to Inspections for planning. All those individual items are addressed to make sure that, you know, for safety wise meets our specifications. Well, I can’t even say it meets our specifications. It meets the state’s specifications. I hate to say ours because it’s really not us. It meets the state specifications. You know, we can’t at the fire department level say ‘no, he can’t do that it’s against, you know, safety’ because it really isn’t. Not for us at least. But the fire department access.”

Councilmember Ruth Barnes: “Ok, um, my other questions, I guess, might be more to Landin. Um, in, one of their other concerns was all the flow of water down this new street to flood out the people on Atlantic or to flood out Mr. Bunn’s property. Um, all this has got to comply with the CDD and the Phase II and stormwater and all that, doesn’t it?”

Landin Holland, Planning Consultant: “Um, all development within the CDD including Mr. Bunn’s project, Ocean King, LLC’s project will all be required to undergo the NCDENR North Carolina Department of Environmental and Natural Resources Stormwater permitting process that will include retainage of one and a half inches of rainfall per rain

Town Council Meeting

November 19, 2007

Page 17 of 24

event on site, so I cannot speak for the volume of water that could potentially flow down this proposed right-of-way, but I can say that, the improvements to the Ocean King site, as well as the Grove overall, will all have stormwater retainage systems included in their project development and design.”

Councilmember Ruth Barnes: “Ok.”

Councilmember Joe Tarascio: “Landin, but as far as Phase II goes, until they actually enact Phase II, I mean, we’re include in it now.”

Landin Holland, Planning Consultant: “Coastal stormwater rules will govern.”

Councilmember Joe Tarascio: “But besides that, until they actually become part of it, you can’t count on Phase II to mitigate anything, not the regulations of Phase II, just the current stormwater regulations.”

Landin Holland, Planning Consultant: “The biggest issue with Phase II is going to be coverage limits, so as far as retainage and treatment, um, my understanding is there will not be a great deviation from that. The retainage may be a larger volume of water. But, the big thing in Phase II is everybody has been concerned about is the coverage. Which is going to be reduced fairly significantly for the Town of Atlantic Beach.”

Mayor Vinson: “Mr. Dawkins.”

Mayor Pro Tem Eddie Dawkins: “Ah, Derek, this document we have prepared here. How about helping me walk through this again as to how this process is going to take with everything you’ve heard tonight and scope it out in some sort of court format.”

Derek Taylor, Town Attorney: “Well, the order that I have drafted is one that you can either decide you would accept, would not accept, modify, amend, do whatever you want with your actually order. I just had to address the two (2) things that Mr. Willis brought up because I felt like you couldn’t close one without having the alternative in place. So following the process that this order actually speaks to, it says that you’re going to close a portion of East Boardwalk as was described essentially here tonight and by the maps and also by the description that was done in the publication of the Resolution of Intent to Close. That is described in paragraph 2. Paragraph 3 it says it is a ‘condition precedent to the closing of this portion of East Boardwalk Avenue that a new twenty foot (20’) paved roadway leading from East Boardwalk Avenue to East Atlantic Boulevard be constructed across and along the eastern edge of the Summers End motel property.’ Essentially, I can’t see the green, but I bet you guys can. Hopefully I’m talking about the green stretch. ‘said construction to be in accordance with the map and specifications presented to Council by the applicants Herb Corey and Ocean King, LLC, such map and specifications being attached hereto as Exhibit B and made a part hereof by a reference’. So we would take this map and make it a part of the process to there’s no confusion about what we’re really talking about. ‘This roadway must be completed, approved by the Town and dedicated to the public by written instrument prior to the closing of that part of East Boardwalk Avenue anticipated by this Order.’. That was my best effort to be able to address the issue of not having both things happen simultaneously.”

Councilmember Eddie Dawkins: “I understand.”

Councilmember Mike Warren: “Does that mean Ocean King, LLC pays for the road and/or the rerouting of the water?”

Derek Taylor, Town Attorney: “Nobody told me what they wanted with that, but that is my presumption that the plan is presented, it would have to be constructed and that’s the way I have drafted this. As you will see, paragraph six (6) also says the order itself would ‘become effective only upon completion of those matters detailed in paragraph three (3) above’. That’s the way I had to deal with the timing. Plus what you had before as Mr. Willis pointed out was just a slight variation on the Resolution of Intent, this would be an actual Order that would come from this Council and be recorded at the Register of Deeds office. It is a property transaction.”

