

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, March 17, 2008**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, March 17, 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; Vada Palma

Members Absent: Ken Ide

Others Present: Derek Taylor, Town Attorney; Kelly Nash, Town Clerk; Sabrina Simpson, Administration; Marc Schulze, Public Services Director; Allen Smith, Police Chief; Lt. Jeff Harvey, ABPD; Donna Turner, Inspections Director; Jessica Fiester, Planning Director; Adam Snyder, Fire Chief; Landin Holland, Holland Consulting; Greg Rudolph, Shore Protection; Mr. Bill English; JoAnne Smith, Carteret County Emergency Services.

CALL TO ORDER AND ROLL CALL

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

INVOCATION AND PLEDGE OF ALLEGIANCE

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

Councilmember Briley made a motion to excuse Councilmember Ide from the meeting. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried.

APPROVAL OF THE AGENDA

Councilmember Archer made a motion to amend the agenda by moving Consent Agenda Item # 6 to the Action Agenda as Action Agenda Item #1 and to go into Executive Session pursuant to N.C.G.S. 143.318.11(a)(3). Motion was seconded by Councilmember Palma. Vote was unanimous, 4-0. Motion carried.

Councilmember Briley made a motion to approve the Consent Agenda as amended. Motion was seconded by Councilmember Archer. Vote was unanimous, 4-0. 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 –FEBRUARY, 2008: (FYI Item)

Tax Collector Laura Buda submitted the tax collection report for February, 2008 which showed that \$50,795.40 had been collected. The year-to-date total at the end of February, 2008 was \$3,287,016.50.

2. BUDGET TRANSFERS

A total of eight (8) budget transfers were submitted for approval.

3. CORRECTIVE ACTION PLAN

4. PURCHASING & CONTRACT POLICY

5. INTERNAL CONTROL POLICY

6. SUPPORT AND ACCEPTANCE FOR THE CONSOLIDATION OF THE PUBLIC SAFETY ANSWERING POINTS (PSAP) FOR CARTERET COUNTY

7. APPROVAL OF MINUTES: October 15, 2007

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

CITIZEN REQUESTS/COMMENTS

Bill Johnston – 301 Commerce Way, Atlantic Beach, NC

Mr. Johnson is requesting that the street he resides on be changed from “Commerce Way” to “Sandy Lane”

James Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis stated that he is in “blue mood” tonight and proceeded to give a brief history of how the street had been named. He also commented that he is speaking on a non-request. He proceeded to explain what the “non-request” was. He advised that approximately four (4) years ago, he told the Council, at that time, that Fred Bunn had not requested the closure of one boardwalk that he thought Fred Bunn would need. He acknowledged that he is giving up on the non-request.

PRESENTATIONS

1. Proclamation 08-03-01; BROAD STREET CLINIC WEEK – Mayor Cooper

Mayor Cooper read the proclamation declared the week of April 28 through May 2, 2008 as ‘Broad Street Clinic Week’

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

Mrs. Simpson advised that the June 30, 2008 estimated Unreserved Fund Balance in General Fund will be \$2,609,325 or 39.95%. Notes of Interests were the interest rate for the First Citizens checking account decreased from 3.14% in January to 2.63% in February; interest rates for NCCMT investment accounts decreased from 4.65% in January to 3.89% in February.

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

Chief Smith gave a brief summary of the department’s activities for the month of February. Lt. Jeff Harvey gave a status report on the Community Policing survey the department sent out to the citizens of Atlantic Beach for feedback on the various services the department offers.

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

Chief Snyder gave a brief summary of the department’s activities for the month of February.

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

Marc Schulze gave a brief summary of the department's activities for the month of February.

6. Inspections Monthly Report – Donna Turner, Inspections Director

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

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

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

8. Shore Protection – Greg "Rudi" Rudolph, Carteret County Shore Protection Office

Mr. Rudolph gave a slide presentation on the past, current, future outlook regarding shore protection for the Town of Atlantic Beach.

(Clerk's Note: a copy of the Shore Protection slide presentation is hereby attached and therefore made a part of these minutes.)

