

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, February 18, 2008**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, February 18, 2008 at 6:00 p.m. in the Council Meeting Room.

Members Present: Mayor A. B. Cooper, III; Mayor Pro Tem Harry Archer; Councilmembers: Ann Batt, Eddie Briley; Ken Ide, Vada Palma

Members Absent: None

Others Present: Derek Taylor, Town Attorney; Sabrina Simpson, Administration; Marc Schulze, Public Services Director; Allen Smith, Police Chief; Donna Turner, Inspections Director; Jessica Fiester, Planning Director; Adam Snyder, Fire Chief.

CALL TO ORDER AND ROLL CALL

Mayor Cooper called the meeting to order at 6:00 p.m.
Sabrina Simpson took roll call.

INVOCATION AND PLEDGE OF ALLEGIANCE

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

APPROVAL OF THE AGENDA

Councilmember Ide made a motion to approve the agenda. Motion was seconded by Councilmember Briley. Vote was unanimous, 5-0. Motion carried.

Councilmember Archer made a motion to approve the Consent Agenda. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion 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 -JANUARY, 2008: (FYI Item)

Tax Collector Laura Buda submitted the tax collection report for January, 2008 which showed that \$850,322.68 had been collected. The year-to-date total at the end of January, 2008 was \$3,236,221.10.

2. TAX RELEASES - JANUARY, 2008:

Tax releases, totaling \$1,833.39 were submitted for approval.

3. TAX REFUNDS -JANUARY, 2008

Tax refunds, totaling \$628.86, were submitted for approval.

4. AUTHORIZATION TO ADVERTISE TAX LIENS

5. BUDGET TRANSFERS

A total of nine (9) budget transfers were submitted for approval.

6. PROCLAMATION 08-02-01; 2008 Spring Litter Sweep

7. ENGAGEMENT AGREEMENT (Town of Atlantic Beach and Taylor & Taylor, PA)

8. RESOLUTION 08-02-02; Designation of Official To Sign Papers And To Otherwise Represent the Town of Atlantic Beach Town Council In Connection With Mosquito Control

9. APPROVAL OF MINUTES: Sept. 17, 2007; Jan. 25, 2008; Jan. 31, 2008

(Clerk's note: a copy of all Consent Agenda items are hereby attached and therefore made a part of these minutes.)

CITIZEN REQUESTS/COMMENTS

Phil Moore – 109 East Atlantic Blvd., Atlantic Beach, NC

Mr. Moore stated that his issue tonight was regarding a piece of town property that is labeled “street” and that this piece of property never has had a name. He stated that years ago this property was conveyed by the Atlantic Beach Bridge Company and the rights was given to the citizens to access an egress and according to history documentation this right would extend indefinitely. He noted that the property is located at the east end of Atlantic Blvd. and butts up against a retaining wall and is used by citizens of that area as a beach access. Mr. Moore commented that he has given each member of Council a packet containing information regarding this issue for their review. Councilmember Archer explained Resolution 07-03-02 had already been approved at the March 19, 2007 Town Council Meeting and read the resolution into record.

Joe Goodson – 114 East Boardwalk, Atlantic Beach, NC

Mr. Goodson showed the Council and audience his own maps, photos and his own resolution showing this property had been used over fifty (50) years.

James Newman Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, North Carolina:

Mr. Willis reiterated that the town is holding an implied “easement” for ingress and egress on this no named street for the citizens. He further commented that the revenue neutral rate this year, when counting inflation, should be 11.4%. He also feels the town should be at a 9.4 cent tax rate during the budget process.

Joe Tarascio – 113 Hoop Hole Creek Drive, Atlantic Beach, NC

Mr. Tarascio stated that he wanted to make sure the Council knew some facts about the Universal Stormwater Program that the Planning Board is beginning to look at.

(Clerk's note: Mr. Tarascio's following statements have been transcribed verbatim due to the technicality and importance of the subject.)

