

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, May 21, 2007**

The regular scheduled meeting of the Atlantic Beach Town Council was held Monday, May 21, 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 and Michael Warren

Members Absent: Councilman Joe Tarascio

Others Present: Dave Harvell, Town Manager; Derek Taylor, Town Attorney; Marc Schulze, Public Services Director; Donna Turner, Inspections Director; Landin Holland, Town Planner; Jessica Fiester, Planning Tech; Joey Starling, Inspector; Scott Kilpatrick, Police Chief; Capts. Jim Willard and A.K. Miller, both of ABPD; Adam Snyder, Fire Chief; Laura Buda, Tax Collector; Sabrina Simpson, Town Clerk; Raymond Cordon and Dan Dawson of W.K. Dickson and Kelly Nash, Administrative Assistant.

CALL TO ORDER AND ROLL CALL

Mayor Vinson called the meeting to order at 6:03 p.m.
Kelly Nash, Administrative Assistant took roll call.

PRAYER AND PLEDGE OF ALLEGIANCE

Mr. Pate led the assembly in the Lord's Prayer and Pledge of Allegiance

APPROVAL OF THE AGENDA

Councilman Bailey made a motion to amend the agenda by adding N.C.G.S. 143-318(a)(3) to consult with the Town Attorney, "To protect the attorney-client privilege" and to take item #10 into Closed Session and move it to the end of the agenda prior to adjournment. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0.

CONSENT AGENDA

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

1. Tax Collection Report for April 2007 (FYI Item)

Tax Collector Laura Buda submitted the tax collection report for April 2007 which showed that \$8,901.05 had been collected. The year-to-date total at the end of April was \$2,314,319.52

2. Tax Releases (\$69.67)

The following tax releases are submitted for your approval:

<u>NAME</u>	<u>ACCOUNT#</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>REASON</u>
Henrick, Wayne	49006	17.73	2006	Billed in error
Loughry's Crab Deck	55842	26.20	2006	Billed with real property

Rogers, William	158551	25.74	2006	Incorrect value
	TOTAL	\$69.67		

3. Budget Transfer (FYI Item)

N.C.G.S. Section 159-15 allows the Town's Budget Officer (the 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 in Inspections from department supplies to vehicle maintenance due to over spending on vehicle maintenance.

Budget Transfer 2: Transfer in Inspections and Planning from salaries to contracted services to cover Planning Consultant's fees.

(Clerk's note: Copies of the budget transfers are attached and hereby made a part of these minutes.)

4. Town Council Meeting Minutes – February 20, 2007; March 19, 2007 and April 4, 2007:

Councilwoman Barnes made a motion to approve the Consent Agenda as written. Motion was seconded by Councilman Warren. Motion was carried, 4-0.

CITIZEN REQUESTS/COMMENTS

1. James M. Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis handed out a handout from the last Atlantic Beach Advisory Committee on Wastewater and Stormwater (ABACOWS) meeting. He talked about several items listed on the handout and requested to be left out of the whole plan.

(Clerk's Note: a copy of Mr. Willis' handout is attached and hereby made a part of these minutes.)

2. Mr. Pate: Mr. Pate requested to the Council to consider implementing a town-wide warning alarm system that would alert citizens and visitors of any impending natural disaster.

3. Wallie Courie – 400 Money Island Dr., Atlantic Beach, NC

Mr. Courie feels there needs to be a boardwalk on the east six foot (6') walkway in Money Island Subdivision. Mr. Courie stated that he built a walkway on the oceanfront section. He states the dedication of this walkway has been accepted by the Town of Atlantic Beach and a petition has been presented to the Town twice for installing a boardwalk at this location by Mrs. Peggy Albritton, local resident. He states the first petition was lost and the second petition was presented to Town Council and incorporated into the minutes. He would like for the Town to move forward on the installation of a boardwalk. Second item, Mr. Courie spoke on is the access from Money Island Dr. to where it transitions to East Glenn St. He feels that the easement at this location needs to be fully utilized for access for the residents in this area.

4. Mr. Jim Ward – New property owner of 204 Glenn St.

Mr. Ward stated that in Jan., '07 he made an offer to purchase 204 Glenn St. and finally closed on the purchase May 14, 2007. Mr. Ward asked Council to consider 3 requests regarding his current situation with this piece of property. Those requests being: 1.) to consider grandfathering the duplex development that was removed in January; 2.) that he be given twelve (12) months or until there is evidence of material improvements to properties in this immediate area before the demolition of said property and 3.) that at least the existing southern foundation

line be maintained after the property had been demolished. He thanked Council and the Inspections and Planning Department for their time, considerations and cooperation.

