

**Minutes**  
**Town of Atlantic Beach, North Carolina**  
**Town Council Work Session**  
**Monday, January 12, 2005**

The regularly scheduled work session of the Atlantic Beach Town Council was held Monday, January 12, 2005 at 6:00 p.m. in the Council Meeting Room.

**Members Present:** Mayor Pro Tem Eddie Dawkins; Council Members Harry Archer, Doug Creech, Tom Doe and Christie Roberson

**Members Absent:** None

**Planning Board**

**Members Present:** Chairman Joe Tarascio; Members Jim Bailey, Dewey Bordeaux, Larry Burke, Karen Koenig, Tom Outlaw and Ellen Womer

**Planning Board**

**Members Absent:** None

**Others Present:** Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Scott Kilpatrick, Police Chief; Lee Smith, Planning Director; Leslie H. Eldredge, Town Clerk

**CALL TO ORDER AND ROLL CALL**

Mayor Pro Tem Dawkins called the meeting to order at 6:09 p.m. All Council members were present.

**APPROVAL OF THE AGENDA**

Councilman Creech moved to delete Item No. 4, "Revaluation of Property," from the agenda since the County had already voted on the date for revaluation. Councilman Doe seconded the motion.

Councilman Archer asked that Councilman Creech amend his motion to include the addition of Item No. 5C, "Tax Releases and Request for Tax Refund," and Item No. 5D, "FYI Items," and to have Item No. 6 discussed before Item No. 5. Councilman Creech amended his motion accordingly, Councilman Doe seconded the amended motion, and the revised agenda was approved by a unanimous vote of 5-0.

**1. Public Hearing – Petition to Rezone 107 Old Causeway Road From GB General Business District to RA-3 High Density Residential District – Planning Director**

Councilman Archer moved to enter the public hearing regarding the rezoning petition. Councilman Creech seconded, the motion carried by unanimous vote of 5-0.

Planning Director Lee Smith informed the Town Council that at its December 7, 2004 meeting the Planning Board discussed a petition to rezone 107 Old Causeway Road (the Sundowner Motel) from GB General Business district to RA-3 High Density Residential district. After discussions between the Planning Board, Staff and representatives of the applicant, the Planning Board voted unanimously to forward the request to the Town Council with a positive recommendation.

Councilman Doe asked if the Planning Board had discussed RA-2 zoning, and Mr. Smith said it did not, because there are no properties contiguous to 107 Old Causeway Road that are zoned RA-2.

**Llewellyn Ramsey, 118 Bowen Street, Atlantic Beach, NC:** Ms. Ramsey stated that the Sundowner Motel has 31 rented units and also has boat slips. The zoning change would allow it to be changed to five duplexes, for a total of 10 units, which would reduce the density by two-thirds and also reduce the boat slips. She recommended the petition be approved.

Councilman Doe moved to go out of the public hearing. Councilman Creech seconded, and the motion carried by unanimous, 5-0, vote.

Councilman Doe moved to approve the zoning change for 107 Old Causeway Road from GB General Business to RA-3 High Density Residential. Councilman Creech seconded the motion and approval was unanimous, 5-0.

**2. DENR Contract for Durham Avenue Beach Access – Planning Director**

Mr. Smith explained that the Town of Atlantic Beach was awarded a \$30,000 grant through the North Carolina Coastal Management Program for construction of an ADA-compliant regional beach access facility at Durham Avenue. The Town's in-kind and cash match totals \$10,000, for a total project cost of \$40,000. The Department of Environment and Natural Resources, Division of Coastal Management, will administer the grant.

Councilman Archer moved to adopt Resolution No. 05-01-01, "Resolution Authorizing Local Government Execution of a Public Access Grant Contract." Councilman Creech seconded, and approval was unanimous, 5-0. (**Clerk's Note:** A copy of Resolution No. 05-01-01 is incorporated herein by reference and hereby made a part of these minutes.)

