

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, July 18, 2005**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, July 18, 2005 at 6:00 p.m. in the Council Meeting Room.

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

Members Absent: None

Others Present: Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Scott Kilpatrick, Police Chief; Marc Schulze, Public Works Director; Lee Smith, Planning Director; Adam Snyder, Fire Dept. Chief; Kim Glover, Admin. Asst.

CALL TO ORDER AND ROLL CALL

Mayor Dawkins called the meeting to order at 5:58 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 that Item #1 of the Action Agenda be removed from the Agenda inasmuch as the Public Hearing on the Re-Zoning at Lee Dr. has been withdrawn. Furthermore, Councilman Archer would like to move Item #3, the presentation of the Rescue of the Year Award, from the Action Agenda up to Item #1. Councilman Doe seconded the motion.

Mayor Dawkins stated his concern that there were people there prepared to speak at the Public Hearing tonight. He asked Derek Taylor, Town Attorney, what his position would be on this matter. Attorney Taylor said that the application for the Re-Zoning at Lee Dr. had been withdrawn, so those that came for this should know they won. If the public still wants to speak, Attorney Taylor suggested they do so during the Citizen's Comment section.

Lee Smith, Planning Director, stated the owner of the property placed a phone call to him and stated the fact he wishes to withdraw his request and later he faxed a copy in writing. Mr. Smith received the original copy in the mail today from Randy Miller, owner of Kay Development. Attorney Taylor informed the public that since the matter had been withdrawn,

it is not a matter for the Council tonight. Attorney Taylor said they can still call for a Public Hearing next month.

The motion carried unanimously, 5-0 to approve the Agenda.

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 for June 2005 (FYI Item)

Ms. Buda submitted the tax collection report for June 2005 which showed that \$4,852.75 had been collected. The year-to-date collection for 2004 at the end of June was \$1,954,000.60 (99.90%).

2. Tax Collector's Annual Settlement FY 2004/05 (FYI Item)

Tax Collector Laura Buda submitted the tax settlement report for Fiscal Year 2004/05 as required by North Carolina General Statute Section 105-373. A total of \$1,954,000.60 was collected, representing a 99.90% collection rate as of June 30, 2005.

3. Budget Amendment No. 15 (FYI Item)

Budget Amendment No. 15. increased the Police Dept-Vehicle Maintenance expense and Insurance Proceeds revenue line item by \$682.17. The reason for the increase was for auto repairs that were reimbursed by liability insurance for FY2004/05.

4. Tax Collector Authorization

This tax order of collection authorizes and directs the Town of Atlantic Beach Tax Collector to collect all taxes for Fiscal Year 2004/2005. It declares such taxes to be first lien upon all real property of the respective taxpayers in the Town of Atlantic Beach and authorizes and directs the Tax Collector to levy on and sell any or personal property of such taxpayers, for and on account thereof, in accordance with North Carolina law.

5. Bank Authorization

Resolution No. 06-07-04, "Resolution Designing Bank Depositories and Authorizing Signatures for Bank Depositories for the Town of Atlantic Beach, North Carolina"

NCGS Section 159-31 requires the governing board of each local government designate one or more financial institutions as official depositories. On February 22, 2005 the Town of Atlantic Beach adopted Resolution No. 05-02-02, which designated the Town's official depositories for monies and also designated the Mayor Pro Tem, Town Manager, Tax Collector and Town Clerk as the Town officials who are authorized to accept, sign and endorse checks and other financial instruments on behalf of the Town. Since that time, the Town Clerk position had been vacated; therefore, a new resolution was necessary to reflect removal of the Town Clerk's name.

6. National Kid's Day Proclamation

The Carteret County Partnership for Children had asked that August 7, 2005 be celebrated as Kid's Day in Atlantic Beach and had asked the Mayor to so proclaim it.

A motion was made by Councilman Doe to approve the Consent Agenda. A second was made by Councilman Creech. The motion carried unanimously, 5-0.

CITIZEN REQUESTS/COMMENTS

Ron Luther, Wilson, NC: Mr. Luther wanted to discuss his problems with his property at 302, 303 and 304 Cooper Ave. He would like the Council's help with the water issues and the street issues on Cooper Ave. It was his understanding when he purchased the property that improvements were going to be made.

