

Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, May 16, 2005

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, May 16, 2005 at 6:00 p.m. in the Council Meeting Room.

Members Present: Mayor Eddie Dawkins; Council Members Harry Archer, Jim Bailey, Tom Doe and Christie Roberson

Members Absent: Mayor Pro Tem Doug Creech

Others Present: Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Fred Bunn and Cecil Bradley of FMB, Inc.; Marc Schulze, Public Works Director; Lee Smith, Planning Director; Sabrina Simpson, Business Officer

CALL TO ORDER AND ROLL CALL

Mayor Dawkins called the meeting to order at 6:00 p.m. All Council members were present.

PRAYER AND PLEDGE OF ALLEGIANCE

Mr. Herbert Pate led the assembly in the prayer and Pledge of Allegiance.

APPROVAL OF THE AGENDA

Councilman Archer made a motion to move Action Agenda Item No. 4, FY 04-05 Budget Amendments, to the Consent Agenda. Councilwoman Roberson seconded, and approval was unanimous, 4-0.

Councilman Bailey moved to excuse Mayor Pro Tem Creech from the meeting as he was out of town. Councilman Archer seconded, and the motion carried by unanimous vote of 4-0.

Councilwoman Roberson, seconded by Councilman Doe, moved to add a new Action Agenda Item No. 4, Beautification Committee. Motion carried by unanimous, 4-0, vote.

Councilman Doe made a motion to adopt the agenda as amended. Councilman Archer seconded, and the motion carried unanimously, 4-0.

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 Releases (\$24.26)

The Tax Collector submitted the following 2004 tax releases for approval:

- a. Fun 'N' Wheels \$ 24.26 Value incorrect

2. Tax Collection Report for April 2005 (FYI Item)

Ms. Buda submitted the tax collection report for April 2005 which showed that \$17,572.88 had been collected. The year-to-date collection total for 2004 at the end of April was \$1,944,443.52 (99.41%).

3. 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.

The following seven budget transfers were presented. The first was completed in April, the other six in May.

<u>Department</u>	<u>From</u>	<u>Amount</u>	<u>To</u>
Planning	Telephone & Postage	\$ 700.00	Dept. Supplies (\$1,900)
	Advertising	\$ 800.00	
	Miscellaneous	\$ 400.00	
Fire	Dental	\$ 800.00	PT Salaries (\$2,400)
	Miscellaneous	\$ 400.00	
	Works' Comp	\$ 1,200.00	
Fire	Advertising	\$ 500.00	Employee Dev (\$200) Vehicle Maint (\$300)
	Vehicle Maintenance		

Governing Body	Telephone & Postage	\$ 400.00	Comm Promo (\$400)
	Dues/Subscriptions	\$ 500.00	Advertising (\$700)
	Employee Development	\$ 200.00	
Administration	Health/Life/Std	\$ 1,750.00	Retirement (\$2,750)
	Telephone & Postage	\$ 1,000.00	401(k) (\$800)
	Equipment Rental	\$ 700.00	Employee Dev (\$750)
	Dental	\$ 400.00	
	Maint/Repair Equipment	\$ 250.00	
	Dues/Subscriptions	\$ 50.00	
	Workers' Comp	\$ 150.00	
Police	Overtime	\$ 4,000.00	Part Time (\$4,000)
	Overtime	\$ 6,000.00	Fuel (\$7,275)
	Christmas Bonus	\$ 400.00	
	Employee Development	\$ 875.00	
Finance	Christmas Bonus	\$ 200.00	Advertising (\$20)
			Check Svc Chgs (\$180)
Inspections	Communication	\$ 725.00	Advertising (\$184)
	Workers' Comp	\$ 34.00	Dental (\$1,000)
	Employee Development	\$ 425.00	

4. Finance – FY 04-05 Budget Amendments – Town Manager

(Moved from Action Agenda. *See* Approval of Agenda above.)

Budget Amendment No. 10 transferred \$3,325.44 from Insurance Proceeds to Streets Department – Maintenance and Repair of Equipment for reimbursement of repairs to the tractor that had gone into the water.

Budget Amendment No. 11 transferred \$9,121.25 from Volunteer Fire Department Donation to Fire Department – Capital Outlay. The Volunteer FD donated funds to purchase a new Zodiac boat for the Atlantic Beach Fire Department.

Budget Amendment No. 12 transferred \$4,494.73 from FEMA Income to Fire Department-FEMA. This was FEMA reimbursement to the Atlantic Beach Fire Department for its assistance in Asheville during Hurricane Ivan and the resulting floods.

Budget Amendment No. 13 transferred \$24,034.41 from Loan Proceeds to Fire Department-Capital Outlay for the purchase of the Fire Department's new Rescue-2 pickup truck, the required emergency vehicle accessories, taxes, tags and lettering.

