



Minutes
Town of Atlantic Beach, North Carolina
Town Council Meeting
Monday, November 28, 2016



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, November 28, 2016 at 6:00 p.m. in the Council Meeting Room, 125 West Fort Macon Road, Atlantic Beach, North Carolina.

Members Present: Mayor A. B. Cooper, III; Mayor Pro Tem Danny Navey; Councilmembers: Harry Archer, Ann Batt, Eddie Briley and John Rivers

Members Absent: None

Others Present: David Walker, Town Manager; Derek Taylor, Town Attorney; Katrina Tyer, Town Clerk; Sabrina Simpson, Administrative Service Director; Jeff Harvey, Police Chief; Michelle Shreve, Planner; John Harrell, Chief Inspector; Arrington Moore, Management Assistant; Marc Schulze, Public Service Director

CALL TO ORDER and PLEDGE OF ALLEGIANCE

Mayor Cooper called the meeting to order at 6:00 p.m. Mayor Pro Tem Navey led the assembly in the Pledge of Allegiance.

APPROVAL OF AGENDAS

Councilmember Archer made a motion *to approve* the agenda. Seconded by Councilmember Rivers. Vote was unanimous, 5-0. Motion carried.

4. CONSENT AGENDA

- a) Financial Report
- b) Tax Collection Report
- c) Tax Releases
- d) Budget Transfer
- e) **Resolution 16-11-02:** Resolution Supporting Ongoing Maintenance Dredging for the Port of Morehead City
- f) Town Park Expansion Project Phase II: Approval of Award to Primus Contracting, Inc., \$624,400
- g) Budget Amendment #5
- h) Town Council Meeting Minutes: 10/20/2016WS; 10/24/2016; 10/31/2016SM

Mayor Cooper reviewed some of the items on the Consent Agenda for the public. Mayor Pro Tem Navey made a motion *to approve* the Consent Agenda. Seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

5. CITIZEN REQUESTS/COMMENTS

None.

6. Presentation of Proposed Policy & Procedures regarding Coyote Complaints

In January, Police Chief Harvey and other island chiefs met with the wildlife commission concerning coyotes on the island. The advice at the time was to just let nature take its course. In October, the Commission provided information and regulations for trapping coyotes. Chief Harvey would like to set up a program similar to Emerald Isle's. The Town may allow property owners to contract with a licensed trapper for the purpose of removing coyotes from their property, provided:

- a) The trapper is properly licensed by the State of NC and complies with all NC laws and regulations regarding the trapping and harvesting of coyotes (15 NCAC 10B.0219).
- b) The property owner is responsible for securing all necessary depredation permits (if trapping takes place outside of the scheduled coyote trapping season).
- c) The trapper notifies the ABPD of the following:
 - a. Date Trap is Set and Location
 - b. Trapper's Name & Contact Information
 - c. Date and Sex of Animal that is Harvested
 - d. Date Trap is Removed
- d) Harvested coyotes are removed from the Town limits, but not euthanized by any method within Town limits.
- e) Trappers report any accidental trapping of a domestic animal to the ABPD immediately.

Councilmember Archer feels this is something the Town needs to be proactive on. He doesn't feel this is something that should be left in the hands of the public.

Mayor Cooper explained that the Wildlife Commission's recommendation is to have homeowners contract directly with the trappers and we can see how that works first. We can contact the Dunes Club and surrounding properties where there may be a high concentration of coyotes to let them know of this new program.

Councilmember Briley made a motion *to approve* the proposed Policy and Procedures regarding coyote complaints and directed the AB Police Department to develop a proactive method for eradicating coyote. Seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried.

7. Comprehensive Annual Financial Report: FY2015-16

Greg Adams, auditor with Thompson, Price, Scott, Adams & Co. PA, reviewed the figures in the FY2015-16 audit. We have a clean audit.

Councilmember Archer made a motion *to approve* the FY2014-15 Audit as presented. Seconded by Councilmember Rivers. Vote was unanimous, 5-0. Motion carried.

