



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



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, February 23, 2009 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 and Trish Ide

Members Absent:

Others Present: Pete Allen, Town Manager; Derek Taylor, Town Attorney; Kelly Cyrus, Town Clerk; Allen Smith, Police Chief; Donna Turner, Inspections Director

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.

INVOCATION AND PLEDGE OF ALLEGIANCE

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

APPROVAL OF THE AGENDA

Mayor Pro Tem Archer made a motion to *approve* the agenda as written. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

Councilmember Briley made a motion to *approve* the Consent Agenda. Motion was seconded by Councilmember Ide. 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, 2009:

The tax collection report for January, 2009 was submitted for approval, which showed that \$566,916.16 had been collected.

2. TAX RELEASES - JANUARY, 2009:

A cumulative amount of \$725.05 in tax releases were submitted for approval.

3. BUDGET TRANSFERS:

A total of six (6) budget transfers were submitted for approval.

4. BUDGET AMENDMENT #7:

A budget amendment of \$12,475.00 was submitted for approval to be applied to historic preservation of town documents and vital records. \$10,000.00 of this budget amendment was donated to the Town from the estate of the late Tom Doe for this sole purpose.

5. AUTHORIZATION TO ADVERTISE TAX LIENS:

6. FINANCIAL REPORTS

A copy of the Financial, Cash and Investment reports were submitted.

7. TOWN COUNCIL MEETING MINUTES:

January 26, 2009 (open & closed)

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

CITIZEN REQUESTS/COMMENTS

Claude Andrews, Town Chaplain

Mr. Andrews announced that at some point in the summer, the fire department will be holding an Open House to show off the renovations that have been completed within the fire station. He also noted that the Atlantic Beach Police Department Citizen's Academy will begin Thursday, Feb. 26. It will be held every Thursday from 6:00 - - 9:00 p.m. Mr. Andrews encouraged the public to take advantage of this great educational and fun experience. Mr. Andrews stated that it was time for the community and town to start looking for funds to much needed renovations to the police department that is in dire need of space and upgrade.

Pace Winstead, 510 Kinston Ave., Atlantic Beach, NC

Ms. Winstead commented on the Special Olympics Polar Plunge sponsored by the Morehead City Chapter of the Blue Knights that Mayor Cooper participated in over the weekend. She noted that she was very proud and gives him great respect for representing Atlantic Beach for his participation.

Scott Rice, 402 Henderson Blvd., Atlantic Beach

Mr. Rice made a proposal from himself and other residents along the beach for a concrete fishing pier at the end of The Circle area. He feels that Atlantic Beach exceeds the needs and abilities to do, more so than Emerald Isle, with the funding by state and aquariums of North Carolina. He also feels that it would promote tourism and attraction to Atlantic Beach.

Mayor Cooper commented that him and Mayor Pro Tem Archer have had preliminary discussions with the NC Aquarium and others trying to make his proposal a reality. He stated that there is momentum with this idea, but there is grant monies out there for this concept.

PRESENTATIONS

1. Building Code Effectiveness Grading Schedule Classification

Presented by: Mayor Cooper

ISO reviews a community's Building Code Effectiveness Grading Schedule (BCEGS) classification approximately every five (5) years. The BCEGS is an advisory insurance underwriting information and rating tool. If a community significantly changes its building code adoption and/or enforcement program within that time period and ISO is made aware of this, a reevaluation will be rescheduled. ISO completed their analysis of the building code adoption and/or enforcement program improvements the Town has made since the initial letter was sent October 14, 2008. As a result of those improvements, the Town's classification will be a Class 3 for 1 & 2 family residential property and a Class 3 for commercial and industrial property. So in essence, the lower the Class rating, the better. Mayor Cooper stated how this lower rating is another example how the town's department heads and staff do an incredible job.

2. Recognition of Appointment to Finance and Administration Legislative Action Committee of the North Carolina League of Municipalities

Presented by: Mayor Cooper

Mayor Cooper recognized Mayor Pro Tem Archer on his appointment to the Finance and Administration Legislative Advocacy Committee. He noted that NCLM is the main advocate for towns with the state and national legislators and that the majority of municipalities are part of the NCLM. He also commented that their main "force" is to lobby at the state level for projects and laws that towns deem important and that this particular committee that Mayor Pro Tem Archer has been appointed to is one of the real policy-setting committee and it's a crucial committee to have a local voice on.

Mayor Pro Tem Archer stated that he is honored to have been appointed to this particular committee that deals with pre and post bills and bills that are filed in the NC General Assembly, Congress and numerous regulatory committees. This committee reviews these documents and offers essential and clear advice to the NCLM Board of Directors on how these issues will affect membership throughout the state. Mayor Pro Tem Archer stated that he will represent Atlantic Beach with dignity and will make sure that the Atlantic Beach is kept in mind on any issues that may arise that will affect us.

