

Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, July 16, 2007

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, July 16, 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; Donna Turner, Inspections Director; Landin Holland, Town Planner; Jessica Fiester, Planning Tech; Joey Starling, Inspector; A.K. Miller, Police Chief; Adam Snyder, Fire Chief; Laura Buda, Tax Collector; Sabrina Simpson, Deputy Town Clerk; 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.

PRAYER

Rev. Patrick Williams of Bogue Banks Baptist Church led the assembly in the Lord's Prayer.

PLEDGE OF ALLEGIANCE

Whole assembly

APPROVAL OF THE AGENDA

Councilwoman Barnes made a motion to amend the Action Agenda by the removal of Item #3, "Ordinance 07-07-01; An Ordinance of the Town Council of the Town of Atlantic Beach, North Carolina Establishing a Public Utilities Committee for the Town and approve the agenda as amended. Motion was seconded by Councilman Tarascio. Vote was unanimous, 5-0. Motion was carried.

Councilwoman Barnes made a motion to approve the Consent Agenda as written. Motion was seconded by Councilman Warren. Vote was unanimous, 5-0. 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 JUNE, 2007: (FYI Item)

Tax Collector Laura Buda submitted the tax collection report for June, 2007 which showed that \$3,401.66 had been collected. The year-to-date total at the end of June was \$2,320,810.79.

2. TAX REFUNDS:

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

a. Scott DeMichele \$435.87 Personal Property billed in error

3. BUDGET TRANSERS (FYI Item):

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:

1. Budget Transfer #1: Transfer in Planning from fuel to department supplies due to department supplies needed.

4. ANNUAL SETTLEMENT FOR CURRENT TAXES FOR FY 2006-07:

In accordance with N.C.G.S. § 105-375(a)(1), Laura Buda, Tax Collector submitted her annual settlement report for current taxes for FY2006-07. A total of \$2,344,457.13 was collected representing a 99.96% collection rate as of June 30, 2007. In compliance with N.C.G.S. §105-373(a)(3), attached is the Report titled "Settlement for Current Taxes for FY2006-07" dated July 16, 2007.

5. ORDER OF COLLECTION (Tax Collector):

This tax order of collection authorizes and directs the Town of Atlantic Beach Tax Collector to collect taxes for Fiscal Year 2007-08. It declares such taxes to be a first lien upon all real property of the respective taxpayers in the Town of Atlantic Beach and authorizes and directs the Tax Collector to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with North Carolina law.

(Clerk's Note: a copy of the Tax Collection Report, Tax Refunds, Budget Transfers, Annual Settlement for Current Taxes Report and Order of Collection is hereby attached and therefore made a part of these minutes.)

CITIZEN REQUESTS/COMMENTS

Mr. Jim Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis questioned as to why the Planning Board report is now being presented by the Zoning Officer and not the Planning Board Chairman.

Town Manager, Dave Harvell responded to this by stating that the person who will be presenting the Planning Board report is a full-time Town employee. He advised that Mr. Landin Holland, is a Planning consultant and the employee presenting the report is more aware of the situations and what is actually happening with and in the town. He advised that the presenter has a Masters in Public Administration (M.P.A.) and is being developed as the Planning Director.

Mrs. Lou Ramsey, 118 Bowen St., Atlantic Beach, NC

Mrs. Ramsey advised that she is opposed to the proposed ordinance that is requesting removing some of the authority away from the Board of Adjustment and assigning it to the Planning Board. She stated that she finds it hard to do this as the Board of Adjustment is the board that goes out and does the "grunt work". She felt that a

disservice would be done to the Board of Adjustment if the proposed ordinance was passed and feels the responsibilities of the Planning Board need to remain as is.

