



Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, November 23, 2009



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, November 23, 2009 at 6:00 p.m. in the Council Meeting Room.

Members Present: Mayor Cooper, Mayor Pro Tem Harry Archer; Councilmembers: Ann Batt, Vada Palma and Trish Ide

Members Absent: Councilmember Briley

Others Present: Derek Taylor, Town Attorney; Kelly Cyrus, Town Clerk; Donna Turner, Inspections Director; Jessica Fiester, Planning Director; Joey Starling, Building Inspector; Police Chief Smith; Deputy Police Chief Miller; Sabrina Simpson, Administrative Services; Lt. Jeff Harvey; Officer Doug Harvey; Capt. Ussery; Lt. Alvarado; Fire Chief Snyder; citizen, James Willis

CALL TO ORDER AND ROLL CALL

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

PLEDGE OF ALLEGIANCE and INVOCATION

Ms. Pace Winsted gave the Invocation.
Mayor Cooper led the assembly in the Pledge of Allegiance.

Councilmember Batt made a motion *to excuse* Councilmember Briley from the meeting. Mayor Pro Tem Archer seconded the motion. Vote was unanimous, 4-0. Motion carried.

Mayor Pro Tem Archer announced that no action would be taken at this night's meeting on the issue of East Boardwalk Avenue as previously stated during the October 26, 2009 Town Council meeting due to Councilmember Briley's absence.

APPROVAL OF THE AGENDA

Councilmember Palma made a motion *to amend* the agenda by changing the Closed Session statute from N.C.G.S. 143-318.11(a)(3) to N.C.G.S. 143-318.11(a)(6) and *to approve* the agenda as amended. Motion was seconded by Councilmember Ide. Vote was unanimous, 4-0. Motion carried.

Mayor Pro Tem Archer made a motion *to approve* the Consent Agenda as written. Motion was seconded by Councilmember Batt. 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 – October, 2009:** The tax collection report showed that \$126,985.51 had been collected.
2. **Tax Releases – October, 2009:** Tax release in the amount of \$4.53 was submitted for approval.
3. **Budget Transfers- October, 2009:** Three (3) Budget Transfers were submitted for approval.
4. **Financial Reports– October, 2009**
5. **Town Council Minutes:** September 28, 2009 Town Council minutes were submitted for approval.

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

CITIZEN REQUESTS/COMMENTS

Donnie Hinson, President of Memories Beach Club and President of Atlantic Beach Shagger's Hall of Fame

Mr. Hinson began by introducing his support team comprised of Eddie Dawkins, who he mentioned was 70 years young this day; Bill Guthrie (present), two time President of Atlantic Beach Shag Club, on the Board of Directors for Memories Beach Club and Board of Directors for the Atlantic Beach Shagger's Hall of Fame and Mr. Robert E. Lee (absent), member of the Hall of Fame and instrumental in having shag at the Carteret County dance. Mr. Hinson proceeded to give a brief history of the Atlantic Beach Shagger's Hall of Fame by explaining that it is a non-profit organization formed in 1999, registered with the Secretary of State, Board of Directors and has a Hall of Fame election committee. He noted that every February a Hall of Fame reunion is held which brings approximately 300 people to the town during this particular month. With this, Mr. Hinson made the request to Council to consider constructing a sign that states "Welcome to Atlantic Beach" which would also recognize the Atlantic Beach Shagger's Hall of Fame. He proposed the signs to be mounted at the boundaries on Highway 58 coming into the town and on the Causeway. Mr. Hinson distributed samples pictures of signs going into Pine Knoll Shores. Mr. Hinson noted that the Hall of Fame would also share in the cost of the request if approved.

Mayor Cooper explained that the town would have to check with the Department of Transportation and all that that entails and personally, he thought it is a great idea. He noted that the town would get back with him.

(Clerk's Note: A copy of Mr. Hinson's pictures are hereby attached and therefore made a part of these minutes.)

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

Mr. Willis commented that he attended the first parade in the area known as the Armistice Day parade, now known as the Veteran's Day parade, and up until a few days ago he had not been impressed by any of the parades. But when the Atlantic Beach Pipe and Drum band performed in the recent parade, he commented how impressed he was and how honored he was to be a citizen of Atlantic Beach. At that time, Mr. Willis thanked Chief Snyder and his fire department.

PRESENTATIONS

1. Presentation of Law Enforcement Intermediate Certification – Officer Doug Harvey

Presented by: Mayor Cooper; Chief Smith

Chief Smith briefly explained that the certificate program is through the North Carolina Justice Trainings and Standards Commission and there are certain criteria for each certification beginning with the General Certification certificate. Officers have to acquire a certain amount of training points, education points, years of service. He noted that the certification also plays a part in the departmental promotion process. At this time, Mayor Cooper in conjunction with Chief Smith awarded Officer Doug Harvey with his Law Enforcement Intermediate Certificate.

