

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, September 19, 2005**

The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, September 19, 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; Marc Schulze, Public Works Director; Lee Smith, Planning Director; Scott Kilpatrick, Police Chief; Adam Snyder, Fire Dept. Chief; Sabrina Simpson, Deputy Town Clerk

CALL TO ORDER AND ROLL CALL

Mayor Dawkins called the meeting to order at 6:03 p.m. All Council members were present.

PRAYER AND PLEDGE OF ALLEGIANCE

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

APPROVAL OF THE AGENDA

Councilman Archer made a motion to approve the Agenda, seconded by Councilman Creech. Motion carried unanimously, 5-0.

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 Collection Report for July 2005 (FYI)

Ms. Buda submitted the tax collection report for August 2005 which showed that \$341,961.50 had been collected. The year-to-date collection total for 2005 at the end of July was \$367,289.34.

2. Tax Releases (\$5,512.73)

The Tax Collector submitted the following 2005 tax releases for approval:

a.	Chamblee, John	\$ 76.32	Located in Pine Knoll Shores
b.	Edney, Raymond	\$ 23.23	Located in Beaufort
c.	Casey, Dennis	\$ 633.65	Double billed
e.	Justice, Toni	\$ 14.42	Located in Sea Gate
d.	Wheeler, O Gray	\$ 963.24	Incorrect Owner
f.	Peppertree Resort Villas	\$ 731.99	Building removed
g.	Mills, Dennis	\$ 26.80	Located in Morehead City
h.	Pizzuti's	\$ 79.72	Located in Morehead City
i.	Pruden, Charles	\$ 25.67	Value incorrect
j.	Friedlin, Gladys	\$ 72.86	Billed in error
k.	Anderson, Karl	\$ 58.19	Value incorrect
l.	Goodson, Violet	\$ 8.21	Double billed
m.	Lee, Roger	\$ 10.66	Double billed
n.	Roberson, Myrtle	\$ 263.11	Failed to reach age exemption
o.	Southall, Jarrett	\$ 43.01	Double billed
p.	Cooley, Bill	\$ 5.19	Value incorrect
q.	Smith William	\$ 21.54	Billed in error
r.	Strange, Sarah	\$ 59.60	Located in Morehead City
s.	Mercer, Jimmy	\$ 11.21	Located in Radio Island
t.	Rigutto, Luigi	\$ 18.22	Incorrect owner
u.	Williams, Scotsman Inc.	\$ 11.80	Value incorrect
v.	Evans, Roger	\$ 123.87	Value incorrect
w.	Baker, Raymond	\$ 127.61	Incorrect owner
x.	Mason, David	\$ 84.90	Located in Beaufort
y.	Creech, Charles	\$ 103.64	Value incorrect
z.	Fish, Rebecca	\$ 176.83	Failed to reach age exemption
aa.	Horton, Liles	\$ 8.39	Double billed
bb.	Pittman, Jan	\$ 793.50	Located in Beaufort
cc.	Whitlow, Larry	\$ 299.00	Incorrect owner
dd.	Doe, Thomas B. III	\$ 112.70	Incorrect owner
ee.	Dail, Donnie	\$ 44.67	Located in Cape Carteret
ff.	Lee, Donald E.	\$ 220.80	Incorrect owner
gg.	Welch, Clarence	\$ 4.68	Located in Morehead City
hh.	Brinkley, Richard	\$ 253.00	Billed in error

3. Budget Transfer (FYI Item)

Transferred \$2,000.00 from the Planning Dept. Part Time Salary line item to the Planning Dept. Contracted Services line item to cover the expense of transcribing minutes for the Board of Adjustment and the Planning Board.

4. Town Council Meeting Minutes-June 6, 2005 through August 15, 2005

The Town Manager had provided the Council with copies of the unapproved minutes on September 9, 2005. The approval of the meeting minutes were sought at the meeting.

A motion was made by Councilman Doe to approve the Consent Agenda. Councilman Bailey seconded, motion carried unanimously, 5-0.

CITIZEN REQUESTS/COMMENTS

Herbert Pate, 123 Pond Drive, Atlantic Beach, NC

Mr. Pate asked the Council what was being done about the channel dredging on the west side of the bridge.

Councilman Doe commented the issue was on the agenda and asked Mr. Pate if he could wait until later during the discussion of that matter to get an answer to his question. Mr. Pate was in agreement.