### **3. Grant Pre-Application for Operation Safe Harbor – Police Chief**

Police Chief Scott Kilpatrick explained his request for approval to file a 2005 Grant Pre-Application to the Governor's Crime Commission for a 75% – 25% matching reimbursable grant, *i.e.*, the Town must spend its own money first and submit the receipts to receive 75% of the money spent on the project. The grant monies would be used for the purchase of a boat and equipment, and for the cost of manhours to operate the boat and equipment, for homeland security purposes under a project titled Operation Safe Harbor. The total project cost is \$258,461.92 and is payable over two years. The Federal government's total portion would be \$193,846.44, and the Town's total portion would be \$64,615.48. The Police Department would budget \$200,630.96 in FY 2005/06, of which the Federal share is \$150,473.22 and the Town's share \$50,157.74. In FY 2006/07, \$57,830.96 would be budgeted, of which the Federal share is \$43,373.22 and the Town's share \$14,457.74. Chief Kilpatrick pointed out that a portion of the matching funds is already budgeted in the Police Department's part-time salaries because the department already utilizes some marine patrol. This grant would more than double the patrol activities at the marinas and residences around the sound area. The boat would have fire suppression and multi-tasking capabilities, and would eventually replace the Police Department's existing boat. The existing boat is a 1997 model and the biggest engine that can be installed is 90HP due to the boat's low transom. Chief Kilpatrick received an estimate today of \$35,000 to replace the boat. The grant provides for \$30,000 in manpower, and would also provide \$25,000 for fuel and other boat equipment including a launch.

Councilman Doe asked what the realistic threats were to the Town of Atlantic Beach under homeland security, and said the Town needed to try to defend against those areas where there were true vulnerabilities. When a decision is made, it should not be for something just until the grant runs out, but for something that is a worthwhile program for Atlantic Beach in the long term. A grant is free money now, he said, but what would be the costs in the long run? He asked what a DVR boat is, and Chief Kilpatrick explained that DVR stood for dive and rescue. The boat is aluminum with a beaching plate in front. It is unsinkable and on Homeland Security's approved list because it has sails inside the hull; once the hull is breached, the sails maintain buoyancy. Councilman Doe expressed concern over an aluminum boat which might not weather well in salt water. Councilman Creech assured him that there is a particular type of paint that will protect the boat. Chief Kilpatrick has contacted Fort Macon Marina regarding a boat slip, and he would budget \$2,000 per year for the slip.

Chief Kilpatrick said that the Police Department would keep the old boat. The grant is very specific, *i.e.*, the funds are for a new program and may only be used to purchase a new boat. The new boat would be covered under a three- to five-year warranty, depending on the manufacturer. He has been assured that the Yamaha boat he has been looking at would have low maintenance costs.

Councilman Archer congratulated the Chief on his efforts in the pre-application process to obtain funds, and felt that the purchase of a boat was worthwhile since the Town is surrounded by water and vulnerable in many areas. The boat would also be used in other areas, such as Fort Macon and Morehead City, in a cooperative protection effort. Councilwoman Roberson felt it was very worthwhile as well. Councilman Creech thought it was good to keep the old boat for patrolling the canals and sound, and the new boat could be used to patrol the ocean.

Councilman Creech moved to approve the 2005 Grant Pre-Application for Operation Safe Harbor. Councilman Archer seconded, and the motion carried by unanimous vote of 5-0.

**4. Revaluation of Property – Town Manager**

Removed from consideration. (*See* Approval of the Agenda above.)

**6. January Council Meeting and Retreat – Town Manager**

Some Council members had proposed that the regularly scheduled January 18, 2005 Council meeting be rescheduled for Monday, January 17. Council had also decided to hold a retreat on Saturday, January 15, 2005 at 11:00 a.m. at Finz Restaurant in Morehead City.

Councilman Archer moved that the Council cancel the January 18, 2005 Council meeting and that the Council schedule a retreat for Saturday, January 15, 2005 at 11:00 a.m. in the banquet room of Finz Restaurant in Morehead City. Councilman Creech seconded, and the motion carried by unanimous vote of 5-0.

