



**Minutes**  
**Town of Atlantic Beach, North Carolina**  
**Town Council Meeting**  
**Monday, December 21, 2009**



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, December 21, 2009 at 6:00 p.m. in the Council Meeting Room.

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

**Members Absent:**

**Others Present:** Pete Allen, Town Manager; Derek Taylor, Town Attorney; Kelly Cyrus, Town Clerk; Jessica Fiester, Planning Director; Sabrina Simpson, Administrative Services; Police Chief Smith; Major A. K. Miller; Lt. Jeff Harvey; Capt. Ussery; Sgt. Erika Alvarado; Lt. Brian Prior; Fire Chief Snyder; Marc Schulze, Public Works Director; James Sebastian, Water Superintendent; Mr. Andrews, Department Chaplain

#### **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**

Mr. Claude Andrews gave the Invocation.  
Mayor Cooper led the assembly in the Pledge of Allegiance.

#### **APPROVAL OF THE AGENDA**

Councilmember Briley made a motion *to amend* the Action Agenda by *removing* Action Agenda Item #1; Request for Taxi Service within the Town of Atlantic Beach and *scheduling* that item for the January 19, 2010 Town Council meeting; *adding* "Approval of the Town Manager Agreement" to the Action Agenda as Item #5; and *moving* Consent Agenda Item #8; Resolution 09-12-01 to the Action Agenda as Item #6 and *to approve* the agenda as amended. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

Mayor Pro Tem Archer made a motion *to approve* the Consent Agenda as amended. Motion was seconded by Councilmember Palma. 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 – November, 2009:** The tax collection report showed that \$470,292.80 had been collected.
2. **Tax Releases – November, 2009:** Tax release in the amount of \$589.06 was submitted for approval.
3. **Budget Transfers November, 2009:** Five (5) budget transfers were submitted for approval.
4. **Budget Amendment #6:** A budget amendment in the amount of \$10,506.00 was submitted for approval.
5. **Budget Amendment #7:** A budget amendment in the amount of \$11,386.00 was submitted for approval.
6. **Financial Reports– November, 2009**
7. **2009 Annual Certification of Firemen**
8. **Town Council Minutes:** October 26 and November 23, 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.)

## ORGANIZATIONAL MEETING

### 1. Certification of Election Results – Kelly L. Cyrus, Town Clerk

Kelly Cyrus, Town Clerk read the certified Municipal Election results for the offices of Mayor and Council for the Town of Atlantic Beach for the term December, 2009 through December, 2011.

### 2. Oath of Office – Mayor Sworn in by: Kelly L. Cyrus, Town Clerk

- a. A. B. Cooper, III

### 3. Oath of Offices – Town Council Sworn in by: Mayor Cooper

- a. Harry Archer
- b. Ann Batt
- c. Eddie Briley
- d. Trish Ide
- e. Vada Palma

### 4. Selection of Mayor Pro Tempore

Councilmember Palma *nominated* Harry Archer for the title of Mayor Pro Tempore for the term of December 2009 through December, 2011. Mayor Cooper called for a vote. Vote was unanimous, 5-0.

### 5. Establishment of 2010 Meeting Schedules for the Town Council, Planning Board, and Board of Adjustment

Councilmember Batt made a motion *to adopt* the 2010 Meeting Schedules. Motion was seconded by Councilmember Briley. Vote was unanimous, 5-0. Motion carried

(Clerk's Note: a copy of the municipal election results, all Oaths of Offices and the 2010 Meeting Schedule are hereby attached and therefore made a part of these minutes.)

## CITIZEN REQUESTS/COMMENTS

### Pace Winsted, 510 Kinston Ave, Atlantic Beach, NC

Ms. Winsted stated that she is thrilled the Council members have remained the same.

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

Mr. Willis explained how he felt the concept of the newly formed Causeway Overlay District that is within the Unified Development Ordinance is just another way of "spot zoning" within the town.

### Claude Andrews, Department Chaplain

Mr. Andrews thanked everyone for their time, effort and hard work on the recent town Christmas event. He also wished everyone a Merry Christmas.

## PRESENTATIONS

### 1. Presentation of Law Enforcement Intermediate Certification – Sgt. Erika Alvarado

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 Sgt. Erika Alvarado with her Law Enforcement Intermediate Certificate.

