

**Minutes**  
**Town of Atlantic Beach, North Carolina**  
**Town Council Meeting**  
**Monday, September 17, 2007**

The regular scheduled meeting of the Atlantic Beach Town Council was held Monday, September 17, 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:** Councilmember Barnes

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

**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 AND PLEDGE OF ALLEGIANCE**

Mr. Andrews led the assembly in the Invocation and Pledge of Allegiance

**APPROVAL OF THE AGENDA**

Councilman Bailey made a motion to approve the agenda as written. Motion was seconded by Councilman Warren. Vote was unanimous, 4-0.

Councilmember Bailey made a motion to excuse Councilmember Barnes. Motion was seconded by Councilmember Tarascio. 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 August, 2007 (FYI Item)**

Tax Collector Laura Buda submitted the tax collection report for August, 2007 which showed that \$3,978.09 had been collected. The year-to-date total at the end of August was \$3,351,374.38.

**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 Public Services from building maintenance to contract services for the purpose of covering expenses incurred for ADA beach access services – W.K. Dickson.

Budget Transfer 2: Transfer in Public Services from building maintenance to communications for the purposes of expenses related to radio repairs and labor for two-way radios replacing Nextel radios.

**(Clerk's note: A copy of tax collection report and budget transfers is hereby attached and therefore made a part of these minutes.)**

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

<b>CITIZEN REQUESTS/COMMENTS</b>
----------------------------------

**1. Claude "Twitty Bird" Andrews – 147 Hoop Hole Creek, Atlantic Beach, NC**

Mr. Andrews stated that he wanted to make a comment on statements that had been made to him by several citizens due to his connections to the public safety departments within the town. He wanted to verbalize his support of the new rescue truck that was approved by Town Council. He feels that for the price, this rescue truck is a very useful tool for the safety factor. He commented that Atlantic Beach Fire Department is one of the best trained fire departments in the area and work very hard for their certifications. He stated that not only is it important to have qualified personnel, the department also needs the proper equipment. He would like to remind the citizens that they should want the quality of care that is due to the citizens of Atlantic Beach.

**2. James N. Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC**

Mr. Willis stated that he was not going to speak tonight, but has gotten carried away with the riddle/puzzle that Councilmember Tarascio offered to the public. So he wanted to present the public with one of his own. He stated that the "puzzle" he will be presenting is a progression of three (3) pairs of numbers. The pairs are related to each other. He stated that he will give Councilmember Tarascio the first chance to figure it out. The numbers were as follows: 12.5 @ 0; 39.0 @ 5; and 65.1 @ 16. He is challenging the public to figure out what the first numbers represent and what the second numbers represent. Councilmember Tarascio stated that he could not figure it out. Town Manager, Dave Harvell stated that he felt the numbers were referring to the Unreserved Fund Balance and adding some type of increment. It was determined that the second set of numbers represented years.

**3. Ken Ide – 415 B Club Colony Dr., Atlantic Beach, NC**

Mr. Ide stated that he wanted to comment on the concern over the approved tax increase of 41%. He commented that citizens that are on fixed income are in a panic mode and thinking of possibly selling their homes. He stated that his tax percent went up over 100%. He stated that as citizens, they are hurting.

**4. Scott Rice – 402 Henderson Blvd., Atlantic Beach, NC**

Mr. Rice stated that he did not think that he would have to bring forth in front of Council again, something that he brought forth over a year ago regarding debris from surrounding and adjacent properties that are being constructed on. He advised that he is still having a problem in his "dip of the road" because things settled they blow over and it is dropped in "his pit". He feels that the major problem is not enough silk fence around the construction sites to begin with. He feels that this would be a simple fix, but that at the end of the road, there are two (2) oceanfront properties that are being constructed on that could use silk fencing. He would like to see this enforced.

**5. Billy Brewer – 200 Atlantic Beach Causeway, Atlantic Beach, NC**

Mr. Brewer wanted to comment on several newspaper articles that he has read in the Carteret County News-Times. He commented that there is a lot of negativity going on, certain individuals feel like things are not going their way so they are voicing their opinions through the editorial section of the newspaper. He stated that he has seen some of the laws regarding a wastewater referendum that the citizens may have to go under and as a business owner himself, he would like to see the business owners be able to vote on this referendum. He did state

## Town Council Meeting

September 17, 2007

Page 3 of 8

that a lot of the owners do not actually live on the beach, but do own valuable property in Atlantic Beach. He does feel that either this Council or the next Council needs to address this.