**5. Finance – Town Manager**

**A. Budget Transfers (FYI Item)**

NCGS Section 159-15 allows the Town's Budget Officer (the Town Manager) to make periodic budget transfers from one line item to another within the same fund. While these transfers do not affect the total budget, the statute requires that the Council be notified of the transfers at its next scheduled meeting following the transfers.

Council was notified of two budget transfers that were completed in December. The first was a transfer of \$336 from the Fire Department's Communications line item to the Dues and Subscriptions line item to pay for new volunteer firefighters' dues for the State Firemen's Association. The second was a transfer of \$400 from the Planning and Zoning Department's Advertising line item to the Maintenance and Repair line item for the annual maintenance and support contract with ESRI for the department's ArcGIS software.

**B. Budget Amendment Nos. 7, 8 and 9**

Budget Amendment No. 7 for FY 2004/05 is necessary to cover Council-requested expenses that were not previously budgeted, *i.e.*, advertisements for a Town Manager, the retirement party and retirement gifts for the Mayor and Town Manager, and expenses associated with this year's Christmas parade.

Budget Amendment No. 8 for FY 2004/05 is necessary to cover dental insurance claims and workers' compensation deductibles that exceeded the estimated budgeted amounts (each year estimates are budgeted based on prior claims), and to cover overtime that was necessary due to increased levels of service performed with a limited number of staff.

Budget Amendment No. 9 for FY 2004/05 is necessary to transfer the budgeted amount for contracted services for the Town's CAMA Land Use Plan under the reimbursable grant from the Governing Body – Contracted Services Land Use Plan line item to the newly-created CAMA Land Use Grant line item under Planning and Zoning.

Councilman Doe, seconded by Councilman Creech, moved to approve Budget Amendments 7, 8 and 9. The motion carried by unanimous, 5-0, vote.

**C. Tax Releases and Request for Tax Refund**

Tax Collector Laura Buda submitted the following tax releases for approval:

Batten, Stuart	\$ 199.87	Located in Wilson County
Cooley, Bill	\$ 8.49	Value incorrect
Lamberth, William	\$ 299.39	Billed in error
Summerlin, George	\$ 18.80	Double billed – Account No. 350614
TCF Leasing	\$ 25.12	Value incorrect
Walker, Win	\$ 69.58	Double billed – Account No. 41134

She also submitted the following request for a tax refund:

Stokes, Carl	\$ 88.55	Billed twice under different name for same boat
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Councilman Archer moved to approve the tax releases and tax refund, Councilman Creech seconded, and approval was unanimous, 5-0.

**D. FYI Items**

Mr. Cooper provided the Council with the tax collection report for the month of December 2004. In December, \$673,044.81 was collected for a year-to-date total of \$1,515,729.42.

He also presented confirmation from the ISO (Insurance Services Office, Inc.) that the Town of Atlantic Beach remains in good standing in the CRS (Community Rating System) for the next year. The Town's CRS rating is Level 8.

**8. Town Manager's Report**

Mr. Cooper reminded the Council that former Mayor Joe Stroud, who resigned as mayor because he moved to Morehead City, was one of Atlantic Beach's representatives to the Carteret County Beach Commission. Since he no longer resides in Atlantic Beach, he may no longer be a member of the Beach Commission. His three-year term expires in October 2005 and the Beach Commission has requested that the Town Council appoint another member to fulfill the unexpired term. The Nominations Committee of the Beach Commission recommended that Councilman Harry Archer be appointed.

Councilman Creech moved that the Council appoint Councilman Harry Archer to replace Joe Stroud on the Carteret County Beach Commission. Councilwoman Roberson seconded the motion.

Councilman Doe said he was uncomfortable with the Beach Commission. He felt the Town of Atlantic Beach was in a position where it could be outvoted on matters involving beach nourishment. If any matter brought before the Beach Commission impacts Atlantic Beach, he would like for Councilman Archer to bring that matter to the Atlantic Beach Town Council first and obtain the Council's support before voting on it as a member of the Beach Commission. Councilman Creech and Mayor Pro Tem Dawkins agreed wholeheartedly.