Mr. Pate wanted to know who replaces the sand fences that got blown down during the storm. Councilman Doe said he would address the issue during the Mayor/Council comment section of the meeting.

Lew Ramsey, 118 Bowen Street, Atlantic Beach, NC

Mrs. Ramsey commended the Town of Atlantic Beach employees on how well everyone handled the situations that arose during Hurricane Ophelia. She was still concerned about the flooding of Cooper and Commerce Avenue. She was informed by Mayor Dawkins that the issue was on our closed session agenda and would be addressed. She also informed the Council that the channel markers had been moved around during the storm. Mr. Cooper advised her that the markers would be put in the correct places very soon.

ACTION AGENDA

1. Planning Board Report-Planning Director

Lee Smith, Planning Director was present to give the Planning Board report due to Mr. Joe Tarascio's absence.

Councilman Doe commented that the Council had not received any Planning Board minutes to review in a long time. Mr. Smith said they were working on them as fast as possible. He informed the Council that the Planning Department had contracted with someone to do the minutes. Mayor Dawkins interjected that he felt that Councilman Doe had made a good point. Chuck Cooper asked Mr. Smith how far behind they were and Mr. Smith answered four months.

Mr. Smith said the major problem was the turn around time. The staff only had one week from their meetings to produce minutes for the Town Council. He stated it is an impossible task for one person. Councilman Bailey stated he had asked for the agendas to be put in their boxes, which would give the Council a head's up of when Planning Board's meeting were. Mayor Dawkins told Mr. Cooper the council would put the ball in his court. Councilwoman Roberson told the Council it would be a good idea to have the minutes available at the work sessions and that would give the staff one month to have the minutes ready.

Mr. Smith stated the Planning Board discussed five rezoning requests, three ordinance amendments, both called for public hearings. The board was going to move forward with the CAMA Land Use Plan, but the consultant's wife had a baby the day before which made that impossible to do. Two meetings in October will consist of only Land Use items.

2. Request for Rezoning Public Hearings-Planning Director

Councilman Doe wanted to discuss items number 2, 3, and 4 before the public hearings are voted on. He felt if the Town goes through with the rezoning we would be having a special needs converted into a situation where we are just allowing increased density on the oceanfront.

Mr. Smith stated he understood Councilman Doe's concerns to be converting the land in three tracts. Councilman Doe stated that was not his concern. His concern was we had a use of a pier right now and at a point and time in the past the pier went under and was going to have to close because of sewer problems. They asked the Town if they could run pipes and dispose of the sewage. The Town made a decision that they could because of the dire need. Councilman Doe stated what we had was a clearing of the land and starting over. You basically go back to the underlying zoning requirements to do what you are going to do. He is concerned we

would end up with the sewage being pumped off sites. He feels the issue falls under the Town policy and not under the Planning Board.

Mr. Smith stated that when the Planning Board reviews subdivisions, one of the policies they look at is infrastructure. He stated the applicants would have to come before the Town Council and get an easement amended before they could move forward.

Councilwoman Roberson asked Mr. Smith if the development could co-exist with the pier. Mr. Smith stated that the rezoning aspect changes zero use on the piece of property. The pier is an allowed use in the RA-3 zoning since it is already there.

Derek Taylor, Town Attorney, stated that when you do a re-zoning you must look at what RC currently allows and look at what RA-3 and everything that can be done in that category. We have to assume they could do anything on the list that is in that zone. The developer is aware they have a problem with the easement and they have to come before the Council.

Mr. Smith informed the Council that this has been approved conditionally.

Councilman Doe asked if the pier had to go if we no longer have parking. Mr. Smith stated yes.

Councilman Archer made a motion to recuse Councilman Bailey from voting due to personal interest in one of the properties. Seconded by Councilman Creech. Vote carried unanimous 4-0.

A motion was made to establish a Public Hearing for the purpose of discussing the rezoning of 2800 West Fort Macon Road, 208 Tryon Street, 203 Money Island Drive, 500 Money Island Drive, and 500 East Fort Macon Road by Councilman Archer. Councilman Archer added to reflect in that motion that the hearing be held on October 17, 2005. Seconded by Councilman Creech.

Councilman Archer made a motion to recuse Councilman Bailey from voting due to personal interest in one of the properties. Seconded by Councilman Creech. Vote carried unanimous 4-0.