Mayor Pro Tem Eddie Dawkins: “Now, the value I can see from this is this gives some type of road map to begin address many of the issues that we’ve dealt with tonight.”

Derek Taylor, Town Attorney: “Well, the issues that have been presented to you in the public hearing are related to the issues of convenient ingress and egress to individual properties and what’s in the public interest. This is merely a road map to get from point A to point B. It doesn’t really address those two (2) issues that you have to talk about before deciding what you want to do with this area.”

Mayor Vinson: “And that was ingress and egress, right?”

Derek Taylor, Town Attorney: “Ingress and egress to individual properties and what’s in the public interest.”

Mayor Vinson: “So the board needs to address those and talk about those? Did it answer those questions or is it a problem?”

Derek Taylor, Town Attorney: “I will also say that the statue itself says the Council may adopt an Order closing a street or alley. You’re not required to. It’s up to you what you think is in the best interest of the public under these circumstances.”

Councilmember Jim Bailey: “I got a question. I understand ingress and egress. Define public interest.”

Derek Taylor, Town Attorney: “Yea, yea, yea. Ok, I’ll define public interest. It’s what you, as the Council, thinks is in the best interest of the public at large.”

Town Council Meeting

November 19, 2007

Page 18 of 24

Mayor Vinson: "Mr. Warren, do you have anything you'd like to say?"

Councilmember Mike Warren: "No."

Councilmember Ruth Barnes: "I got a question for Mr. Cooper. Is that ok? I got a question for Mr. Cooper, is that ok?"

Mayor Vinson: "Yea."

Councilmember Ruth Barnes: "Um, Mr. Cooper, um, regardless of whether the street is closed or not, is there, am I understanding correctly, that Ocean King intends to build a high rise on that corner?"

Buddy Cooper: "We intend to build a high rise on the property. We would have to build up one story and over hang that corner to leave the street open. But as I mentioned before that would only let personal vehicles go through, it wouldn't let trucks and emergency vehicles and UPS and things like that go through. We do intend to build all the way up to the Corey property line. We intend to occupy as much of our property as we can."

Councilmember Ruth Barnes: "Ok, so it will be built regardless of whether the road is closed or not?"

Buddy Cooper: "That is my understanding. I'm not going to answer for the architect. But I've been told, I think we can overhang that first story. We don't want to. I don't think it would be good for the public."

Mayor Vinson: "Joe".

Councilmember Joe Tarascio: "I've got a couple of comments. First on the issue of high rise development, there's only a specific area in the circle that's designated for that type of development. It's not rampant. Sorry. On the issue of high rise development, there's only a very specific area in the circle that's slated for that type of development. It's not a rampant, high rise development issue in that area. Beyond that, the public should know by this ordinance that above a certain height there's still a lot of public input that can be made into these buildings. Because above, I believe it's eighty (80) or eighty-five feet (85') is no guarantee on additional height. So that's another thing when you think about these high rise buildings. It's not said and done by any means. Um, in terms of Mr. Cooper's property, he ended up retaining the only guaranteed height in the circle. What Mr. Bunn did was pull his buildings back and I secured from him in writing a guarantee that's in his deeds that the oceanfront development will not exceed forty-five feet (45'). So what happened was, those buildings, instead of being right up on the oceanfront were brought back. No where in this ordinance did it contemplate that because you had the right to develop a condominium or a high rise that anything went at any expense to the citizens of Atlantic Beach. These are all decisions that are supposed to be made through the Planning Board and the Town Board. So when you look at a project, it's got to be looked at individually within the context of the ordinance or as the ordinance might be changed by the incoming board. But, it's not a "carte blanche" to do whatever you want to down there and frankly, my opinion and it'll probably reflected in my vote is that that property can do a plenty without a town street and without inconveniencing the people in the neighborhood. It might not make quite as much money, but it's not like, that property before it was in the CDD could do maybe a third of what it can do since it's been included into the CDD, before the CDD was even invented, because of CAMA setbacks, a bunch of different things. The high rise capability on that property is, in my opinion, given Mr. Cooper and his business partners the ability to make very adequate profit without having to take up the street."

