



MINUTES
Town of Atlantic Beach, North Carolina
Town Council Meeting
125 West Fort Macon Road and electronically via Zoom
Monday, April 27, 2020



The regularly scheduled meeting of the Atlantic Beach Town Council was held Monday, April 27, 2020 at 6:00 p.m. electronically via Zoom and in the Council Meeting Room, 125 West Fort Macon Road, Atlantic Beach, North Carolina.

Present in the Boardroom: Mayor A. B. Cooper, III; David Walker, Town Manager; Katrina Tyer, Town Clerk; Morgan Gilbert, P&R Director/Communications

Present via Zoom: Mayor Pro Tem Richard Johnson; Councilmembers: Harry Archer, MJ Forrest, Danny Navey, Austin Waters; Derek Taylor, Attorney; Michelle Eitner, Planner

Members Absent: None

Due to the Social Distance restrictions associated with the COVID-19 Virus, there was a limited amount of seating in the Boardroom for the meeting. The meeting was also broadcast via a Facebook Live feed.

CALL TO ORDER and PLEDGE OF ALLEGIANCE

Mayor Cooper called the meeting to order at 6:00 p.m. and called the roll. All Councilmembers were present and able to be heard. Mayor Cooper led in the Pledge of Allegiance.

APPROVAL OF AGENDAS

Councilman Archer made a motion *to amend* the agenda to add Item 8, Discussion on a Plan to Reopen Atlantic Beach due to COVID-19 closures. Seconded by Mayor Pro Tem Johnson. Approved unanimously by roll call vote, 5-0. Motion carried.

CONSENT AGENDA

- a) Financial Report
- b) Budget Transfers
- c) Budget Amendment
- d) Tax Collection Report
- e) Tax Releases Report
- f) GovDeals Sales Report – Public Work Sweeper
- g) Approval of Letter in Support of Carteret County Certified Retirement Community Designation
- h) Town Council Meeting Minutes: 3/12/20 WS

Councilman Navey made a motion *to approve* the Consent Agenda. Seconded by Councilman Waters. Agenda was approved unanimously by roll call vote, 5-0. Motion carried.

CITIZEN REQUESTS/COMMENTS

None.

APPROVAL OF RESOLUTION 20-04-06: RESOLUTION OF SYMPATHY FOR JOE TARASCIO

Mayor Cooper read the resolution aloud and offered kind words about Mr. Tarascio. Joe knew the town ordinances like the back of his hand. Whenever there was a vacancy on the board, he would ask him to come back. He was a great guy.

Councilman Archer made a motion *to approve* Resolution 20-04-06: Resolution of Sympathy for Joe Tarascio. Seconded by Councilman Waters. Approved unanimously by roll call vote, 5-0. Motion carried.

PLANNING AND ZONING

Approval of Minor Amendment to Major Site Plan MSP-19-01MOD Windfare Condominiums (now Windfare Townhomes) (formerly Channel Bay)

Michelle reviewed the Windfare project and explained the main reason for the amendment is to change the ownership of units from condominiumized dwellings to single-family attached (aka townhouse) dwellings. This allows the structures to be built based on the NC Residential Building Code rather than the NC Building Code, which is for large multi-family/mixed-use/commercial structures. Other changes include: Units 9A& 9B and 8A&8B are turned slightly; the playground changed shape and increased in size to accommodate Unit 8A&8B location change; the new bulkhead straightened out the shoreline a bit, changed CAMA Area of Environmental Concern buffer lines (no change needed on CAMA Major Permit); and reduced impervious surface and permeable surface coverages. The reduction in impervious coverage and increase in both active and passive open space, qualify this as a minor amendment as allowed in Section 18.2.4.P.8. The proposal has been reviewed and approved by staff, the Technical Review Committee and Planning Board.

Councilman Waters made a motion *to approve* the minor amendment to Major Site Plan for Windfare Condominiums/Townhomes. Seconded by Councilman Navey. Approved unanimously by roll call vote, 5-0. Motion carried.

PROPOSED AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE

Section 18.10.2.J - Change in Grade Determination Figure (remanded by Council)

There is a conflict between the grade figure and the section that explains how height is measured, a clerical correction only, not changing the ordinance. The Planning Board recommended the amendment and updated figure in February, but Council disagreed with changing the way the height of structures is measured, so they rejected the suggested amendments, sending it back to Planning Board to be considered as it was originally proposed, which the recommended at their April 14 meeting.

