



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

The Kure Beach Town Council held their regular meeting on Tuesday, July 19, 2016. Town Attorney Canoutas and Planning and Zoning Commission Attorney James Eldridge were present, and there was a quorum of council members.

COUNCIL MEMBERS PRESENT

Mayor Emilie Swearingen
Mayor Pro Tem (MPT) Craig Bloszinsky
Commissioner David Heglar
Commissioner Jim Dugan

COUNCIL MEMBERS ABSENT

Commissioner Joseph Whitley

STAFF PRESENT

Building Inspector – John Batson
Finance Officer – Arlen Copenhaver
Town Clerk – Nancy Avery
Deputy Town Clerk – Nancy Hewitt

CALL TO ORDER

Mayor Swearingen called the meeting to order at 6:45 p.m. MPT Bloszinsky gave the opening invocation and led everyone in the Pledge of Allegiance.

VOTE TO EXCUSE COUNCIL MEMBER

MOTION – Commissioner Heglar moved to excuse Commissioner Whitley from the meeting.

SECOND – MPT Bloszinsky

VOTE – Unanimous

APPROVAL OF CONSENT AGENDA ITEMS

1. Adopt Resolution R16-11, approving financing terms with First Bank for 2016 Chevrolet Silverado 2500 for Public Works
2. Approve Dennis Panicali's move from an alternate member position to a regular member position on the Shoreline Access, Beach Protection and Parking Committee
3. Fire Department Report – June 2016
4. Building Inspections Report – June 2016
5. YTD Finance Report Meeting
6. Minutes:
 - June 9, 2016 public hearing
 - June 9, 2016 special
 - June 9, 2016 closed
 - June 21, 2016 regular
 - June 21, 2016 closed

MOTION – Commissioner Dugan moved to approve the Consent Agenda Items, as presented.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

SECOND – Commissioner Heglar
VOTE – Unanimous

Said resolution is hereby incorporated as part of these minutes.

ADOPTION OF THE AGENDA

Mayor Swearingen asked to add MPO as Item 4 and add Crosswalks as Item 5 under Mayor Updates.

MPT Bloszinsky asked to add Lock for Community Center as Item 1 and add Room Occupancy Tax as Item 2 under Commissioner Items.

MOTION – Commissioner Heglar moved to adopt the agenda, as amended.

SECOND – MPT Bloszinsky

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Non-town Committee Reports

- a. Cape Fear Disabilities Commission – Mayor Swearingen read information she received from Deborah McKenna, the town’s liaison to the commission. The information announced local, upcoming events for special needs and handicapped individuals.

DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Administration and Recreation

- a. Federal Transportation Alternatives Program (TAP) funding to bring Fort Fisher Boulevard (FFB) at M Avenue in compliance with current ADA standards

Town Clerk Avery said there are \$7 million dollars in TAP funds available through the end of September and the DOT wants to know if council is interested in applying for funding. She said that half of funds has to be used on towns with a population of less than 5,000.

Mayor Swearingen said that she doesn’t see any mention of M Avenue at FFB in the letter from DOT and wanted to know where the Town Clerk got her information.

Town Clerk Avery said that the request stemmed from years ago when the town had the DOT put a crosswalk at that location without there being a sidewalk, which is why that location was the first to come to her mind when she received the letter.

Mayor Swearingen said Director Beeker can do an inventory of the streets along FFB to see which improvements are needed.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

MOTION – MPT Bloszinsky moved to direct Director Beeker to look at additional opportunities for ADA sidewalks and come up with the best solution for the town in time to allow town clerk Avery to try and obtain some of the available funding.

SECOND – none; died for lack of second

Commissioner Heglar asked if the DOT gave the town any guidelines to follow when choosing the crosswalks that need funding, to which Town Clerk Avery said there were no specific guidelines given.

Commissioner Heglar said he would like to define a process that needs to be followed to identify the crosswalks that need the funding.

MOTION – Commissioner Heglar moved to have Director Beeker identify the two worst handicapped access issues on Fort Fisher Boulevard and give the information to the town clerk to submit to the state, with the mayor's signature, to apply for Federal TAP funding.