ACTION AGENDA

1. Budget Amendment #8

Presented by: Pete Allen, Town Manager

Pete Allen, Town Manager explained that this budget amendment will coincide with Action Agenda item #3; Adoption of the Emergency Operations Plan for Multi-Hazards for the Town of Atlantic Beach if approved. He noted that this budget amendment will cover all costs associated with the implementation of the completely revised Re-Entry Permit process and will affect the General Fund balance.

Councilmember Briley made a motion to *approve* Budget Amendment #8. Mayor Pro Tem Archer seconded the motion. Vote was unanimous, 5-0. Motion carried.

2. Eastern Carolina Council General Membership Appointment

Presented by: Pete Allen, Town Manager

Pete Allen, Town Manager stated that Atlantic Beach is a member of the Eastern Carolina Council, which is a local organization of government. He believes there are nine (9) counties along with all municipalities within those counties that belong to the Council. The Board of Directors is comprised of members from all the entities and it is being requested that Atlantic Beach make an appointment, either from the public or private sector for representation. After a discussion, it was determined that this appointment would be tabled until the next regularly scheduled Town Council meeting in March to look for a qualified individual.

Councilmember Palma made a motion to *table* the Eastern Carolina Council General Membership Appointment until the March 23, 2009 Atlantic Beach Town Council Meeting. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.

3. Adoption of the Emergency Operations Plan for Multi-Hazards for the Town of Atlantic Beach

Presented by: Allen Smith, Chief of Police

Police Chief Smith took the floor to explain that the proposed Emergency Operations Plan (EOP) establishes effective processes for the Town for planning, response, recovery and mitigation and provides a framework for pre-determined action to be taken to reduce vulnerabilities of the residents and properties of Atlantic Beach during a hazard. He noted that the proposed plan changes very little in the way day-to-day business is conducted. It will simply codify what the Town is doing and have been doing in the past. It also spells out the who is responsible for what specific duties, rolls and emergency support functions. It also identifies other entities within the county and their responsibilities. Chief Smith proceeded to speak on the completely revised proposed Re-Entry Permit process for the Town. The proposed process for re-entry will ensure that residents or anyone with a vested interest within Atlantic Beach reenter the Town after an event prior to the general public. Chief Smith emphasized that this process is not intended to refuse re-entry to anyone having a right to within town limits during this time. Mayor Cooper interjected that there are two (2) main issues that need to be addressed in regards to this process for it to be approved. One being the number of permits a property owner will receive for each parcel; second, are the permits going to be mailed directly back to the property owners. Following conversations amongst themselves and with the attending public, the following suggestions made by various Councilmembers are listed:

1. Mayor Pro Tem Archer – a definitive date of return for the application printed on the application.
2. Councilmember Ide – that realtors are made aware that the permits need to be transferred with property.
3. Councilmember Briley – to educate long-term renters that it will be their responsibility to communicate with the property owners on their obtaining a permit.

Councilmember Palma made a motion to *approve* the Emergency Operations Plan for Multi-Hazards as a living document giving the Town Manager the authority to approve any revisions, changes, additions, deletions as deemed necessary and with two (2) changes; one being that any reference to parcel receiving one (1) permit will change to each parcel will receive two (2) permits and in Appendix 2, section 10 will be revised to read that permits will be sent back to only the property owners. Motion was seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

4. Discussion With Possible Modification of a Previously issued Encroachment Agreement between Bill English and the Town of Atlantic Beach

Presented by: Mayor Cooper

Mayor Cooper started by stating that the draft of the again revised encroachment contains several changes that were suggested by Council and of those changes there is one provision that needs to be discussed due to mixed feelings on it. That provision being that is would be required for the Englishes to pay \$20.00 per month for the duration of the encroachment to use the right-of-way and the concern is that basically the town is giving a citizen the right to use town property and should the town charge them for that. Councilmember Briley stated that he was the Councilmember that included this provision into the final draft and his reasoning was such that the town has an individual that is asking for exclusive use of town property, even though it is in the right-of-way, and the language in the draft is written as such that the tanks that are in the right-of-way, the town cannot interfere with that. Which, Councilmember Briley stated means if the town needed to run a line for whatever reason, the town could not without incurring substantial costs to do so. He stated that he did not feel comfortable about giving away a piece of town property that the town cannot ever utilize. He felt charging a token monthly sum of twenty dollars (\$20.00) per month for reimbursement purposes would be fitting. Mayor Cooper then injected that another of the provisions that was included was that the Englishes will reimburse the town of all legal fees incurred in connection with this matter. The Mayor also noted that at this point, the Town is not negotiating, the decision will be left up to the Englishes as to whether or not they will accept the town's revised draft of the original encroachment. Mayor Pro Tem Archer stated that he does not like the intent behind the language of charging a fee for the use of an easement because it has never been a policy of the town to use easements as revenue sources and does not want to see it started now. Mayor Cooper proceeded to note other changes such as if the easement terminates it will be up to the Englishes to remove those tanks at their expense and there is clarification on rights of town staff to maintain the area and \$1,000,000.00 Liability insurance that will need to be carried on the property in the event of injury or any problems. Derek Taylor, Town Attorney stated that an additional clause, that was not in the original agreement, needed to be added to the motion for inclusion in the encroachment so that it reads "any utilities or other facilities within the easement area that must be moved or the Party of the Second Part's use of the easement area will be moved at the Party of the Second Part's expense".