Joe Tarascio: "My understanding is you can't adopt that and expect the state to take it over and administer it for just one or two things. It's either the whole town or certainly the Planning Board and the Town can pass its own ordinance and it can reflect what's in that but as far as the state administering that, that's not going to happen just on a few parcels of property in the town. But I think there's some provisions to that that I want to be sure the Board understand because you're the ones that are ultimately going to make the decision on it and you know that I've been pro-stormwater management for years. This program is not really voluntary and I'll tell you why it's not. The state cannot enforce standards on a higher water quality than those they designate off of any town. Well, by you accepting them that gives them the right to enforce them. So you can do this by yourself and not have the state interfere in town business. You can pass whatever ordinance you want. It can be stricter than Phase II because the USMP is stricter than Phase II in a lot of very significant ways. Um, but in any case that's why they call it voluntary because you have to volunteer to be mimicked. That's, that's what the bottom line is. Um, when you accept this, you're accepting an unfunded mandate because the state provides you with no money for this. No money to write the ordinance, no money to administer it. By administering it, you have to set a program that includes inspections and collection of the inspections records. You have to supervise that the deeds to all this property are written to reflect all of these requirements. That falls on the town and I would say that you're going to have to have staff that can read engineered documents because that's all this is about is engineering to retain storm water and Trace, you know all of this, I know you do. Um, USMP become the facto-zoning in the town because it doesn't regulate water. It regulates land use. The post-construction standards are much stricter than Phase II. One percent annual flood plane, ya'll need to understand what that is and the reason I have great faith you will is each and everyone of you live in it. So if you pass this and you go to redevelop your own lots, you're going to be right in the same boat with the rest of us, every one of you. Um, there is a section that refers to redevelopment in the USMP. Nobody can find it. So if you adopt that verbatim, you're adopting something that you don't even know what the redevelopment standards are. But what I can tell you is in that language it says it starts with the first one and a half inches of rainfall, but if you read further to section F it goes up to what for Carteret County is three point eight inches (3.8") of rainfall. On a half acre lot, that's a forty by eighty by two foot (40x80x2') deep retention pond. This is what ya'll are lining up for. Um, I don't the language in these proposed rules reflects conversations that I've been following in the newspaper on areas that are going to be developed within the town. So if you adopt this, what are you going to do with these projects that are being reviewed or maybe even on the threshold of getting permits? Um, you have to treat the fecal chloroform in the water that you retain if it's not retained subsurface, if it's held in a pond. Um, I guess my biggest puzzle on this whole thing is back last spring we heard the same agencies say the water off Atlantic Beach, except in the canals was pristine. Now, pristine doesn't mean fecal chloroform alone. This has nothing to do with the great sewer debate. Pristine means it's pure. Why would we have to adopt a regulation like this or did we heard one song last spring and another song now? Last thing, the coastal rules, which is like Phase II on steroids and growth hormones that may come into effect as early as August if the Legislature and towns like ours don't step in. I don't see why in the world you would adopt a temporary set of rules so that in six (6) months you can turn the whole permitting process right back on its head and start using another set of rules. So I would just caution you before you adopt any such ordinance as this if it involves the state. I think the permitting would still be a problem no matter if you do it on your own or the state does it. But whatever you do on your own, you can rescind if it's a problem. But once you give it to the state, that's the end of it. And one other thing I can tell ya, the state says they'll take it over if you don't administer it. You can forget it, they don't have the money to enforce what they got on the books now. So forget that. Just please be careful about what you do with this USMP plan. Thank you."

Councilmember Briley stated that he has been very active in trying to persuade citizens plus contacting the legislature that if this is passed, everything that has gone on the coast will end. He feels that citizens don't understand this and that the citizens need to be on the legislature about not adopting this.

Mayor Cooper commented that the Board needs to come up with a plan that will work for Atlantic Beach and satisfies the state and a common sense approach that allows and encourages smart growth

Floyd Bledsoe – 127 East Atlantic Blvd., Atlantic Beach, NC

Mr. Bledsoe stated that he had several observations to make. He asked that if anyone on the Board, the attorney and anyone else associated with the management of Atlantic Beach that doesn't have the well-being of Atlantic Beach at

heart and if they are affiliated with any corporations or other interests that the citizens need to know about and if so, could they raise their hands. Mayor Cooper raised his hand in response. He also stated that according to the media, it appears that truths are not being told of certain people because the purpose of replacing the old council is being switched and the same path is being followed and the things are not going the way citizens thought it would be when they voted the current council in office. He asked if the Planning Board has ever rejected a request? He feels that if the Planning Board did more research on the issues presented to them it would take a load off the council and if the benefactor of the request is not the citizens as a whole, it should not be approved. He also commented that East Atlantic Blvd. should not be changed at all.

Mayor Cooper commented that even though he develops real estate for a living, that does not mean that he does not have the well-being of Atlantic Beach at heart. He reassured the assembly that if there is even the slightest bit of conflict in regards to his affiliation to development, he will recuse himself from the discussions.

Mickey Stokes – 414 East Glenn, Atlantic Beach, NC

Mr. Stokes feels that people that come to this beach for recreation, the town should charge for the parking or have the county provide the funds for a parking deck.

Mayor Cooper assured the citizens that the Board will be going to the county to requesting funding for more than just the lifeguard program.

Steve Chestnut – 302 West Bogue, Atlantic Beach, NC

Mr. Chestnut is questioning the plans for the repaving of the town streets. He also stated that he would like to encourage the Board to investigate all avenues of revenues and savings on current expenditure items. He is also wondering whether the hotels/condotels/motels that are paying their fair share of water and trash and would like confirmation from the town that this is being done.