SECOND – Commissioner Dugan

VOTE – Unanimous

2. Finance Department

Finance Officer Copenhaver said he received a request to provide civil support for a training exercise the Marines are planning to hold at the Fort Fisher National Guard Training Center at the end of October. He explained what the activity involved and said they would need five Fire Department personnel and a boat for four to five hours and, two days later, they will need two police officers and two police cars for crowd and traffic control during a simulated assault. He said the military offered to pay and asked if council wanted to bill them for the services at an estimated cost of \$1,900, based on the town's current fee schedule.

Commissioner Dugan said that he's okay with not charging them anything, with the exception of paying for the volunteer firefighters.

Commissioner Heglar said he agrees it would be okay not to charge the military.

Mayor Swearingen said that the Police and Fire departments provide 24/7 services for the state, for the Department of Cultural and Environmental Resources, and for the DOT, and they also patrol the Air Force Recreation Area. She added that the Public Works department cleans up the trash along Dow Road for the military for free. She said that the town is already doing a lot for so many other government agencies and now has an opportunity to be reimbursed for this service. She said it would be nice of council to accept their offer to pay.

MPT Bloszinsky said that the town should support the Marine Corps.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

The finance officer suggested only charging them for the employees' time instead of everything on the list.

MOTION – Commissioner Heglar moved to waive the fees for providing support for a training exercise that the Marines are planning to hold at the Fort Fisher National Guard Training Center in the fall.

SECOND – Commissioner Dugan

VOTE – MOTION PASSED three to one as follows: MPT Bloszinsky and Commissioners Heglar and Dugan voted FOR, and Mayor Swearingen voted AGAINST.

Addressing the item on the Consent Agenda regarding the financing of a truck, Mayor Swearingen asked the finance officer why he went to First Bank instead of BB&T for a loan, to which he responded that he has also used First Bank in the past and they are willing to do smaller loans, and they have a very good lending rate.

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Architectural Firms for Town Hall expansion/Fire station

Commissioner Dugan said that, based on his discussions with the clients who had work done by the two firms being considered, he finds no fault with either; the only difference being that one is located in Wilmington and the other isn't. He said that they both offer oversight of the project.

MPT Bloszinsky said that even the cost structures were somewhat similar and he asked for Inspector Batson's view.

Inspector Batson said that both firms' presentations were good and agreed that council chose the two best firms to interview.

Commissioner Heglar said Oakley Collier Architects (OCA) is less expensive if the town moves forward with them, and they talked project-by-project on their estimate versus their actual construction cost. He said that both firms had great processes and an understanding of the code requirements for the town's needs, but he leans toward OCA because of their budget information.

Mayor Swearingen said she also leans toward OCA because they stayed within two percent of the budget on their previous jobs, and 85 percent of their business is from repeat customers. She said they talked about working with the same, special group of contractors, so they know their backgrounds and past building experiences. She said she liked the variety in their designs and knew they must be adept at building along the coast when they said the town would be required to have soil borings.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

MPT Bloszinsky noted that OCA said they would write checks to the town if a problem stemmed from their design issue. He reminded council that OCA took over a troubled project in Havelock and wrote checks of their own to the client to cover overages in order to stay within budget.

MOTION – Commissioner Heglar moved to award the contract to provide architectural services for the proposed Town Hall expansion and new Fire Station to Oakley Collier Architects.

SECOND – MPT Bloszinsky

VOTE – Unanimous

The town clerk asked council to give the finance officer direction on funding the services, since there is no budget currently for it.

Mayor Swearingen said she thought council had set aside money to pay for an architect a few months ago.

Finance Officer Copenhaver explained that the money that was originally set aside was in last year's budget which ended on June 30th, so he will bring a proposal back to council to set up a capital project fund for it.

MOTION – Commissioner Heglar moved to transfer \$28,500 from the General Fund to a capital project fund, to be set up by the finance officer, to pay Oakley Collier Architects their quoted price.

SECOND – Commissioner Dugan

VOTE – Unanimous

2. Legalities of Emergency Services in Brunswick County Jurisdiction

Attorney Canoutas said that the KB Fire Department accepted the responsibilities of the Federal Point Fire Department when they relocated off the island, through an agreement with the county, so whenever anyone gets in trouble on the rocks, the County 911 contacts the town. He said that council could ask Brunswick County to allow Kure Beach to collect a fine and could ask Colonel Landers at the U.S. Army Corps of Engineers (USACE) to post a “no trespassing” sign at the rocks.