5. Mrs. Tiffany Woodard – 308 Club Colony

Mrs. Woodard stated that she feels the Atlantic Beach Advisory Committee on Wastewater and Storm water (ABACOWS) were rushed into making a recommendation by Council. She feels that a recommendation could have waited until the results from the DNA sampling completed. She feels that this “rush to judgment” is for developers, not home owners. Mrs. Woodard also would like a new citizen survey to be done.

6. Mr. Ken Ide – 415 Club Colony

Mr. Ide states that he owns property at Sands Villa, unit 125. He states that the Board of Directors and Homeowners Association of the Sands Villa unanimously resolved to oppose the proposed wastewater treatment facility. Mr. Ide listed several reasons as to why there was opposition to the proposed plan. Mr. Ide presented to Council a copy of a Resolution of the Sands Villas Board of Directors Opposing the Proposal by the Town of Atlantic Beach, NC to Construct a Municipal Storm-Wastewater Treatment Facility.

(Clerk’s Note: a copy of the resolution is attached and hereby made a part of these minutes.)

7. Mr. Darrell Morgan – developer of Sea Water Marina

Mr. Morgan states that he has supported everything in the Town for the past thirty (30) years, but he is completely outraged over the proposed sewer system and will not support it. He also feels that Council needs to send letters to property owners stating costs and giving them the option to decide whether they want to be included or not.

8. Mr. Sandy Howard – 304 Old Causeway

Mr. Howard is the owner of Amos Mosquito’s Restaurant and is for the proposed sewer system He is very glad to see the Town moving forward regarding the proposed sewer system. He states that it will be a great benefit for his restaurant.

ACTION AGENDA

1. PRESENTATION OF RESOLUTION 07-05-02, Resolution Awarding Badge and Service Sidearm to Chief T. Scott Kilpatrick – Mayor Vinson

Mayor Vinson read the resolution to award retiring Chief T. Scott Kilpatrick his badge and service sidearm. Councilman Dawkins made a motion to adopt Resolution 07-05-02, Resolution Awarding Badge and Service Sidearm to Chief T. Scott Kilpatrick. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 4-0. Motion was carried.

At this time, Mayor Vinson asked for Retiring Chief Kilpatrick to stand up to be recognized for his years of service and dedication to the Town of Atlantic Beach.

2. PRESENTATION OF SEVERE WEATHER PLAN – Fire Chief Snyder

Chief Snyder presented a revised version of the Severe Weather Plan. He stated that there were only minor revisions to the plan. There were two (2) significant revisions he wanted to mention. Those revisions being: 1.) Public Works Director to set up an alternate EOC at Morehead City Primary School; 2.) Withdraw up to \$10,000.00 dollars at the discretion of Mayor to maintain town operations during recovery phase of storm. He requested Council to look over the revised plan and if there were any questions, comments and/or concerns, additions, changes or deletions they felt needed to be made, to please let the Town Manager know and it will be handled accordingly.

Councilman Bailey made the suggestion to put the Severe Weather Plan on the Town website for citizen and/or visitor viewing. Mayor Vinson also noted that copies can be viewed at Town Hall also.

3. ORDINANCE 07-05-02; CONDEMNATION AND DEMOLITION ORDER FOR 204 GLENN ST. – Donna Turner

Donna Turner, Inspections Director stated that no improvements have been made since the last Town Council Meeting of April 16, 2007. She advised Council that they have been supplied with current pictures of the structure for their viewing. Councilman Bailey wanted to know what discussions have been held with Mr. Ward, the current owner of said property, regarding the requests he had brought forth to Council earlier. Ms. Turner stated that she advised Mr. Ward during several conversations that Council would be making the final decision regarding said property. She stated that she feels confident Mr. Ward is the current owner of the property, but has not actually viewed the deed. Derek Taylor, Town Attorney also agreed he felt confident Mr. Ward is the current owner, but he too has not viewed the deed. Councilman Bailey was concerned about repeating history regarding allowing more time for said property.

Councilman Dawkins made a motion to approve Ordinance 07-05-02; Ordering the Director of Inspections to Cause the Structure at 204 Glenn St., Atlantic Beach to Be Demolished and Removed and Creating a Lien on the Property Thereof. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 4-0. Motion was carried.

