

**Minutes
Town of Atlantic Beach, North Carolina
Town Council Work Session
Monday, November 14, 2005**

The regularly scheduled work session of the Atlantic Beach Town Council was held Monday, November 14, 2005 at 6:00 p.m. in the Council Meeting Room.

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

Members Absent: Mayor Eddie Dawkins and Councilwoman Christie Roberson

Others Present: Chuck Cooper, Town Manager; Derek Taylor, Town Attorney; Marc Schulze, Public Works Director; Lee Smith, Planning Director; Joe Tarascio, Chairman of the Planning Board; Donna Turner, Inspections Director; Sabrina Simpson, Deputy Town Clerk

CALL TO ORDER AND ROLL CALL

Mayor Pro Tem Doug Creech called the meeting to order at 6:06 p.m. Mayor Pro Tem Doug Creech explained that Mayor Dawkins had been in the hospital and would be absent for a while.

Mr. Herbert Pate led the assembly in the Pledge of Allegiance and the Lord's Prayer.

APPROVAL OF THE AGENDA

Councilman Bailey made a motion to approve the Agenda; it was seconded by Councilman Archer. Motion carried unanimously 4-0.

ITEMS FOR DISCUSSION

1. Zoning Ordinance Amendments-Atlantic Beach Density Issues

Mayor Pro Tem Creech informed the citizens that the Work Session was intended for the Council to discuss items on the agenda and was not open to the public for comments.

Councilman Doe stated that as an elected official his loyalty must be to the people who live here full and part time. He said he doesn't agree with allowing continually increasing densities when we know they produce negative results. His obligation in this area was to set a level playing field for all our Town businesses what ever they might be. The density issue creates problems such as storm water, septic system failures, blocked views, sun and breeze. Permitting the development and redevelopment at higher densities ensures the problems would get worse and the cost would be falling on the taxpayers of Atlantic Beach. He stated

he had been encouraged to stay the course by the citizens who had contacted him. Later during the meeting tonight, there would be a window of opportunity opened to get a sewer system for Atlantic Beach. It could be the last affordable chance to do this. There are two basic rules that will control this process: density and system capacity. The State will not issue permits without evidence that the densities will not increase. Councilman Doe stated that in his opinion we would never get a permit without the system capacity issue being addressed and zoning changed to prevent the increased densities allowed today. The second "rule" has to do with the maximum design system we would be able to build without having to condemn significant and high priced property. He stated we are going have to prevent any redevelopment that involves increased density. He said the time was now for the citizens of Atlantic Beach to let their wishes be known. Do we still want sewer under the restrictions we will be under? As to the proposal on the table about the zoning issues, he thinks there was strong community support for the following: an absolute cap, not to exceed 12 residential units per acres under the best of conditions, on all development in Atlantic Beach, except the CDD. In light of the new sewer effort, this cap should have only a small time before going into effect. We need to ensure that all developed properties conforming before the effective date of the new ordinance be grandfathered as to impervious surface and replacement when over 50 percent is destroyed by whatever cause that be might be. He stated he understood from Lee Smith, Town Planner that his intent was for the impervious surface changes to apply to all but RA-1 zones. Councilman Doe encouraged the Council to discuss these issues at length tonight.

Councilman Archer stated the Town of Atlantic Beach was going to have to show we could control our growth. He is a believer in individual property rights and sees how the amendment could hurt existing owners. The Planning Board and our Planning Director have worked very diligently with an attempt to come up with some modifications to the plan. He said he would like to see less than 30 percent impervious materials. He said we are creating our own storm water issues. He said the Council would be working feverishly on the town sewer issues. Storm water and sewer go hand in hand. He stated the town can work together. He recognized the fact that some citizens have old and new septic systems, but sooner or later with the rising water table we have in Carteret County, we all are going to face a problem. After talking with a number of residents in the Town, he encountered a surprise. He said most would sit back and not speak up about changes in ordinances and codes. The citizens do feel Atlantic Beach was growing too rapidly. He felt as a Council, they needed to go through this with a fine tooth comb. Councilman Archer does not believe we should accept the zoning amendments as currently written.