Mayor Vinson: "Any other board member want to say anything? What is your pleasure?"

Councilmember Jim Bailey: "I was just going to say, if I understand what Council said, the, I mean I haven't heard anyone in the neighborhood say anything in favor of this. To me, the people that are most affected is Mary Margaret is going to be, have a street right beside her. She was opposed and, um, Mrs. Hayes will have an intersection put in her driveway. I mean, to me, in terms of ingress and egress, I think it's probably better, in terms of ingress and egress and public safety. But if you define public interest the way you did, I would say I haven't heard anybody in the public say that it was in their interest."

Councilmember Joe Tarascio: "Public safety to me is if I have to listen to this one more time, I'll commit suicide."

Councilmember Jim Bailey: "I have I missed something? Have I missed something that that is what we're talking about with public interest is basically the people in the area?"

Derek Taylor, Town Attorney: "Well, public interest is the general interest of the entire public, all the citizenry of Atlantic Beach. You have heard from a very large portion of the groups that will be most greatly affected by whatever happens out here. You have to evaluate what, from what you've heard whether or not the public interest is best served by not closing the road or closing the road with the alternative path."

Councilmember Eddie Dawkins: "Well, if you don't close the road. Can fire equipment get up that hill today?"

Councilmember Ruth Barnes: "No."

Mayor Pro Tem Eddie Dawkins: "I'm asking Adam Snyder. If it stays like it is."

Mayor Vinson: "Like it is. It stays like it is. You don't have any problem, you go down..."

Mayor Pro Tem Eddie Dawkins: "Do you carry your fire equipment up that road today in an emergency situation?"

Adam Snyder, Fire Chief - Atlantic Beach Fire Department: "We try not to. Again, it's not a general practice for us to go up that side that one-way street."

Councilmember Joe Tarascio: "It's not a general practice?"

Adam Snyder, Fire Chief - Atlantic Beach Fire Department: "Correct, but could we if the other side was controlled."

Mayor Pro Tem Eddie Dawkins: “So you would normally proceed farther down?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, sir.”

Mayor Pro Tem Eddie Dawkins: “And then connect?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Correct. The important part also that’s just been also mentioned, I just want to make sure that the Council’s understanding the citizens if one of the comments that Mr. Cooper made in reference to the overpass, ah, if you cannot get fire apparatus under it, it’s against fire code. You can’t have that overpass like that. So that’s just a question for ya. I just want to make you aware of that. That of course is not a doable thing. If it’s a perfect egress where you’re going to have other vehicles come through it, you got to be able to pass fire and EMS units through. So that’s, that’s definitely, at that point in time you’re cutting the road off from us altogether.”

Councilmember Joe Tarascio: “So, Adam, if you go around the other way to access that road, you’d be going down hill?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, we would be going down hill.”

Councilmember Joe Tarascio: “So it doesn’t put your equipment under any strain?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Correct, yes, that’s what we’re saying. We’re not going to go up that one-way street unless it is a dire emergency and the other side is controlled to where we know there is no other cars coming down that one-way road. Other than that, you know, we don’t do that. So most of the time, we’re just coming down it, so it’s not a problem for us, just like it’s not a problem for anyone else.”

Unknown audience member: “But you said you had to have your truck on a level to be able to put the outriggers out. So would you have to stop there or stop further up the hill?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “You going to have to stop all the way up on the top of the hill if we going to use our aerial apparatus.”

Unknown audience member: **(Clerk’s note: due to the unknown audience member not being at a microphone, their comments were inaudible for recording.)**

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, sir. Again, you know, if we had to, we could go up that hill. I’m not saying that we don’t do that. We just don’t want to do that as much as possible because it is a one-way street and it could pose a danger to an oncoming car. Again, we will go up that way if it is controlled on the other side. We never said that we couldn’t, we can.”

Unknown audience member: **(Clerk’s note: due to the unknown audience member not being at a microphone, their comments were inaudible for recording.)**

Mayor Vinson: “Ok, thank you. Did he answer your question? Wait just a minute, Chief, hold on. Did he answer your question?”