ACTION AGENDA

1. Support and Acceptance for the Consolidation of the Public Safety Answering Points (PSAP) for Carteret County

Police Chief Smith briefed the Council on the issue of the Town of Atlantic Beach endorsing the Consolidation of the Public Safety Answering Points (PSAP) for Carteret County. He noted the pros and cons that would be the results of the town endorsing the consolidation. He noted the pros as follows:

- cost savings of approximately \$200,000 yearly
- Emergency medical dispatching for all citizens
- All currently employed Atlantic Beach communications employees would be encompassed within the center
- No future costs to the town
- Oversight is placed with the county's emergency services department

Mayor Cooper commented that the "after hours" human contact in the lobby of the police department would be eliminated. Chief Smith advised that he has checked other municipalities that use a call box at the lobby area of their police department for after hours of citizens. He also noted again that the county would be funding this project completely through 9-1-1 funds. Mayor Cooper reiterated that the level of police services would not diminish due to the consolidation. Chief Smith noted that the projected date for implementation is July, 2009.

Councilmember Briley made a motion to endorse the Consolidation of the Public Safety Answering Points (PSAP) for Carteret County. Councilmember Archer seconded the motion. Vote was unanimous, 4-0. Motion carried.

2. Budget Amendment #11

Councilmember Briley made a motion to approve Budget Amendment #11. Councilmember Palma seconded the motion. Vote was unanimous, 4-0. Motion carried.

3. Request for Encroachment for Barefoot Lane

Mr. Richard Stanley, Attorney, was representing Mr. & Mrs. English who is requesting an encroachment within Barefoot Lane. He noted that Barefoot Lane is a dead-end with three (3) structures. He explained that the Englishes

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bought a house that was advertised as a four (4) or five (5) bedroom structure only to find out from the county health department in 2007 that the original permit had only been issued for two (2) bedrooms. After receiving a letter from the county indicating the structure can only be used as two (2) bedrooms. He stated that this started the process of trying to expand the septic system. It was determined that a conventional septic system would not work, but a PEAT system would be acceptable and workable. Mr. Stanley commented on the various locations within Atlantic Beach where there have been encroachments within the right-of-ways. Mr. Stanley handed out a revised copy of the final draft that shows Mr. English's proposed project which is installing a seven and a half (7 1/2') by sixteen (16') gravel system under the ground within the first seventeen feet (17') of the street and on top of this would be Biofilter modules which stick out one (1") to two (2") inches and should not create a walking hazard. But if this is a concern to the Council, Mr. Stanley stated that he has a letter from Beam Cooper Gainey indicating that the Englishes can obtain Liability Insurance in the event of any injuries. He noted that they can name the Town of Atlantic Beach as an additional insured.

Councilmember Briley wanted confirmation from Mr. Stanley as to whether or not the septic tank would be in the right-of-way. Mr. Stanley responded by stating that the septic tank would not be in the right-of-way. He advised that there would be two (2) holding tanks beside a gravel bed that would be underground. The only thing that would be above ground would be the Biofilter modules.

Councilmember Briley questioned as to what would happen if the owners decided to sell the structure. Mr. English stated that he would sell the house. Councilmember Briley then proceeded to ask as to how he would indemnify the prospective buyer if five (5) or ten (10) years from now and that town needed that area. Mr. Stanley commented by saying that they would get an easement that would run with the land but provide that if a central sewer system was ever available and was run to the property, the owner would have to cease use or if another type of system that did not have to be put in the right-of-way could be moved. Mr. Stanley also advised that the current owner would have to disclose what was done. Councilmember Briley commented that he had a problem as to whether the town would have knowledge that the prospective owner has been made fully aware of what they are buying and what was done and would completely indemnify the town. Mr. Stanley proposed that the project be made public record so that this would show up on any title search and this would put on record to any prospective buyers that this is what they are buying. He stated that this could even be made a condition of any such easement outlining the conditions.