Councilwoman Roberson added to the discussion by saying she was concerned of the disappearance of our fishing piers and would like for the Town to consider them in our future planning.

Mayor Dawkins called for the vote. Motion carried unanimous 4-0.

Councilman Doe made a motion to bring Councilman Bailey back into the Town meeting. Seconded by Councilman Archer. Motion carried unanimous 4-0.

3. Proposed Zoning Ordinance Amendments-Planning Director

Lee Smith requested a public hearing for these ordinance amendments:

1. Lot Development Standards
2. Multi-family Housing Development Standards
3. Hotel, Motel and Condotel development regulations

Mr. Smith informed the council that all the information was included in their packets. Also, if anyone had any questions he would be glad to answer them at any time.

Councilman Doe questioned Mr. Smith if the issue of using Condotels as condominiums had been addressed. He felt it could propose a big problem if it weren't spelled out correctly. Mr. Smith felt the issue had been dealt with accordingly. Councilman Doe felt there are too many loopholes. Councilman Creech wanted to wait and discuss this item during the next work session.

Councilman Archer stated that the proposed text amendments would be carried forth to our next work session and at that time if we are in agreement we could set a public hearing.

The Council decided to have a work session along with the Planning Board on October 3, 2005.

Wally Courie interjected from the crowd he wanted to speak regarding the Planning Board matter. Mayor Dawkins informed him he was too late, that the citizen's comments section of the meeting had been over for awhile.

4. Dredging Status-Town Manager

Town Manager, Chuck Cooper, stated the status of the actions that had been taken by him and the staff regarding dredging. He said they had contracted with Coastal Science and Engineering of Morehead City to perform several services:

- a. Perform a survey of the Intercoastal Channel and create maps
- b. Collect sand samples to identify appropriate disposal methods
- c. Calculate dredging quantities and estimates of costs for hydraulic and clam shell dredging
- d. Prepare CAMA permit documents and assist in obtaining permits

- e. Prepare and submit application for Water Resources Grant from the Division of Water Resources

Mr. Cooper said after all these steps bidding will take place, disposal options will be determined and dredging will be contracted as soon as permissible by CAMA permit.

Councilman Doe asked how long before we start the bidding process. Marc Schulze, Public Works Director answered two weeks. Councilman Doe would love to dispose of sand on the beach; however there is a lot going on now about suitability and unsuitability of sand and where you put it. He hopes we can make sure we don't have a delay in this process.

Councilwoman Roberson wanted to know if the sand could be used to fill in low lying below sea level areas of the Town. Councilman Doe reminded the Council that dredged spoils do not generally perk for several years.

Councilman Archer wanted to make sure not only the west end is done, but also access to Hoop Hole Creek. He said Rusty Crenshaw is willing to go with the staff and check it out. Councilman Doe commented that the moving of the markers helped with the access to Hoop Hole Creek. Councilman Archer wanted to make sure that we don't forget about the Hoop Hole Creek access.

5. Appointment of Trustees for Fireman's Relief Fund-Town Manager

Mr. Cooper informed the Council they needed to appoint two trustees for the Fireman's Relief Fund. A motion was made to appoint Fire Chief Adam Snyder and Fire Captain Mike Simpson as Trustees for the Local Fireman's Relief Fund by Councilman Doe. Seconded by Councilman Creech, the motion carried unanimous 5-0.

6. Certificate of Achievement for Excellence in Financial Reporting-Town Manager

Mr. Cooper informed the Council that the Town of Atlantic Beach, for the fifth consecutive year in a row, had been recognized for the quality of its financial practices and reporting by the nationally recognized Government Finance Officer's Association. This gives the citizens of the Town assurance that the Town's finances are being accounted for and reported properly. Mr. Cooper extended his appreciation to the staff that worked so diligently to make this happen.

Councilman Bailey commended the staff also.

7. ASCAP and BMI Music Licensing Agreements-Town Attorney

Derek Taylor, Town Attorney, stated that the public performance of copyrighted music has recently come under scrutiny from the American Society of Composers (ASCAP) and the Broadcast Music, Inc. (BMI). The League of Municipalities (NCLM) had raised the awareness of this issue to the cities and towns to help them avoid any possible copyright infringement and the sever penalties that could result. Therefore, the NCLM has recommended we purchase a blanket licensing agreement to cover the Town. Attorney Taylor recommends the Town go ahead and purchase the insurance.

