



**MINUTES**  
**Town of Atlantic Beach, North Carolina**  
**Town Council Meeting**  
**Monday, November 25, 2019**



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, November 25, 2019 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 Richard Porter; Councilmembers: Harry Archer, Richard Johnson, Danny Navey, Austin Waters

**Members Absent:** None

**Others Present:** David Walker, Town Manager; Katrina Tyer, Town Clerk; Jeff Harvey, Police Chief; Michelle Eitner, Planning Director; Nick Krebs, Planner; Marc Schulze, Public Services Director; Sabrina Simpson, Admin Services Director; Michael Simpson, Fire Chief; MJ Forrest, Council-elect; Neil Chamblee and Mark Ferrell, Planning Board members; Mike Shutak, Carteret News Times.

#### **CALL TO ORDER and PLEDGE OF ALLEGIANCE**

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

#### **APPROVAL OF AGENDAS**

Councilmember Archer made a motion *to approve* the agendas as prepared. Seconded by Councilmember Waters. Vote was unanimous, 5-0. Motion carried.

#### **4. CONSENT AGENDA**

- a) Financial Report
- b) Budget Amendment
- c) Tax Collection Report
- d) Tax Releases Report
- e) Tax Refunds (Everett and Warner)
- f) Approve FY2018-19 Financial Audit as prepared
- g) Town Council Meeting Minutes: 10/10/19 WS; 10/28/19; 10/31/19 SM

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

#### **5. CITIZEN REQUESTS/COMMENTS**

Wally Courie, 400 Money Island Dr. He would like the land fill ordinance to be classified as a special use, reviewed by a specific board created to review landfill permits, not just requiring an engineer seal. He is requesting a Moratorium on the landfill amendment and wants the matter referred to the Planning Board for further study. His request stems from experience at the property adjacent from him on Glenn Street. He does not feel the \$500 fee to appeal a town decision is fair, when the developer is only required to pay \$50 for the permit. He thinks the town works with the developer throughout the process, not the adjoining property owners with concerns. He suggests a cooperative process meeting with neighbors instead of an adversary setting to resolve flooding issues instead of pushing water on neighbors.

Councilmember Waters feels we need to define positive drainage. Councilmember Navey agrees we should research positive drainage. Councilmember Johnson is comfortable with having a consulting engineer on retainer for assistance when needed instead of a review panel. Mayor Cooper noted land fill is not a special use, but they could require approval from another board. Council needs to remember the fill is required for some septic systems and we do not want to burden those property owners. Attorney Taylor reminded everyone permitting is an administrative process and if a review panel is created it needs to be a group that fully understands the ordinance.

There was discussion about reducing the appeal fee so not to burden citizens, but consideration needs to be given to the legal fees involved with an appeal. They agreed to discuss it at the January retreat.

## **6. Planning and Zoning**

### **a) ZTA-19-1 Zoning Text Amendment request by Bill Downey/Channel Marker**

Bill Downey owner of LA Downey Construction and the Channel Marker has requested a zoning text amendment changing the minimum lot width within the COR from 60ft to 50ft. The County Health Department was invited to tonight's meeting, but did not attend, they cannot speak specifically on this project since they do not have an application for review.

Councilmember Archer made a motion *to enter* the Public Hearing. Seconded by Councilmember Waters. Vote was unanimous, 5-0. Motion carried.

William Downey, 4604 Gramercy Court, Raleigh. After insurance totaled the Channel Marker building due to Hurricane Florence, they hired engineers to come up with ideas the property could be used for, the setback issue came up then. If they are allowed to use the old deed plots they would have more development area. If they change the deed they lose the grandfathered exemption.

Ron Cullipher, The Cullipher Group Morehead City. The 1977 lot exemption is strictly for residential units up to 480 gallons and does not require a repair area, not for commercial use. With the current rules they are required to be 100ft from the water and 10ft from the property lines, leaving no land to develop a building on. Without central sewer, there will not be a chance for commercial redevelopment without the exemption.

Councilmember Archer made a motion *to exit* the Public Hearing. Seconded by Councilmember Navey. Vote was unanimous, 5-0. Motion carried. The time was 7:05pm.

Councilmember Waters feels there is more at stake here than a septic tank and it will have effects beyond this initial request. Mayor Pro Tem Porter pointed out this request is specifically for this one lot, but it actually affects all 30 lots on the east side of the Causeway. Councilmember Johnson would like to see a small group organized, whether staff or a task force, to look at the infrastructure, parking, septic, etc. that is in place and review what is required for the development we hope to have along the Causeway. Mayor Cooper agreed we need to further review the Causeway and determine what the future should be. Attorney Taylor cautioned Council about thinking of a specific parcel when considering a text amendment for an entire zone.

It was the consensus of Council to put this item on hold until further review.