Mrs. Peggy Albritton – 405 East Caswell, Atlantic Beach, NC

She advised she is speaking tonight not only for herself, but for a group of citizens who, four years ago, drew up a petition that would allow them to have a boardwalk/walkway to the beach. She advised that currently there is only a path that two (2) people could not fit on and a very small patch of grass. She advised that she had presented this issue and petition to former Mayor Stroud and when she contacted him in the future on the status of the issue, per Mrs. Albritton, Mayor Stroud advised he knew nothing about it. A few years went by and the issue came up again and Marc Schulze, Public Works Director came out to the location, walked the area. Mr. Schulze stated to Mrs. Albritton that the only thing he could do was to present it, but Mr. Schulze did retain the original petition in his possession. She is questioning as to why her community could not have a walkway to the beach and is it true that if a walkway was built, would it only go to the CAMA line.

Councilman Bailey responded to this by stating Councilman Tarascio and himself had met with Mr. Wally Courie to locate the original petition. It has been located and Councilman Bailey advised Mr. Schulze that the issue does need to be looked into and taken care of. Councilman Bailey advised that in addition to trying to locate the original petition, they are also trying to find out who owns the property and the property line. Mrs. Albritton advised that the owner of the two lots that are in question is a Mr. Snead, out of Raleigh, NC.

Mrs. Lou Ramsey spoke from the audience to Council advising that Mr. Snead's properties are not buildable as they stand now and that Mr. Snead has been to the town in regards to his property. She advised that with the town looking for public accesses, she has contact numbers for Mr. Snead if the town is interested in approaching him as he is not an investment builder.

Mr. Harry Archer, 411 West Boardwalk, Atlantic Beach, NC

Mr. Archer stated that he is in favor of a three (3) year expiration date on the issuance of Special Use Permits. He recommends to "leave things alone" and to also consider the Board of Adjustment continue the authority of issuance; the Planning Dept. review the request of Special Use Permits because they have the expertise and what is consistent with the CAMA Land Use plan, they are in a position to note certain specific, special conditions that they would place on this permit.

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

Mr. Osborne feels that as a town the Police Department is making an illegal stop on the No Wake Zone due to it being controlled with the state. He feels the state laws should be abided by and he will be awaiting a response back from the Town Manager in regards to this issue.

Mr. Billy Brewer, 200 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Brewer stated that a gentleman, a few meetings back, had questioned the town on possible implementation of a town-wide warning system for impending or incoming hurricanes. He is in favor of some type of warning system and hope the town continues to pursue the issue.

Mr. Sonny Davis, Owner of Capt. Stacy, Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Davis was questioning as to whether the dredging has been completed on the west side of the bridge because he states that on the east side of the bridge beside the Channel Marker restaurant one of his boats came in and hit bottom rather hard. He advised that the channel is continuing to get narrower and very hard to get in and out of. Mr. Davis was wondering if dredging could be done on his side while the dredging company is in town rather than waiting a few years down the road.

Town Manager, Dave Harvell responded by stating that there is some small maintenance that is still being done outside one of the channels, but the primary dredging has been completed.

Councilman Bailey stated that the particular channel that Mr. Davis is speaking of, The Queens Channel, is maintained by the Corps. of Engineers. He advised that contact should be made to the Corps. of Engineers to see if there is any type of work they could do, because if the town starts dredging that area on its own then the town will have to continue to maintain that area. He stated that the town will make contact with the Corps. of Engineers and respond back to Mr. Davis.

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

PRESENTATIONS

1. PLANNING BOARD REPORT – Jessica Fiester, Zoning Officer

Miss Fiester welcomed everyone and started off by stating that the moratorium on Permitting in Resort Commercial and General Business zones expires tonight at midnight and if the items that will be presented later in the meeting by Landin Holland are not adopted everything will revert back to the way it was six (6) months ago without any changes. She also advised that she and Town Clerk, Kelly Nash are working together to compose the agenda for the joint Council/Planning Board meeting to be held on August 3, 2007 to discuss the development of the CDD./Grove plan. Also all Planning Board members have received copies of the CAMA Land Use Plan for review to begin discussions at their August meeting and in hopes of having the plan completed and adopted by the end of the year. She also stated that there have been advertisements in each Sunday's newspaper advising the public to review the proposed zoning map by the end of July so any disputes could be addressed prior to the adoption of the map as the Official Town Zoning Map. This concluded her presentation on the Planning Board report without any questions or comments noted.