### **6. Jan Miller – 717 Atlantic Beach Causeway, Atlantic Beach, NC**

Mr. Miller wanted to acknowledge that he understands what Mr. Brewer was saying and that the town definitely needs to concentrate on getting a sewer system in place down the Atlantic Beach Causeway, right and left at the light. He stated that this area needs and this needs to be implemented as soon as it can. He stated that if there is more commercial growth by way of restaurants, the town will definitely need a sewer system.

Councilmember Tarascio commented that the Mayor, Councilmembers and himself has invited any citizen of Atlantic Beach that was confused about the “budget stuff” to go and talk to the Town Manager regarding town finances. Town Manager, Dave Harvell confirmed that no one has approached him in regards to this. Councilmember Tarascio feels that this is the reason some citizens are misinformed and he is not sure what else the town can offer the citizens in order to obtain the facts if the citizens are not willing to take advantage of the invitation to talk with the Town Manager about he concerns they are voicing at these meetings. He feels that it is nobody’s fault except that person that is questioning an issue but refuses to take the town up on the invitation.

With no further public comments at this time, Mayor Vinson announced that the Presentation segment of the meeting will now take place.

## **PRESENTATIONS**

### **1. FINANCIAL/CASH/INVESTMENT MONTHLY REPORT – Sabrina Simpson, Administration**

Mrs. Simpson stated the June 30, 2008 pre-audited estimated Unreserved Fund Balance in General Fund is \$1,355,818 or 21.5%. She noted that in the General Fund for August, 2007 the revenue collected is \$409,794 or 6.50%; expenses spent are \$1,106,531 or 17.54%. And in the Public Utilities Fund for August, 2007 the revenues collected are \$213,308 or 12.95% and the expenses spent are \$137,295 or 8.33%. Mrs. Simpson noted that the FY06-07 revenues received after June 30 are not reflected and will be adjusted by auditors during the audit process. Expenses applied toward FY06-07 are reflected and appropriate expenses continued to be applied toward FY06-07 through August 31, 2007. The audit process is set to begin September, 2007. Town Manager, Dave Harvell wanted to iterate to the public that the financial statements are available at Town Hall for public review during normal business hours, Monday through Friday, 8:00 a.m. – 4:30 p.m and copies available at the back of the room during meetings at the request of the citizens.

Town Manager, Dave Harvell took the floor at this time to address several issues. He commented that a lot of movement has come about with The Grove project and FMB, LLC. He stated that the Town now has an artist rendering of the specific intent and vision of the project. He noted that over the last month, representatives of FMB, engineers have met with town staff and the movement has gone from an artist rendering to actual construction drawings. He noted that these drawings have been “stamped” by an engineer. He stated that town staff feels comfortable enough with the project at this phase to say the project is moving forward to the point where in October there will be some excavating taking place and the infrastructure being implemented. He stated that his reason for noting this information to the public is that during the budget process, the monies that were received from the parcels that were sold to FMB, LLC were specifically identified and designated to repurchase the property if this project did not move forward. Since the project is moving forward, therefore with this in mind, those monies can be brought into the Unreserved Fund Balance which will represent a quantum leap in this process. He stated that he still stands by the five (5) year plan that he recommended to Council previously which would have the town at the end of June, 2008 to be at 21.5% Unreserved Fund Balance. He noted that over the next several months, with The Grove infrastructure going into the ground and no backing away at this point, the Unreserved Fund Balance go to 42.6% during the next budget cycle.

## Town Council Meeting

September 17, 2007

Page 4 of 8

Councilmember Tarascio interjected and commented that Council requested a meeting with FMB, LLC. to get the status of The Grove project. He stated that Council advised what needed to be done and he was surprised that Fred Bunn turned things around very quickly. He feels that when ground breaking has taken place in the next couple of months that there is no reason for the Town to release those monies and take the two (2) cents that was specifically designated for the Unreserved Fund Balance and add those monies back. He stated that the two (2) cents that was raised in taxes for 1 year contributed 17 percent of reaching this goal. He also feels that by next June, the town's five (5) cent increase is going to be cut by this two (2) cents. He iterated that this had been the plan all along.

