



TOWN COUNCIL MINUTES

REGULAR MEETING

September 20, 2016

The Kure Beach Town Council held their regular meeting on Tuesday, September 20, 2016 at 6:30 p.m. The Town Attorney was 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 Joseph Whitley
Commissioner Jim Dugan

STAFF PRESENT

Building Inspector – John Batson
Finance Officer – Arlen Copenhaver
Public Works Director – Sonny Beeker
Town Clerk – Nancy Avery
Deputy Clerk – Nancy Hewitt

CALL TO ORDER

Mayor Swearingen called the meeting to order at 6:30 p.m., and Rev. Tommy Williams delivered the opening invocation and led everyone in the Pledge of Allegiance.

Mayor Swearingen to read Proclamation 16-02 to support Constitution Week

APPROVAL OF CONSENT AGENDA ITEMS

1. Adopt Proclamation 16-02 in support of Constitution Week, September 17-23, 2016
2. Approve Mayor Swearingen's travel to the 2016 NCLM City Vision Annual Conference in Raleigh, NC on 10/23-10/25/16 at an estimated cost of \$1,109
3. Approve Commissioner Whitley's attendance at Power Breakfast in Wilmington on 9/30/16 at cost of \$38 registration fee
4. Approve closing K Avenue east of Fort Fisher Boulevard and Atlantic Avenue between K and L Avenue to vehicle traffic from the early morning hours through 5 p.m. on Saturday, February 11, 2017
5. Allow a 5K race to be held on Kure Beach streets in conjunction with the event
6. Allow three to five food trucks vendors to park within the closed portion of Atlantic Avenue with other event vendors
7. Waive the Special Event fees associated with this event due to the Non-profit status of Special Olympics New Hanover County
8. Appoint Randy Bock and Pamela O'Quinn as members of the Shoreline Access, Beach Protection and Parking Committee
9. Renew five-year term for John Ellen on the Planning and Zoning Commission
10. Building Inspections Report – August 2016



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11. Fire Department Report – August 2016
12. YTD Finance Report Meeting
13. Minutes:
 - August 16, 2016 regular meeting

Mayor Swearingen pointed out that Items 4, 5, 6 and 7 are all part of the Special Olympics Polar Plunge that will be held in Kure Beach on February 11, 2017.

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

SECOND – Commissioner Dugan

VOTE – Unanimous

ADOPTION OF THE AGENDA

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

SECOND – Commissioner Dugan

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. David Garceau, 1038 S Fort Fisher Blvd

Mr. Garceau said he is the new owner of said property, and while he was looking into getting permits to do some additions to the house, he discovered his home was still on a septic system. He said he believes the sewer tap and user fees have already been paid because the sewer tap is already in place. He asked council to waive the \$4,000 sewer tap and user fee for his property.

Director Beeker said that all Kure Beach homes should have been taken off septic a long time ago, but there may one more house like this where the septic tank was never removed or filled. He said that he is sure the fees have already been paid since the house is tapped for sewer.

Lisa Heglar, a broker with Coldwell Banker Sea Coast Advantage, said it would have been changed in 1983. She said that, when she discovered the house was still connected to septic, she contacted Public Works and they came out and discovered they were connected to water, but not to sewer. She said she also had the town's clerks look through town records for more information, but there was nothing specific. She said the onus would have been on the previous property owners, three owners ago, to comply and connect with the town's sewer tap, but they didn't comply.

Director Beeker agreed that the previous owners should have removed and filled the area where the septic tank is and should have connected to the sewer line.



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MOTION – Commissioner Heglar moved that the town annotate that the property at 1038 S. Fort Fisher Boulevard is in compliance and there is no outstanding sewer tap or user fee due in order to connect properly to the sewer system.

SECOND – Commissioner Whitley

VOTE – Unanimous

2. John Ellen, 181 Seawatch Way – Comprehensive Plan

Mr. Ellen said that the town has talked about having a Comprehensive Plan and had a meeting that was facilitated by UNCW, and focus teams were subsequently formed. He said he would be willing to lead the development of the plan and presented council with a hard copy of his draft of the plan. He said he also emailed his plan to the clerks, the town attorney, members of the Planning and Zoning Commission and the focus group members. He said each focus group has an area that needs work, but nobody is developing their area into readable material.

Mayor Swearingen said she doesn't believe the last statement he made was true. She said she thinks he missed the last meeting and each group is trying to work on their areas and come up with goals, objectives and activities to accomplish those objectives, and ways to measure them. She said she would welcome Mr. Ellen taking over the coordination of the plan and she might even give him a hug for doing it. She asked council to read over Mr. Ellen's plan in detail and make sure everything in the plan applies to Kure Beach, then bring back their input at the next council meeting. She added that she will email a proposed survey to council with questions that were put together by each focus group, and she would like their comments before it is officially presented to Kure Beach citizens. She added that she would like Orville Powell from the Parking Focus Group to come to council's October meeting to give a presentation of his group's work.