Mayor Pro Tem Eddie Dawkins: “Yes and no. Yea, I guess...let me ask you one other thing. I’m still not clear...”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, sir.”

Mayor Pro Tem Eddie Dawkins: “Is it better for you not to have, in your judgment, is it better to not do this. In other words, leave everything the way it was.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “I’ll be honest with you. Ah, both ways are suitable for the fire department and for the state. That’s all I’m saying, is it really doesn’t affect us either way. That’s all I’m saying, it doesn’t affect us either way, it’s really, it’s really not a fire department issue, that’s what we’re trying to say. Unless, of course, you’re going to make that overpass where we can’t get underneath it and not put the access road. Then of course, it’s going to become a problem for us.”

Mayor Pro Tem Eddie Dawkins: “Let me ask you a question. It’s not a fire department issue. What do you think the issue is?”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “I don’t know, Mr. Dawkins. I don’t know, I...we were just...again, we were just to ask the specific questions and that’s just what...”

Mayor Pro Tem Eddie Dawkins: “You’re saying, as far as from a fire standpoint, you can satisfy the public on that street with no change at all, no worse or no better than it was done before.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Yes, sir. Both ways are suitable for the fire department the way it is now and the way Mr. Cooper proposes. Both ways, we feel, are suitable for fire protection. That’s the best way I can address that.”

Councilmember Joe Tarascio: “According to what you presented to us, it’s almost...according to what you presented to us, it’s almost the same amount of time that you go around than if you actually went up the hill and the angle of that hill isn’t going to change, if it’s a dead-end street or it’s open the way it is now. Setting up you apparatus on that hill is something that’s just not doable.”

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: “Again, you got to understand the, the test that was conducted was at this time of year. If you’re talking about the winter time, it would actually be longer if we had to go

Town Council Meeting

November 19, 2007

Page 20 of 24

around the circle and because the amount of traffic and go up the wrong way street of East Boardwalk. So, again, the test was done in controlled environment time-wise. But if you're talking about summer time, it's going to be more delayed response and if we would go around. And anyone could realize that. You know, that's pretty practical."

Councilmember Joe Tarascio: "As far as the issue of that incline, that's going to remain whether or not this new right-of-way gets put in or not for that end of street."

Adam Snyder, Fire Chief – Atlantic Beach Fire Department: "If the end of street, I believe Mr. Cooper stated, if Council decided to close the street that he would actually level off that end street to make it suitable for our fire apparatus than it is now with the deep incline where we're able to set up our aerial devices. Again, that's just, that's just, that's just a positive aspect towards that. Anything else."

Buddy Cooper: "In light of Chief Snyder's remarks I need to amend my response to Ms. Barnes question, can we build the building. If we can't overhang one story. No, we won't be able to build that building. We need the space for the ramps. Chief can correct me if I misrepresent him. But I understood him to say that in the event they need to go up suicide hill it's put an undo stress on the equipment. And that the town has had a truck breakdown on a similar hill."

Mayor Vinson: "Thank you. I'm going to allow one (1) more question back there to Mr. Blades because everybody else butted in. I'm going to give him an opportunity to ask his. Then I'm going to ask the Council for a vote, one way or the other. Yes, please. Make it real quick, Mr. Blades, ok, and I'll appreciate it."

Andrew Blades: "A minute ago, it was brought to the attention that it would take less time maybe during the summer to go up East Atlantic and swing around, but that, that is as it is drawn now, that is not even considering the development after the developing has been made. And we know it's in progress right now. It's not a question of whether or not that development on the north side or the south side is ever going to be made. It's in the process of it all. So we, all this about time factors, going up East Atlantic are totally irrelevant. Ah, with that, there's so many questions about transparency of what in fact he's doing. All we know is a six to seven story parking garage then they start talking condos. And he needs the land for high density. But I don't get any transparency.....everything is so opaque about what's going on over there. How do you make a judgment call?"

Mayor Vinson: "Thank you. To the Council. To the Council, do I hear a motion? Do I hear nothing? What is your pleasure? You want to move on?"

Mayor Pro Tem Eddie Dawkins: "I don't know how to put it in form of a motion."