Councilmember Batt questioned as to whether the issue would be resolved if the deck was removed. Chris Kiger, representative for the Bord Na Mona Environmental Products, manufacturer of the Puraflo PEAT system stated that he spoke with Tom Henson, a designer, earlier this morning and noted that Mr. Henson had been to the health department twice already and advised, per the health department, there is no way that the deck or any other features can be moved. The only workable way is being proposed because there is not enough room for any other design. Mayor Cooper reiterated Councilmember Batt's comments that with a five foot (5') setback off the deck, that if the deck were removed and had a five foot (5') setback off the structure, it appears the system would be out of the right-of-way. Once again, Mr. Kiger commented that, per the designer, the deck could not be removed and that the health department is against this option. Mr. Kiger advised that this was a design question that would be better asked of the designer, Tom Henson. Mr. Stanley asked that the Council grant the Englishes the minimum amount necessary and give the town attorney or manager the ability to investigate the option of moving the deck to where the system would be almost solely on the property. Councilmember Archer commented that the only time this encroachment would come into play is if the town decided to install a central sewer system and if this happened the system would have to be disconnected and a lateral line run to the central sewer system. He stated that he had no problem granting the encroachment easement to the owners and that the town has the right to recall the easement basically at will.

Councilmember Archer made a motion to grant the encroachment easement and that the offer made by Attorney Stanley made on behalf of his clients that it be so recorded in the Courthouse of Carteret County subject to the Town Attorney's drafting and approval of the document. Mayor Cooper wanted to make a few notes on Councilmember Archer's motion, one being that the town can move the easement at will. Councilmember Archer added the comment "or just cause". Mayor Cooper also wanted to know if the comment that Attorney Stanley made, in regards to the size of the encroachment being as small as possible if the county can work something else out, was part of Councilmember Archer's motion also. Councilmember Archer commented regarding the size that "if it can be decreased then so be it", if not the request is for seven feet (7') and that it be removed if there is a central wastewater system. Mayor Cooper

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asked Councilmember Archer if would be included in his motion any requirement for insurance. Councilmember Archer stated that he will include that Liability Insurance be in place and maintained at the time of installation and the policy will run to the Town of Atlantic Beach. Councilmember Briley stated that he wants to make sure that the town receives a letter stating that the easement is fully disclosed and the prospective property owners sign the disclosure and returns it to the town. Derek Taylor, Town Attorney advised that the easement will be a recorded document and would be found in any title change and if it is not found, then the attorney that did the title work would have to answer to that. Councilmember Archer advised for this caveat to be included in his motion. Councilmember Palma seconded the motion. Vote was unanimous, 4-0. Motion carried.

4. Resolution 08-03-01; Resolution Approving Financing Terms of a Heavy Rescue Truck

Sabrina Simpson stated that the town has received several quotes for a ten (10) year loan on \$325,205.00, with payments in arrears, for a heavy rescue truck and accessories. She noted that BB&T came in with a quote with the lowest interest rate of 3.14% and that if adopted, the first payment would not be due until March 31, 2009.

Councilmember Archer made a motion to approve the financing terms of a heavy rescue truck. Councilmember Briley seconded the motion. Vote was 3 in favor and one opposing with Councilmembers Batt, Palma and Archer in favor and Councilmember Briley in the opposing. Motion carried.

5. Request for Public Hearing: Ordinance Amending Chapter 8, Fire Prevention and Protection of the Code of Ordinances of the Town of Atlantic Beach, North Carolina:

Chief Snyder introduced Item #5. He stated that this ordinance would require a Knox Box system be installed on required properties and the fire department would have a master key for all boxes for these properties.

Councilmember Batt made a motion to schedule a public hearing at the April 21, 2008 Town Council Meeting to hold a discussion on an ordinance amending Chapter 8, Fire Prevention and Protection of the Code of Ordinances. Motion was seconded by Councilmember Archer. Vote was unanimous, 4-0. Motion carried.

6. Request for Public Hearing; Ordinance Allowing for Temporary Setbacks for Redevelopment

Jessica Fiester stated that the Planning Board unanimously recommended a citizen-requested text amendment to require that a bond be posted if setbacks will be temporarily violated while redeveloping.