2. UNIFIED DEVELOPMENT ORDINANCE – Jessica Fiester, Zoning Officer

Miss Fiester advised that monies have been put aside to proceed forward with a Unified Development Ordinance (UDO). A proposal has been received from Holland Consulting, with whom the town has done several projects with and with coordination with the Town Manager, the process will proceed forward. Miss Fiester gave a little bit of background on Holland Consulting advising that the company has prepared over ten (10) UDO's and worked with between thirty (30) and forty (40) ordinances and the town feels very confident Holland Consulting will do a very good job.

Miss Fiester proceeded to explain the purpose of a Unified Development Ordinance. She stated that a UDO would take a variety of land use ordinances that the town has now, grouped them together (i.e. zoning, flooding, anything regarding land use, etc), update and modernize all the regulations that have become outdated; bring everything up to date with the 2006 State Planning law changes; incorporate Phase II stormwater changes; add clarity and unity; make it easier for the public to understand; create an easier tool for staff use; and create a definition list that will be uniformed throughout.

Miss Fiester advised that with the timeline that has been planned out by Holland Consulting, it is possible to have the UDO created within a year by starting off with a citizen participation meeting and move forward. Councilwoman Barnes asked if the Unified Development Ordinance will include some type of unified computerized version without having to constantly go back and "reinvent the wheel".

Landin Holland responded to Councilwoman Barnes question by stating Holland Consulting would work with the town in creating a software program that would be compatible with the town's existing Information Technology systems.

(Clerk's Note: A copy of the Unified Development Ordinance proposal from Holland Consulting, Inc. is hereby attached and therefore made a part of these minutes.)

3. RECOMMENDED CHANGES TO CURRENT NOISE ORDINANCE AS IT PERTAINS TO HOURS OF CONSTRUCTION – Jessica Fiester

Miss Fiester explained that along with the herself, Donna Turner, Inspections Director and Chief Miller, Police Department, have received some citizen complaints regarding construction noise on the weekends. She advised that the way the current language is written in the Nuisance ordinance a complaint is filed through the police department and states that construction is only permitted n Atlantic Beach between the hours of 7:00 a.m. and 6:00 p.m. weekdays. After much discussion, the issue was brought forth to Council to generate discussion on the recommended change of allowing construction on Saturdays only between the hours of 9:00a.m.and 6:00 p.m. with no consideration to Sundays.

Councilman Tarascio commented that he saw an issue that was lacking in the ordinance to where the only emergency that is being stated is a town emergency. He is concerned with the issue of projects that have to be stopped and resumed later and extending past the permitted hours for other emergencies related to weather. He feels this is an issue that needs to be considered.

The Council agreed that Sundays should not be considered for inclusion into the ordinance as a day that would allow construction. Miss Fiester advised that staff will continue to revise the language of the ordinance and bring the issue back to Council at next month's meeting.

(Clerk's Note: A copy of Chapter 11, Nuisances; Article IV, Noise; Section 11-82, Noises Expressly Prohibited; Paragraph 9 with the proposed language amendment is hereby attached and therefore made a part of these minutes.)

4. CHANGES IN PERMITTING PROCESS – Donna Turner

Ms. Turner advised that currently one permit is issued for a multi-unit structure. She stated that it has become increasingly difficult for staff to keep up with each unit and further explained that if a customer comes to staff for a Certificate of Occupancy for a completed unit, this request is not able to be processed because only one permit has been issued for the whole multi-unit structure and all units would have to be completed before any C.O. could be issued. She proposed a separate permit be issued for each unit. She advised that several municipalities have adopted this policy.

It was a general consensus of Council that this process would be beneficial to all concerned.