**2. Resolution 09-12-02: Awarding of Department Badge and Side Arm to Deputy Chief A. K. Miller**

Presented by: Mayor Cooper

Through a resolution, Mayor Cooper on behalf of the Town presented Deputy Chief Miller with his duty badge and service sidearm upon his retirement.

**3. Explanation of Police Department Staffing Levels**

Presented by: Mayor Cooper

Mayor Cooper stated that frequently the Council is questioned on the staffing levels of the police department as to whether there are too many or too little officers working/employed. The Mayor noted how, since Chief Smith has assumed command over the police department, the town now receives on the whole, compliments and “thank you’s” instead of complaints. But he did mention a recent anonymous letter that was written to the editor of the local newspaper regarding the police department staffing levels and was the motivation behind his public comment on this issue. Mayor Cooper presented several powerpoint slides on a staffing formula formulated and used by the International Association of Chiefs of Police that is driven by call volume and utilized nationally on all levels in law enforcement.

Mayor Cooper explained that call volume statistics from the town’s police department for the 2008 calendar year were inserted into the formula and resulted in some staggering numbers and showed that the Atlantic Beach Police Department is understaffed by approximately half of the needed patrol officers given the current call volume.

Councilmember Briley announced that he did a study of all east coast municipal police departments from the VA/NC state line to the NC/SC state line when the Council was initially sworn into office. He noted that the results showed that Atlantic Beach Police Department is similar in size to Wrightsville Beach Police Department. Councilmember Briley continued on to say that he and Chief Smith had a lengthy discussion about the “reputation” of Atlantic Beach’s police department. He also commented that Chief Smith took a new and effective approach to policing in Atlantic Beach since his employment with the town and now things have turned around for the better. Councilmember Briley vehemently urged any citizen who has a question or concern, not just about the police department, but about the town in general to meet with any Councilmember so their questions and concerns can be explained with facts.

**ACTION AGENDA**

**1. Approval of Mutual Interconnectivity Water Agreement between the Town of Atlantic Beach and the Town of Pine Knoll Shores, North Carolina**

Presented by: Marc Schulze, Public Works Director and James Sebastian, Water Superintendent

Town Manager, Pete Allen, gave an overview of what the agreement entails. Mr. Allen explained that for the last several years, Atlantic Beach has been in talks with the Town of Pine Knoll Shores regarding the possible connection of both towns’ water systems in the event of a natural disaster strikes one or the other of these municipalities and the aftermath of such an event caused the water supply of the affected town to be comprised. In such a case the affected town could continue to have a water supply system from the other municipality. He also noted that the agreement may possibly help with the current insurance premiums for the town. Mr. Allen continued to state that this agreement would need to have the approval of both Atlantic Beach and Pine Knoll Shores Town Boards and that the agreement is scheduled to be on the Pine Knoll Shores Town Board’s January agenda .

At this time, Marc Schulze, Public Works Director introduced James Sebastian, Water Superintendent, who he announced will give an explanation as to why it is felt the connection needs to occur between the two (2) towns and thus approval for a mutual agreement.

Mr. Sebastian reminded Council of the “Shutters” fire back approximately eighteen (18) months to two (2) years ago. He stated that both towns were luck in the fact that the fire occurred on the town limits line of both municipalities to where both fire and water departments were able to provide service for the event. Mr. Sebastian noted that Atlantic Beach pumped 1.5 million gallons of water and Pine Knoll Shores also pumped 1.5 million gallons of water, totaling 3 million gallons of water pumped to extinguish the fire event. Mr. Sebastian further explained that although he was concerned about the immense demand of 1.5 million gallons of water pumped from the town’s water system for this event, he would be very concerned had the town had to pump the total amount of 3 million gallons. But with assistance from the neighboring municipality, Pine Knoll Shores, the full weight of the stress was not solely on the town’s water

system. Mr. Sebastian explained that this agreement would ease and benefit both municipalities in the event of a natural disaster, fire protection, etc.

Mayor Cooper asked Mr. Sebastian if Pine Knoll Shores was connected to any municipalities further west. Mr. Sebastian confirmed that Pine Knoll Shores was connected to Bogue Banks and the result of the agreement would be that all municipalities on the island would be connected and able to lend assistance if needed at that point.

Councilmember Palma made a motion *to approve* the Mutual Interconnectivity Agreement between the Town of Atlantic Beach and the Town of Pine Knoll Shores. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.