Councilman Bailey stated he thinks sewer and storm water are the two most important things we have to deal with in this town. He agreed with Councilman Doe that in order to be approved for sewer, we have to get a handle on our growth. He was very committed to getting sewer for the Town because of health issues. He voiced that many of the people he

had spoken to about the amendments are confused and don't understand the changes. Councilman Bailey indicated he thought that density and mass are of importance to the issues at hand. He stated we currently allow too many units per acre and we need to control that and max out at no more than 12 units per acre. He knows it would not suit everybody, but some. He would like to see us go to a 25 percent impervious coverage for any multi-family lot, unless there was an engineered storm water plan that meets the same criteria as the State. He would then agree to 40 percent. He would like to see the Town go to a 60 feet height limit in multi-family buildings instead of 45-50 feet. The reason he would like to see 60 feet is it would allow for people to park under their buildings as much as possible. He wanted the public to make sure they understand all the various issues. He advised the citizens to call him on his cell phone if they needed to reach him instead of his home phone.

Councilman Creech apologized to the Council and citizens that his phone had been out due to him moving. He stated his views are about the same as everybody else. He was looking at 12-14 units per acre. He was not concerned with numbers of bedrooms because the Health Department would handle that issue. He agreed with parking under the buildings. Most of all, the conversations come down to the lot size people have now. He doesn't want to see people penalized by decreasing lot, though he thinks 10,000 is way too big. He said the input he had received was the public liked the Planned Use Development dropping back to a half an acre but they didn't like the units going from 6,000 to 10,000. He thinks the plan needs to be studied more.

Councilman Doe conveyed that almost everyone he had spoke with that were residents understood the changes after they were explained to them. There needs to be a balance with the residents and business owners. He realized that it was the business owner's job to get the most out of their investments. That is how this country works. On the other hand, we need to remember to balance the community of those who live here and are entitled to have a say as to what kind of community we are going to live in. Councilman Doe reiterated that not one person had said to him that anyone was messing up their plans to develop their property. He doesn't remember ever having this kind of feed back from the citizens in all his six years of service. The message he was hearing was real clear. He said we need to watch out for the folks in town. He said if we go taller we might need to increase the setbacks. We need the parking under the buildings. He doesn't think we can hold off on this. He stated he could not stand behind the sewer issue without addressing town water and density issues.

Councilman Archer said if the Council approved the three text amendments, then we need to grandfather people in that already have properties. He said the plan still needed more discussion.

Councilman Doe admitted to confessing to some simple-mindedness. He came prepared tonight to discuss the things he was hearing the most about. The rest of it, he still has a lot of studying to do, like with the density and how it related to the impervious surface.

Councilman Bailey said there were two things he had left out. He stated where we have existing lots that are zoned appropriately they should be grandfathered in. He also stated we should delay implementation for some period of time to allow those with plans in progress to get their work finished. He stated he would not vote in favor of this ordinance tonight.

Councilman Archer stated in correlating this with sewer, if we were to be in a position to act upon our central sewer and begin the process of trips to Raleigh and permitting, then right at the present time we would be in very good shape. We would have receptive leaders involved because we are not anywhere close to that point of massive overgrowth and high density.

Councilman Creech stated there needed to be another public hearing so that the citizens would understand the plan better. He said that nothing would be passed or voted on tonight and we had found that everybody had a different opinion about how it needed to be handled.

Councilman Doe was very concerned that the issue would go away and not get dealt with. He cannot aggressively pursue sewer without solving the density problems with the Town. He questioned the Planning Board if they had heard enough tonight where they could refine what they already have. Joe Tarascio, Chairman of the Planning Board stated that from what he had heard, all the council members want different things.

Councilman Creech asked what the Council thought about meeting with the Planning Board.

Councilman Bailey asked if it was appropriate to ask for public comments. Derek Taylor, Town Attorney said the only difference is with a Public Hearing, it is published in the paper and more people would see it. Councilman Archer invited the citizens to come back at the November 21, 2005 meeting prepared with their comments. Councilman Doe asked how many people came from out of town just for this meeting. There were four people.

Llewellyn Ramsey asked Mayor Pro Tem Creech if she could address the Council. He said yes. She thought it would be good for them to work with Mr. Cooper and Town Attorney, Derek Taylor and put the ordinance in language that everybody could understand. Councilman Creech asked if Mr. Cooper, Attorney Taylor and Lee Smith, Town Planner could get together on the grandfather language and try to make it readable friendly.

Councilman Doe asked that the Council focus on the density issue which concerns and affects people the most.

Councilmen Doe, Bailey, Archer and Creech agreed to have the public speak at the November 21, 2005 meeting during the public comments section.

2. Sidewalk Contract Award-Town Manager

As directed by the Council, Mr. Cooper reviewed the recommendation for the award of the contract to begin construction of the West Fort Macon sidewalk project. In order to use another contractor the Town would have to demonstrate Empire Construction was not responsible. In Mr. Cooper's opinion, he stated it would be in the best interest of the Town to move forward with the contract award to Empire Construction.