Councilmember Joe Tarascio: "I'll make a motion. It'll either stand or fall. I believe considering the public input that we had...no I just need to keep it closer to me. I'm sorry. Um, I'll make a motion that this street closing not be approved because of the overwhelming concerns of the people that live in that neighborhood."

Mayor Vinson: "I have a motion..."

Derek Taylor, Town Attorney: "So your motion would be to deny the application?"

Mayor Vinson: "to deny the road closing."

Councilmember Joe Tarascio: "Yes."

Mayor Vinson: "A motion on the floor. Do I hear a second to that motion?"

Councilmember Mike Warren: "I'd like to ask Derek a question."

Mayor Vinson: "Let's get a second first and then we'll have another discussion."

Councilmember Mike Warren: "Ok."

Derek Taylor, Town Attorney: "If your questions was if you second it can you vote against it, then answer is yes. You can ask that question."

Councilmember Mike Warren: "My question was is if there are no seconds then what happens?"

Derek Taylor, Town Attorney: "It fails for lack of a second."

Mayor Vinson: "Ok. Want to move on?"

Councilmember Joe Tarascio: "That's all we can do."

Derek Taylor, Town Attorney: "If there is no second to the motion then the motion to deny fails for lack of a second."

Councilmember Jim Bailey: "I need to ask a question. This doesn't, this doesn't do away with though, does it?"

Councilmember Joe Tarascio: "No. the motion to deny it fails."

Councilmember Jim Bailey: "My question is, is, is should we have a motion to deny or should we have the motion in the affirmative and have it fail or pass?"

Derek Taylor, Town Attorney: "If this were a quasi-judicial hearing with the Board of Adjustment, that's exactly what I would do but since that's not really required in these circumstances a motion to deny can follow regular procedure. A follow up motion to approve could also come behind this motion. No motion, if it just sits here, it stagnates but it doesn't get rid of the issue it just sits there."

Councilmember Mike Warren: "So no motion it comes up again next month?"

Derek Taylor, Town Attorney: "Conceivably. Whether or not you guys would hear, be, generally speaking the same application would have to have some kind of modification in it. Then you would do a Notice of Intent and you'd republish and you'd go through this process again."

Mayor Vinson: "But you would have to call for that public hearing tonight in order to have that next month?"

Derek Taylor, Town Attorney: "If you were to do it next month, that's correct."

Mayor Vinson: "Yea."

Derek Taylor, Town Attorney: "Then the application wouldn't be any different tonight because Mr. Cooper hadn't had a chance to change it in any way."

Mayor Vinson: "Ok. Want to move on to next item? Apparently it's failed for the lack of a motion. I don't get a motion."

Councilmember Joe Tarascio: "You got a motion."

Mayor Vinson: "It died."

Councilmember Jim Bailey: "I'm going to second that motion."

Mayor Vinson: "You're going to second his motion? Can you do that? I have a motion on the floor to deny the closing of the end of East Boardwalk."

Derek Taylor, Town Attorney: "The application to close, yes."

Mayor Vinson: "And I have a second to that motion."

Derek Taylor, Town Attorney: "Discussion."

Mayor Vinson: "Yea. Anybody else got, anybody else got anything you want to say?"

Councilmember Joe Tarascio: "Does this require a simple majority vote?"

Derek Taylor, Town Attorney: "No."

Mayor Vinson: "Now the vote would be all in favor of denying the motion raise your hand."

Derek Taylor, Town Attorney: "Denying the application."

Mayor Vinson: "Yea. All opposed."

Derek Taylor, Town Attorney: "So the motion to deny fails. Madam Mayor, it would now be appropriate to ask if there are any further motions."

Mayor Vinson: "Are there any further motions? There going to be one extreme one from this seat. It's time for a break ladies and gentlemen. We need to finish this. Then I'll call you a five (5) minute break. We're not going to do it until you do."

Mayor Pro Tem Eddie Dawkins: "We need to hurry up and do it. I guess, my thinking, Derek, is to work from this document that I have here in my hand that you prepared. And the road map that would get me to do that is what?"

Derek Taylor, Town Attorney: "You would make a motion, actually I sort of drafted that out, to adopt an issue of the Order Closing a Portion of East Boardwalk Avenue presented, which you have in hand, and have the Order recorded with the Carteret County Register of Deeds pursuant to North Carolina General Statutes."