8. PUBLIC HEARING on proposed text amendments within Chapter 18, Unified Development Ordinance

- a) **Approval of Resolution 16-11-01:** Resolution of Plan Consistency in Accordance with G.S. 160A-383 for Amendments to Article 5, Zoning Districts, Section 5.5 and Appendix A-3; of the Unified Development Ordinance
- b) **Approval of Ordinance 16-11-01:** Ordinance Amending Chapter 18, Unified Development Ordinance; Article 5, Zoning Districts, Section 5.5 and Appendix A-3

This text amendment was initiated by staff ahead of the UDO Update process in order to increase clarity in the development approval process. Single-family attached dwellings are permitted in nearly every zoning district, including single-family residential districts, despite the multi-family nature of the use. Single-family attached dwellings are in essence townhouses. Following the addition of the townhouse ordinances in 2015, this use was not removed, though the definitions overlap. Having two use types of functionally similar definitions with differing permitted zoning districts can lead to legal dilemma if proposed development is denied because it doesn't meet the standards of one or the other use type.

Many of the updates in the UDO are organizational in nature, but like this text amendment, some of them bring clarity and simplicity to the administration of the ordinances. This discrepancy between townhouses and single-family attached dwellings has been pointed out by citizens as well as CodeWright.

The Planning Board issued a Statement of Consistency after unanimously voting to recommend this text amendment to Council.

Councilmember Archer made a motion *to enter* public hearing on the proposed text amendments. Seconded by Councilmember Briley. Vote was unanimous, 5-0. Motion carried. The time was 6:35pm.

Jim Bailey, 517 E. Ft. Macon. He requests clarification on what is being removed for the amendment. Mayor Cooper provided an explanation.

Phillip French, 509 W. Boardwalk. He points out that one definition covers a duplex or more, while the other addresses a triplex or more. Mayor Cooper stated he is reading the definitions incorrectly.

Councilmember Archer made a motion *to close* public hearing on the proposed text amendments. Seconded by Councilmember Batt. Vote was unanimous, 5-0. Motion carried. The time was 6:40pm.

Councilmember Briley made a motion *to approve* Resolution 16-11-01: Resolution of Plan Consistency in Accordance with G.S. 160A-383 for Amendments to Article 5, Zoning Districts, Section 5.5 and Appendix A-3; of the Unified Development Ordinance. Seconded by Councilmember Rivers. Vote was unanimous, 5-0. Motion carried.

Councilmember Archer made a motion *to approve* Ordinance 16-11-01: Ordinance Amending Chapter 18, Unified Development Ordinance; Article 5, Zoning Districts, Section 5.5 and Appendix A-3. Seconded by Councilmember Rivers. Vote was unanimous, 5-0. Motion carried.

9. PUBLIC HEARING and approval of proposed Major Site Plan for The Grove

Councilmember Archer made a motion *to recuse* Mayor Cooper from discussions related to the Circle as he is co-owner of two restaurants in the Circle area and his presence could be viewed as a potential conflict of interest. Seconded by Councilmember Briley. Vote was 5-0. Motion carried. Mayor Cooper left the building. The time was 6:44pm.

Michelle reviewed the proposed project for the board. This project has been over a decade in the making, since Council approved the sale of properties to FMB, Inc. in October 2003.

Pursuant to Section 14.4.3 of the UDO, development within the CDD requires major site plan approval. On October 14, FMB at the Grove submitted an application for review. On October 24, letters were mailed to 141 property owners within 500 feet of the project notifying them of the major site plan approval process and upcoming Technical Review Committee, Planning Board, and Town Council public hearing dates. On October 27, the Technical Review Committee met and unanimously recommended this project to Planning Board. A public hearing was not required for this meeting, but public comment and questions were permitted. On November 7, 141 more letters were sent to the same property owners as official notification of this Town Council public hearing. On November 15, the Planning Board met to review this project. There were many in the audience and several members of the public spoke with regards to this proposal. A public hearing is not required for the Planning Board review, but public comment was accepted. Following the public hearing and discussion, the Planning Board unanimously recommended this proposal to Town Council in a motion by Rich Johnson and seconded by Steve Joyner.