MPT Bloszinsky said that even if USACE puts up a sign, if someone disobeys the sign and walks on the rock wall and needs assistance, the town still has to respond to the emergency. He said council should talk to Brunswick County about creating a fine.

Attorney Canoutas recommended that town representatives talk with Colonel Landers about the issue and said that Brunswick County should come along, as well.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

Commissioner Dugan said the average amount of volunteer firefighters that respond to emergency calls at the rocks is nine, which costs the town \$90 each time, plus the cost of fuel for the boat used to rescue stranded people.

Commissioner Heglar said that we're not spending that much, cost-wise, but the Air Force Recreation Area and the Fort Fisher Aquarium pay the town for emergency services and pay double for water. He said he doesn't think the town isn't going to help people, but he is okay with charging a fine.

Mayor Swearingen said that no matter how low the fine is, the town is currently providing a lot of emergency services for free and there comes a time when we need to say they should pay for some of those services. She said that the town provides emergency services for people who hurt themselves on the ocean-side rocks at Fort Fisher when they walk on them, even though there are signs posted to not walk on the rocks. She said we should take advantage of the opportunity to offset any costs.

CONSENSUS – Commissioner Swearingen will get together with Commissioner Dugan and Attorney Canoutas to meet with Colonel Landers at the Corps of Engineers to talk about possible solutions to rescue issues occurring at the Fort Fisher rocks that lead to Zeke's Island.

3. Amendment to Article V of the Personnel Policy

Commissioner Heglar reviewed the suggested amendments he received from council members for Article V of the Personnel Policy. Discussion ensued on one amendment that stated a discussion to hire a candidate, as well as "approval by a majority vote of council," to hire a candidate could be taken during a closed meeting.

Attorney Canoutas said council can discuss a personnel issue that involves an employee or candidate in a closed meeting, but any vote to hire needs to be done in an open meeting. He distinguished that discussions regarding general personnel policies that do not involve the discussion of a town employee should always be done in an open meeting.

Commissioner Heglar said that if, during a discussion of an employee or candidate during a closed meeting, it is consensus of council not to hire a candidate, then council can just state in the open meeting that no hiring decision was made.

Attorney Eldridge said that council needs to stay away from the word "consensus," because that implies an action was taken on a personnel matter during a closed meeting. He said that council can discuss all of the conditions, qualifications, abilities and concerns about a candidate in a closed meeting, but then council needs to come to consensus and vote in an open meeting.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

Attorney Canoutas said that North Carolina law allows small towns the exception of hiring relatives since there may not be a large enough pool of candidates to fill a vacancy without hiring someone related to another employee.

Mayor Swearingen questioned the need in the proposed policy to have a personnel officer in on the hiring decision, along with the council liaison and the department head. She said the town doesn't have a personnel officer and asked that the wording be removed from the proposed amendments.

Town Clerk Avery pointed out that she is the personnel officer for the town, as stated in her job description.

Mayor Swearingen said she didn't think the department heads would be very happy to need the personnel officer's approval of the candidate they wished to hire.

Commissioner Heglar stated he will email the amended policy back to council with a request for them to review it one more time and supply their suggested changes to him, then he will bring the proposal to the August council meeting for further discussion and consideration.

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Support Letter for Hampstead Bypass

Mayor Swearingen asked council to approve Resolution R16-12 to support the Hampstead Bypass.

MOTION – Commissioner Heglar moved to adopt Resolution R16-12, supporting the Regional Point Allocation for Specific Projects Included in Prioritization 4.0 (Hampstead Bypass).

SECOND – Commissioner Dugan

VOTE – Unanimous

Said resolution is hereby incorporated as part of these minutes.

2. Vote to award the contract to T & H Construction for the Water & Sewer Department's Bypass Force Main project, at a cost of \$132,494.22, contingent upon the Town Attorney's approval of the contract language

Commissioner Heglar explained that this is the project that allows the town to redirect its sewage to the lagoon.

MOTION – Commissioner Heglar moved to award the contract for the Water & Sewer Department's Bypass Force Main project to T & H Construction, at a cost of \$132,494.22, contingent upon the Town Attorney's approval of the contract language.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

SECOND – MPT Bloszinsky

VOTE – Unanimous

3. Request to travel to Beaufort, NC to attend the 2016 Pelican Awards
Mayor Swearingen asked council approve her travel to Beaufort, NC on August 8th to attend the annual Pelican Awards dinner. She said she is using her hotel rewards points to reduce the price of her hotel room, and she will also need gas reimbursement.