Councilmember Palma made a motion to schedule a public hearing at the April 21, 2008 Town Council Meeting on a proposed ordinance that would allow for temporary setbacks for redevelopments. Motion was seconded by Councilmember Archer. Vote was unanimous, 4-0. Motion carried.

7. Public Hearing; Proposed Ordinance 08-03-01; Amendment to Chapter 18, Zoning; Articles VI, Listing of Permitted and Special Uses by District; Section 18-124, Special Requirements to the List of Permitted Special Use; §(g) SR #7(3)

Landin Holland, Planning Consultant with Holland Consulting stated that the Public Hearing is for possible adoption of the North Carolina Universal Storm water Management Plan. He advised that this ordinance would state that if greater than ten thousand square feet (10,000') of land area is disturbed, a inch and a half (1 ½") of storm water must be retained on the site and treat the stormwater 85% of its suspended solids.

Councilmember Archer made a motion to go into Public Hearing on Proposed Ordinance 08-03-01. Motion was seconded by Councilmember Briley. Vote was unanimous, 4-0. Motion carried.

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

Mr. Tarascio commented that the Board did not have to adopt this ordinance and sign up with the state. He advised that the Board can adopt an ordinance pertaining specifically to Atlantic Beach.

Councilmember Briley made a motion to close the Public Hearing on Proposed Ordinance 08-03-01. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried.

Councilmember Archer made a motion to table Proposed Ordinance 08-03-01 pending further study. Motion was seconded by Councilmember Briley. Vote was unanimous, 4-0. Motion carried.

8. Public Hearing: Proposed Ordinance 08-03-02; Amendment to Chapter 18, Zoning; Article XVII, Circle Development District; Section 18-377, Density/Lot size Standards

Councilmember Archer made a motion to recuse Mayor Cooper from discussion on Action Agenda Item #8 as relating to Proposed Ordinance 08-03-02. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried.

At this time, Mayor Cooper recessed the meeting for a ten (10) minute break. The time was 8:13 p.m. Also at this time, Mayor Cooper excused himself from the meeting. The meeting reconvened at 8:25 p.m.

Jessica Fiester, Planning Director introduced Proposed Ordinance 08-03-02

Councilmember Briley made a motion to go into Public Hearing on Proposed Ordinance 08-03-02. Motion was seconded by Councilmember Batt. Vote was unanimous 4-0. Motion carried.

Buddy Cooper – 1700 East Fort Macon Road, Atlantic Beach, NC

Mr. Cooper commented that this text amendment does not add or take out anything from the current ordinance, it just clarifies it.

James Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis wanted to know why the Mayor had to recuse himself from the meeting regarding this issue. He felt that the Mayor was not related to the corporation.

Wally Courie

Mr. Courie commented that any reasonable accommodations to the “robust” developers should be made.

Councilmember Briley made a motion to close the Public Hearing on Proposed Ordinance 08-03-02. Motion was seconded by Councilmember Palma. Vote was unanimous, 4-0. Motion carried.

Councilmember Briley made a motion to adopt Ordinance 08-03-02. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried.

Councilmember Palma made a motion to return Mayor Cooper to the meeting. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried. Mayor Cooper returned at 8:32 p.m.

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 commented that it is a pleasure to work with his fellow councilmembers.

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: Staub v AB.

Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried. Council entered into Executive Session at 8:42 p.m.

Councilmember Briley made a motion to return to Open Session. Motion was seconded by Councilmember Batt Vote was unanimous, 4-0. Motion carried. Council returned to Open Session at 9:09 p.m.

Councilmember Briley made a motion to approve the receipt of the insurance company to settle the Staub v. Town of Atlantic Beach matter. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried.

ADJOURNMENT

There being no further business before the Town Council, Councilmember Batt made a motion to adjourn the meeting. Motion was seconded by Councilmember Palma. Vote was unanimous, 4-0. It was 9:11 p.m.

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