Pursuant to Section 6.8 of the UDO, the major site plan under review includes several components:

- A twelve-story hotel that includes parking and access on the first floor, lobby and restaurant space on the second floor, and the top ten floors have twelve ocean-view rooms each, for a total of 120 rooms.
- The oceanfront hotel amenity building, to include the fitness center, outdoor pool, and a café.
- Parking lots to serve the hotel, an off-site parking lot off of East Drive and parking to serve a future mixed-use development.
- There is also the parcel subdivision for the hotel and amenity building, off-site parking lot, festival area and widened walkways, future ocean-front single-family residences, future mixed-use development, and future condominium development.
- The Circle Development District is Atlantic Beach's version of a downtown district – allowing for greater heights, densities, and range of uses.
- Review criteria for this district is measured in totality of the master development plan, rather than by each individual development proposal, allowing development to happen as an entire neighborhood. FMB at the Grove has been updating the master plan yearly, as well as at each development proposal.
- One of the masterplan criteria is density. The maximum gross density for the master plan cannot exceed fifty units per acre. With the current development proposal in mind, the gross density for the master plan is 28.79 units per acre. Pursuant to Section 6.8.2, "Development proposals exceeding a density of 20 units per acre shall require review and approval by the Town of Atlantic Beach Planning Board"
- There are no minimum lot size requirements when sewer connection is provided, which it is.
- There are no impervious surface limits provided that the stormwater management meets stormwater standards. Section 2.26(A) requires projects over an acre to obtain a state stormwater permit, which overrides the Town's stormwater management requirements.
- There are building design standards that require articulation and permeability at the street level in order create more dynamic spaces.
- Properties that front Atlantic Blvd., East Drive, and West Drive are required to establish 75% of one floor to non-residential use. This is satisfied in that a hotel and associated amenities are inherently commercial uses.
- Building height standards in the Circle are created in order to be tallest towards the center, with decreasing height and density cascading towards the cottage districts.
- The height limit for the hotel in the center of the Circle, Sub-zone A1, is 185 feet, and the oceanfront amenity building within Subzone A can be up to 155 feet tall. Mechanical equipment and decorative structures can extend an additional 20 feet above the structure. Pursuant to Section 6.8.4(F)(2), "Structures greater than 85 feet in height shall be subject to Town of Atlantic Beach Planning Board review and approval."

- Landscaping standards include two different components: planting strips and street trees. Planting strips should be 5' wide between sidewalk and road to the maximum extent practicable. Street trees can be placed in planting strips, no further than 50' apart on center, and must maintain the same species, spacing, and distance throughout development. Palm trees are the species of choice for the Circle's street trees.
- Bufferyards are not required for this project because the adjacent properties are within the same zoning district.
- Screening standards require for utility structures and dumpsters visible from public streets or adjacent properties to be screened to 90% opacity, which would include the mechanical equipment to the west of the hotel and the dumpsters at the parking lot off East Drive.
- The installation of sidewalks is one of the biggest additions for the Circle. Existing sidewalks will be utilized and added to in order to increase pedestrian access around the Circle. Sidewalks along Atlantic Blvd., West Drive, and East Drive are required to be a minimum of 8' wide, with a minimum of 6' for other streets or pathways. There are sections where the minimum required widths are proposed to be smaller.
- Section 6.8.6(A)(7) and (8) state, "Alternative provisions for pedestrian movement meeting the intent of this section may be used where unreasonable or impractical situations would result from application of these requirements. Such situations may result from significant street trees, impending road widening, topography, utility easements, lot configuration or other unusual site conditions.
- Public Works Director Marc Schulze and Michelle met on site at the Circle on November 1 and determined the proposed sidewalk plan is consistent in width with the current sidewalks provided in the area, and that the provision of the proposed sidewalks will meet the intent of Section 6.8 of the UDO.

The Circle Development District requires accessways to public spaces, i.e. the beach, at least every 600 feet. The current accessway between Crab's Claw and The Grove Oceanside project is 10 feet wide, and the existing two cobblestone walkways are 14 feet wide, and they are spaced about 100 feet apart. Driveways must be 50 feet apart from each other and from other intersecting streets. The closest driveway-to-intersection distance is about 60 feet.

The Parking and Open Space Summary chart (included in the minutes) demonstrates the number of furnished spaces surpasses the number of required spaces. This major site plan requires 180 parking spaces: one and a half spaces per hotel room, at 120 rooms. The accessory uses of the hotel, such as pool, fitness facility, or restaurant, are incidental to the use of the hotel and do not require additional spaces to serve them, pursuant to Section 6.8.8(D)(2). There are two types of parking spaces: on-site private parking or off-site public parking. On-site parking spaces are private, dedicated to the development of the parcel they are located on. Off-site parking spaces are counted in the number of parking spaces furnished for a use, but also can be utilized by the general public. These off-site parking spaces can be accounted for from up to ½ mile away from the development. There are 131 on-site private parking spaces on the hotel parcel, 8 on-site private parking spaces on the amenity building parcel, 40 off-site public parking spaces on the East Drive parcel, and 16 spaces accounted for on the water treatment plant parcel, for a total of 195 spaces provided for this project, per the master parking plan presented to Council on September 15 and tonight. None of the Town's on-street parking has been utilized in these totals. Some of the on-street parking is proposed to be removed in order to create the access drives to serve the developments, and those on-street parking spaces will be replaced within the Town's right-of-way on East Bogue and East Terminal around the water department property.