Mayor Dawkins called for the vote on Councilman Creech's motion, which carried unanimously, 5-0. Councilman Archer thanked the Council for appointing him and assured the Council that he had taken to heart everything they had said.

**9. Mayor/Council Requests/Comments**

Councilman Doe said that the Town's recent letter to the U.S. Army Corps of Engineers, sent under the Mayor Pro Tem's signature, essentially set out the Town's request for prioritizing the placement of the remaining sand of the beach nourishment project. Based on the Town's observations and the Corps' conclusion, the most threatened area was the gap between Commerce Way and the park. The Town requested that the Corps fill that gap first with

approximately 600,000 cubic yards of sand and after that, any remaining sand be placed as far to the west as possible. Councilman Doe said the project is currently about four houses before the west end of Ocean Ridge and he suspects that the sand might be placed as far as the Coral Bay Club. Finally, the Town is working to get sand placed dead center between Oceanana Pier and Sportsman's Pier. It was indicated that the Corps needed a Council vote to confirm that letter. The Town Attorney said that the letter had been sent based on a straw poll of the Council, and Council could ratify that action at this meeting.

Councilman Doe moved that the Town Council ratify all the statements that were made within the Mayor Pro Tem's letter to the Corps of Engineers, and the actions that were taken. Councilman Creech seconded, and the motion carried by unanimous, 5-0, vote.

Mayor Pro Tem Dawkins stated that he was impressed with the Atlantic Beach Fire Department and the support it provided to Pine Knoll Shores in the recent fire there. He spoke to Pine Knoll Shores Mayor Joan Lamson about it as well.

Councilman Archer said in order to allow Town staff to work toward the 2005 Christmas Parade, he would like the Council to select a date for the parade so that bands could be contacted and booked. He suggested the first Friday in December (December 2), with the time to be determined later. Councilman Creech reminded the Council that the first Friday in December was the traditional date for the parade. Councilwoman Roberson mentioned possibly changing the parade route, and Councilman Doe raised the issue of the effectiveness and appropriateness of a night parade versus a day parade.

Councilman Doe moved that the 2005 Christmas Parade be held on Friday, December 2. Councilman Archer seconded, and approval was unanimous, 5-0.

#### **10. Town Attorney's Report**

The Town Attorney had nothing to report.

Mayor Pro Tem Dawkins called for a break in the proceedings at 7:15 p.m. The meeting was reconvened at 7:27 p.m.

#### **7. Joint Work Session With Planning Board re Ground Sign Ordinance – Planning Director**

The Town Council and the Planning Board had received copies of an ordinance which replaced the existing language in Section 18-204 of the Town Code with new text as

recommended by the Planning Board. The ordinance, previously presented as Ordinance No. 04-11-01, was not voted on after the public hearing held on November 15, 2004.

The Planning Director reminded everyone that the issue of ground signs and how they are addressed in the Town Code had arisen a year ago because ground signs could conceivably be used as billboards due to the ability to locate them almost anywhere and advertise almost anything. As it began to study the issue, the Planning Board realized that this was not the only issue with ground signs; overall size of ground signs was also a concern.

Some of the existing standards were utilized in the new draft ordinance, but many were not. The definition of a ground sign for this section was rewritten as "freestanding sign." The zoning districts the signs are allowed in remains the same (RA-3, RR, RC and GB). Mr. Smith continued reviewing the ordinance section by section for the benefit of the Council. (**Clerk's Note:** A copy of the draft ordinance is incorporated herein by reference and hereby made a part of these minutes.)

Councilman Archer asked if Mr. Smith and the Planning Board had discussed anything relevant to lighted signs, such as LED signs generated by computers that flash a brief message or send a continual scrolling message. Mr. Smith said that the topic had come up, and he felt those signs could get out of hand very quickly. The Town already has a section in its sign ordinance that addresses flashing signs, but some people have argued that LED signs are not flashing signs. He suggested the Town might want to review the issue and limit those signs to only emergency services.