## **2. Request to Schedule Public Hearings: (SEPARATELY)**

### **- Unified Development Ordinance**

#### **a. Article 5, Zoning Districts; Article 6, Special Requirements; Appendix A, Definitions as it related to Amusement Rides and Amusement Parks**

Councilmember Ide made a motion *to schedule* a Public Hearing at the January 19, 2010 Town Council meeting on Article 5, Article 6 and Appendix A.

#### **b. Article 5, Zoning Districts; Article 8, Marinas; Appendix A, Definitions as it related to Marinas.**

Mayor Pro Tem Archer made a motion *to schedule* a Public Hearing at the January 19, 2010 Town Council meeting on Article 5, Article 8 and Appendix A. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.

## **3. PUBLIC HEARING: Amendments to the Coastal Area Management Act (CAMA) Core Land Use Plan for the Town of Atlantic Beach, North Carolina**

Presented by: Jessica Fiester, Planning Director

Miss Fiester explained that minor changes are being requested to the town's Land Use Plan. She noted that the Land Use map would be revised to show the conservation areas, location of density levels in the beach area and text amendments to reflect the new zoning "names" so as to streamline with the newly adopted Unified Development Ordinance. The next step for this document, if approved by Town Council, would be for the plan to be forwarded to the Coastal Resource Commission's next scheduled meeting for certification.

Councilmember Briley made a motion *to enter into* Public Hearing to hear citizen input on the proposed amendments to the Land Use Plan. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.

The floor was open to public comment at 6:48 p.m.

With no one signed up to speak, Mayor Pro Tem Archer made a motion *to exit* the Public Hearing. Councilmember Palma seconded the motion. Vote was unanimous, 5-0. Motion carried. The floor was now closed to public discussion. The time was 6:49 p.m.

Mayor Pro Tem Archer made a motion *to adopt* the amendments to the town's CAMA Core Land Use Plan and the Land Use Map as noted. Councilmember Briley seconded the motion. Vote was unanimous, 5-0. Motion carried.

At this time, Mayor Cooper called for a motion to recuse himself from the next item up for discussion. Mayor Pro Tem Archer made a motion *to recuse* Mayor Cooper from discussion on Action Agenda Item # 4, *Determination on Closing of East Boardwalk Avenue*. Councilmember Briley seconded the motion. Vote was unanimous, 5-0. Motion carried. Mayor Cooper was excused at 6:50 p.m.

## **4. Determination on Closing of East Boardwalk Avenue**

**Mayor Pro Tem Archer:** This issue has been on our agenda for over two (2) years. We have spent untold amounts of time relative to this item as well as considerable sums of money. On November 30<sup>th</sup>, an order was given by Judge, Superior Court Judge Jolly to this Board and remanded us to forty-five (45) days to take action on this issue. I have elected along with the members of this Council to have this matter discussed amongst ourselves tonight. And to, and hopefully make a decision relative to this matter. In order that we might be able to satisfy the judgment order that was

given to us by Judge Jolly and likewise to bring closure to this matter. And I know that all parties of course cannot be pleased, I'm sure, after the vote's taken that is relative to the closing or the remain opening of the street. I'm going to at this time call upon our town attorney, Derek Cooper, uh, well Cooper, Cooper, Cooper, Taylor, ok. Derek Taylor to give us an overview, a brief overview of this matter as I say, we have, we have been at this now for going on some two (2) years. Derek.