MOTION – Commissioner Heglar moved to approve Mayor Swearingen’s travel on August 8th to Beaufort, NC, at a cost of \$169 from council’s budget, in order to accept a Pelican Award being presented to the town at the 2016 Pelican Award banquet.

SECOND – Commissioner Dugan

VOTE – Unanimous

MAYOR UPDATES

1. NHC Ribbon Cutting

Mayor Swearingen said she participated in the ribbon cutting for the county’s Construction and Demo Debris Recycling Facility. She explained that a \$1.8 million dollar machine the county now owns takes construction material and separates it out; the county estimates that 60,000 tons of this debris will be kept out of the landfill, annually. She said between the county’s household hazardous waste and electronic equipment recycling, their community battery recycling, their yard waste recycling, and their new waste water treatment plant, the life of the landfill has been increased by 98 years while reducing the tipping fee by 15 percent.

2. DOT Public Meeting

Mayor Swearingen said she went to a public comment meeting with the DOT last week where concerns were voiced about the dangers of the intersection at Dow Road and Ocean Boulevard. A speed study might be done on several places along Dow Road this summer and again in January.

3. Crosswalks

Mayor Swearingen said she had a request from a resident about installing a crosswalk at J Avenue and Fort Fisher Boulevard, so she talked to Public Works and the PD about it, and they said they would not want to put one there.

4. NCLM Legislative Committee Meeting

Mayor Swearingen reviewed items the league sent to the NC Legislation for support, listing those items that passed and those items that didn’t pass.



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

5. MPO Transportation Authority Committee (TAC)

Mayor Swearingen listed the six priorities of the MPO's TAC: 1) Hampstead Bypass, 2) rail realignment, 3) Cape Fear River Crossing (skyway), 4) Independence Boulevard extension, 5) reestablish freight rail service from Wilmington to Raleigh, and 6) support ILM's efforts to support flights to major airports.

COMMISSIONER ITEMS

1. Lock for Community Center Storage Closet

MPT Bloszinsky said that the Community Center Committee complained that some things are missing from their storage closet at the center, so they would like to have a combination lock put on the closet door.

CONSENSUS – Council approved the request to install a combination lock on the storage room door at the center, to be paid out of the Committee budget.

2. Room Occupancy Tax (ROT)

MPT Bloszinsky said they are close to coming up with some good data relative to the ROT; the number of accounts versus the number of potential accounts. He said it significantly impacts beach nourishment funds as well as Ad Valorem taxes. He said he will set up a meeting for data review to determine if council wants to go to the next step which would be for him, Commissioner Heglar and Mayor Swearingen to meet with the county finance director and the county manager to show them the data. He said, if they think the info has value, we can decide if we want to show it to the county commissioners. He suggested talking to the editor of the Island Gazette to give him the information to share with the public.

Commissioner Heglar agreed that council should put a public announcement in the Island Gazette stating we have a list of short term rental homes that aren't paying ROT, to urge the homeowners to start paying it before the information is reported to the tax office.

Mayor Swearingen said that she is on NCLM's Tax and Finance Committee, and two towns submitted goals that asked the legislation to support an amendment to require the county's share of sales tax distributions under Article 40 to be distributed from counties to municipalities on a Per Capita basis, only. She said that, when she heard this, she told them every reason in the world why this would hurt small towns. She said that others agreed with her and they voted it down.

CLOSED SESSION

MOTION – At 8:28 p.m., Commissioner Heglar moved to go into closed session to consult with the attorney per N.C.G.S. 143-318.11(a)(3).