Mr. Ellen said there is a section for parking in his plan which says there must never be paid parking. He said he lays out a plan for council and citizens to work within that structure to solve the parking issue.

Mayor Swearingen said that the parking issue has been discussed for years and it's time to put up or shut up. She said that by the time council has its budget meetings in the spring they will need to have an idea of what the goals are, whether it takes a year or longer to accomplish those goals.

MPT Bloszinsky thanked Mr. Ellen for the work he put into his 144-page draft plan and said he looks forward to reading it.

3. Sarah Holler, 730 Sailor Court – Therapy Chickens

Miss Holler stated that last April she raised chickens as part of a school project. She said she named all four of her chickens and one by the name of Maisy was donated to a farm to be used as a "therapy chicken" for autistic individuals. She showed council photos of where the chicken coop is located in her backyard. She said the remaining chickens are very quiet and she doesn't



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think the neighbors even know they're there, but they are becoming adults and are laying eggs now, so she thinks she will have to give them up if council doesn't pass an ordinance to allow them.

Miss Holler's mother said that a person representing their HOA came to look at the chickens and the coop and said that, as long as the chickens weren't bothering the neighbors, there's nothing in their covenant against them; but she asked them to check with council to see if there are any ordinances against having them.

P&Z Chairman, John Ellen read Section 4-4 of the code titled "Certain domestic fowl prohibited from running at large," which states the following:

"It shall be unlawful for the owner or keeper of any chicken or tame or domestic fowl of whatever description to permit such chicken or fowl to be or run at large within the town."

Inspector Batson said he will work with the Planning and Zoning Commission to writing a clear ordinance on the subject and may simply duplicate the one that Carolina Beach passed a few weeks ago. He said they will bring back their recommendation to council when ready.

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Planning & Zoning (P&Z) Commission

a. Council's Intent for Commission's Alternate Position

Chairman Ellen said that one of the items for their September meeting agenda was to swear in Mr. Cawthorne who is an alternate on the commission, with the understanding that he could fill in in the absence of a regular member. He said that their understanding was the position would only be for the purpose of the alternate automatically taking the place of a regular member who could no longer serve on the commission.

Mayor Swearingen said she asked Mr. Ellen to talk to Mr. Cawthorne to explain that he is not to be sworn in, as that was not council's intent for the alternate position.

Commissioner Whitley said that it would be good if the alternate would attend all of P&Z's meetings to know what is being discussed.

Commissioner Heglar said that Section 2-41 of the code outlining the alternate position isn't well defined and should be defined better by council. He said it's smart for council to fix the ordinance so there's no confusion in the future of what the alternate's duties are.

CONSENSUS – Council agreed that the alternate member on the P&Z Commission is there only to automatically replace a regular member who is no longer able to serve, and is not there in the capacity of making a quorum or voting on issues, if there is no quorum.



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DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Building Department

- a. Required changes to code to allow cleanup of undeveloped lots in Kure Beach due to health/public safety concerns

Inspector Batson said there was a formal complaint about a piece of property on South Fort Fisher Boulevard that has been problematic after a significant rain events. He said the complaint reached out to council requesting code enforcement on this property but, since then, he and Director Beeker have met with both property owners and have worked out a way to move forward and mitigate the issue. He said he doesn't believe anything needs to be changed in the code, unless council feels it needs to go in a different direction.

Director Beeker said that he agrees with Inspector Batson's summary. He said he will draw up a letter that needs to be signed by the owner of the problematic property to allow his department to do some mitigation work.

Commissioner Heglar said that it looks like Inspector Batson has the authority to have them remove the debris based on what the code says.

Inspector Batson said the code doesn't allow him to order the property owner to clear or fill the lot, but he can enforce the debris removal.

b. Coastal Resources Commission (CAMA)

Inspector Batson said that CAMA has a vague set of rules that applies to the entire coast of North Carolina. He said that an involved rule has just come out in the last couple of months which applies to all municipalities, and it puts some of the rule-making back into the town's hands. He showed council photos of the coast line, marked with the current Static Line, the 60-foot setback line and the First Line of Stable and Natural Vegetation. This enabled him to show council where, with CAMA's new rule, a new Development Line could be placed. He listed the items that can be constructed in the setback area and said that any new building can be built closer to the ocean using the Development Line. He said CB and Oak Island went forward with having a Development Line drawn last week. He asked council to approve a \$1,500 expenditure to have a survey done in order to provide the town with maps and aerial photos of the different lines in order to give council an idea of what the town's best option is. He said if council doesn't want to change anything, then nothing needs to be done; but this information will help them decide.