Chief Smith also recognized Lt. Jeff Harvey, Investigator with the police department, on his completion of the North Carolina Justice Academy's Management Development Program (MDP) which is a 12 week course conducted one week a month for 1 year. The course is a comprehensive program offering instruction in upper management, budgeting, personnel issues, employment law, communication skills, project management, leadership and motivation and achievement. This course has been accredited with 15 credit hours in the under graduate curriculum. Lt. Harvey was one of 19 selected to attend this course out of hundreds of applicants statewide. Chief Smith congratulated both officers.

ACTION AGENDA

1. Fiscal Year 2008-2009 Comprehensive Annual Financial Report

Presented by: Bryan Scott with Thompson, Price, Scott and Adams

Sabrina Simpson, Administrative Services Supervisor introduced Mr. Scott and noted that his firm has performed the town's audit for the past two (2) years. Mr. Scott presented the audit to Council and congratulated them on their good, sound accounting practices.

Mayor Pro Tem Archer made a motion *to approve* the FY2008-2009 Financial Audit Report as presented. Councilmember Ide seconded the motion. Vote was unanimous, 4-0. Motion carried.

2. Proposed Ordinance 09-11-06: Amendment to Chapter 6, Buildings and Building Regulations of the Code of Ordinances for the Town of Atlantic Beach, North Carolina

Presented by: Joey Starling, Building Inspector

Joey Starling, Building Inspector made a request to the Council to adopt the International Property Maintenance Code as recognized by the International Code Council, located in Chicago, IL, who writes all the building codes. He advised that the international building codes fall in line with the town's current building codes and that the international codes are more up to date than what the town currently has in place with regards to nuisances, minimum housing standards, etc.

Councilmember Batt made a motion *to adopt* into the Atlantic Beach Code of Ordinances for the Town of Atlantic Beach the most current edition of the International Property Maintenance Code. Mayor Pro Tem Archer seconded the motion. Vote was unanimous, 4-0. Motion carried.

3. Request to Schedule Public Hearing: CAMA Land Use Plan Amendments

Presented by: Jessica Fiester, Planning Director

Jessica Fiester, Planning Director stated a public hearing had been originally scheduled on amendments to the CAMA Land Use Plan for this night's meeting. She requested for the public hearing to be rescheduled for the December Town Council meeting due to additional changes that needed to be made and state requirements for proper advertisement of the hearing needed to be adhered to. Miss Fiester commented that the amendments will streamline the UDO with the town's land use plan.

Councilmember Palma made a motion *to schedule* a public hearing on the CAMA Land Use Plan for the December 21, 2009 Town Council meeting. Motion was seconded by Councilmember Ide. Vote was unanimous, 4-0. Motion carried.

4. PUBLIC HEARING: Ordinance 09-11-01; Amendment to Section 2.24, Property Addressing of the Unified Development Ordinance

Presented by: Jessica Fiester, Planning Director

Miss Fiester began by stating that the original language that was put into the Unified Development Ordinance required property addressing on any waterfront property. She explained that questions arose about if a parcel just had a dock, a shed, a whole residence, etc. The Planning Board determined that regardless of what type of structure was on an owner's property it would need to be addressed.

Prior to entering into the public hearing, Mayor Cooper addressed Derek Taylor, Town Attorney with a procedural question as to whether or not a motion/second would be required when there are several public hearings on the agenda. Mr. Taylor advised that since the town has not adopted independent Rules of Procedure, but separate motions and seconds have historically been done, the Board needs to continue with the current practices until the adoption of any Rules of Procedure.

Mayor Pro Tem Archer made a motion *to enter into* the Public Hearing. Councilmember Batt seconded the motion. Vote was unanimous, 4-0. The floor was now open to public comment.

Mr. James Newman Willis, III – 104 Atlantic Beach Causeway, Atlantic Beach, NC

Mr. Willis stated that he became involved in this issue when the UDO required that waterside property be posted with an address. He stated that a property owner gets their property address numbers from the county, not the town but he does remember that years ago the town had a complete map of the town with address numbers. Mr. Willis stated that he had a wall on Fort Macon Rd and the county refused to give him a property number for the wall. But the UDO specifies "improved property" has to have a property address. He felt this could mean a vacant lot is improved property. He requested the Planning Board to use another term that would allow the county to give property owners a number and take away anything to a vacant lot and make it some kind of structure. The Planning Board came up with the word "structure". Mr. Willis stated that he advised the Planning Board that the wall in question would be deemed a structure, according to their definition, but the county would not give him address number for that "structure". Mr. Willis provided examples of structures that would require an address number such as the memorial bench for former Councilmember Ken Ide or the town's water tower, every sign in town. He then offered some suggestions, with one of the suggestions being to change the word "structures" to "buildings" which would remove the ambiguity of the word

“structure”. He requested for the Council to adopt wording that property owners could use without being in violation of any ordinance.