5. UTILITY BILLING FORMAT CHANGE – Cheryl Hamilton

Ms Cheryl Hamilton, Water/Utility Billing Clerk explained the new format for future water/utility bills. She stated the Town will be contracting with a company called South Data Systems, based out of Mt. Airy, NC, who will be handling the printing and mailing of the new water utility bills beginning with the August bill. Ms. Hamilton explained that the bill will be printed on 8 1/2"x11"paper with the current usage/charges on the front along with a usage history and the back of the bill utilized for various town information. The bill will be enclosed in an envelope for privacy. The quarterly town newsletter, Ocean Breeze, will also be inserted with the bill which will provide additional cost savings.

(Clerk's Note: A copy of Ms. Hamilton's powerpoint presentation is hereby attached and therefore made a part of these minutes).

6. FINANCIAL REPORT – Sabrina Simpson

Mrs. Simpson advised that copies of the monthly Financial Statement, cash report and investment report for June, 2007 have been provided to Council as requested for their review. She stated that regarding the expenditures/revenues in the General Fund through June 30, 2007, 82% of revenues have been received and expended 89% of what had been budgeted. She also noted that in the utility fund, collected 79% of revenues and expended 87%. She emphasized to Council and the public that financially the town will be working in two (2) budget years (FY2006-07 and FY2007-08) through August due to not having received several revenues and sales tax and quarterly utility franchise tax or telecommunications tax, or reimbursement for dredging grant and expenses that had been ordered through June 30, 2007 that have either not come in yet or been billed for yet. Ms. Simpson stated that through June 30, 2007, the Unaudited Projected Unreserved Fund Balance in the General Fund is 12.6%=\$910,588.00.

(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.)

7. CUSTOMER SERVICE SATISFATION SURVEY – Chief Miller

Chief Miller explained that the Police Department is always looking at ways to improve service to the town. He stated that he has created a Customer Service Satisfaction Survey for the citizens and for victims of crimes as it pertains to Atlantic Beach. He feels this will give the citizens a way to voice what concerns they may have in regards to the quality of life in their neighborhoods and businesses. It will also allow anonymous tips/concerns to be sent directly to the Chief of Police for review. He advised the survey will be on the Police Department's page of the town website, it will also be an additional insert with the October Water Utility bill.

(Clerk's Note: A copy of the Customer Service Satisfaction Survey is hereby attached and therefore made a part of these minutes.)

8. RECREATION SURVEY – Jessica Fiester

Miss Fiester explained that her department has received a lot of concern from citizens and the police department regarding the decline and/or lack of recreational activities in Atlantic Beach. Miss Fiester hopes that the survey will provide insight as to the types of recreational opportunities resident are seeking for the area. This survey, once implemented, will also be included as an additional insertion with the Water Utility bill.

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

ACTION AGENDA

1. BUDGET AMENDMENTS – Sabrina Simpson

a. Budget Amendment #8 – FY2006-07

Mrs. Simpson explained that budget amendments will now be an action item on the agenda which will allow for a specific vote for every amendment regardless of whether or not it will affect the Undesignated Fund Balance. Mrs. Simpson proceeded to explain that Budget Amendment #8 is general housekeeping of accounts totaling \$34,652.19 for the Utility Fund and General Fund. She explained that a non-budgeted revenue that was from the FY2006-07 in the Coral Bay lease payments received from Eckerds was used to offset the overages and this is a budgeted revenue for FY2007-08. She advised that with the approval of Budget Amendment #8, it will bring the Unreserved estimated Fund Balance at the end of June 30, 2007 to \$910,588=12.5%.

Councilman Dawkins made a motion to approve Budget Amendment #8 for FY2006-07. Motion was seconded by Councilman Tarascio. Vote was unanimous, 5-0. Motion was carried.

b. Budget Amendment #1 – FY2007-08

Mrs. Simpson advised that this amendment also does not affect the Unreserved Fund Balance but it provides for an amendment in General Fund for Fire Department Swiftwater Rescue Grant for \$4,800.00 and for insurance monies received for reimbursement of vehicle repairs caused by accident involving Police Department vehicle for \$1,562.66. She did iterate that the accident will not go against town insurance. She did state that approval of Budget Amendment #1 will bring the estimated pre-audited General Fund Unreserved Fund Balance at June 30, 2008 to \$1,355,818=21.5%.