Councilman Doe said that in the discussion of all freestanding signs, he heard an assumption for sign supports to be open and not filled in. He asked if that was a requirement or if someone could conceivably build a sign that was solid to the ground. Mr. Smith pointed out that Item 6 on Page 3 of the ordinance, regarding setback limitations, stated that "Columns, poles or other supports for a detached freestanding sign shall not occupy more than twenty percent (20%) of the space between the base of the sign and the ground." Mr. Tarascio asked if that needed to go outside the setback limitation section of the ordinance, *i.e.*, if someone placed a sign 10 feet back from his/her property line, then there would be no prohibition against the bottom part of the sign being filled in. It was suggested that this language also be placed in the definition of a ground sign.

Councilman Doe asked about length and width of signs, noting that conceivably a very long sign could be erected, and he wondered if that was appropriate. He suggested a ratio be incorporated to keep signs proportional.

Finally, Councilman Doe said he felt this proposal was a good one, but was worried that it seemed to be a significant deviation from the current ordinance and could create

nonconforming uses. Mr. Bailey replied that the Planning Board members had discussed the creation of nonconforming uses ad nauseum, and concluded that they were trying to guess where the Council wanted to go with this issue. Eventually, nonconforming signs would come into conformity because they will rot or fall down and have to be replaced with a conforming sign. Enforcement of the ordinance is important, he stated. The Town Attorney reminded everyone that state law now prohibits amortization of nonconforming uses without payment. Nonconforming signs exist until they are destroyed; after destruction, they must be rebuilt to conform to Town ordinances. Mr. Bailey asked if the face of the sign is the sign's value, as the owners claim, and the owner removes the sign face because of an impending storm, has the owner removed more than 50% of the sign and can the Town prevent the owner from putting the sign face back up? Mr. Taylor said he thinks the statute states "destroyed or damaged" to 50%, not removed. He believes that questions like this will be tested in court. Councilman Doe suggested trying to get some of these issues resolved before adopting an ordinance that would get thrown out of court the first time it was tested.

Mayor Pro Tem Dawkins and Councilman Creech felt the ordinance was a good one and tried to allow business owners to advertise their business, while trying to clear up some of the proliferation of unattractive or large signs.

Councilwoman Roberson said she was hoping for a reduction in the height of signs and wondered why the height limit was 21 feet. Mr. Tarascio replied that since the overall size of signs was reduced so much, the Planning Board felt that height would be a help for the loss of footage and still give the business exposure. It might also create some creativity with signs, he said, with business owners using different sized signs to make their signs stand out.

Mr. Tarascio summarized points made during the discussion so that the Planning Board and planning staff could revise the sign ordinance. First, the 9-foot clear ("Detached freestanding signs shall not be erected within a required front setback unless the lowest point of such sign is elevated at least nine (9) feet above the adjacent ground level.") should be extended throughout the ordinance. Secondly, each side of the sign needs to be addressed. The ordinance needs to clarify that the two sides of a sign are connected back to back and attached to the same support, and that there are no angled signs. Mr. Tarascio said that this ordinance still gives businesses the ability to be identified and located. Councilman Creech felt that the ordinance should be revised to incorporate these points. Mr. Smith also suggested that the ordinance be revised to allow a height of 21 feet for unified business development but lower it to 12 or 15 feet for single independent establishments. LCD signs would also be addressed in the revised ordinance.

The Town Attorney reminded the Council that the existing moratorium on ground signs was due to expire in February, and suggested that a public hearing be scheduled for February 7 to

receive public comment regarding extension of the moratorium to allow the Planning Board and planning staff time to incorporate the revisions proposed at this evening's meeting.

Councilman Creech moved that the Council schedule a public hearing on February 7, 2005 at 6:00 p.m. regarding extension of the existing moratorium on ground signs. Councilman Archer seconded, and motion carried unanimously, 5-0.

#### **11. Adjournment**

There being no further business before the Town Council, Councilman Creech made a motion to adjourn the meeting. Councilman Archer seconded, and approval was unanimous, 5-0. It was 8:38 p.m.