Councilmember Bailey stated that he wanted to make sure the people knew this was the plan and this needs to be the plan regardless of who is sitting in the chairs and they need to keep their eye on the ball and the funds that are in there, assuming that there is no major disaster that depletes this fund, the balance will get to this point to where it needs to be in one year but it was planned for five years if it took that long. He noted that a commitment was made to reduce taxes and it was planned for five years, but may be able to do it in one year barring anything unforeseen. But that he just wanted to make sure that this is clearly understood by the voters and whomever is sitting in these chairs.

Mayor Vinson requested that Mrs. Simpson advise the public on why the tax bills are just being released at this time so as the public is well aware that it was by no fault of the Council. Mrs. Simpson advised that the tax reevaluation took longer than expected. She advised that usually the information is received in house in July and the bills are release at that time to where revenue is generated, but with the reevaluation process and the appeal, she states that the process may be still ongoing. But information was not received in house until the end of August and within a matter of days the information was processes and bills were mailed out.

Councilmember Bailey wanted to note the outstanding job that Ms. Laura Buda, Tax Collector is doing. He noted that she has a 99.9% collection rate. He feels that the town owes Ms. Buda a debt of gratitude and a round of applause. Mayor Vinson concurred.

### **2. POLICE DEPARTMENT MONTHLY REPORT – Chief Allen Smith**

Mayor Vinson welcomed new Police Chief Allen Smith. At this time, Chief Smith stated that it is an honor to have been chosen as Chief of Police of Atlantic Beach and to serve the town. He then proceeded to give an overview of the department's monthly activities for August, 2007. The statistics were as follows: Arrests, 37; Business Checks, 486; Residential Checks, 20; State Citations, 125; Verbal warnings issued, 180; Written warnings issued, 15; total 9-1-1 calls received by dispatch, 306; total call officers responded to, 1763; total of animal control traps issued, 4; total animals turned in, 1.

Councilmember Bailey questioned the residential checks of homes. He inquired as to how a resident would access this service. Chief Smith advised that a homeowner would make contact with the police department, either by phone, visit or notify and officer on the street, and give the appropriate information to police personnel and the service will be conducted at no charge to the resident/homeowner.

### **3. PLANNING BOARD REPORT – Jessica Fiester, Planning Director**

Miss Fiester took the floor at this time to give the monthly report of the Planning Board. She noted that the Planning Board had a very brief meeting this month and a lot on the horizon. She noted that Mr. Cooper would return at the October Planning Board meeting to discuss parking as a non-residential use at the Ocean King. At the October 2<sup>nd</sup> meeting, it is expected that the fire department will be making a presentation on the safety issues of this project. In regards to rezonings, the Planning Board unanimously approved three separate rezonings from RA 2 districts and one RA 3 districts into CDD zoning and she will be requesting further into tonight's meeting, public hearings be scheduled to hear these issues. The zoning map public hearing that was previously scheduled will not take place due to further research being done on the ETJ line. In regards to The Grove development, a meeting with Fred Bunn, engineers and key staff members, and in approximately three (3) weeks utility work should commence. The public will be kept abreast of any rerouting that will take place during this process. She

Town Council Meeting  
September 17, 2007

Page 5 of 8

then spoke on the Unified Development Ordinance and noted that not a lot of staff involvement has taken place at this time but are looking to November to pick this back up.

A member of the audience spoke at this time, but do to the audience member not being at the microphone, their comments were unavailable for recording.

Councilmember Dawkins wanted to take this time to commend Mr. Fred Bunn of his timing with regards to the time of year, on the beginning phases of construction

<b>ACTION AGENDA</b>
----------------------

**1. PUBLIC HEARING: PROPOSED ORDINANCE 07-09-014; Amendment to Chapter 11, Nuisances; Article IV; Noise; Section 11-82, Noises Expressly Prohibited – Jessica Fiester, Planning Director**

Miss Fiester stated that at the July Town Council meeting there was discussion regarding an amendment to the noise ordinance that would allow construction to take place on Saturdays. The Town Council requested staff to prepare a text change to allow this. At Council request, the text has been amended to allow for Saturday construction to occur between the hours of 9:00 a.m. and 6:00 p.m. with all other requirements in regards to construction remaining the same.