SECOND – Commissioner Dugan

VOTE – Unanimous



TOWN COUNCIL
TOWN OF KURE BEACH, NC

RESOLUTION R16-11

**APPROVING FINANCING TERMS WITH FIRST BANK
FOR 2016 CHEVROLET SILVERADO 2500**

WHEREAS, The Town of Kure Beach (“Town”) has previously determined to undertake a project for a 2016 Chevrolet Silverado 2500 (the “Project”), and the Finance Officer has now presented a proposal for the financing of such Project;

NOW, THEREFORE, BE IT RESOLVED THAT

1. The Town hereby determines to finance the Project through First Bank, in accordance with the proposal dated July 12, 2016. The amount financed shall not exceed \$36,867.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.6% and the financing term shall not exceed four (4) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the “Financing Documents”) shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary, or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer’s release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document’s final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment



TOWN COUNCIL TOWN OF KURE BEACH, NC


RESOLUTION R16-11

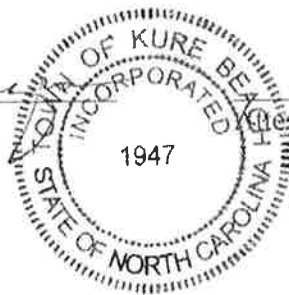
obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the First Bank financing described above. The Town intends that funds that have been advanced, or that may be advanced from the Town's general fund, or any other Town fund related to the project for project costs, may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted by the Kure Beach Town Council this 19th day of July, 2016.


Emilie Swearingen, Mayor




Nancy Avey, Town Clerk



TOWN COUNCIL
TOWN OF KURE BEACH, NC

RESOLUTION R16-12

**RESOLUTION SUPPORTING REGIONAL POINT ALLOCATION FOR
SPECIFIC PROJECTS INCLUDED IN PRIORITIZATION 4.0**

WHEREAS, Pender County is located within the North Carolina Department of Transportation's (NCDOT) Region B which includes Divisions 2 and 3; and

WHEREAS, Pender County works closely with our regional partners including the Division 3 Office of NCDOT, The Wilmington Urban Area Metropolitan Planning Organization, and the Cape Fear Rural Planning Organization on transportation related projects; and

WHEREAS, the Town of Kure Beach is one of The Wilmington Urban Area Metropolitan Planning Organization partners; and

WHEREAS, Pender County has submitted several transportation projects for prioritization according to the Surface Transportation Investments (STI) law; and

WHEREAS, according to the STI law, projects must be prioritized at State, Regional, and Divisional tiers for potential funding; and

WHEREAS, Pender County and the surrounding area is currently experiencing tremendous growth, which exacerbates the need for additional transportation investment; and

WHEREAS, the Hampstead Bypass project has been segmented and identified as H090215-A and B; and

WHEREAS, the Hampstead Bypass is a priority for Pender County to be funded within Prioritization 4.0; and

WHEREAS, with ongoing funding constraints from the State level, if point allocation were to be distributed to a specific segment of the Hampstead Bypass, Pender County would prefer that the B Segment be made the top priority;




TOWN COUNCIL
TOWN OF KURE BEACH, NC

*R*ESOLUTION R16-12

NOW, THEREFORE, BE IT RESOLVED THAT the Kure Beach Town Council respectfully requests that the Division 3 Engineer allocate the maximum amount of local points to the northern segment of the Hampstead Bypass (H090215-B).

Adopted by the Kure Beach Town Council this 19th day of July, 2016.


Emilie Swearingen, Mayor




Nancy Avery, Town Clerk



TOWN COUNCIL MINUTES

REGULAR MEETING

July 19, 2016

RETURN TO OPEN SESSION

MOTION – At 9:05 p.m., Commissioner Heglar moved to return to open session.

SECOND – MPT Bloszinsky

VOTE – Unanimous

Mayor Swearingen stated that council had a discussion about possible ordinance amendments to address beach safety and conservation standards.

MOTION – Commissioner Heglar moved to forward beach safety and conservation standards information to the Planning and Zoning Commission for them to discuss and give their feedback to council.

SECOND – Commissioner Dugan

VOTE – Unanimous

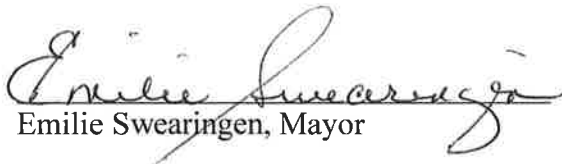
ADJOURNMENT

MOTION – Commissioner Heglar moved to adjourn.

SECOND – Commissioner Dugan

VOTE – Unanimous

The meeting adjourned at 9:08 p.m.


Emilie Swearingen, Mayor


ATTEST Nancy Hewitt, CMC, Deputy Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting.