**Derek Taylor, Town Attorney:** Well, this has been introduced to the Council so many times at this point you could probably tell me what we've gone through so I'm not sure that I need to give you much detail. The short of it is, the prior Council, before your first term here with us, ah, by a 3-2 vote decided that they're going to close the western end of East Boardwalk Avenue conditioned upon Ocean King, LLC building a new roadway that runs basically north and south connecting Atlantic Blvd. to where the end of this roadway would be closed off. There was a challenge to the process that was issued through the court system by certain property owners at and near the end of this roadway where it would be closed and the court ultimately decided in a summary judgment hearing that the previous Council had done everything right except for Final Order of Closing that street end. So it was remanded back to this Council to take action consistent with the findings of that court which were one (1) 'what are you going to do with Barbara Thorpe' because you didn't really address very well how she was going to get to and from her property if you closed the roadway and the second, the description is awful. You need to fix the description in the order if you want to close this road and then said 'ok, Council, do what you're going to do based on what I've told you in this order', so it was sent back. Well it's been a change in administration since that time, and you folks looked into this matter and it is now up to you folks to decide what to do. There have been several things going on since that time, that some if not all of you are aware, where some compromised position was trying to be reached wherein maybe the roadway would not need to be closed and all parties could be made happy but that has so far not taken shape. Because of that, Ocean King took a motion to the court and said 'Judge, tell them they gotta act, they gotta do something'. Judge Jolly said, 'Ok, you've got forty-five (45) days or we'll come back and talk about holding you folks in contempt'. Just as a matter of the side, this judge happened to go to law school with Mr. Buddy Cooper and said, 'your petition is asking me to lock up your son, is that what you're asking?'. Everybody laughed and thought that was funny but then it went back to 'well, what are we going to do about it' and Judge Jolly said, 'well, I'm not going to hold the Council in Contempt but I'm going to give them forty-five (45) days to make up their mind.' Since that time, we have had a request from Ocean King that the extension be made from forty-five (45) days to one hundred eighty (180) days so that we would have more time to see if something could be worked out. I have signed on behalf of the Town a consent judgment saying, 'ok, we're ok with one hundred eighty (180) days, but I have made no commitment that one hundred eighty (180) days is something we'll wait that long for'. In other words, the Council could act anytime in that one hundred eighty (180) days even if it's extended or they could act tonight. That Consent order was signed by myself and Ocean King's attorney, Wes Collins, but has not been signed by Judge Jolly and all attempts to reach him all day have been thwarted, nothing seems to have clicked. So as of tonight, and at this time, and I just checked my email again, I do not have anything from Judge Jolly that would indicate that he has agreed with that. The likelihood of him disagreeing with the two parties agreeing to the one hundred eighty (180) day extension is pretty slim, but not impossible. Until the judge signs it, I have nothing to say to you that we have actually a one hundred eighty (180) day period of time to make this decision and unless we get that from the judge, this decision must be made by January 14<sup>th</sup>, no later than that date. That gives you a thumbnail sketch of where you are at tonight. The Judge did not make an indication whether or not, what your actions should be, just take some action, one way or the other and take it in accordance with the Order that was handed down originally by Judge Henry saying deal with the Thorpe issue and deal with the description issue.

**Mayor Pro Tem Archer:** Thank you Derek. As was stated, we were given the forty-five (45) days and likewise we have been waiting throughout the day to see if something tangible could be brought into us either in the form of an email or in the form of a signed order by Judge Jolly. Likewise, this Council has elected, based on all the conversations that we have from both parties and the many times, so well stated by Counselor Taylor. We have heard from both sides. Now I'm going to ask this Council if you have any items of discussion that you would like to discuss amongst ourselves and when we conclude this, I would like for us to entertain a motion to act upon this matter and that to me, particularly with this last judge when he stated that you have forty-five (45) days to get it done and we would of course would be in violation if we waited until February. If we don't, we're going to have to call a Special Meeting and I don't see what a few days is going, what difference that's going to make. And I briefly want to mention the numerous times and the occasions that we have all worked diligently to work this out. Ocean King, LLC and Mr. Cooper has likewise had numerous meetings with individuals or one particular individual relative to an attempt to work something out relative to the west end of the street. Councilman Briley has spent untold hours toward a resolvment of this matter and coming up to the ninth hour and then all of a sudden...gone. Harry Archer, I have spent untold hours, in fact, over four (4) hours on a Saturday making an attempt to get a small strip of land conveyed to this town in order that we could take action amongst ourselves and resolve the matter. Gone to no avail. So henceforth, we are here tonight. Any comments from any of the Councilmembers at this time?