Mayor Pro Tem Johnson made a motion *to open the public hearing*. Seconded by Councilman Waters. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

None.

Councilman Navey made a motion *to close the public hearing*. Seconded by Councilman Waters. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Councilman Archer made a motion *to approve* Resolution 20-04-01: Resolution of Plan Consistency. Seconded by Councilman Waters. Approved unanimously by roll call vote, 5-0. Motion carried.

Councilman Navey made a motion *to approve* Ordinance 20-04-01: Ordinance Amending Chapter 18 Unified Development Ordinance Section 18.10.2.J Change in Grade Determination Figure. Seconded by Councilman Archer. Approved unanimously by roll call vote, 5-0. Motion carried.

Section 18.6.3 and Section 18.10.5 – One-year cumulative provision in Substantial Damage and Substantial Improvement designations within the Flood Plain Development Ordinance

Based on feedback from Council, staff worked on an amendment to the Flood Damage Prevention Ordinance (more commonly called floodplain ordinance) in order to capture projects occurring cumulatively over one year. Staff became aware of 2019 updates to the state's model flood damage prevention ordinance for coastal communities. The NFIP requires that any structure with repair or improvement costs above 50% of the structure's value must come into compliance with current standards for new construction. This ordinance restates that requirement, but also contains a provision that project costs are cumulative for a one-year period. This new one-year cumulative requirement is now a mandatory minimum. The one-year period begins on the date that construction begins. In addition, we are updating the definition of substantial improvement to reflect the one-year provision and adding the state's definition for substantial damage, which is a term used throughout our ordinance. This is something that we have struggled to monitor and enforce in the past. Sometimes contractors will "phase" repair work in order to avoid the floodplain requirements. More restrictive measures (such as a five or ten year cumulative provision) could help lower flood insurance rates for residents, but one year is now the minimum required.

Councilman Archer made a motion *to open the public hearing*. Seconded by Councilman Navey. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

None.

Councilman Waters made a motion *to close the public hearing*. Seconded by Councilman Archer. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Councilman Waters made a motion *to approve* Resolution 20-04-02: Resolution of Plan Consistency. Seconded by Councilman Navey. Approved unanimously by roll call vote, 5-0. Motion carried.

Councilman Archer made a motion *to approve* Ordinance 20-04-02: Ordinance Amending Chapter 18 Unified Development Ordinance Section 18.6.3 and Section 18.10.5 One year cumulative provision in Substantial Damage and Substantial Improvement designations within the Flood Plain Development Ordinance. Seconded by Councilman Navey. Approved unanimously by roll call vote, 5-0. Motion carried.

Section 18.5.9.B.2 – One-year cumulative provision in Design Standards applicability

At Council's recommendation, staff looked at adding a cumulative one-year provision to the design standards applicability section. We essentially merged the prior adopted language with the language used in the floodplain ordinance. This applies to commercial, office, institutional, or multi-family structures with five or more dwelling units. This does not apply to single-family homes, either detached or attached, or duplexes, which are under the auspices of the NC Residential Building Code and communities may not regulate the design of those structures.

Councilman Navey made a motion *to open the public hearing*. Seconded by Councilman Waters. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

None.

Councilman Waters made a motion *to close the public hearing*. Seconded by Mayor Pro Tem Johnson. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Councilman Archer made a motion *to approve* Resolution 20-04-03: Resolution of Plan Consistency. Seconded by Councilman Waters. Approved unanimously by roll call vote, 5-0. Motion carried.

Councilman Waters made a motion *to approve* Ordinance 20-04-03: Ordinance Amending Chapter 18 Unified Development Ordinance Section 18.5.9.B.2 One year cumulative provision in Design Standards applicability. Seconded by Councilman Navey. Approved unanimously by roll call vote, 5-0. Motion carried.