Councilman Warren made a motion to approve Budget Amendment #1 for FY2007-08. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 5-0. Motion was carried.

(Clerk's Note: A copy of Budget Amendment #8 and Budget Amendment #1 are hereby attached and therefore made a part of these minutes.)

2. BOARD OF ADJUSTMENT ALTERNATE VACANY – Jessica Fiester

Miss Fiester briefly stated that one of the action items on the agenda at the June 18, 2007 Council Meeting was two (2) Board of Adjustments members' terms that were due to expire as of June 30, 2007 with one of those being Mr. Scott Rice as an alternate to the Board of Adjustment so the reappointment of Mr. Rice was tabled pending confirmation on his permanent residency. She advised there was some controversy at that Council meeting over whether Mr. Scott Rice, Board of Adjustment Alternate, was a permanent resident of Atlantic Beach. She stated that she has confirmed with Mr. Rice that he is a permanent resident of Atlantic Beach and he wishes to continue to serve as an alternate to the Board of Adjustment.

Councilwoman Barnes made a motion to appoint Mr. Scott Rice as an Alternate member to the Board of Adjustment with a term expiring June 30, 2010. Motion was seconded by Councilman Warren. Vote was unanimous, 5-0. Motion was carried.

3. PROPOSED ORDINANCE 07-07-01; An Ordinance of the Town of Atlantic Beach, North Carolina Establishing a Public Utilities Committee for the Town – Town Clerk

** The agenda was amended by way of a motion for the removal of this item.

4. PUBLIC HEARING on PROPOSED ORDINANCE 07-07-02; Amendment to Remove the Responsibility of Hearing and Granting or Denying Special Use Permits from the Board of Adjustment – Landin Holland

Mr. Holland explained that the proposed ordinance is a proposed solution to improve the process of the issuance of Special Use Permits. He stated that the justification for this amendment was that the Planning Board has historically been charged with the responsibility with reviewing group housing developments, planned unit developments and Circle Development District developments, etc, all of which are comparable to what is included in the Special Use Permit application. He iterated that he is in no way suggesting that the service of the Board of Adjustment has been inadequate but felt this would be a course of action for the Town as a whole to establish a new precedence on the issuance of Special Use Permits. The two (2) primary changes to the existing process are that the town needs specific required items that have to be submitted with the application and terms limits will be established for a time frame of three (3) years.

Councilman Tarascio made a motion to go into Public Hearing on Proposed Ordinance 07-07-02. Motion was seconded by Councilman Dawkins. Vote was unanimous, 5-0. Motion was carried.

At this time, the floor was open for Public Hearing on Proposed Ordinance 07-07-02; Amendment to Remove the Responsibility of Hearing and Granting or Denying Special Use Permits from the Board of Adjustment.

Mr. Jim Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis feels that if things “ain’t broke, don’t fix it”. He stated that all he wants to do is be able to rebuild his house if a hurricane tears it down and feels things should be left the way they are.

Mr. Ken Ide – 415 B Club Colony, Atlantic Beach, NC

Mr. Ide is opposed to this proposed ordinance.

Mrs. Lou Ramsey – 118 Bowen St., Atlantic Beach, NC

Mrs. Ramsey feels that Atlantic Beach is more of a “bedroom” community than anything else and feels that the businesses on the Causeway need to be able to put a residence in if desired. She thinks the town needs to think about readjusting what the plans are for the Causeway.

Mr. Harry Archer – Mr. Archer waived his right to speak at this time.

Mr. John Kurek – 1108 East Fort Macon Rd., Atlantic Beach, NC

Mr. Kurek read an excerpt from page thirty three (33) of a Zoning/Board of Adjustment in North Carolina booklet, written by the Institute of Government. He advised that he, as Chairman of the Board of Adjustment, is speaking for himself and the entire Board of Adjustment in that the Board unanimously opposes the proposed ordinance.