Mayor Pro Tem Eddie Dawkins: "Alright."

Derek Taylor, Town Attorney: "Is that your motion?"

Mayor Pro Tem Eddie Dawkins: "That's my motion."

Councilmember Ruth Barnes: "Second."

Mayor Vinson: "I have a motion on the floor and a second. Is there any other discussion?"

Derek Taylor, Town Attorney: "To read back the motions since we're hearing it, if it's ok with the Mayor. Um, a motion to adopt, ordain and issue the Order Closing a Portion of East Boardwalk Avenue presented, as presented excuse me, and to have the Order recorded with the Carteret County Register of Deeds pursuant to North Carolina General Statutes. The order that we're talking about is the one that I read, at least the important aspects of, regarding that the road will not be closed until this other road has been built."

Mayor Vinson: "I have a motion on the floor and I have a second. Is there any more discussion from you? All in favor of adopting the Order of Closing a Portion of East Boardwalk raise your hand. All opposed. Five (5) minute break. Motion carries."

The Order Closing a Portion of East Boardwalk Avenue as presented was adopted on motion of Councilmember Dawkins, seconded by Councilmember Barnes on a vote of three (3) in favor and two (2) against with Councilmember Dawkins, Barnes and Warren in favor and Councilmember Bailey and Tarascio against.

Mayor Vinson recessed the meeting for five (5) minutes at 8:32 p.m.

The meeting reconvened at 8:43 p.m.

4. PUBLIC HEARING: East Bogue Blvd. Rezoning – Jessica Fiester, Planning Director

Jessica Fiester, Planning Director explained that the Planning Board had heard six (6) rezoning requests by Mr. Fred Bunn to rezone six (6) parcels of property located on East Bogue Boulevard and that the proposed use will be to accommodate parking for “The Grove”.

Councilmember Tarascio made a motion to go into Public Hearing on the six (6) rezonings of East Bogue Boulevard. Motion was seconded by Mayor Pro Tem Dawkins. Vote was unanimous, 5-0. Motion carried.

Fred Bunn – Atlantic Beach and Wilson, Atlantic Beach, North Carolina

Mr. Bunn stated that unless the Council had any additional questions for him everything that he is requesting is before them. No further questions were asked of Mr. Bunn.

Councilmember Warren made a motion to exit the Public Hearing. Motion was seconded by Councilmember Tarascio. Vote was unanimous, 5-0. Motion carried

With no further discussion, Councilmember Barnes made a motion to approve the rezoning of six (6) parcels of property located on 115, 117, 119, (west) 125, 125, (East) 125 East Bogue Boulevard. Motion was seconded by Councilmember Tarascio. Vote was unanimous, 5-0. Motion carried.

5. SECOND READING ON REZONING OF 108 WEST TERMINAL BLVD. – Jessica Fiester, Planning Director

Jessica Fiester, Planning Director explained that the Planning Board heard a rezoning request by Mr. Jim Ward to rezone his property located at 108 West Terminal Boulevard from RA-2 zoning to CDD zoning. The public hearing for this issue took place at the October 15, 2007 Town Council meeting. The rezoning did not pass due to the lack of the required 2/3 vote on the first reading.

Mayor Pro Tem Dawkins made a motion to approve the rezoning of 108 West Terminal Blvd. from RA-2 zoning to CDD zoning. Motion was seconded by Councilmember Warren. Vote was unanimous, 5-0. Motion carried.

6. SECOND READING ON REZONING OF 107 WEST BOGUE BLVD. – Jessica Fiester, Planning Director

Jessica Fiester, Planning Director explained that the Planning Board heard a rezoning request by Mr. Fred Bunn to rezone his property located at 107 West Bogue Boulevard from RA-3 zoning to CDD zoning. The public hearing for this issue took place at the October 15, 2007 Town Council meeting. The rezoning did not pass due to the lack of the required 2/3 vote on the first reading.

Councilmember Bailey made a motion to approve the rezoning of 107 West Bogue Blvd. from RA-3 zoning to CDD zoning. Motion was seconded by Mayor Pro Tem Dawkins. Vote was unanimous, 5-0. Motion carried.