Councilman Archer asked if there was a dwelling on any of the lots. Mr. Luther stated there is at 302 Cooper Avenue.

Scott Kilpatrick, Police Chief of Town of Atlantic Beach: Chief Kilpatrick wanted to remind everyone of National Night Out on August 2, 2005 from 5-9 p.m.

ACTION AGENDA

1. Rescue of the Year Award

Chuck Cooper, Town Manager, informed the Council that the Town of Atlantic Beach Fire Dept. had been awarded second place in the North Carolina Association of Rescue sponsored Rescue of the Year Award. He stated it was a great honor for our department. The award related to the confined space rescue they performed at Pine Knoll Shores Aquarium construction site.

Gordon Joyner, Executive Director of the North Carolina Association of Rescue and EMS, addressed the Council, family and friend of the Fire Department. He informed everyone that the Association sets the standards in North Carolina and Atlantic Beach Fire Dept. far exceeds those standards. Mr. Joyner stated it was his pleasure to be there to present the award tonight.

Adam Snyder, Chief of Atlantic Beach Fire Dept., recognized the members of the Fire Dept. as follows: Captain Mike Simpson, Lt. Nick Salter, Lt. Kevin White, Captain Ingrid Meyers, Lt. Glynis Verazzanno, Scott Bell, Selina Bolick, Wayne Woods, Matt Byrd, Drummond Figg, Andy Reed, and Gregory White. Chief Snyder wanted to publicly give the members of the Fire Dept. his thanks for dedicating their lives to the Town, County, and to the State for any emergencies we might come in contact with.

Gordon Joyner presented the award on behalf of the NC Association of Rescue and EMS to Adam Snyder, Chief of Atlantic Beach Fire Dept.

Mayor Dawkins commented that the Fire Dept. and entire staff of the Town of Atlantic Beach do a wonderful job.

2. Planning Board Report

Lee Smith, Planning Director, provided the Planning Board report, as Chairman Joe Tarascio was unable to attend this evening's meeting. He informed the Council the board is working on their vision statement. Two main items of discussion for the Planning Board were: First, the draft language for the Condotel issue. The Planning Board was asked to come up with some standards and definition for such. The staff wanted another month or so to do their own research. Second issue, was the lot size requirements for multi-family dwellings. A couple years ago, it was recommended to increase those lot sizes and it never went any further. The staff was looking into this issue and within a few months should have some draft language for the Planning Board.

3. NC League of Municipalities Resolutions

Chuck Cooper, Town Manager, informed the Council that we participate in the N.C. League of Municipalities sponsored Interlocal Risk Financing Fund of N.C., which is a property/liability insurance pool. All participating municipalities have been asked to pass resolutions indicating acceptance of the rewritten agreements. These agreements were rewritten to clarify and standardize language but the rewrite did not materially change the essential intent of the original agreements. Attached are copies of the resolutions and agreements for the Council's review.

A motion was made by Councilman Archer to approve **Resolution No. 06-07-01**. It was seconded by Councilwoman Roberson. Councilman Doe asked for the record if this resolution would materially change the programs we have in place. Mr. Cooper responded no and it applies to the other two resolutions as well. Approval of **Resolution No. 06-07-01** was unanimous, 5-0.

A motion was made by Councilman Doe to approve **Resolution No. 06-07-02**. It was seconded by Councilman Creech. The motion carried unanimously, 5-0.

A motion was made by Councilwoman Roberson to approve **Resolution No. 06-07-03**. It was seconded by Councilman Bailey. The motion carried unanimously, 5-0.

(Clerk's Note: A copy of the Resolutions and Agreements is attached and hereby made a part of these minutes.)

4. Cooper Avenue

Town Manager, Chuck Cooper, stated he knows that the Council was very interested in getting a resolution on this matter very soon. Mr. Cooper and Marc Schulze, Public Works Director, have been negotiating and talking with several of the property owners between the dunes to try to come to a resolution on how to do a storm water run-off solution. Mr. Cooper and Mr. Schulze will be meeting with Sea Spray on Wednesday to continue those negotiations. Sea Spray was interested in working with the Town on a solution. Mr. Cooper asked for the help of the Council on how they wish the staff to move and what the wishes are of the Council in this area.