Councilmember Warren made a motion to go into Public Hearing on proposed Ordinance 07-09-01. Motion was seconded by Councilmember Bailey. Vote was unanimous, 4-0. Motion carried.

**Ken Ide, 415 B Club Colony Dr., Atlantic Beach, NC**

Mr. Ide wanted to comment that most neighborhoods have a noise ordinances due to the “damage” that loud noises can cause. He noted that he hopes the town has such an ordinance in place.

**James N. Willis, III, 104 Atlantic Beach Causeway, Atlantic Beach, NC**

Mr. Willis commented that Fred Bunn must be getting ready to move because he doesn’t know of anybody else that can get a noise ordinance changed other than Fred Bunn so he must be getting ready to do some type of construction so he must need a new noise ordinance. Mr. Willis stated that a lot of the parking spaces down at the circle area now will be lost once construction begins and now the weekenders will be woke up by the noise that will be allowed now on weekends. He hopes the town will reconsider this. Mr. Willis commented that weekenders do not want to be woke up at the “crack of dawn”. He feels that the town does not need this ordinance and that everybody should be able to sleep in on Saturdays.

Councilmember Tarascio stated that the hours for weekend construction should be from 9:00 a.m. to 6:00 p.m. He also commented to Mr. Willis that the whole point to the change in the ordinance is so that property owners are able to come here on the weekends and be able to do improvements/construction to their properties.

Derek Taylor, Town Attorney advised that since the proposed ordinance was advertised with the weekend hours of construction being from 7:00 a.m. – 6:00 p.m. that since a beginning time of 9:00 a.m. is less restrictive than 7:00 a.m. it would fine to adjust the beginning time to 9:00 a.m. at this time.

Councilmember Bailey made a motion to go out of Public Hearing on proposed Ordinance 07-09-01. Motion was seconded by Councilmember Warren. Vote was unanimous, 4-0. Motion carried.

Councilmember Tarascio made a motion to adopt proposed Ordinance 07-09-01; Amendment to Chapter 11, Nuisances; Article IV, Noise; Section 11-82, Noises Expressly Prohibited with respect to a time change on Saturdays from 7:00 a.m. to 6:00 to 9:00 a.m. to 6:00 p.m. Motion was seconded by Councilmember Warren. Vote was unanimous, 4-0. Motion was carried.

**2. REQUEST FOR PUBLIC HEARING: REZONING OF 108 WEST TERMINAL BLVD. – Jessica Fiester, Planning Director**

Miss Fiester stated that the Planning Board heard a rezoning request by Mr. Jim Ward to rezone his property located at 108 West Terminal Blvd. from its current zoning of RA-2 to CDD. The Planning Board voted unanimously for this rezoning to be brought forth to Council.

Councilmember Bailey did want to make sure that this property is located within the CDD. Miss Fiester confirmed that it was.

Councilmember Bailey made a motion to schedule a public hearing on the rezoning of 108 West Terminal Blvd. for the next regularly scheduled Town Council meeting of October 15, 2007. Motion was seconded by Councilmember Dawkins. Vote was unanimous, 4-0. Motion carried.

**3. REQUEST FOR PUBLIC HEARING; 107 WEST BOGUE BLVD. – Jessica Fiester, Planning Director**

Miss Fiester stated that the Planning Board heard a rezoning request by FMB, LLC to rezone his property located at 107 West Bogue Blvd. from its current zoning of RA-3 to CDD. The Planning Board voted unanimously for this rezoning to be brought forth to Council. She advised that Mr. Bunn had indicated that he would like to use this piece of property in conjunction with a specialty grocery store that was approved on the conceptual plans for this parcel.

Councilmember Tarascio made a motion to schedule a public hearing on the rezoning of 107 West Bogue Blvd. for the next regularly scheduled Town Council meeting of October 15, 2007. Motion was seconded by Councilmember Bailey. Vote was unanimous, 4-0. Motion carried.

**4. REQUEST FOR PUBLIC HEARING: 104 WEST TERMINAL BLVD. – Jessica Fiester, Planning Director**

Miss Fiester stated that the Planning Board heard a rezoning request by FMB, LLC to rezone the property located at 104 West Terminal Blvd. from its current zoning of RA-3 to CDD. The Planning Board voted unanimously for this rezoning to be brought forth to Council. She noted that this parcel would be utilized in conjunction with the renovation of the Johns Motel.