Andrew Blades – 124 East Boardwalk, Atlantic Beach, NC

Mr. Blades had concerns over the rerouting of East Boardwalk. He is requesting that if the courts find in favor of the citizens, that the citizens get a chance to meet with the current Board and present their findings and concerns.

PRESENTATIONS

1. Annual Comprehensive Financial Report for FY2006-2007 – Carter, Williams & Scarborough

Jill Romig, representative of Carter, Williams & Scarborough, gave a brief presentation on the audit report for the FY2006-2007.

2. Financial Statement, Cash Report and Investment Report – Sabrina Simpson, Administration

Mrs. Simpson advised that the June 30, 2008 pre-audited estimated Unreserved Fund Balance in General Fund will be \$2,609,325 or 39.95%. She also noted some notes of interests stating that the interest rates for First Citizens checking account decreased from 3.87% in December to 3.14% in January and the interest rates for NCCMT investment accounts decreased from 4.85% in December to 4.65% in January.

3. Fire Department Monthly Report – Adam Snyder, Fire Chief

Chief Snyder gave a brief summary of the department's activities for the month of January.

4. Police Department Monthly Report – Allen Smith, Police Chief

Chief Smith gave a brief summary of the department's activities for the month of January.

5. Public Services Monthly Report – Marc Schulze, Public Services Director

Mr. Schulze gave a brief summary of the department's activities for the month of January.

6. Inspections Department Monthly Report – Donna Turnere, Inspections Director

Ms. Turner gave a brief summary of the department's activities for the month of January.

7. Planning Department/Planning Board Monthly Report – Jessica Fiester, Planning Director

Miss Fiester gave a brief summary of the department's and the Planning Board's activities for the month of January.

8. Presentation on the Status of The Grove Project – FMB of Atlantic Beach, LLC

Mr. Bunn proceeded to give a status report of The Grove project. He noted that he will be giving a brief summary on the various projects such as parking, bike paths, street lights, pedestrian crossing, schedules and possibly a tour for the Board and citizens to find out what's going on. Mr. Bunn began with the parking project.

Parking:

- East and West Drive – some parking will be eliminated
- Atlantic Blvd., and the CAMA lot parking will remain
- Bogue Blvd, Fort Macon Rd. and location of proposed sewer plant – sites where possibly parking will be moved to.

Bicycle Paths:

- coming in to The Grove area from East and West Drives
- Three foot (3') lane delineated by brick border

Street Lights:

- in process of picking out street lights with a "coastal flavor"
- staggered from one side of the street to the other
- currently with Progress Energy

Schedule of Project:

- Probability of delay on some of the more expensive, taller buildings
- Hope to begin work on some of the peripherals this year
- Looking to complete 2nd oldest house in Atlantic Beach this year
- "Guess-timation" of long-term projections: this year will be some work, not a whole lot on some of the peripheral pieces; next year, more than this year; following year; considerable amount of work being done.
- In the meantime, will be working on getting the roadways back in order, continue planning the area and the scenery

Councilmember Palma questioned where citizens will park their bicycles once they get down to the bike path, will bike racks be provided. Mr. Bunn responded by stating that initially interim bike racks will be provided but for long-term purposes, a bike "garage" program that will have an attendant to check the bike in or if a citizen lives in that area, it will be a place where they can store their bike. He advised that they will monitor the bicycle traffic at first to see the amount of use the path will generate.

Councilmember Ide asked whether anything will be planned for children's amusements. Mr. Bunn stated that there will not be any go carts or ferris wheel, but there will be a program that parents can bring them to once things get going, but right now there are public accesses to the beach and activities on the beach.

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Councilmember Archer questioned the infrastructure timeline regarding the upcoming tourist season. Mr. Bunn stated that he is very pleased with the contractor's efforts to keep the area open. He noted the original schedule was March 15, 2008, but he feels the deadline may now be April 15, 2008 but he will be asking for an update and will report back to Marc Schulze, Public Works Director. Councilmember Archer also questioned summer parking and if the pavilion area will be able to be utilized. Mr. Bunn stated that at this point he is unable to answer this question.

Mayor Cooper recessed the meeting at 7:46 p.m.
The meeting was reconvened at 7:58 p.m.

Councilmember Briley made a motion to amend the Action Agenda to add an Item #7 "To Approve the Audit As Presented". Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

ACTION AGENDA

1. Cleanwater Management Trust Fund Grant – W. K. Dickson

Judy Weisman, Engineer and Ken Carper, Corporate Head of Stormwater Services of W.K. Dickson gave a presentation on the specifics of the Cleanwater Management Trust Fund Grant.

Councilmember Archer made a motion to approve and sign the Cleanwater Management Trust Fund Grant. Motion was seconded by Councilmember Briley. Vote was 4-1 with Councilmembers Archer, Briley, Batt and Ide in favor with Councilmember Palma opposing. Motion was carried.