**Councilmember Briley:** Mayor Pro Tem, knowing some of the details that are ongoing and knowing that there's a possibility that this street may never need to be closed depending on what transpires. I almost feel like we've put so much time and effort into this and if we're just waiting on a Judge to sign an order, I personally much rather wait and take no action on it tonight and if we do need to have a special meeting if he doesn't sign it that somewhere the 4<sup>th</sup>, 5<sup>th</sup> whatever date may be convenient that if we have to have a special meeting, come back and address it at that time if he doesn't sign the extension. This has been one of the hardest things that I've ever tried to work on and put together as a business entity. I do know that, that if, once we vote on this, that we're probably going to enter into another suit which is going to cost this town thousands of dollars again and I personally would rather wait and see what Judge Jolly does. Now, to those of you that live on East Boardwalk, you know I say to you, regardless of what transpires, within one hundred eighty (180) days, this Council is going to have to vote. And I hate to push the button on this tonight when there's a possibility that the plans at the circle may not even require us to vote on this. And the only reason I say this is the time and energy that's gone into it, I'll have to say one thing for Buddy, he has worked hard to try and get this worked out. He's spent a lot of money on it too. I just hate to spend the town's money on a law suit that may never have to come and what's another ten (10) or twelve (12) days?

**Mayor Pro Tem Archer:** Thank you, Eddie. The, in response to your statement, we have now been waiting and laboring over this for some two (2) years. I suppose the discussion could take place as what would another eight (8) or nine (9) days would do or what, if I may, what would another one hundred eighty (180) days do? And I realize of course this is not a, it's a very untenable position to be in, but there are times when you have to make decisions. Now in the case, if a decision is made to leave the road open and I say this to Ocean King, LLC, this Council, which is a very understanding and compassionate group of people, would entertain an acceptable new petition relative to action on a portion of East Boardwalk. And I'm confident at that time, we of course, if it were brought to us in a new petition, then we would act accordingly and do everything to assist all the parties. East Boardwalk residents from load the many that I have had conversations with and all of you up here have had conversations with, is they're reasonable, but they also want to see something done here because it's been going on and on and on and on. And they're not adamant and they're not unreasonable as it relates to modification of the curvature of the west end of that road. But there has to be an explanation relative and within the order to particularly take care of Ms. Barbara Thorpe. So any others, any other comments from any of the members?

**Councilmember Palma:** Would you mind for the edification of the group here, eliminating folks here about the Barbara Thorpe, what that means? 'Cause I'm not sure they understand. We're kind of between a rock and a hard place and it's trading the devil for a witch and Harry is going to explain to you what that means.

**Mayor Pro Tem Archer:** Well, at first, the first request was to reroute the road and Ocean King, LLC was going to reroute the road coming west and then cutting over behind the old motel, over to Terminal and then going left again, and then a right to tie into East Drive. Ms. Thorpe, based on how that was configured and the way that the petition was presented was that Ms. Thorpe would have had no egress out of her property unless she traveled the wrong way on East Boardwalk and that was one of the items that the previous Judge pointed out. That's what that is in reference to. Any other members wish to make any comments?

**Councilmember Ide:** Yes, I would.

**Mayor Pro Tem Archer:** Yes, thank you Trish.

**Councilmember Ide:** I just don't understand how another one hundred and so many days is going to make any difference if people have not made up a decision in two (2) years, what difference is it going to make a few more days? People usually do what they've done before and I just think it's going to take, continue again. As far as the money goes, and I know that if we do get a law suit it will cost us money, but for two (2) years this has cost the town money. We're just spending the town's money because some people won't comprise or make a decision so that we can make our decision. So I think we have no other choice but to go ahead and rule on it tonight and I think in the long run it will save the town money and I think, like you said, they can bring it up again. The petition.

**Mayor Pro Tem Archer:** Right, that is correct. Any others?

**Buddy Cooper:** May I respond to this?

**Mayor Pro Tem Archer:** I would be more than happy for you to, but the Council decided not to take any comments from the audience. That this is purely a discussion within the Council. Any other comments? Any other questions? There being no additional discussion then the Chair will entertain a motion. Do I have a motion to leave the road open or a motion to close the roadway?

**Councilmember Palma:** I make a motion that no part of that roadway be closed East Boardwalk.

**Mayor Pro Tem Archer:** I have a motion to leave the road open and that no portion of East Boardwalk be closed.

**Derek Taylor, Town Attorney:** If I could, Mayor Pro Tem, and also to instruct the Town Attorney to draft an Order so stating the reasons for that.

**Mayor Pro Tem Archer:** Yes, that is correct Counselor and I appreciate you adding that too. And that the Town Attorney draft an Order of this Council to that effect. We have a motion, do I hear a second to the motion?