A minimum of fifteen percent of the gross acreage of the master plan is required to be dedicated as open space. This is area that is allowed to be left in natural state or attributed to limited recreational uses. They are required to provide 60,394 square feet of open space, and are providing 80,526 square feet in this iteration of the master plan.

Councilmember Archer asked about parking and how many total parking spaces the Town maintains. Michelle stated that she believes 300, but doesn't have the figure in front of her. Mr. Walker stated we are not losing any public parking spaces. Councilmember Briley stated we are gaining an additional sixteen parking spaces, as verified by Ron Cullipher with Stroud Engineers.

Councilmember Briley made a motion *to enter* public hearing on the approval of proposed Major Site Plan for The Grove. Seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried. The time was 6:59pm.

Norwood Jackson, 111 Bogue Sound West Blvd. He works for Fred Bunn and has a vested interest, but he has also lived here for over fifty years. As he understands it, this is the first new hotel in Atlantic Beach in over forty years and he is excited to see this development at the Circle. It will be great for the community.

Lynne Brown, 114 E. Terminal. Carl "Scooter", her husband, and she moved to Carteret County in the 80's. In 2003, after hearing of Fred's plans, they moved as close to the Circle as they could. She thinks this will be a beautiful anchor for Atlantic Beach and is looking forward to it and wants to say, "thank you Fred for making Atlantic Beach great again".

Alan Shelor, 100 Sound Dr. As one of the few people born and raised on the Circle over 70 years ago, he has seen all the changes. There was a time when safety was an issue. He thinks if traffic is not a problem during the Beach Music Festival, this development will not cause a problem. He thinks this will be an asset and will add to the tax base, he is looking forward to this project.

Randy Hondress, 127 Island Quay Drive. He moved here permanently about ten years ago. He thinks this will be a fantastic opportunity for the Circle and for the tax base. He has been waiting for this vision.

Tom Glasgow, 602 Blair Pointe Rd, Morehead City. As a contractor, he has worked with this group before and they are professionals and do a good job.

Andy Blades, 126 E. Boardwalk. He spoke at the Planning Board meeting a few weeks ago. He is concerned because they live so close. He is not opposed to the development, but concerned with the size of the project and the parking on such a small parcel. He is concerned with traffic on East Boardwalk and the area becoming a turnaround. If the guests of the hotel are using all of the parking as shared spaces around the Circle, what will be left for the public? It should remain a public beach. Questioned if enough parking for staff and guests. Thinks six floors is more reasonable and will allow for parking.

John Green, 107 W Terminal. He would like clarification on the open areas. He owns adjacent properties (Units 4A and 4B on the map) and is invested in the Lookouts project. He asks if there is an opportunity to develop these parcels if he wishes. Michelle verified he is okay. He is totally in agreement with the project.

Kathy Harrington, 120 E Atlantic Blvd. She feels the parking for the employees of the hotel is not being addressed. She feels there will no room for tourists to come and park. Why can't we settle for 5-7 floors so it isn't as tall and will not mess up the view of the ocean from the bridge. She feels we are losing the cottage feel. She wants to know where the festivals and concerts will be held.

Phillip French, 509 W Boardwalk. Thinks Council's minds are already made up. He is concerned about the height, density and sidewalks not meeting code. Sidewalks are required to be 8 feet, they are only 5 feet or nonexistent. He does not know how people will travel. There is a poorly worded section in the UDO that allows us to provide discretion. He wants transparency as to why we would allow discretions. There were problems this summer when so busy people could not get on the beach, now going to pour in a high density? This was a cottage town when he moved here. He has seen the property at Jungleland butchered and development allowed. As a tax payer he is entitled to know why allowing this.

Kay Cox, 111 E Boardwalk. She thinks this will be creating a traffic problem. When the beach is busy in the summer, they have people coming into their areas to park and she wants some assurance people will not be parking in their yards.