Councilmember Briley made a motion *approve and make a modification* to a previously issued encroachment agreement between Bill English and the Town of Atlantic Beach including the language suggested by Town Attorney regarding movement of existing utilities and including the language in Section 3, paragraph A regarding an inclusion of a \$20.00 fee per month for the duration and other changes as indicated and subject to final approval by Town Attorney. Councilmember Batt seconded the motion. Vote was 3 – 2 with Councilmember Briley, Batt and Ide in favor and Councilmember Palma and Mayor Pro Tem Archer in the opposition. Motion carried.

TOWN MANAGER'S REPORT

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

TOWN ATTORNEY'S REPORT

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

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilmember Batt thanked Jessica Fiester, Planning Director and Landin Holland, Holland Consulting and the members of the UDO committee for the great job and hardwork that has been done on the creation of the UDO. She stated that the final draft is now in the hands of Council.

Mayor Pro Tem Archer thanked everyone for attending this night's meeting and that it is nice to see the participation from the citizens. He also thanked Donna Turner, Inspections Director for her hard work while employed with the town. He commented on the "true honesty" displayed by 10 year old Benjamin Zucker who found a money clip that held \$300.00 and proceeded to take his findings to the police department in hopes of finding the rightful owner.

Councilmember Palma also commented on the selfless act of Benjamin Zucker. She stated that she has grown up with the Zuckers and thanked Benjamin for his honesty and his parents for teaching values to their son. Councilmember Palma noted that you can read about Benjamin on the police department's website, www.atlanticbeachpd.com. Councilmember Palma also offered her condolences to the families of Joan and Pierce Latimer who passed away recently within days of each other. Pierce Latimer was a former member of the Atlantic Beach Planning Board for several years and had earned the respect of those with whom he interacted. She also congratulated Pete Allen, Town Manager on being inducted into the Shagger's Hall of Fame at Memories Shag Club and has requested that his spotlight song be "Meet Me With Your Black Drawers On".

Councilmember Briley commented on how good Council works together regardless of any differences that may arise out of certain issues. He stated that when he was sworn in that he knew there would be times when all Council members do not see eye to eye and there will be times when the Council see things differently from the individuals that elected them but when Council votes for an issue, they are doing the very best thing for the town and for the citizens and thanked everyone for attending.

Councilmember Ide also thanked everyone for coming out to the meeting and is proud to be on a Board with shaggers and swimmers and no matter how anyone voted it is in the best interest of the town and citizens.

Mayor Cooper thanked everyone for attending and noted that there would be a Closed Session regarding Ocean King, LLC and he would recuse himself from the meeting following a motion to do so.

Councilmember Briley made a motion *to recuse* Mayor Cooper from the Closed Session due to a conflict of interest relative to the subject matter. Councilmember Batt seconded the motion. Vote was unanimous, 5-0. Motion carried.

Mayor Cooper was excused at 7:25 pm and Mayor Pro Tem Archer called for a 10 minute recess at 7:26 pm. Mayor Pro Tem Archer called the meeting back to order at 7:37 p.m.

Councilmember Batt made a motion *to go into* Closed Session pursuant to N.C.G.S 143-318(a)(3) to consult with town-attorney: "to protect the attorney-client privilege" and N.C.G.S. 143-318.11(a)(5); "to establish or instruct the staff or agent concerning the acquisition of real property *made up of most of the streets in Atlantic Beach.*" Councilmember Briley seconded the motion. Vote was unanimous, 5-0. Motion carried. Council entered Closed Session at 7:38 p.m.

Councilmember Briley made a motion *to return* to Open Session with Mayor Pro Tem Archer presiding. Councilmember Batt seconded the motion. The time was 8:18p.m.

ADJOURNMENT

There being no further action or business before the Town Council, Councilmember Briely made a motion *to adjourn* the meeting. Motion was seconded by Councilmember Palma. Vote was unanimous, 5-0. It was 8:20 p.m.

Submitted by:

Kelly L. Cyrus, Town Clerk

These minutes were approved at the March 23, 2009 meeting of the Atlantic Beach Town Council.

A. B. Cooper, III - Mayor