**Councilmember Ide:** Second.

**Mayor Pro Tem Archer:** Seconded by Commissioner Ide. Any discussion?

**Councilmember Briley:** I feel like everybody knows how Council is going to vote on this issue. I still feel like it's a bad time to make the decision knowing some of the things that I know may transpire down there. I'm sure Mr. Cooper is going to do whatever he needs to do to protect his rights. And, you know, I took an oath down there tonight to protect this town and I feel like when I take that, that means don't cause yourself to get into a situation that you got to spend town money if you don't have to. I'm prepared to vote to keep this road open and will. Just like I have always told the people on East Boardwalk and I've told Buddy if we're forced into a vote and it sounds like we're, for me I'm being forced into a vote that I don't want to vote. And I'm just sorry it's come to this point and I do agree with you that before any building is done down there, if it is, you know, possible to come back with a solution, which I think we pretty much had everybody agreed on to move that road over about, I can't remember, twelve feet (12')...**Mayor Pro Tem Archer interjected:** seven (7) to ten (10)...**Councilmember Briley continued:** yea and leave it, you know, the same contours, the same basic road, and maybe we can still work that out. As Vada said, it's a struggle. I mean the Council is in a no-win situation, the town's in a no-win situation and you know, I just hate to see it come to this point at this time.

**Mayor Pro Tem Archer:** Thank you, Eddie. And if I, if you may, I would like to state, so that it would be clear that this Board will entertain an acceptable petition at any time addressing the statutory requirements of granting reasonable access to all affected property owners particularly Ms. Barbara Thorpe and meeting the standard of being in the public interest to do so, all in consideration of the findings and the rulings of Judge Jolly Summary Judgment Order of December 19, 2008. Any time this Council will entertain a new petition. Any other comments or discussion? All those in favor of the motion made by Commissioner Palma, seconded Commissioner Ide let it be known by raising your right hand. **(Clerk's note: Vote was unanimous, 5-0 in favor. Motion carried)** Thank you Commissioners and as I stated this is....**Councilmember Briley interjected:** Harry, I would like for you to state that it was a unanimous vote. **Mayor Pro Tem Archer continued:** Ah, she has that recorded. She has it recorded as a unanimous vote. And as I say, all parties will work together including this Council here on any new petition that is given to us. Alright, our, at this time, I would like to have a motion, hold on just a moment there Chief, I'd like to have a motion returning Mayor Cooper back to the podium.

**Councilmember Briley:** So moved.

**Councilmember Batt:** Second.

**Mayor Pro Tem Archer:** Have a motion by Commissioner Briley, a second by Commissioner Batt. All those in favor of the motion, let it be known by raising your right hand. Carries with a unanimous vote. Return the Mayor, please.

**(Clerk's Note: Councilmember Briley made a motion to return Mayor Cooper to the meeting. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.)**

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET  
TOWN OF ATLANTIC BEACH

I, Kelly L. Cyrus, Town Clerk for the Town of Atlantic Beach, do hereby certify that the above written statements are a true and accurate transcription of the action taken by the Town Council during Action Agenda Item #4, "Determination on Closing of East Boardwalk", as transcribed from the tape and entered into the minutes of the December 21, 2009 meeting of the Atlantic Beach Town Council held in the Town Board Room at 125 West Fort Macon Road.

In witness whereof I have hereunto set my hand and have caused the official seal of the Town of Atlantic Beach to be affixed this 15<sup>th</sup> day of February, 2010.

SEAL

\_\_\_\_\_  
Kelly L. Cyrus, Town Clerk

STATE OF NORTH CAROLINA  
COUNTY OF CARTERET

I, \_\_\_\_\_, a Notary Public in and for the State of North Carolina, do hereby certify that Kelly L. Cyrus personally appeared before me this date and acknowledge the due execution of the foregoing certification for the purpose therein expressed.

Witness my hand and seal this 15<sup>th</sup> day of February, 2010.

SEAL

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_.

\_\_\_\_\_  
Mayor Cooper returned to the meeting at 7:16 p.m.

#### **5. Approval of Town Manager Agreement**

Mayor Cooper stated that when the Council was originally sworn in on their first (1<sup>st</sup>) term they were tasked with trying to find a new Town Manager and during this transition, it was determined that the town needed an Interim Manager, so they sought the help of Pete Allen and he agreed to take the position as Interim Manager and after several months of receiving applications and conducting numerous interviews, Pete Allen was offered the position of Town Manager at which time, he accepted but with the understanding that it would only be for a couple of years and then he was going to retire. Mayor Cooper noted that the end of the “couple of years” that Mr. Allen promised is now upon us. So the process started again and after more searching, Mayor Cooper stated that he felt the Council had found the best candidate who is close to home and familiar with Atlantic Beach and under the assumption of approval on the contract set forth at this night’s meeting, beginning January 4, 2010, Mr. David Walker will be the new Town Manager of Atlantic Beach.