2. Budget Amendments #6, #7, #8, #9, #10

Councilmember Palma made a motion to approve Budget Amendments #6, #7, #8, #9, #10. Motion was seconded by Councilmember Archer. Vote was unanimous, 5-0. Motion carried.

3. PUBLIC HEARING: Adoption of Ordinance 08-02-01; Moratorium on Commercial Ice Vending Machines: Jessica Fiester, Planning Director

Miss Fiester introduced Item #3. She stated that the department has received a high number of complaints regarding the esthetics of the ice machines and a twelve (12) month Moratorium will give the department time to research the success of the machines and to implement "across the zone" landscaping requirement and to include into the Unified Development Ordinance (UDO). Councilmember Ide made a motion to go into Public Hearing on Ordinance 08-02-01; Moratorium on Commercial ice Vending Machines. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried. The meeting was now in Public Hearing.

With there being no speakers for the Public Hearing, Councilmember Archer made a motion to close the Public Hearing on Ordinance 08-02-01. Motion was seconded by Councilmember Ide. Vote was unanimous, 5-0. Motion carried. The Public Hearing was closed.

Councilmember Ide made a motion to approve Ordinance 08-02-01 for a Twelve (12) Month Moratorium on Commercial Ice Vending Machines. Motion was seconded by Councilmember Palma. Vote was unanimous, 5-0. Motion carried.

4. Request for Public Hearing: To Adopt the North Carolina Universal Stormwater Management Program to apply to the development of Condotels and Hotels – Jessica Fiester, Planning Director

Miss Fiester stated that she will be requesting for a Public Hearing to be schedule at the March 17, 2008 Town Council Meeting.

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Councilmember Batt made a motion to schedule a public hearing to hold a discussion relating to adoption of the North Carolina Universal Storm water Management Program to apply to the development of condotels and hotels. Motion was seconded by Councilmember Archer. Vote was unanimous, 5-0. Motion carried.

5. Request for Public Hearing: To Adopt a Floor Area Ratio Text Amendment

Jessica Fiester, Planning Director

Miss Fiester stated that she will be requesting for a Public Hearing to be schedule at the March 17, 2008 Town Council Meeting.

Councilmember Briley made a motion to schedule a public hearing to hold a discussion relating to the possible adoption of a Floor Area Ratio Text Amendment. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

6. Request for Public Hearing: To Adopt the Coastal Area Management Act Land Use Plan

Jessica Fiester, Planning Director

Miss Fiester requested that a public hearing be scheduled for the April 21, 2008 Town Council Meeting. She stated the reason for the request to schedule the public hearing so far in advance is to meet the advertising requirements.

Councilmember Ide made a motion to schedule a public hearing to hold a discussion relating to the possible adoption of the Coastal Area Management Act Land Use Plan. Motion was seconded by Councilmember Archer. Vote was unanimous, 5-0. Motion carried.

7. Approval and Acceptance of the Audit for FY2006-2007 As Written

Councilmember Palma made a motion to accept, approve and adopt the Audit for FY2006-2007 as written. Motion was seconded by Councilmember Briley. Vote was unanimous, 5-0. Motion carried.

TOWN MANAGER'S REPORT

There was no report from the Town Manager at this time.

TOWN ATTORNEY'S REPORT

Derek Taylor, Town Attorney had no report at this time

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Briley wanted the record to show that Council has worked very hard and asks citizens to come to the meetings and participate and for them to realize that there is a lot to be learned.

Councilmember Archer commented that the budget process has commenced with the first meeting on February 13, 2008 at The Trinity Center in Pine Knoll Shores. He also asked that citizens continue to provide their comments.

CLOSED SESSION:

Councilmember Batt made a motion to enter into Executive Session pursuant to:

- N.C.G.S. 143-318.11(a)(3); To protect the attorney-client privilege; To consider and give instructions concerning a judicial action titled: Gallion v AB.
- 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; To hear or investigate a complaint, charge, or grievance by or against a public officer or employee.

Motion was seconded by Councilmember Archer. Vote was unanimous, 5-0. Motion carried. Council entered into Executive Session at 9:05 p.m.

Councilmember Ide made a motion to return to Open Session. Motion was seconded by Councilmember Briley. Vote was unanimous, 5-0. Motion carried. Council returned to Open Session at 9:56 p.m.

ADJOURNMENT

There being no further business before the Town Council, Councilmember Palma made a motion to adjourn the meeting. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. It was 9:56 p.m.

(Clerk's note: these minutes were recorded by Sabrina Simpson, Administrative Supervisor)

Submitted by:

Kelly L. Nash, Town Clerk

These minutes were approved at the May 19, 2008 meeting of the Atlantic Beach Town Council.

A. B. Cooper III, Mayor