7. SECOND READING ON REZONING OF 104 WEST TERMINAL BLVD. – Jessica Fiester, Planning Director

Jessica Fiester, Planning Director explained that the Planning Board heard a rezoning request by Mr. Fred Bunn to rezone his property located at 104 West Terminal Boulevard from RA-2 zoning to CDD zoning. The public hearing for this issue took place at the October 15, 2007 town Council meeting. The rezoning did not pass due to the lack of the required 2/3 vote on the first reading.

Councilmember Warren made a motion to approve the rezoning of 104 West Terminal Blvd. from RA-2 zoning to CDD zoning. Motion was seconded by Councilmember Barnes. Vote was unanimous, 5-0. Motion carried.

TOWN MANAGER'S REPORT

Dave Harvell, Town Manager reported that the audit for the FY2006-2007 was still in progress. He also noted that the 1st Annual Atlantic Beach Tree Lighting Ceremony will take place November 30, 2007 at 6:00 p.m. along with other holiday festivities. He reminded everyone that with the circle area under construction, complaints of noise, pollution, dirt, etc. can be expected, but to realize this is a construction site. He also noted that staff is in the process of setting up with GovDeals for the auction of surplus property and that the traffic map should be completed and brought forth for adoption at the January or February, 2008 meetings. Marc Schulze, Public Services Director spoke on the issue of the sidewalk for the Coastal Mobile Home Park. He stated that the plans for the sidewalk have been resubmitted and the plans have been accepted and approved by the North Carolina Department of Transportation at the district level. In turn, the plans have been forwarded to the divisional level for signatures on the encroachment agreement. He stated that he should have the approved plans in his office within the next several days. He then spoke on the funding aspect of this project and noted that the town is still seeking grant monies from both DOT Enhancement Funds and CAMA Beach Access.

TOWN ATTORNEY'S REPORT

Derek Taylor, Town Attorney had no report at this time.

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Tarascio stated that he received some pictures from Shirley Harris in regards to flooding on Club Colony Drive. He feels that the pictures show exactly what the Town should and shouldn't do in regards to development and the flooding issue. He also wanted to remind the incoming Board that the current Board had been involved in trying to create a beach access between Sportsman and Oceana Pier and there are two (2) lots in that area that would be good locations for accesses but they have not been able to make contact with the current owner of those parcels. He advised the incoming Board that he would not tolerate any badmouthing or false statements that may be made to him or in front of him regarding the incoming Board.

Councilmember Bailey stated that his son along with other Boy Scouts were involved in the landscaping of the Tom Doe Memorial Beach Access and he wanted to thank Marc Schulze, Public Services Director and Ted Pace, Public Services Superintendent for the time and dedication to not only his son but the group as a whole. He also commented that he has enjoyed being a member of Council and serving the citizens of Atlantic Beach. He also thanked Dave Harvell, Town Manager for his service to the town.

Mayor Vinson thanked Dave Harvell, Town Manager as well for a great job. She stated that she has enjoyed her tenure as Mayor for the past two (2) years.

Mayor Pro Tem Dawkins stated that this has been the best Board he has worked with through out his career in Atlantic Beach.

Councilmember Warren stated that he has enjoyed every minute since he was appointed to the Board and thanked the citizens who appointed him. He welcomed the newly-elect Council and wished them the best of luck.

Councilmember Barnes stated that it has been a real experience for her. She commented that they all want what is best for the town. She also commented that she has enjoyed working with the current Board members.

ADJOURNMENT

There being no further business before the Town Council, Councilmember Tarascio made a motion to go into Closed Session pursuant to N.C.G.S. 143-318.11(a)(6): To consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee. Motion was seconded by Councilmember Warren. Vote was unanimous, 5-0. The time was 9:38 p.m.

Councilmember Barnes made a motion to return to Open Session and with no further action being taken, to adjourn the meeting. Motion was seconded by Councilmember Bailey. Vote was unanimous, 5-0. The time was 10:32 p.m.

Submitted by:

Kelly L. Cyrus, Town Clerk

These minutes were approved at the June 23, 2008 meeting of the Atlantic Beach Town Council.

A. B. Cooper, III, Mayor