Mayor Cooper closed the public hearing at 6.38 p.m.

Mayor Cooper asked Miss Fiester how “structure” is defined within the Unified Development Ordinance (UDO). Miss Fiester responded by stating that it would be considered anything manmade and that the Planning Board was pretty clear on the wording due to wanting docks and storage units addressed which they felt would help contribute to a whole picture of addresses being seen from the water. She also advised the reason for the refusal of an address number for Mr. Willis’ wall is due to the fact that it is part of a parcel that has three (3) other buildings on it.

Mr. Willis stated that he measured two (2) of his lots and at the property line between the those two (2) lots, the wall in question stops and a wooden fence begins and there is a ½ inch crack between the wall and fence. So because of this, he felt that these were two (2) different lots, used by two (2) different businesses.

Mayor Cooper advised that the goal is to allow easy identification for emergency services from the waterfront, not to generate fees for numbers on the back of a bench. Miss Fiester made the suggestion to forward this issue to the fire and police departments since the initial request was made from those departments.

Upon further discussion, Mr. Willis made the suggestion to have the ordinance read “structure for which a property number can be obtained from the Carteret County Emergency Management Department”. It was determined that this language amendment provided by Mr. Willis would provide clarification for the issue at hand.

Mayor Pro Tem Archer made a motion *to amend* the language within Section A where any reference to containing a structure would now read “containing a structure for which a property number can be obtained from the Carteret County Emergency Management Office” and *to adopt* Ordinance 09-11-01. Councilmember Ide seconded the motion. Vote was unanimous, 4-0. Motion carried.

5. PUBLIC HEARING: Ordinance 09-11-02; Amendment to Section 5.6, Table of Area, Yard and Height Requirements

Presented by: Jessica Fiester, Planning Director

Miss Fiester explained that the amendment would allow property owners who build a single family home to use the setback of ten feet (10’) front and back and five feet (5’) on the side unless there is some other reason that would override those setbacks. The amendment would also limit the height to forty five feet (45’).

Mayor Pro Tem Archer made a motion *to enter into* the public hearing. Councilmember Batt seconded the motion. Vote was unanimous, 4-0. Motion carried.

With no persons signed up to speak, Mayor Cooper closed the public hearing.

Councilmember Palma made a motion *to adopt* Ordinance 09-11-02. Councilmember Batt seconded the motion. Vote was unanimous, 4-0. Motion carried.

6. PUBLIC HEARING: Ordinance 09-11-05; Amendment to Section 6.18 Manufactured Home Park Regulations

Presented by: Jessica Fiester, Planning Director

Miss Fiester explained that the amendment would remove the requirement that a newly developed mobile home park would have to obtain a Conditional Use Permit with a renewal of the permit every three (3) years.

Mayor Pro Tem Archer made a motion *to enter into* the public hearing. Councilmember Ide seconded the motion. Vote was unanimous, 4-0. Motion carried.

With no persons signed up to speak, Mayor Cooper closed the public hearing.

Mayor Pro Tem Archer made a motion *to adopt* Ordinance 09-11-02. Councilmember Batt seconded the motion. Vote was unanimous, 4-0. Motion carried.

7. PUBLIC HEARING: Ordinance 09-11-03; Amendment to Section 5.4.2, Causeway Overlay District (Citizen Requested)

Presented by: Jessica Fiester, Planning Director

Miss Fiester gave an opening explanation on Agenda Items 7 and 8 since they are relative to one another. She noted that both proposed ordinances relate to the issue of whether or not to be included in the Causeway Overlay District and a property owner's right to opt out.

Miss Fiester explained that proposed Ordinance 09-11-03 amendment would allow a property owner to request exclusion from the district with specific language to read "Since the Causeway Overlay District is not a zone per se, and since inclusion in the district is optional, any owner of property presently located within the district may request that the property be removed from the district by filing the proper application for removal by the property owner, the UDO administrator shall remove said property from the Causeway Overlay District and alter the zoning map of said district to indicate that said property is no longer within the said district" and that proposed Ordinance 09-11-04 amendment clarifies that the Causeway Overlay District is strictly an optional district that offers developmental benefits if a property owner so chooses.

Councilmember Batt made a motion *to enter into* the public hearing on proposed Ordinance 09-11-03 (Citizen Requested Public Hearing). Councilmember Palma seconded the motion. Vote was unanimous, 4-0. Motion carried.