### **b) Review and Approval of Second Phase Review of Major Site Plan for MSP-18-6 Crystal View Condominiums**

Michelle reviewed the design plan for the third building at 109 Knollwood Drive and explained the four required components of landscaping have been met. The density, stormwater, and height requirements are all better than what is required. They have exceeded the parking requirement and will install the required sidewalk.

Councilmember Waters inquired about the fill and permeable payment to ensure it would not impact adjoining neighborhoods. Michelle confirmed the way it is designed, it should not.

Councilmember Waters made a motion *to approve* the second phase review of Major Site Plan for MSP-18-6 Crystal View Condominiums. Seconded by Councilmember Archer. Vote was unanimous, 5-0. Motion carried.

### **c) UDO Amendment on Backfilling Bulkheads (continued from August 26 and September 23)**

Michelle started off reviewing the plan for code enforcement the planning staff is implementing. Previously, enforcement has been based more on education, not enforcement and fines. The Town has been broken down into zones that will be monitored weekly and enforcement action taken if needed.

She reviewed the proposed ordinance again, which includes the changes made by Council at the November 14 work session. This amendment allows fill up to the averaged finished grade of abutting lots, and over for certain instances, such as septic. It requires stabilization following completion; requires an engineer's certification following completion; and clarifies wording throughout.

Councilmember Navey made a motion *to enter* the Public Hearing. Seconded by Councilmember Waters. Vote was unanimous, 5-0. Motion carried. The time was 7:57pm.

Jim Capps, 231 Moonlight Dr. The way he understands this ordinance, he can raise the land behind his bulkhead, which would leave a bowl for water to stand in his yard since it cannot drain back over the seawall. He feels he is being penalized even during a normal high tide for not being able to raise his lot to keep from flooding over the sea wall. He also feels he is being punished for waiting on this amendment and not developing his bulkhead sooner.

Wally Courie, 400 Money Island Dr. He recommends changing the date to a certain date or date of completion; use a time period of 30 or 60 days. He has been dealing with dirt blowing and since July. He would like to see a solution to the silt fencing that is constantly being damaged by wind. He suggests ordering the silt fence to be five feet from the property line Susan Hatchel, 206 Caswell St. She agrees with setting a date the site can remain open. She thinks the ordinance is missing underground storage and would like to see required maintenance of impervious pavement and retention devices included. She thinks this is moving in the right direction, but is concerned it will still affect neighbors.

Steve Proctor, 812 Barber Dr, Raleigh and 116 Lee Dr. He recently purchased a house that abuts wetlands. When it rains they are unable to use their driveway and emergency personnel cannot get in, they have to use the neighbor's driveway. He started trying to build a bulkhead in February to widen the driveway and these delays are keeping them from being able to make repairs. He urges to approve as written so he can get his project started.

Councilmember Archer made a motion *to exit* the Public Hearing. Seconded by Councilman Waters. Vote was unanimous, 5-0. Motion carried. The time was 8:08pm.

Mayor Cooper clarified the intent of the ordinance and suggested to Mr. Capps that a variance may be something he should consider applying for due to his unusual property circumstances and hardships created. Attorney Taylor recommended adding that stormwater runoff be retained by subsequent property owners, not just the applicant.

Councilmember Archer made a motion *to approve* the Resolution 19-11-01: Resolution of Consistency. Seconded by Councilmember Waters. Vote was, 4-1, with Mayor Pro Tem Porter opposed. Motion carried.

Councilmember Waters made a motion *to approve* the Ordinance 19-11-01: Ordinance Amending Chapter 18, Article 2, Procedures; Section 4, Specific Review Procedures; Subsection M, Land Disturbance Permit; Subsection 4, Permit Review Standards adding b.v.4 adding swells to be contained by applicant and subsequent owners. Seconded by Councilmember Johnson. Vote was, 4-1, with Mayor Pro Tem Porter opposed. Motion carried.

**d) Call for a Public Hearing on Proposed Amendments to the Unified Development Ordinance for January 27, 2020**

Councilmember Archer made a motion *to call for* the Public Hearing on Proposed Amendments to the Unified Development Ordinance for the January 27, 2020 Town Council meeting. Seconded by Councilmember Waters. Vote was unanimous, 5-0. Motion carried.

**7. TOWN MANAGER REPORT**

Mr. Walker appreciates working with Mayor Pro Tem Porter the past few years.

**8. CITIZEN REQUESTS/COMMENTS**

Susan Hatchell, 206 Caswell St. The State requires any phase of grading to be covered within 21 days of disturbance. The building code defines positive drainage. She would like to see the fill material at 206 Glenn Street stabilized or preferably moved as soon as possible.

**9. MAYOR/COUNCIL COMMENTS**

**ADJOURN**

There being no further action taken or business before Council the meeting stood adjourned. The time was 8:28 pm.

These minutes were approved at the December 16, 2019 meeting of the Atlantic Beach Town Council.


ATTEST:

(seal)

  
Katrina Tyer - Town Clerk



TOWN OF ATLANTIC BEACH

  
A. B. Cooper, III - Mayor