MOTION – Commissioner Heglar moved to approve spending \$1,500 from the Building Department's budget to contract for a survey of the Easement Line, the First Line of Stable and Natural Vegetation and the 60' Setback Line along the coastline in order to supply the town with maps and aerial photos, and directed Inspector Batson to work with P&Z to make a



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recommendation to council which way they think council should go to define the “Development Line.”

SECOND – MPT Bloszinsky

VOTE – Unanimous

2. Public Works Department

a. Update on New Pump Station

Director Beeker provided council with a funding cost comparison for the pump station. He said he is ready to get started and needs to have some surveying done. He said it will take about nine months to complete the project, and he wants to get it finished before next summer.

Mayor Swearingen said she received incorrect information regarding two of the funding streams she told council about for the capital project. She said it turns out that a state environmental review would not have been required, saving a considerable amount of money, but the application deadline is next week so it's too late to apply. She asked the finance officer if he was going to pay for the project in all cash.

Finance Officer Copenhaver said he didn't think the town would pay for the project 100 percent in cash. He said he budgeted a \$50K transfer from the Water and Sewer Fund to go toward the pump station project, along with some money from the SERF fund; then, the town would probably borrow about \$400K for a loan term of six or seven years which would bring the interest down.

Commissioner Heglar asked the finance officer if Director Beeker could start the process of working on the pump station as the financing stands now, to which he responded that the transfer of \$50K has already been approved as part of the budget and it will also require a capital project ordinance for the project.

b. Funding for Bypass Pump

Director Beeker said that everyone knows there were a few problems with the pump station over the Labor Day weekend which created a discharge on the beach. He said he has been looking into a way to eliminate this from happening again, so he talked to the engineer and they came up with an idea to have an onsite pump station bypass. He said it would cost about \$32K to fund it. He said this wouldn't just be a fix that would last until the new pump station is built; instead, this would actually be a back-up pump to be used in the future.

Commissioner Heglar said that, if the town had this bypass pump before the incident, Public Works could have wheeled the pump over to the overflow and put it in the manhole in order to alleviate the problem. He said that it would be money well-spent for the town.



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Mayor Swearingen asked Director Beeker if he planned to expand or dredge the lagoon, to which he replied that there is about \$120K in the budget this year to clean it, but he needs the bypass project to be done before that. He said it won't increase the capacity of the plant but it will make it more efficient.

MOTION – Commissioner Heglar moved to approve up to \$32,000 to the Bypass Force Main Project for purchase of an emergency bypass pump, to be paid from the Sewer Expansion Reserve Fund.

SECOND – MPT Bloszinsky

VOTE – Unanimous

c. Road Closure

Director Beeker said they will close H Avenue at 5th Avenue for the next couple of days. He said they ran into some water and will have to do some dewatering on the project and added that they have notified nearby residents and will put a notification on the town website.

d. Emergency Operations Plan Update

Commissioner Heglar said he will add an annex to the Emergency Operations Plan addressing the emergency steps that should be taken in the event of an accidental sewage spill and will bring his proposed wording to the October meeting for approval. He explained that Public Works will still be in charge of the issue, but they will be able to request other departments' assistance in blocking off spill areas and keeping the public informed.

Director Beeker said that he is making changes to Public Works' standard operating procedures, to communicate with the different state and local departments that weren't on their notification list.

Mayor Swearingen said she'd like to see what changes he makes to the procedures.

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Proposed New Ordinance 12-47, 12-48 and 12-49: Beach Safety and Conservation Standards
Commissioner Heglar said the proposed policy is good except for wording regarding a "pertinent department head." He asked which department head would be considered pertinent, especially if the request was unusual. He said he doesn't want the department heads getting into an argument over who should handle a request.

MPT Bloszinsky said it might require that all of the department heads review the request or problem.

Council members presented different scenarios that could arise and asked the town clerk how she would determine which department head should handle the issue.



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Town Clerk Avery said that, traditionally, anything in the code is interpreted by the building inspector/code enforcement agent to determine which department should respond to the issue. She asked the town attorney if there is anything else in the code outlining a different department head that should handle issues like this.

Mayor Swearingen said that this is important to know, especially if the issue arises over a weekend or holiday.

Attorney Canoutas said that the building inspector is the code enforcement officer and should be the first contact for the issue, and he should be the second contact.