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

Mr. Willis asked of Attorney Taylor if a "Causeway Overlay District" had been officially established. Attorney Taylor explained that when the Unified Development Ordinance (UDO) was created and a map was established that was passed in conjunction with the Unified Development Ordinance (UDO) the Causeway Overlay District was established by the Unified Development Ordinance. Mr. Willis proceeded to ask if the Causeway Overlay District currently contains within its boundaries any property at all. Attorney Taylor responded by quoting the Unified Development Ordinance "The Causeway Overlay District encompasses all properties zoned as General Business". Mr. Willis stated that he did not want his property included in this district and noted that a property owner should be allowed to officially opt out of inclusion into this district.

Mayor Cooper closed the public hearing.

With no action taken, *this item failed due to lack of action.*

8. PUBLIC HEARING: Ordinance 09-11-04; Amendment to Section 6.1.1, Causeway Overlay District

Presented by: Jessica Fiester, Planning Director

Please see above explanation of Agenda Item 8 in conjunction with Agenda Item 7.

Miss Fiester offered the suggestion to revise the language of the purpose for the Causeway Overlay District by removing the three words *opt in and* so the purpose statement would read: "The purpose of the Causeway Overlay Regulations (*for property owners who wish to take advantage of the benefits outlined in this article*) are to:

Mayor Pro Tem Archer made a motion *to enter into* the public hearing on proposed Ordinance 09-11-04. Councilmember Ide seconded the motion. Vote was unanimous, 4-0. Motion carried.

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

Mr. Willis questioned as to why the current language for the General Business District could not be amended to include the benefits that are being offered by inclusion into the Causeway Overlay District instead of creating a whole new district.

Pace Winsted, 510 Kinston Avenue, Atlantic Beach, NC

Ms. Winsted agreed with Mr. Willis in that a property owner should be able to opt out of the Causeway Overlay District.

Mayor Cooper closed the public hearing.

Mayor Pro Tem Archer made a motion *to amend* the language of Section 6.1.1, Purpose by removing the words “opt in and” *and adopt* Ordinance 09-11-04 as amended. Councilmember Ide seconded the motion. Vote was unanimous, 4-0. Motion carried.

At this time, Mayor Cooper called for a five (5) minute recess. The time was 7:37 p.m.
Mayor Cooper reconvened the meeting at 7:47 p.m.

TOWN MANAGER’S REPORT

Town Manager was not in attendance at this night’s meeting.

TOWN ATTORNEY’S REPORT

No report at this time.

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Palma thanked the Atlantic Beach Fire Department and Police Department for the professional services they offered on the recent boating accident. She also noted how much of a pleasure it had been to serve under Town Manager, Pete Allen and wished everyone Happy Thanksgiving

Councilmember Ide wished everyone Happy Thanksgiving.

Councilmember Batt wished everyone Happy Thanksgiving. She also passed on accolades that came from an individual out of Raleigh to the town’s fire department and police department on their professionalism during the recent boating incident.

Mayor Pro Tem Archer wished everyone Happy Thanksgiving. He also commented that he felt that Atlantic Beach Rescue 3 had paid for itself with the recent boating accident. Mayor Pro Tem Archer requested the Public Works department to schedule a meeting with Keith Stroud, General Manager of Waste Industries about violations of illegal disposal of plastic bottles. He feels that large depositories should be installed east and west of the town for these specific bottles.

Mayor Cooper announced that the December Town Council meeting that was originally scheduled for Monday, December 28, 2009 has been moved to Monday, December 21, 2009 and in turn will move the Board of Adjustment meeting originally scheduled for Monday, December 21, 2009 to Tuesday, December 22, 2009.

Mayor Pro Tem Archer made a motion *to go into* Closed Session pursuant to N.C.G.S. 143-318.11(a)(3) following a ten (10) minute recess. Councilmember Batt seconded the motion. Vote was unanimous, 4-0. Motion carried.

Mayor Cooper called for a ten (10) minute recess prior to entering into Closed Session. The time was 7:56 p.m.
Mayor Cooper reconvened the meeting at 8:11 p.m. and immediately Town Council entered into Closed Session. The time was 8:12 p.m.

ADJOURNMENT

There being no further action taken or business before the Town Council, Councilmember Ide made a motion *to adjourn* the meeting. Motion was seconded by Councilmember Batt. Vote was unanimous, 4-0. It was 9:02 p.m.

Submitted by:

Kelly L. Cyrus, Town Clerk

These minutes were approved at the January 19, 2010 meeting of the Atlantic Beach Town Council.

A. B. Cooper, III - Mayor