Councilwoman Roberson agreed we have been all around the problems that Mr. Cooper had discussed. Councilwoman Roberson asked that citizen, Roger Luther, describe the latest development on his property. Mayor Dawkins concurred.

Mr. Luther said the problem was flood water on Commerce Ave. and Cooper Ave. Councilwoman asked him to describe what type of flooding. Mr. Luther said it was flooding from rain. Mr. Luther informed the Council that the water is about knee deep and he couldn't get in and out of his car.

Mayor Dawkins stated he had three phone calls from homeowners in Sea Spray that said they are going to sell their property. Mayor Dawkins stated we have to put something there to relieve the water. The environmental people statewide have agreed and if Sea Spray would agree to put something between the dunes, then we can go ahead and take care of the matter.

Councilman Doe commented that the Town of Atlantic Beach has subdivision ordinances and the developer of a subdivision was responsible for putting in all the utilities. In this case the developer and the property owner had not lifted a finger to help with this problem. Councilman Doe had a real problem with one neighborhood having to pay for drainage and another one not having to pay for it.

Councilwoman Roberson stated that it seems from reading the notes the Town Manager provided, the situation is a little better.

Councilman Archer concurred with the comments made by Councilman Doe and Councilwoman Roberson. He felt that every member of the Council had dedicated themselves to the storm water run-off problems. As it related to the Cooper Ave. Extension, they approved as a Council to remove any storm water that was holding in the Commerce Ave. and Cooper Ave. Extension area. The Council also agreed to gravel the road. It would be foolish to put pavement down. Mr. Cooper and Mr. Schulze have been in touch with the director of the association and it seemed that a very positive solution is being sought. The residents of Sea Spray have joined in the fight now. Councilman Archer asked for the citizens to be patient because there is a meeting set up on Wednesday in hopes of consummating a draft agreement.

Mr. Luther informed Councilman Doe that he intends to be part of the solution.

Mr. Cooper stated as long as the Council were in agreement with Mr. Schulze and the meeting with Sea Spray, he will move forward the storm water issue.

5. Dredging

Chuck Cooper, Town Manager, stated that the issue of dredging had recently been a frequent topic of conversation. While Councilman Bailey had been exploring the possible acquisition and use of a lower cost dredging service provider, Marc Schulze and Mr. Cooper had been moving forward to contact Bill Foreman with Coastal Science & Engineering (CSE) of

Morehead City to explore if there was a more comprehensive plan for the dredging in Atlantic Beach.

Mr. Cooper stated he brought a proposal from CSE for the Council to review. Mr. Cooper asked for the Council's guidance on how to best move the Town forward in this important area.

Councilman Doe asked Mr. Cooper if we could do some of the work in house. Councilman Doe stated if we go forward with this type of proposal he'd like to see a list of similar projects. Mr. Cooper informed him there is a list in the proposal. Councilman Doe said he is missing documents in his proposal package and Mr. Cooper assured him he will get them to him as soon as possible. Councilman Doe wanted to know the qualifications of the engineers.

Councilwoman Roberson thanked Mr. Cooper for the work he had been doing. She said that the comprehensive document Mr. Cooper supplied still has some un-answered questions. The final question being, what are the priorities of where we want to dredge?

Councilman Archer wanted to know where the funding is going to come from.

Councilman Doe agreed that the document from Mr. Cooper is a possible route we might be able to take. He did not get the sense that Mr. Cooper wanted us to enter into this contract at this time. Mr. Cooper concurred.

Mr. Cooper wanted the Council to know that most of the agencies do not take seriously grant applications that do not have some planning behind them.

Councilman Doe reminded the Council that the Town has agreed to accept responsibility for the feeder channels that come into the Town canals. If we cannot do it with grants then we still have to do it.

Mayor Dawkins asked if anybody on this Council had been out on a boat in the last ten days and seen where the problems are. Councilman Creech answered that he had.

Councilman Creech wanted to know the public's opinion on the shallow spots. He said we spent almost all of the Town's money before and one of the channels had filled back in. Councilman Creech reminded Council of the public's comments on the dredging issue. He asked the Council which is more important getting your boat out of the water or draining the storm water. He said he would like to see both, but to do that, we would have to raise taxes outrageously. Councilman Creech would like to see the Town clean up the channels so the public can use their boats.