Councilmember Warren made a motion to schedule a public hearing on the rezoning of 104 West Terminal Blvd. for the next regularly scheduled Town Council meeting of October 15, 2007. Motion was seconded by Councilmember Tarascio. Vote was unanimous, 4-0. Motion carried.

**TOWN MANAGER'S REPORT**

Dave Harvell, Town Manager reported on the following notes of interest:

- Miss. Jessica Fiester promoted to Planning and Zoning Director
- Jr. James Sabastian (Public Services) received his certification as a "B" Well Operator for the water treatment system
- Ms. Kelly Nash, Town Clerk attended the "Introduction to Employment Law" course at UNC – Chapel Hill
- Will be readvertising for the Finance Officer position
- Mr. John Yost, Mr. Chris Jones (Pine Knoll Shores) and the County of Carteret are assisting with our inspections as this department gets reorganized.

**Project Updates:**

- Circle Development District (CDD) – The Grove – street closures scheduled for October
- GovDeals – online auction process to be implemented in October

## Town Council Meeting

September 17, 2007

Page 7 of 8

- Channel Marker (area) dredging – on-going coordination with the Army Corp. of Engineers
- Revised Personnel and Purchasing policies and procedures will be ready for Mayor and Council review in early November
- Coastal Mobile Home Park – beach access sidewalk in an ongoing project with NCDOT and continuation of funding search.
- Traffic map is being updates and will be brought before the Mayor and Council in October
- Ocean Breeze newsletter and Utility billing format changed this month. The newsletter will be inserted with the utility bill next month.
- Tropical storm “Gabriel” was handled by staff and cooperative efforts between Public Services and police department.
- Tax bills (approx. 5500) have been mailed and we are currently receiving the revenue.
- Four (4) fire hydrants that are currently below grade are scheduled to be raised (this month).
- King Mackerel Fishing Tournament rescheduled for October 18, 19, 20 due to Tropical Storm “Gabriel”.

### TOWN ATTORNEY’S REPORT

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

### MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Tarascio took the floor at this time to comment on the Unreserved Fund Balance. He stated that if the town maintains this fund balance and only use it for emergencies, not as a “slush” fund, the interest gained in a year would have been enough to purchase all five (5) police vehicles without any expenditures from the General Fund. He noted that this would put us in a position to use monies and not have to raise taxes or spend other monies and also increases the town’s credit rating. He noted that the current balance is still lower than some of the surrounding municipalities. He then proceeded to give his answers to the “puzzle” that he challenged the public with at a previous Town Council meeting. He stated that the first two (2) numbers were 41% and 47%, he stated that these are the two numbers that you hear the most about the tax increase. His first set of numbers were 200 and 15%. He noted that if a certain property went up 100%, the tax increase was 15%, not 41%. His second set of numbers were 150-14%. If a property only increased by 50% of its value, in actuality there was a tax decrease of 14%. He commented that if a property went up 250%, then a tax increase would be in the 40%’s. He advised that to use 41% across the board was completely inaccurate.

Councilmember Warren wanted to comment about an earlier comment that was made by Mr. Ide in the Public Comment segment of the meeting. He noted that Mr. Ide stated that his taxes were raised 400% and in all actuality that could have been the case, but there are other owners taxes may have come down. He stated that the reevaluation done by the county changed drastically. He stated that the reevaluation is the biggest issue that the town has to deal with with the large out of pocket increases.

Councilmember Bailey wanted to comment that he truly appreciates the new format that allows open communication between the town and its citizens. He feels he is more informed due to this change.

## 9. Closed Session

Councilmember Tarascio made a motion to go into Executive Session and to have Mrs. Sabrina Simpson and Police Chief Smith in attendance also to consult with Town Attorney pursuant to:

- N.C.G.S. 143-318.11(a)(3) To consult with the Town Attorney “To protect the attorney-client privilege

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

Town Council Meeting  
September 17, 2007  
Page 8 of 8

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

**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, Town Clerk

These minutes were approved at the February 18, 2008 meeting of the Atlantic Beach Town Council.

\_\_\_\_\_  
A. B. Cooper, III, Mayor