CONSENSUS – After further discussion, council agreed that if it is an active condition, the police should handle it; and if it's a request for future activity, the building inspector should handle it.

MOTION – Commissioner Heglar moved to adopt the new ordinances on Beach Safety and Conservation Standards, 12-47, 12-48 and 12-49, as presented.

SECOND – Commissioner Whitley

VOTE – Unanimous

2. Letter to Property Owners of Short-term Rentals for publishing in Island Gazette
Commissioner Heglar read his proposed letter to council and asked for their input.

Recommendations were made on editing the letter and on how and where the information should be posted.

CONSENSUS – Council authorized Commissioner Heglar to draft a notice regarding the importance of paying Room Occupancy Tax (ROT) for publication in the Island Gazette, and to draft a letter to those property owners identified by the town as not paying ROT; both, to be submitted to council for review before proceeding

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

None

ENTER CLOSED SESSION

MOTION – At 8:12 p.m., Commissioner Heglar moved to go into a closed session for the purpose of consulting with the town attorney per N.C.G.S. 143-318.11(a)(3), and to discuss a personnel matter per N.C.G.S. 143-318.11(a)(6).

SECOND – Commissioner Whitley

VOTE – Unanimous



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RETURN TO OPEN SESSION

MOTION – Commissioner Heglar moved to return to open session at 9:10 p.m.

SECOND – Commissioner Dugan

VOTE – Unanimous

VOTE TO CONTINUE MEETING

MOTION – Commissioner Heglar moved to continue the regular council meeting at Town Hall on Wednesday, September 21, 2016 at 3:00 p.m.

SECOND – Commissioner Dugan

VOTE – Unanimous

MEETING RECONVENED ON SEPTEMBER 21, 2016

At 3:00 p.m., on Wednesday, September 21st, the mayor called the continued meeting to order.

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

SECOND – MPT Bloszinsky

VOTE – Unanimous

ENTER CLOSED SESSION

MOTION – At 3:01 p.m., Commissioner Heglar moved to go into closed session for the purpose of discussing a personnel matter, per NCGS 143-318.11(a)(6).

SECOND – Commissioner Dugan

VOTE – Unanimous

RETURN TO OPEN SESSION

MOTION – Commissioner Heglar moved to return to open session at 3:39 p.m.

SECOND – MPT Bloszinsky

VOTE – Unanimous

VOTE TO CONTINUE MEETING

MOTION – Commissioner Heglar moved to continue the regular council meeting at Town Hall on Thursday, September 22, 2016 at 6 p.m.

SECOND – MPT Bloszinsky

VOTE – Unanimous

MEETING RECONVENED ON SEPTEMBER 22, 2016

At 6:00 p.m., on Thursday, September 22nd, the mayor called the continued meeting to order.

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

SECOND – Commissioner Dugan

VOTE – Unanimous



TOWN COUNCIL
TOWN OF KURE BEACH, NC

*P*ROCLAMATION P16-02

IN SUPPORT OF CONSTITUTION WEEK

WHEREAS, September 17, 2016 marks the two hundred twenty-ninth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America, designating September 17th through the 23rd as Constitution Week;

NOW, THEREFORE, BE IT RESOLVED THAT the Kure Beach Town Council does hereby proclaim September 17 through 23, 2016 to be CONSTITUTION WEEK in the Town of Kure Beach, NC, and does ask our citizens to reaffirm the ideals that the Framers of the Constitution had in 1787.

Proclaimed this 20th day of September, 2016.


Emilie Swearingen, Mayor




Nancy Hewitt, CMC, NCCMC
Deputy Clerk



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ENTER CLOSED SESSION

MOTION – At 6:01 p.m., Commissioner Heglar moved to go into closed session for the purpose of discussing a personnel matter per NCGS 143-318.11(a)(6).

SECOND – Commissioner Dugan

VOTE – Unanimous

RETURN TO OPEN SESSION

MOTION – Commissioner Dugan moved to return to open session at 6:16 p.m.

SECOND – Commissioner Heglar

VOTE – Unanimous

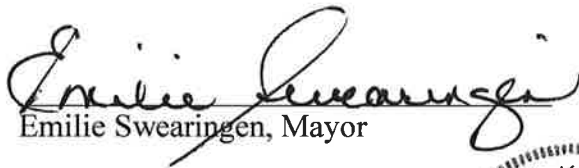
ADJOURNMENT


MOTION – Commissioner Heglar moved to adjourn the meeting.

SECOND – MPT Bloszinsky

VOTE – Unanimous

The meeting adjourned at 6:16 p.m.


Emilie Swearingen, Mayor


ATTEST: Nancy Hewitt, CMC, NCCMC
Deputy Clerk

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