Mayor Dawkins stated that he and the Police Chief, Scott Kilpatrick, went out in a boat at dead low tide around Crow's Nest and Moonlight Bay. Mayor Dawkins said the problem was when you make the left turn on west side of the bridge to go to the Intercoastal Waterway. He stated if we let this Town get land-locked, we can hang it up. Councilman Archer asked the Mayor what depth of water he had at low tide. Mayor Dawkins said six feet.

Ann Batt stated that this was the same sandbar that's been a problem for years. Mrs. Batt said they had one foot of water when they were stuck on the sand bar. She stated she has thirty letters from the public saying they will do anything, sign a petition, or whatever it takes to resolve the problem.

Councilman Bailey stated he had fought the channel for ten to twelve years. He would like to see the Council put this situation into a work session meeting. Councilman Bailey had been negotiating about some lower costs dredging and he was disappointed with the price he had been given. He felt as a Council, that they all needed to decide which channels we're going to take on as a Town and how deep and how wide. Also, we need to know the costs.

Councilman Doe stated he feels that tomorrow morning we should take what money we have and get the channel open. Mayor Dawkins concurred.

Mr. Cooper stated we have \$25,000 in the budget for dredging.

Eddie Brimley, 225 Moonlight Dr., Atlantic Beach, NC stated two weeks ago a boat hit the sandbar and it had five (5) kids in it. The first thing he felt the Town should do is move the markers to make it safer. He stated it would cost around \$300,000 to do the dredging correctly.

Lew Ramsey, of Atlantic Beach stated she didn't want the Council to take what she says as a threat but, she guaranteed if there isn't any action within the next thirty days there would be more people filing to vote.

Councilman Roberson felt that the next step would be a planning workshop as soon as possible.

Councilman Creech stated we need to empower Mr. Schulze and Mr. Cooper to start looking for a place to put our spoils and meet with Ann Batt and Eddie Briley to move our markers.

Mayor Dawkins stated the energy is going in the right direction.

Councilman Archer stated our next Work Session is August 1, 2005. He concurred with everything Councilman Creech said.

Councilman Doe would like to see facts to make a decision at the August meeting. He would like to see the design be 60 feet wide x 6 foot deep with a 30 degree taper off the vertical sides of the channel, quotes in place and suggested methods of funding.

Councilman Bailey stated he thinks \$25,000 will help get people out of the channel.

Mayor Dawkins asked Mr. Cooper if he was comfortable with what the Council has asked him to do. Mr. Cooper said yes.

TOWN MANAGER'S REPORT

Town Manager, Chuck Cooper had nothing to report.

TOWN ATTORNEY'S REPORT

Town Attorney, Derek Taylor stated he would save his report for closed session.

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilman Doe thanked Mayor Dawkins for the adjustments he had made concerning the Consent Agenda.

Councilwoman Roberson thanked Mr. Cooper for doing such a good job.

Mayor Dawkins called for a break in the proceedings at 7:50 p.m. The meeting reconvened at 8:00 p.m.

Councilman Doe asked since we don't have a sworn clerk to go into Closed Session, what do we do?

Mr. Cooper informed the council that Sabrina Simpson is the Town's Deputy Clerk and can act in that capacity, but she is not here tonight.

Derek Taylor, Town Attorney, stated our safest bet would be to go ahead and release Kim Glover, and he would take the minutes tonight.

CLOSED SESSION

Consult with the Town Attorney regarding matters protected by the Attorney-Client prelude or pending litigation pursuant to NCGS Section 143-318.11(a) (3).

Councilman Creech moved that the Council enter close session in accordance with North Carolina General Statute Section 143-318.11(a)(3) to consult with the Town Attorney regarding matters protected by the attorney-client privilege and to consider and give instructions concerning a potential or actual claim, administrative procedure or judicial action or potential litigation. Councilman Archer seconded and the motion carried unanimously, 5-0.

A motion was made by Councilman Harry Archer to go back into open session at 9:00 p.m. It was seconded by Councilman Jim Bailey, and the vote was unanimous, 5-0.

ADJOURNMENT

There being no further business before the Town Council, Councilman Creech made a motion to adjourn the meeting. Councilman Bailey seconded, and the vote was unanimous, 5-0. It was 9:05 p.m.