A motion was made by Councilman Doe to proceed with negotiations to purchase blanket license permits related to copyrighted music works from the appropriate licensing authorities. Seconded by Councilman Bailey, motion carried unanimous 5-0.

8. 2006 July 4th Celebration-Town Manager

Mr. Cooper stated that July 4, 2006 will bring a unique event to the Carteret County area with the arrival of the Pepsi America Tall Ships Event. The communities of Beaufort, Morehead City, and Atlantic Beach are being asked by the Friends of the North Carolina Museum to come together in tangible ways for this event.

The friends of the North Carolina Museum have asked that each Town consider combining their resources for a joint fireworks display for the July 4, 2006 event. They are planning to use Brandt Island as the central launch site for all three towns. It would not impact any of the other facets of the Town of Atlantic Beach's celebration. A demonstration of the fireworks will be held on October 12, 2006. The decision to participate in this one time event can be made after the demonstration has occurred.

Councilman Doe is hopeful we can participate in this event. His concern was Atlantic Beach being able to see the fireworks.

TOWN MANAGER'S REPORT

1. Hurricane Ophelia Recovery Status

Mr. Cooper wanted Adam Snyder, Fire Chief, Scott Kilpatrick, Police Chief, and Marc Schulze, Public Works Director to discuss hurricane status and then offer the Council a chance to ask questions. Mr. Cooper informed the Council that FEMA had been notified and the he had already met with them. From a private perspective we have been declared a Federal Disaster Area. The original estimate for the private sector was approximately \$16 million dollars for Atlantic Beach and a \$645,000 estimate for Town infrastructure.

Councilman Doe asked if the sand fences had been included in that estimate. Mr. Cooper said yes.

Councilman Archer stated the declaration has not yet been signed by the President and nothing happens until that is done.

Chief Snyder stated the staff and residents were unharmed. Everything went real well.

Chief Kilpatrick stated everything went well. He indicated the buoys need to be relocated due to winds from the storm. He hoped by the weekend, they will have the waterways marked the way they should be.

Marc Schulze said the staff is still continuing to remove debris. He asked the citizens to separate storm related debris, into yard debris and C&D to help assist in types of and ease of pickup. He stated the Town would make one pass down each street and it would be a while before they would make it back down that street again. He also stated the water system issues from the storm are resolved.

Councilman Doe stated we need to clean up the Town with or without FEMA money. He wanted to know if the Town could go ahead and get our contractor going and get an agreement if the FEMA money comes through, that's great, if not the Town would have to pay.

Councilman Archer stated that disaster material removal is probably one of the most controversial items FEMA has. He feels it would be wise to wait until the declaration signed.

Mayor Dawkins was in agreement with Councilman Doe's comments.

A motion was made by Councilman Doe to proceed with deliberate speed to bring in outside contractor for debris removal. To the extent that FEMA doesn't reimburse us, the Town will pay for expense out of surplus. Seconded by Councilman Bailey, motion carried unanimous 5-0.

TOWN ATTORNEY'S REPORT

Attorney Taylor had nothing to report until Closed Session.

MAYOR/COUNCIL REQUESTS/COMMENTS

Councilman Doe informed the Council the Town had lost all the sand fences that had been put up before the storm. He stated labor is in real short supply right now. He talked with a particular contractor and he stated he would have time after December 1. The Town could ask for a bid or option to do the work with prison personnel. Around 70-80% of the fences can go to the dump. Most of the posts are salvageable. He asked the Council how they would like to proceed.

Mayor Dawkins asked Mr. Cooper to take care of the sand fence issue.

Councilman Bailey and Councilman Bailey both commended the staff and Disaster Assessment Team for all their efforts during the storm.

Councilman Archer asked Mr. Cooper when we could do a post-disaster critique on our emergency management plans.

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 Bailey moved that the Council enter close session in accordance with North Carolina General Statue 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. Seconded by Councilman Creech. Attorney Taylor requested the presence of Marc Schulze and Lee Smith to be included in the Closed Session. Motion carried unanimously, 5-0. It was 8:00 p.m.

A motion was made by Councilman Creech to go back into open session at 8:59 p.m. It was seconded by Councilman 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. It was seconded by Councilman Archer and the vote was unanimous, 5-0. It was 8:59 p.m.