Mr. Ward stepped forward to advise the deed for the property had been recorded the past Monday, May 14, 2007 and has not had time to return to him. He states that he can produce a closing statement and the transaction that was recorded in the newspaper.

4. PLANNING BOARD REPORT – Landin Holland

Landin Holland, Planner gave a monthly report of the Planning Board's activities. He mentioned a few items that, he felt, may be of interest to Council and anyone present.

1.) He stated that Mr. Bunn and Mr. Bradley came to the Planning Board meeting and presented alternative options for development within the Circle Development District. The changes that were proposed included the removal of all commercial components from the ground level of the three (3) seventeen story towers within the central area of the growth. A letter was issued to FMB, LLC from staff stating that the staff's interpretation of the ordinance was that the mixed use requirement was building by building. It did not pertain to the entire Master Plan as has been approved by the Planning Board and presented to Council over the last three (3) to five (5) years. Mr. Holland stated that a meeting was held with Mr. Bunn subsequent to the letter informing FMB that they would have to go back to the Planning Board for approval prior to moving forward with any development within the grove portion of the Circle Development District. At this time, the Planning Board is waiting to for any proposed changes that were recorded at the last Planning Board meeting.

Councilman Dawkins asked Mr. Holland what his feelings were on this issue.

Mr. Holland stated, he felt the original master plan has been compromised to the point that it certainly requires a needs review and approval by the Planning Board again to ensure the Town is protecting the intent and vision that was laid out for this district at the time the Circle Development District Ordinance was drafted. He feels that the only way to ensure this is to send any changes back through the "chain of command" and the Planning Board has taken things as far as they can to ensure compliance. He also stated that it has been stressed to FMB that the central area of the grove be maintained as a public open space. He advised there are several documentations that indicate this is a key element of the master plan.

2.) Zoning map revisions. Mr. Holland stated that the map will be posted on the Town website, copies available at Town Hall and advertisements will be run in the local newspapers for open public review. A forum will then be held for property owners who discover their zoning is not in accordance to what they believe.

Research will be done to validate any changes to a particular property. Once this process is completed, the Planning Board will then proceed to adopt the revised map.

3.) Discussion of sedimentation and erosion control. The Planning Board is working to require erosion control down to the one (1) house, one (1) lot level; submittal of an erosion control plan in conjunction with building permits; some type of plan (can be hand-drawn) that shows where construction interests will be, layout of fencing installation, etc. No additional expenses will be added upon securing permits. But the property owner will be required to comply with the plan that is laid out at the time of permitting.

Mr. Holland concluded his report of Planning Board activities with no action required.

5. PUBLIC HEARING ON PROPOSED ORDINANCE 07-05-01, AMENDMENT TO CHAPTER 18, ZONING, ARTICLE VI, SECTION 18-122(b)(2), MODIFICATION TO THE SPECIAL USE TABLE WITHIN THE GENERAL BUSINESS (GB) DISTRICT

Councilman Bailey made a motion to go into Public Hearing on Proposed Ordinance 07-05-01, Amendment to Chapter 18, Zoning, Article VI, Section 18-122(b)(2), Modification to the Special Use Table within the General Business (GB) District. Motion was seconded by Councilman Dawkins. Vote was unanimous, 4-0. Motion was carried.

Mr. Holland introduced the proposed ordinance and stated that it resulted out of discussions relating to transitions of commercial properties to residential in nature over the last five (5) to ten (10) years. The floor was open for public comment at this time.

Mr. Dan Miller – Atlantic Beach Causeway

Mr. Miller feels the moratorium should be removed, but feels this ordinance should not be approved. He feels owners should be allowed to choose how to use their property.

Mr. Jim Willis – 104 Atlantic Beach Causeway

Mr. Willis is requesting for a provision to be added to rebuild residential if a disaster were to bring down his structure.

Mr. Billy Brewer – 200 Atlantic Beach Causeway

Mr. Brewer disagrees with the consideration to remove residential use as a Special Use permit for the General Business District due to the expiration of the current moratorium on July 16, 2007.

Mr. Jan Miller, 717 Atlantic Beach Causeway. Owner of Miller Music

Mr. Miller feels the Causeway should not be singled out only for General Business use. He is against the removal of mixed use.

Mrs. Lynn Hollowell – 108 East Fort Macon Rd.

Mrs. Hollowell also disagreed with the proposed removal of mixed use.

Mr. Alfred Hollowell – waived his right to speak

Mr. William English – 519 Atlantic Beach Causeway

Mr. English stated that he is against the proposed ordinance.