Mrs. Peggy Albritton – Mrs. Albritton waived her right to speak at this time.

Mr. Scott Rice – Alternate member of the Board of Adjustment

Mr. Rice commented that he, too, was opposed to the proposed ordinance because he feels that with the responsibility assigned to the Board of Adjustment this keeps the authority in balance.

Councilman Tarascio made a motion to go out of Public Hearing. Motion was seconded by Councilman Warren. Vote was unanimous, 5-0. Motion was carried.

Councilman Tarascio commented that it is clear that property owners do not want their residential use rights taken away and he supports this feeling also. He did state that he does not feel it is a bad thing for the Planning Board to review proposals and give planning input. But he does agree that the separation of these powers is essential. Councilman Tarascio advised that he is opposed to the proposed ordinance.

Councilman Warren feels that the responsibility of hearing/granting/denying Special Use Permits should stay with the Board of Adjustment and he feels that the Board of Adjustment has done wonderful job thus far.

Councilwoman Barnes concurs with Councilman Warren. She stated that she has spoken with several citizens that are not in attendance at this night’s meeting and that it is the consensus of those citizens to leave things as they are.

Councilman Dawkins stated that he feels the process could move along quicker if the Board of Adjustment was inserted in the next agenda item #5 – Proposed Ordinance 07-07-03; Amendment to Give the Planning Board the Responsibility of Hearing Special Use Permit Cases and Places a Three (3) Year Expiration Date on Special Use

Permits. He requested assistance from Town Attorney, Derek Taylor on the proper wording to make this a formal motion.

Derek Taylor, Town Attorney advised that the biggest problem is the process itself. He stated he has watched as applicants come before the Board and try to go through twenty two (22) different criteria and describe with evidence that is required to be presented to a quasi-judicial body to meet every one of the twenty two (22) criteria which the vast majority should be decided in the application process. He stated that the second (2nd) ordinance presented "fixes" the vast majority of this. Mr. Taylor commented that he has tried to figure out if there was a way to pass an ordinance that would remove that section of the Special Use Permits and insert in the new language. At this time, Mr. Taylor conferred with Landin Holland as to Mr. Taylor's suggestion on proceeding further, which is as follows: If the ordinance was passed saying that where ever the Board of Adjustment is stricken, each one of those shall stand and every occurrence where the Planning Board was substituted for the Board of Adjustment, that shall be stricken which takes care of the "global search and replace". Landin Holland stated that he felt Item D should be stricken. Mr. Taylor agreed and suggested that Item D reads as follows: "Special Use Permits to Hear and Decide in particular cases and subject to appropriate conditions and safeguards permits for Special Use as authorized by Article XVII. In granting a Special Use Permit, the Board shall make the affirmative findings as required in Article XVII." He advised that this would take care of all the striking up to paragraph E and also suggested that language be inserted in the motion that stated paragraph E would remain the same in the version that was trying to be passed tonight. Landin Holland advised that it would be best if this was brought back before Council at next month's meeting with clear, defined language.

Mayor Vinson reiterated that a Public Hearing has been held on Item #4 on the Action Agenda, the citizens have spoken against this issue and that if no action was taken by the Board tonight, things would stay the same. But if there is any language that needs to be inserted, this item needs to be tabled and brought back at a future meeting.

Councilman Bailey advised that he does not want to rush into anything and wants to make sure the language is correct. He questioned the Town Attorney in that would it be better to go back and "re-craft" what the Town wants to do and hold another public hearing.

Mr. Taylor advised that he is not opposed to this.

Councilman Dawkins recommended that the Board go through the process of the Public Hearing on Item #5 since there are several citizens that have signed up to speak.

Mayor Vinson asked of Mr. Taylor if the Board needed to do anything with Item #4 or just let it be.