Councilmember Batt made a motion *to approve* the Town Manager Agreement with David R. Walker. Councilmember Briley seconded the motion. Vote was unanimous, 5-0. Motion carried.

#### **6. Resolution 09-12-01; Designating Bank Depositories and Authorizing Signatures for Bank Depositories for the Town of Atlantic Beach, North Carolina**

Mayor Cooper stated that this agenda item is connected with the recent approving of the Town Manager agreement and that this item was moved from the Consent Agenda to the Action Agenda. He explained that the resolution is for designation of bank depositories and the authorizing signatures for bank depositories for the town. He noted that David Walker name’s has been added as Town Manager/Finance Officer for bank depositories and will take effect January 4, 2010.

Mayor Pro Tem Archer made a motion *to approve* Resolution 09-12-01. Councilmember Palma seconded the motion. Vote was unanimous, 5-0. Motion carried.

#### **TOWN ATTORNEY REPORT**

Town Attorney had no report.

## TOWN MANAGER REPORT

Pete Allen, Town Manager stated that it had been an honor and privilege to work with Council, staff and it feels like he is leaving home.

## MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Batt thanked Pete Allen who has been an inspiration to Council with his guidance for the past two (2) years. Councilmember Batt also thanked everyone for attending and wished them Merry Christmas. She stated that the annual town Christmas event that just took place was wonderful and called it “a Winter Wonderland” at the old Boater’s World and that everyone especially the children enjoyed the event. She noted that another year had past and she was looking forward to working the next two (2) years with her friends.

Councilmember Ide wished staff, citizens and Council, Merry Christmas. And with this being her first (1<sup>st</sup>) year on Council she is looking forward to the serving with them for the next two (2) years. Councilmember Ide also thanked Pete Allen for all he has done for her not only professionally, but personally.

Councilmember Briley stated that the past two (2) years had been very interesting. He was quite pleased with the decision to bring Pete Allen on board and thanked Pete Allen for his teachings and guidance. Councilmember Briley also voiced his appreciation to the staff and their continued support and efforts. He feels that now with another two (2) years to look forward to and a new manager coming on board, it’s time to “turn up the heat”.

Councilmember Palma commented that since being in office she has met the most delightful people, some of whom she never knew prior to being elected. She also thanked Pete Allen for his leadership and patience. Councilmember Palma voiced that her wishes that more citizens would get involved on committees and their attendance at meetings and asked everyone to keep all military personnel in their prayers for Christmas.

Mayor Pro Tem Archer thanked the Board for their support and confidence placed in him as Mayor Pro Tempore. He thanked all departments for their efforts in the recent town Christmas event. Mayor Pro Tem Archer began to speak on his time as Mayor Pro Tem with Pete Allen as Manager. He commented on Pete Allen receiving The Order of the Longleaf Pine Award at the recent County Commissioners meeting and how, out of every woman that was in attendance at that county commissioners meeting, Pete missed kissing two (2) of them because he kissed every woman there. Mayor Pro Tem Archer then invited everyone to the Channel Marker Restaurant following the meeting to celebrate the election results.

Mayor Cooper acknowledged the awarding of The Order of the Longleaf Pine to Pete Allen by Governor Perdue. He commented on how the Council will pick up the pace on some longstanding projects and that the Council has alot of ideas. Mayor Cooper promised that Council would continue to listen and try to put citizen ideas into place. He then wished everyone a Happy Holiday.

## ADJOURNMENT

There being no further action taken or business before the Town Council, Mayor Pro Tem Archer made a motion *to adjourn* the meeting. Motion was seconded by Councilmember Ide. Vote was unanimous, 5-0. It was 7:44 p.m.

Submitted by:

\_\_\_\_\_  
Kelly L. Cyrus, Town Clerk

These minutes were approved at the February 15, 2010 meeting of the Atlantic Beach Town Council.

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A. B. Cooper, III - Mayor