Councilman Archer, seconded by Councilwoman Roberson, moved to approve the Consent Agenda as modified. Approval was unanimous, 4-0.

CITIZEN REQUESTS/COMMENTS

Joyce "Tootsie" Vinson, 113 Bowen Street, Atlantic Beach, NC: Ms. Vinson said she was speaking to the Town Council as a Board of Adjustment (BOA) member, but was speaking only for herself as a member and was not representing the entire BOA. Because of the changes that are occurring in Atlantic Beach, she asked the Town Council to review some of the zones in the Town to make sure that the requirements and uses for those zones are still applicable as currently written. In particular, she would like the Council to review the GB General Business district and RC Resort Commercial district. It was becoming increasingly difficult for the BOA to make its decisions based on the 10 findings that they must make, she said.

Llewellyn Ramsey, 118 Bowen Street, Atlantic Beach, NC: As a real estate agent, Ms. Ramsey said, she agrees with Ms. Vinson. However, her main purpose in speaking this evening was to compliment Councilwoman Roberson on the beautification that has been done, and will continue to be done, in Atlantic Beach. She said that the Town's property around the water tower on Fort Macon Road needs cleaning up. The Town needs to install some nice walking trails on other Town properties.

James N. Willis III, 104 Atlantic Beach Causeway, Atlantic Beach, NC: Mr. Willis mourned "the passing of the old Atlantic Beach Circle." He apologized to the Town Council, Fred Bunn and Cecil Bradley for his suggestion at the last Council meeting that because the State of North Carolina had purchased Central Drive prior to the Atlantic Beach and Bridge Company recording its map for the sale of the properties, this might render invalid the statutory control and the conveyance of the street to the adjacent property owners upon closing of the street by the Town. He was wrong, he said. In 1934, prior to the recording of the map, the Atlantic Beach and Bridge Company had deeded Central Drive to the State of North Carolina. In 1966, the State abandoned that street to the Town for upkeep and maintenance. The State maintains that because they have let the general public use the street for so many years, the general public has acquired an implied, irrevocable easement to that street. Since that easement has been obtained by the general public, the statute the Town used to close the street, which conveys the property to the adjacent property owners, is in effect.

(**Clerk's Note:** NCGS Section 160A-299.) He apologized again and added that the next time he makes a remark along those lines, he will try to be more prepared.

Joe Tarascio, 113 Hoop Hole Creek Drive, Atlantic Beach, NC: Mr. Tarascio said that in reviewing commercial zones with mixed uses and basically tailoring them to the current real estate market is not a good idea. There must be some balance and buffer in the commercial and residential zones, and some practicality in writing the requirements for any zoning ordinance. There should be some zones, or at least one zone, in the Town that is so heavily commercial that residential use is a special use and only accompanies the commercial uses.

Mr. Tarascio suggested that the Town needs to consider what it can contribute to redevelopment, possibly to its own betterment. The Town's municipal complex property is going to become more valuable with redevelopment. Some members of the Council have lamented the loss of parking meters on the Circle, but the Town has property on which to erect a parking deck to increase revenues, he said, right next to the proposed redevelopment. From what he understands, the Public Works building is in such bad shape that it is near collapse, and perhaps keeping the building at its current location is not the best use of such valuable property. The budget contains approximately \$60,000 to maintain structures, to "band-aid" them together, he said. The Town owns property near the water tower on Fort Macon Road, and there is a shopping center which is about to lose its major anchor store. Perhaps the Town should consider moving itself off its current property and either use it to produce income or make it fit in with Mr. Bunn's development.

Councilman Archer agreed that it is time the Town Council re-evaluates how its zoning districts are laid out. The Town needs to realize that times have changed and are still changing, and needs to identify where it wants residential areas, high-rises, low-rises, cottage districts, commercial, retail, restaurants, etc. through a comprehensive plan.

Councilman Doe agreed these issues need to be addressed. Where the Town is in transition, it needs to ensure that the transition is not used to hurt the existing properties, and essentially that means making sure that residential uses do not override commercial uses.

Mayor Dawkins stated that the Town Council would work out a plan. Councilman Doe suggested that Mr. Tarascio talk to the Planning Board and determine a framework for discussions. Mayor Dawkins concurred.

ACTION AGENDA

1. Circle Redevelopment Update – Fred Bunn

Fred Bunn and Cecil Bradley of FMB, Inc. presented revisions to the earlier site plan they had drawn up for their proposed development. They had acquired a lot of additional property since those first drawings were created.