Llewelyn Ramsey, 118 Bowen St. She would like to remind the Town and the citizens that in 2001-02 there was a big public hearing at the Royal Pavilion regarding what to do with the Circle. The original plan was for three high rise buildings. Mr. Bunn proposed a new plan removing the oceanfront hotel and starting on the inside tall and getting smaller as you grow out. The Council agreed. She remembers all of the problems at the Circle in years past with the drunks and fights. She remembers many years ago when the Circle had two beautiful hotels, the Idle Hour and Pavilion. There was always parking issues, but people will find a way to come. Thanked the Town and Mr. Bunn for making this a more pleasurable place to live.

Emily Guthrie, Causeway. It is a shame to see what has happened to the beach over the years. She understands the hotel needs a certain number of rooms to generate the revenue needed to stay open. It is a clean operation, and doesn't understand why we would not want a hotel like that in Atlantic Beach. Thinks the Marriott is a great hotel.

Councilmember Briley made a motion *to close* public hearing on the approval of proposed Major Site Plan for The Grove. Seconded by Councilmember Batt. Vote was unanimous, 4-0. Motion carried. The time was 7:30pm.

Councilmember Briley stated that he did not know earlier today how he wanted to vote. He does not necessarily like the aesthetics of it. If you are worried about people parking, we have police that will handle it if you call them. If that does not work, call the Police Chief, Town Manager or Council and they will step in. Yes, congestion at the Circle has been a problem

for many decades. This is a great thing for Atlantic Beach. Everybody has talked about there being nothing happening at the Circle, this is changing that view positively. A lot of the fears are self-induced.

Councilmember Batt stated she spoke with Mr. Bunn about the parking and the potential for off street staff parking. He said if that was needed, they would address it. She feels we as a community need to pull together instead of letting a few disrupt what the majority of our citizens want. Fred has done almost everything this Town has asked from him.

Councilmember Archer stated he was on the Board in 2001-02 and remembers when the property was sold he was upset because he envisioned the Circle being a seven to ten story hotel with convention facilities. He knows the developers from Virginia Beach and they are reputable. There are a number of things that upset him about the CDD district at the time, but he knew when the economy went sour that the developer was going to have to downscale so there would not be vacant developments. He is proud of what Fred has done with the Bungalows, the Terminal units and the mixed use units going in where the old Underground was. He believes the time will come in Atlantic Beach that everyone here will be proud of what has been done at the Circle with the palms and the hotel. He appreciates concerns of those upset about it.

Councilmember Rivers is impressed and understands you cannot please everyone all of the time. He reminded everyone the Circle was sold for development and that is what is being done. He is tired of looking at the vacant Circle. There is more to do in Atlantic Beach now than there has been in the past five years, more nightlife. He is excited to see this start to happen.

Mayor Pro Tem Navey did not grow up coming to this beach. He remembers in the military they were not allowed to come here because of the reputation of the Circle. If you build it, they will come.

Councilmember Batt made a motion *to approve* the Major Site Plan for The Grove. Seconded by Councilmember Rivers. Vote was unanimous, 5-0. Motion carried.

Councilmember Archer made a motion *to return* Mayor Cooper to the meeting. Seconded by Councilmember Rivers. Vote was 5-0. Motion carried.

Break 7:45pm.
Resume 7:50pm.

Mayor Cooper left the meeting. Councilmember Archer made a motion *to turn* the chair back to Mayor Pro Tem Navey for the conclusion of the meeting. Seconded by Councilmember Rivers. Vote was 5-0. Motion carried.

MANAGER COMMENTS

The Town's 'Light Up the Night' Christmas Parade is this Friday at 6:00pm with former Police Chief Allen Smith serving as Grand Marshal.

MAYOR/COUNCIL COMMENTS

Mayor Pro Tem Navey thanked staff for their work and complimented Michelle on her presentation.

Councilmember Archer thanked Mr. Walker and Sabrina for the successful audit.

There being no further action taken or business before Council the meeting stood adjourned. The time was 7:55p.m.


These minutes were approved at the December 19, 2016 meeting of the Atlantic Beach Town Council.

ATTEST:

(seal)



TOWN OF ATLANTIC BEACH


A. B. Cooper, III - Mayor


Katina Tyer - Town Clerk