Mrs. Sylvia English – waived her right to speak

Mr. Pat Mason – 441 Austin Rd, Beaufort

Mr. Mason is speaking in the capacity as Trustee of the Billy Hales Trust. He states that this property is located on the east side of Causeway Rd. He advised he is also against the proposed ordinance.

The next two (2) listed speakers (D. W. Morgan and Mr. Ward) had left the meeting.

Mr. Joe Osborne – 137 Bowen St.

Mr. Osborne advised he is against the proposed ordinance.

Mr. Sonny Davis – Capt. Stacy's Fishing Service.

Mr. Davis is against the removal of the Special Use within the General Business District

At this time, Mayor Vinson read two (2) letters for the record from Micky Marsh of Marsh's Surf Shop and David Waller of Gull Isle Realty that advised their opposition to the proposed ordinance.

(Clerk's Note: a copy of the letters from Marsh's Surf Shop and Gull Isle Realty are attached and hereby made a part of these minutes.)

Councilman Warren made a motion to go out of Public Hearing. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 4-0.

After Council held a discussion on the proposed ordinance, Councilman Warren made a motion to table Proposed Ordinance 07-05-01, Amending Chapter 18, Zoning, Article VI, Section 18-122(b)(2) and to be revisited at Town Council's next regularly scheduled meeting on June 18, 2007. Motion was seconded by Councilman Bailey. Vote was unanimous, 4-0. Motion was carried.

6. PUBLIC HEARING TO REPEAL MORATORIUM ORDINANCE 07-02-03 RELATED TO DEVELOPMENT WITHIN THE GENERAL BUSINESS (GB) AND RESORT COMMERCIAL (RC) ZONING DISTRICTS

Landin Holland, Planner advised this public hearing was to repeal the moratorium to allow permitting in the General Business (GB) and Resort Commercial (RC) Districts.

Councilman Bailey made a motion to go into Public Hearing to Repeal Moratorium Ordinance 07-02-03. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0. Motion was carried.

With there being no listed public speakers on this item, Councilman Bailey made a motion to go out of Public Hearing. Motion was seconded by Councilman Dawkins. Vote was unanimous, 4-0. Motion was carried.

Councilman Bailey made a motion to adopt Proposed Ordinance 07-05-03 to repeal Moratorium Ordinance 07-02-03, Related to Development within the General Business (GB) and Resort Commercial (RC) Zoning Districts. Motion was seconded by Councilman Dawkins. Vote was 3-1. Councilman Warren opposed.

Derek Taylor, Town Attorney stated that since the motion was not passed by at least a 4/5th vote, the motion would need to be reread and voted on again and passed with a majority vote at another Council meeting in order for the motion to pass.

Mayor Vinson called for a recess at this time. The time was 7:58 p.m.
Mayor Vinson reconvened the meeting at 8:07 p.m.

7. W.K. DICKSON CONTRACT AMENDMENT #3, ADDITION OF ENVIRONMENTAL ASSESSMENT TO TASK ORDER #4 – Dave Harvell

Dave Harvell, Town Manager requested to amend the current W. K. Dickson Contract with Amendment #3 which would result in the Environmental Assessment (EA) added back to the scope of work and result in a net increase in the contract price of \$99,700.

Councilman Bailey made a motion to approve W. K. Dickson Contract Amendment #3, Addition of Environmental Assessment to Task Order #4. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0. Motion was carried.

8. STORM WATER & WASTEWATER PROJECT UPDATE – Councilman Jim Bailey

Councilman Bailey stated that Mr. Lotspih, a member of the ABACOWS committee will be making the committee's formal recommendations on wastewater and stormwater to Council at this time.

Mr. Lotspih began his presentation to Council on the ABACOWS committee's formal recommendations on stormwater and wastewater issues.

(Clerk's Note: a copy of Mr. Lotspih's handouts on recommendations are attached and hereby made a part of these minutes.)

Upon conclusion of Mr. Lotspih's presentation, Mayor Vinson stated that the ABACOWS committee will not be disband at this time and thanked all committee members for their interest, diligence, hard work and time given to the Town and the issues of stormwater and wastewater.

Councilman Bailey also thanked the committee for their hard work and advised Council that the recommendations that were presented need to be studied.

Dave Harvell requested direction from Council in the form of a general consensus to move forward to the next level with W. K. Dickson and to bring back a path forward regarding the scope of work and the costs of attached. It was the general consensus of the Council for Town Manager to move forward to the next level with W. K. Dickson.