From the stoplight to the beach, they would like to create a layered effect, beginning with a sculpture near the stoplight. Coming down West Drive, one would come to their utility building. They have attempted to increase the landscaped area five feet along the road, from 10 to 15 feet. On the right is the old John's Motel, and they showed sketches of possible renovations to the building to turn it into a contemporary boutique. A conservatory with a terrace is planned and will overlook the vineyard. It will be a community building for the people in The Grove but also for the people of Atlantic Beach. The floor plan showed a fireplace, a place for a piano, two or three comfortable seating areas and reading materials, and a serving area for catered functions. Moving along to Atlantic Boulevard, they are trying to preserve the one-level buildings to keep some of the uses those buildings had in the past but add new uses, too. Everything planned for the beach side of Atlantic Boulevard will be one or two levels in height, possibly two and one-half. The taller buildings will be located in the center of the Circle. The community activity area is the same. "A Bedroom at the Sleepy Garden" is a little one-bedroom cottage reserved for special Town guests. It contains living and sitting rooms, a bath, and a wraparound deck. It sits in the corner and there will be a small secret garden leading to it. Mr. Bunn continued showing sketches of various other buildings.

Mayor Dawkins complimented Mr. Bunn on the demonstration and asked how to transfer this knowledge to the people of Atlantic Beach. Councilman Bailey said he would like to see a model of the development, and Mr. Bunn said at some point there would be a model. He added that he might be able to work this presentation into the groundbreaking celebration program on June 2, even if it was a static display with the pictures mounted on easels for viewing.

2. Planning Board Report – Planning Board Chairman

Mr. Tarascio said that the Planning Board continued its work on Phase I of the CAMA Land Use Plan (LUP) Update and should be able to wrap up Phase I at its next meeting. The LUP could serve as a framework for the comprehensive plan the Council mentioned earlier in the meeting.

3. Presentation of FY 05-06 Proposed Budget to Town Council and Request to Schedule a Public Hearing on the FY 05-06 Budget – Town Manager

In accordance with NCGS Section 159-11, Mr. Cooper presented the Proposed FY 05-06 Budget for the Town of Atlantic Beach. The proposed budget is the result of the initial budget planning process, the departmental requests for the new fiscal year, discussions between the Department Heads and the Town Manager, and the numerous budget workshops in which the Town Council, the Town Manager and Department Heads all participated. Mr. Cooper asked the Council to schedule the required public hearing on the budget for June 6, 2005, which is the Council's regularly scheduled work session. The budget will be available for public review at the Town Hall beginning tomorrow, May 17.

Councilman Doe moved to schedule a public hearing for June 6, 2005 at 6:00 p.m. to receive public comment regarding the proposed FY 05-06 budget. Councilman Archer seconded, and the motion carried by unanimous vote of 4-0.

4. Appointment to Beautification Committee – Councilwoman Roberson

(Added under Approval of the Agenda above.)

Councilwoman Roberson said there was a growing citizen interest in beautification of the Town, and she had recently talked to several citizens who wanted to participate in the effort. She moved to nominate Vada Palma as an appointee to the Beautification Committee. Councilman Doe seconded. Councilman Archer suggested that the Council enlarge the Committee. Mayor Dawkins had recently spoken with Cam McRae of the North Carolina Department of Transportation (DOT) and he told Mayor Dawkins that DOT could provide plants and bushes for the DOT-maintained roads in Atlantic Beach. Councilwoman Roberson amended her motion to include a request that she and Ms. Palma be authorized to recruit others members to be approved by the Council, Councilman Doe seconded the amended motion, and approval was unanimous, 4-0.

5. Bid Award for Storm Debris Removal – Town Manager

The Town of Atlantic Beach has contracted with Barry Johnson of Johnson Environmental & Disaster Consulting Services to prepare a contract and bid documents to solicit bids for storm debris removal in 2005, and also contracts with Johnson Environmental to monitor and manage storm debris removal. The invitation to bid was published on April 1, 2005 and the bid opening was held on April 14, 2005. Based on the bids received, Mr. Johnson has recommended that Coastal Plains Recovery, Inc. in Jacksonville, North Carolina be awarded the bid as lowest responsible qualified bidder.

Councilman Archer made a motion to award the 2005-06 debris removal contract to Coastal Plains Recovery, Inc. based on Mr. Johnson's recommendation. Councilwoman Roberson seconded, and the motion carried unanimously, 4-0.

6. Ordinance No. 05-05-01, "An Ordinance Requiring That Multi-Channel Video Systems and Providers Obtain a Franchise" – Town Attorney

In the future, Atlantic Beach may encounter telephone companies seeking to provide cable services within the Town limits, much like the digital services now being offered by cable companies. Cable companies are required to apply for franchises and some of the reasons for that include: a city can, by giving or withholding a franchise, ensure that cable companies do not serve only certain areas of town, ensure that they are not spotty with their services, and ensure that they provide public access channels and other public-service oriented things. The telecommunications industry feels they are different from cable companies and therefore are not to be regulated as cable companies are. Mr. Taylor recommends that an ordinance be placed on the books to ensure that, at least from the Town's perspective, telecommunications companies would have to be franchised like any other service provider distributing cable-type services in the area. This is a new and developing field, and the telecommunications industry has a very strong lobby working with the Federal government to bypass a franchise process. In addition to adopting an ordinance stating that telephone companies, like regular cable companies, must obtain a franchise from the Town before they are able to render services in the Town, Mr. Taylor has provided a letter to be sent to Atlantic Beach's Senators and Congressman regarding any legislation that might affect its ability to have some control over the service of telephone companies providing cable services within the Town.