Section 18.6.1.B – Landscape Architects as designers for Stormwater Management Plans

The Town received a letter from the NC Board of Landscape Architects notifying that Landscape Architects are enabled by statute and practice to create certain site plans that address stormwater and land disturbance components. They requested that the Town consider allowing Landscape Architects to submit and certify these plans the same way we allow engineers. The letter and the relevant statute is included in the minutes. The plans will still need to be submitted and approved prior to permit issuance and a letter from the designer certifying that the plan was installed correctly and is functioning as designed is submitted in order for the Certificate of Occupancy to be issued.

Councilman Waters made a motion *to open the public hearing*. Seconded by Mayor Pro Tem Johnson. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Wally Courie, 400 Money Island Drive. (Mayor Cooper noted Council received his email and copy of the statute and it has been included in the record). He noted the statute puts a Landscape Architect on the same level as an Engineer. He supports landscape architects as expert witnesses and their contribution to a Board of Adjustment hearing.

Councilman Navey made a motion *to close the public hearing*. Seconded by Councilman Archer. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Mayor Pro Tem Johnson made a motion *to approve* Resolution 20-04-04: Resolution of Plan Consistency. Seconded by Councilman Archer. Approved unanimously by roll call vote, 5-0. Motion carried.

Mayor Cooper clarified this is an amendment to the town's ordinance, it has no bearing on who is classified as an expert witness during a Board of Adjustment hearing.

Councilman Navey made a motion *to approve* Ordinance 20-04-04: Ordinance Amending Chapter 18 Unified Development Ordinance Section 18.6.1.B – Landscape Architects as designers for Stormwater Management Plans. Seconded by Councilman Archer. Approved unanimously by roll call vote, 5-0. Motion carried.

Section 18.2.4.M.4.b – Landscape Architects as designers for Land Disturbance Plans

This is a similar ordinance amendment except it applies to the newly updated Land Disturbance Permit Requirements. This specifies that these plans are professionally designed and certified either by an engineer or landscape architect.

Mayor Pro Tem Johnson made a motion *to open the public hearing*. Seconded by Councilman Waters. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

None.

Councilman Waters made a motion *to close the public hearing*. Seconded by Councilman Archer. Vote was unanimous, 5-0. Motion carried. This is a procedural motion so it was not voted on via roll call.

Councilman Waters made a motion *to approve* Resolution 20-04-05: Resolution of Plan Consistency. Seconded by Councilman Archer. Approved unanimously by roll call vote, 5-0. Motion carried.

Councilman Navey made a motion *to approve* Ordinance 20-04-05: Ordinance Amending Chapter 18 Unified Development Ordinance Section 18.2.4.M.4.b – Landscape Architects as designers for Land Disturbance Plans. Seconded by Councilman Archer. Approved unanimously by roll call vote, 5-0. Motion carried.

DISCUSSION OF A PLAN TO REOPEN ATLANTIC BEACH (DUE TO COVID-19)

With the Governor extending the Stay at Home Order due to COVID-19, we have to consider ways to limit crowd size and promote social distance. To be consistent with the Governor's Order, Mayor Cooper proposes extending the ban on short-term rentals until May 8 and lifting the voluntary self-quarantine requirement on April 30. He also suggests partial opening of public beach accesses so people can safely access the beaches and still manage crowd control. The town is planning on paid parking and life guard services starting on May 15.

Councilman Archer commends the idea of opening the parking lots gradually, rather than all at one time. Councilman Forrest supports the proposal and feels it is in-line with other Towns. Councilman Navey is concerned with large crowds Memorial Day will bring. Mayor Pro Tem Johnson wants to ensure the police enforce the parking restrictions. Councilman Waters supports the proposed plan.

Attorney Taylor confirmed the plan is acceptable and does not conflict with the Governor's plan. He reminded everyone the Governor's rules for 6 ft apart and social distancing still apply. We have to continue to abide by bar and restaurant restrictions.

Mayor Cooper addressed several public comments regarding the proposed order.

TOWN MANAGER REPORT

None.

MAYOR/COUNCIL COMMENTS

None.


ADJOURN

There being no further action taken or business before Council the meeting stood adjourned. The time was 7:11pm.

These minutes were approved at the June 22, 2020 meeting of the Atlantic Beach Town Council.

ATTEST:

(seal)


Katrina Tyer - Town Clerk



TOWN OF ATLANTIC BEACH


A. B. Cooper, III - Mayor