Mayor Vinson took this time to thank Councilman Jim Bailey for his time, efforts and expertise on the task that was asked of him by Council regarding the wastewater and stormwater issues.

Councilwoman Barnes stated that she had read in the paper that Atlantic Beach had been included into the Phase II Storm water and was questioning how this would affect the storm water study that is be conducted and the recommendations that have been made.

Mr. Dan Dawson with W. K. Dickson stated that Atlantic Beach is rather proactive at this point by way of monitoring the water quality, adoption of certain ordinances, etc. that will "blend in" with the Phase II process.

TOWN MANAGER'S REPORT

Dave Harvell, Town Manager reported that the Town of Emerald Isle requested from the Department of Transportation the temporary closing of NC 58 in Emerald Isle on Saturday, September 22, 2007 between the hours of 10:00 a.m. – 8:00 p.m. for Emerald Isle's 50th Anniversary Celebration. A detour plan has been developed and will be manned by the Emerald Isle Police Department. The Department of Transportation has approved the closing of NC 58 contingent upon the approval from Carteret County and the Towns of Indian Beach, Pine Knoll Shore and Atlantic Beach.

Councilman Bailey made a motion to support the temporary closing of NC 58 in Emerald Isle on Saturday, September 22, 2007 between the hours of 10:00 a.m. – 8:00 p.m. for the 50th Anniversary of Emerald Isle. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0.

Mr. Harvell had several Notes of Interest:

- Memorial Day Weekend - the beach wheelchair will be repaired and available for public use
- May 31, 2007 – Atlantic Beach Fire Department will participating in a photo shoot with the Prentice Hall Company lasting approximately a week. Prentice Hall will be donating approximately \$10,000.00 of training material to the fire department for participation
- May 23, 2007 – Police Chief T. Scott Kilpatrick’s Retirement Luncheon at 12:00 p.m.
- May 28, 2007 – Town Hall Closed

TOWN ATTORNEY’S REPORT

Derek Taylor, Town Attorney noted that today’s date, May 21, 2007, was the deadline for the Special Legislation regarding building heights. He states that a determination needs to be made by midnight on this day’s date. At this time, Mr. Taylor handed out copies of ‘An Act Limiting Building Heights In Atlantic Beach’. He asked Council to look over the document and will ask for a motion to approve.

Councilwoman Barnes made a motion to adopt/ratify and submit to the General Assembly for introduction and passage of Special Legislation entitled “An Act Limiting Building Heights In Atlantic Beach” as written and amended with/and buildings already erected as of the date of passage of this act. Motion was seconded by Councilman Bailey. Vote was unanimous, 4-0. Motion was carried.

Mr. Taylor commented hat the Municipal Attorney’s Conference will be held at the Sheraton Hotel, Atlantic Beach and that it is being asked that Mayor Vinson speak at the function. He also introduced Mike Thomas, who is in attendance and a new associate with Mr. Taylor’s law firm. At this time, Mr. Taylor concluded his report.

MAYOR/COUNCIL REQUESTS/COMMENTS

Mayor nor Council had any comments at this time.

9. Closed Session

Councilmember Barnes made a motion to go into Executive Session and to also have in attendance, Dave Harvell, Town Manager; Marc Schulze, Public Works Director; Adam Snyder, Fire Chief and Kelly Nash, Administrative Assistant in accordance with:

- N.C.G.S. 143-318.11(a)(3) To consult with the Town Attorney “To protect the attorney-client privilege
- N.C.G.S. 143-318.11(a)(5) “To establish or instruct the staff or agent concerning the negotiation of the price and terms of a contract concerning the acquisition of real property located at 1001 Fort Macon Road.
- 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; and also “To hear or investigate a complaint, charge, or grievance by or against a public officer or employee”

Motion was seconded by Councilman Bailey. Vote was unanimous, 4-0. The Council entered Executive Session at 8:47 p.m.

Councilmember Dawkins made a motion to go out of Executive Session and back into Open Session. Seconded by Councilmember Barnes, vote was unanimous, 4-0. The Council reconvened to Open Session at 10:26 p.m.

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ADJOURNMENT

There being no further business before the Town Council, Councilman Bailey made a motion to adjourn the meeting, seconded by Councilmember Dawkins. Vote was unanimous, 4-0. It was 10:30 p.m.

Submitted by:

Kelly L. Nash, Administrative Assistant

These minutes were approved at the June 18, 2007 meeting of the Atlantic Beach Town Council.

Joyce Vinson, Mayor