Councilman Doe moved to approve Ordinance No. 05-05-01, "An Ordinance Requiring That Multi-Channel Video Systems and Providers Obtain a Franchise" and to send letters to Atlantic Beach's Congressmen concerning issues related to this ordinance. Councilman Bailey seconded, and the motion carried by a vote of 4-0.

7. CAMA Minor Permit Contract – Town Manager

Like the majority of coastal communities, the Town of Atlantic Beach currently has a contract with the North Carolina Department of Environment and Natural Resources to assist in providing CAMA minor permit assistance for construction activities having impact on sites under CAMA regulation. This contract is up for renewal on July 1, 2005. The amount of income derived from this effort by the Planning and Inspections Departments is approximately \$2,500 per year.

Councilman Archer asked Planning Director Lee Smith which other Bogue Banks municipalities provide this service, and Mr. Smith replied that all municipalities in Carteret

County except for Beaufort. The County also issues CAMA minor permits. Additionally, all municipalities in Craven County, with the exception of Swansboro, issue the permits as well. He stated it is a “one stop shopping” benefit for local citizens and assists the builders. Mr. Tarascio said that it is a great service, but that CAMA should be brought in on any requests that are the least bit out of the ordinary. Mr. Smith added that the Town has an excellent relationship with CAMA.

Councilman Doe asked if the time spent by Staff on everything involved with issuing CAMA minor permits exceeded the revenue received and Mr. Cooper said he believes it does. Councilman Doe stated that he wanted more information before the Town enters into this contract. He would be interested in hearing why Beaufort and Swansboro do not have a contract with CAMA for the issuance of minor permits.

Councilman Bailey said that he does a lot of these permits and receives excellent service from Morehead City’s CAMA office. The Town does a great job in issuing them, but the rules are complex and keep changing. He encouraged the Council to let CAMA handle CAMA permits, to at least try this at least for a while.

Mr. Tarascio said he tends to agree with Councilman Bailey. Traveling to Morehead City would not be a big inconvenience for builders, and the Town probably spends as much or more on the issuance of permits than it makes.

Councilman Doe asked if it would be permissible to add a surcharge to the CAMA permit fee to recoup the money lost in Staff time and effort if the Council decide to approve the contract. He also believed that not issuing CAMA permits would free up some time in the Inspections Department.

Councilman Bailey moved to not approve the CAMA minor permit contract. Councilman Archer seconded and the motion carried by unanimous, 4-0, vote.

8. Waste Industries Contract – Town Manager

The Town of Atlantic Beach currently has a contract with Waste Industries for the removal of solid waste from the Town. The contract calls for an adjustment in the rates on each anniversary date (July 1) equal to the Consumer Price Index (CPI) for the past 12 months. As has been the case in the past, Waste Industries is offering a reduction in the anticipated rate adjustment of 3.2% to 2.0% if the Town extends the contract for one additional year to June 30, 2007.

Councilman Doe, seconded by Councilman Bailey, moved that the Town continue negotiations with Waste Industries for this contract but with the clear understanding that there

will be no extension of the contract. Councilman Bailey also recommended talking to the County engineer about its recent contract renewal process and requests for proposals (RFPs) because the County saved a substantial amount of money by changing contractors. Councilman Archer wanted the motion to be amended to state that the Town would solicit other bids, but Councilman Bailey reminded him the Town has a year left on the current contract and Councilman Archer withdrew his request to have the motion amended. Councilman Doe stated for the record that Waste Industries over the years has done an exemplary job in Atlantic Beach. The Town is not questioning the quality of the work, but the Town might be able to obtain waste removal service at a lower price if RFPs are solicited.

Mayor Dawkins called for the vote on Councilman Doe's motion. Approval was unanimous, 4-0.

TOWN MANAGER'S REPORT

TOWN ATTORNEY'S REPORT

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilwoman Roberson commented on an article about a local boat landing a world-record sailfish. This is a "big deal" for our area, she said. Councilman Bailey liked Mr. Bunn's idea of a statue of a marlin or sailfish or billfish at the entrance to the Circle area which he showed during his presentation earlier in the evening.

ADJOURNMENT

There being no further business before the Town Council, Councilman Doe made a motion to adjourn the meeting. Councilman Creech seconded, and approval was unanimous, 5-0. It was 9:10 p.m.