Mr. Taylor advised that the Board can take action as far as sending it back to the Planning Department. At this time, Mayor Vinson asked what is the Board's wish.

It was the general consensus of the Board that the responsibility would stay with the Board of Adjustment.

Mr. Taylor concluded by stating "let the record reflect that it failed for lack of a motion".

5. PUBLIC HEARING on PROPOSED ORDINANCE 07-07-03; Amendment to Give the Planning Board the Responsibility of Hearing Special Use Permit Cases and Places a Three (3) Year Expiration Date on Special Use Permits.

Landin Holland explained that Article XVII is written as such to establish a more efficient, defined process for the issuance of Special Use Permits. He stated that the changes in Article XVII are as follows: 1.) protocol will be established for pre-conference meetings with the Zoning Administrator and applicants; 2.) a defined set of required elements to be included with the application; 3.) establish steps and processes that lead up to the hearing. This gives the Zoning Administrator some authority to hold back an application that is not complete until the Zoning Administrator feels that said application has the required documentation for

approval/disapproval pending the outcome of the hearing. It also reduces the number of “yes/no” questions and the debate over these elements will be incumbent upon the adjacent property owners that are notified through the mailing process leading up to a hearing to contest the proposed development. He advised that term limits are also addressed as: 1.) three (3) year term limit established; 2.) can only apply once per year; 3.) the appeal process will be to the Superior Court, not the Town Council or any internal entity/administration or authority.

Councilman Bailey made a motion to go into Public Hearing on Proposed Ordinance 07-07-03. Motion was seconded by Councilwoman Barnes. Vote was unanimous, 5-0. Motion was carried.

Mrs. Lou Ramsey – 118 Bowen St., Atlantic Beach, NC

Mrs. Ramsey commented that she did feel that the Board of Adjustment does need the assistance of the Zoning Officer. She feels that the review of the Zoning Officer along with the citizen and property owner will be greatly appreciated by the Board of Adjustment in that it will help them narrow down a very fair, honest decision.

Mr. Harry Archer – Mr. Archer waived his right to speak at this time advising that his previous comments stand as noted.

Mr. John Kurek – 1108 East Fort Macon Rd., Atlantic Beach, NC

Mr. Kurek wanted to confirm as to what will be taken place in regards to Item #4 and stated that the Board of Adjustment is in agreement with leaving the responsibility in the hands of the Board of Adjustment.

Councilman Warren made a motion to go out of Public Hearing. Motion was seconded by Councilman Tarascio. Vote was unanimous, 5-0. Motion was carried.

Councilman Bailey feels that if a “global substitution” was made to the language with the Board of Adjustment inserted everywhere that states Planning Board, everything seems consistent and that all else be left the same.

Mr. Taylor advised that the confusion is where one plan is before the Board and the other has not been stricken. He did state that from what he sees this item will fail also due to lack of a motion. He did ask Council to allow him to confer with Landin Holland and call for a public hearing if they deem it necessary.

Councilman Bailey made a motion to call for a public hearing on Proposed Ordinance 07-07-03 for reconsideration on the issues that were spoken on at this night’s meeting at the Town Council Meeting to be held on August 20, 2007. Motion was seconded by Councilman Warren. Vote was unanimous, 5-0. Motion carried.

Mayor Vinson called for a recess. The time was 8:12 p.m. The meeting reconvened at 8:20 p.m.

TOWN MANAGER’S REPORT

Town Manager, Dave Harvell presented his Manager’s Report at this time. He, along with staff members, advised on the following activities:

- 3rd National Night Out to be held on Tuesday, August 7, 2007 beginning at 7:00 p.m. with a fireworks display at 9:00 p.m. Chief Miller thanked Council for their support.
- Recognition of Fire Department Employees: Firefighter Selena Bollick received her certification as EMT/Paramedic; Fire Inspector Mike Simpson received certification for Fire Inspector Level II; Building Inspector Joey Starling received his certification for Electrical Inspector Level II and Mechanical Inspector Level I also Mr. Starling has been selected to serve on the International Association of Electrical Inspectors Public Relations Committee, North Carolina Chapter.
- Town Computer Exchange Server Installation: Greg Buffaloe is contracted by the Town to handle all Information Technology issues. He is currently working on the installation of a new exchange server.