Councilman Doe thanked Councilman Archer for raising so many good questions at the last meeting. He hoped there would be a preconstruction meeting with Empire stating they are to stay on track and walk the line. Councilman Doe made a motion to accept bids for contracts by Empire Construction. Councilman Bailey seconded the motion.

Councilman Archer stated for the record that it was never stated that Empire Construction had ever been barred from doing business. The questions he raised were questions of competency. When he sees the NCDOT managers make the comments they made, it definitely raised some red flags. He asked how much we contracted with Municipal Engineering. Marc Schulze, Public Works Director said this portion and design work was \$1500.00. Councilman Archer said if it were his personal money, he would not hire them.

Councilman Bailey concurs with Councilman Archer but reminded him that it isn't their money, it is a pass through from the NCDOT. He agreed we need to be very careful and watchful that they follow through with their work.

Councilman Creech agreed with Councilman Bailey with the fact that NCDOT authorized the company so they must not be that irresponsible. We just need to keep close tabs on them.

Mayor Pro Tem Creech called for the vote. The vote was 3-1 with Councilman Archer voting in the negative.

3. Flood Insurance Requirements and Rates-Town Manager

Councilman Bailey had asked for this topic to be put on the Agenda. He asked Planner Lee Smith if he had been able to generate any information as to what the change of our status from a 10 to an 8 means. Donna Turner, Inspections Director said the higher the rate the lower the individual's flood insurance. Existing homes are grandfathered. Councilman Bailey stated he thinks we should reconsider the two feet freeboard unless it causes some enormous burden on somebody. Councilman Creech asked if it would change our rating. Mrs. Turner

said the insurance premiums could go up. Councilman Doe asked if the rate applied throughout the Town. He then said that is what we need numbers on. Councilman Archer suggested we have Phil Lexinger from Raleigh come to our next meeting as an expert to talk to us. Donna Turner also reminded the Council that being in this flood insurance program gives us the opportunity to apply for grants. She stated she had e-mailed Mr. Lexinger and he really didn't give her any answers to her questions. She also said that during Hurricane Ophelia, she had several citizens call her and thank her that their homes had been elevated.

4. July 4th 2006 Status-Town Manager

Councilman Doe stated he has a meeting scheduled next Thursday with Sail America regarding fireworks and he would fill us in during the next meeting. He said there are a lot of decisions to be made and we may have to put another \$5,000.00 on the table. Councilman Archer asked about the status of the second test. He said they haven't talked about that yet. Town Manager, Chuck Cooper asked for direction on which band to hire. Councilman Doe suggested we make sure we get a band with a follow spot. There was no strong preference as to which band should be used, but if available, the Town could stay with Jackie Gore.

A discussion on dredging was conducted with the Town Manager, Chuck Cooper informing the Council that they were probably two weeks behind on the CAMA permitting. Once the permit goes to CAMA, Marc Schulze would set out bids on the dredging. He stated he would rather not put a time limit on things. He said this was a major permit and we haven't done any dredging since 1999. We are trying to re-establish this major permit and as long as we can all keep our memories we will not let this one die. Councilman Creech agreed that when we do get this permit to make a note to not let this one expire. Mr. Cooper said it would be a three year permit and it would be renewable. Councilman Bailey asked Mr. Cooper if he would let him know when the permit is submitted. Councilman Archer asked about the bidding process. Derek Taylor, Town Attorney said we can put bids out there but to put in writing we do not have to accept the bid.

CLOSED SESSION

Consult with Town Attorney re: (1) Negotiating the terms and price of real property located at 915 W. Fort Macon Road Pursuant to NCGS 143-318.11(a)(5) and (2) Matters protected by the Attorney-Client privilege Pursuant to NCGS Section 143-318.11(a)(3) and (3) Council will pursuant to NCGS 143-318.11(a)(6) consider the performance of the Town Manager.

Councilman Bailey moved that the Council enter into closed session, seconded by Councilman Archer and the motion carried unanimously, 4-0. It was 7:50 p.m.

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A motion was made by Councilman Doe to go out of closed session and back into open session, seconded by Councilman Jim Bailey, the motion carried unanimously 4-0. It was 8:30 p.m.

Adjournment

There being no further business before the Town Council, a motion was made by Councilman Doe to adjourn the meeting. It was seconded by Mayor Pro Tem Creech and carried unanimously, 4-0. It was 8:40 p.m.