- Dredging Update: Marc Schulze advised that InterCoastal Waterway Access Channel dredging has been completed and marked by the NC Wildlife Commission. He advised that some minor maintenance dredging needs to be done on The Royal Channel and that process is getting setup to take place within the next two (2) weeks. He also commented that the channel that goes under the bridge has not been marked yet. He is working with the Police Department and buoys have been ordered.

Councilman Bailey questioned as to whether the markings were correct because they seem to be pretty far apart. Mr. Schulze stated that the Maritime Patrol has been out and commented that the channel was marked very professionally and they were pleased with it.

Councilwoman Barnes spoke on the issue of what can be done in regards to dredging the Queens Channel because it is very hard for boats to get in and out. Mr. Schulze stated that he feels that the Corps. of Engineers should be contacted in regards to dredging this area. Town Manager advised that staff will contact the Corps. of Engineers to make this request and keep Council updated on the progress.

- Animal Control Program: This program has been well received by the public. No negative comments from the Police Department.

- Police Chief Selection Process: Friday, July 20, 2007 an assessment panel consisting of five (5) members will assess the candidates and make recommendations for the top two (2) candidates. Saturday, July 21, 2007, Town Manager will have individual interviews with the top two (2) candidates to make his decision.

- Staff Meeting Sit-Along : Each department, on a rotation basis, will invite one of their employees to attend the Monday morning staff meetings in order to gain insight into the issues being addressed.

- Department Shadow Program: A staff member from one department will "shadow" and employee from another department for the day to get a better view/understanding of what each department's duties entails. Program to begin in the near future.

- Computer Training: Computer training has been scheduled for town employees.

- Nextel Cellphone Service: The number of town-issued cellphones has been drastically reduced with a substantial savings.

- Pitney Bowes Postage Service: This machine and service will be eliminated with a substantial savings. Mail service will be conducted with the post office.

TOWN ATTORNEY'S REPORT

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

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilman Dawkins took this time to commend the Town Manager on the change in the Council meeting format. He feels the new meeting format is very informative and the new Council binders are very user friendly.

Councilman Tarascio commented that he feels it is great to have a record of all the staff meetings, emails, and correspondence that occur and refer back to it as necessary.

Councilman Warren wanted to know what the status is of the urban waterfront. Jessica Fiester responded to this, however, due to Miss Fiester not being at a microphone, her comments were unable to be recorded for these minutes.

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Closed Session

Councilwoman Bailey made a motion to go into Closed Session to consult with the Town Attorney pursuant to N.C.G.S. 143-318.11(a)(3); "To consider and give instruction concerning a judicial action titled *Barbara Chesson Gallion and James Gallion vs Town of Atlantic Beach*."

Motion was seconded by Councilman Dawkins. Vote was unanimous, 5-0. Motion was carried. Council entered Executive Session at 8:35 p.m.

Councilmember Warren made a motion to go out of Executive Session and back into Open Session. Seconded by Councilmember Tarascio, vote was unanimous, 5-0. The Council reconvened to Open Session at 8:49 p.m.

Councilman Bailey feels that the town needs to speak with Mr. Snead regarding his property and that Mr. Snead's contact phone numbers can be obtained from Mrs. Ramsey.

Councilwoman Barnes questioned obtaining map of town-owned property.

ADJOURNMENT

There being no further business before the Town Council, Councilman Warren made a motion to adjourn the meeting. Motion was seconded by Councilman Tarascio. Vote was unanimous, 5-0. It was 9:02 p.m.

Submitted by:

Kelly L. Nash, Town Clerk

These minutes were approved at the August 20, 2007 meeting of the Atlantic Beach Town Council.

Joyce Vinson, Mayor