

# MINUTES



## TOWN OF KURE BEACH TOWN COUNCIL

117 Settlers Lane ▪ Kure Beach, NC 28449

Mac Montgomery, Mayor  
Jim Dugan, Mayor Pro Tem  
Dean Lambeth, Commissioner  
Barry Nelder, Commissioner  
Jim Vatr, Commissioner

Michelle James, Town Administrator ▪ Kaysie Pralle, Town Clerk

### PUBLIC HEARING

FEBRUARY 2, 2009 5:00 P.M.

#### COUNCIL MEMBERS PRESENT:

Mayor	Mac Montgomery
Mayor Pro Tem	Jim Dugan
Commissioner	Dean Lambeth
Commissioner	Barry Nelder
Commissioner	Jim Vatr

#### COUNCIL MEMBERS ABSENT:

None

#### STAFF PRESENT:

Town Administrator	Michelle James
Building Inspector	John Batson
BOA and P&Z Clerk	Aimee Zimmerman

Town Attorney A. A. Canoutas was in attendance. There was a quorum of the Town Council present.

The Kure Beach Town Council held a Public Hearing on Monday, February 2, 2009 at 5:00 pm for the purpose of discussion of the proposed sign ordinance as proposed by Kure Beach Planning and Zoning Commission.

#### **CALL TO ORDER**

Mayor Montgomery called the Public Hearing to order at 5:02 pm.

Mayor Montgomery advised that this matter is also on the Town Council Agenda for this evening.

Commissioner Lambeth took a moment to recognize former Town Council member Jerry Pilcher, who was in the audience.

#### **PERSONS TO ADDRESS COUNCIL**

Tom Humphrey addresses council.

- He is an owner of property in the B-1.

- He felt the proposed sign ordinance would work well for a gated community; however, Kure Beach is not a gated community.
- According to the proposed ordinance, all of his business signs would be illegal.
- He feels the eight foot height limit will become a safety issue.
- The proposed ordinance is not applicable to the downtown district.
- Town Council certainly cannot ask a business to spend more money during these tough economic times to bring signs into compliance.
- He felt this Ordinance was originally supposed to help the business in the downtown district but clearly it does not.
- He recommended that Council disregard the draft ordinance.

Commissioner Lambeth asked when the last time was Mr. Humphrey replaced his signs. Mr. Humphrey responded that he has changed the faceplate and the electronics only. Otherwise the sign has been there for more than 20 years. To clarify, Commissioner Lambeth inquired whether any up fit or renovations had ever been done. Mr. Humphrey responded in the negative.

Attorney Dan Bell addresses council.

- Mr. Bell stated he represents Jerry Hammill, Kure Beach Properties and Robertson Enterprises.
- These gentlemen own and operate a majority of the properties in the B-1 and have been a tap root of Kure Beach.
- Stated four points regarding the proposed sign ordinance.
  - The Ordinance is bad for the business community;
  - The ordinance is oppressive to the spirit of Kure Beach;
  - The Ordinance would make it expensive if not impossible for the Code Enforcement Officer to enforce; and
  - The Ordinance is probably unconstitutional.
- Since there is no real prospect for new businesses to come into Kure Beach, the costs would fall on the existing businesses and could certainly cause some of them to go out of business.
- If a new business were to come into Kure Beach, they might be frightened off by this ordinance. It is difficult to understand and is open to multiple interpretations.
- This is something that perhaps the Town might need in the future but, for now, the current ordinance is sufficient.
- There are 25 prohibited items in the proposed ordinance:
  - Ordinance prohibits flying more than one flag of the current government. Therefore, a person would be unable to fly a United States flag along with the North Carolina State flag.
  - Restriction #8 prohibits flying balloons and flyers, etc.

- No window signs are allowed. What about restaurants who post their menus in the windows?
- No pricing signs are allowed. This will include realtor signs and not just restaurants with specials.
- Painted signs are prohibited. Therefore, Jerry Bigley will have to cover his pizza sign on the side of the building.
- # 17 prohibits notices, placards, etc? What if son comes home from Iraq, would he be prohibited from putting out a welcome sign?
- Mike Robertson makes his lot available for posting of signs for the Town. i.e. handicapped fishing tourney, etc. Under this ordinance, those would all be illegal.
- Perhaps subdivision signs will need to be reviewed as well.
- There was a case in Ladue Missouri where a woman posted a sign opposing the war in her yard. This was fought in the Courts for four (4) years. The outcome was that the Supreme Court rules that Ladue was wrong.
- Those signs demonstrate who these businesses are. The business community does not want the ordinance.
- Urged council not to pass the ordinance at this time but to wait until it is good for the community.

Commissioner Lambeth asked Mike Robertson, Kure Beach business owner how long he has had his sign at the pier; asked why it was so high and whether there had been any up fit or renovations in the past seven years. Mr. Robertson stated the front was replaced after a storm a few years ago.

Commissioner Nelder stated that the Planning Commission had called one workshop on the Sign Ordinance and did not receive a huge response.

Commission Vatr asked if signs are considered to be part of a company's logo or branded image. Is it something that people look for that will bring them back year after year? Mr. Robertson stated his sign design was not his motif.

Anne Brodsky, owner of Palm Air Cottages, stated that her sign is her identity and that her sign is entirely new, having been replaced at a cost of approximately \$14,000. She feels that there are certain aspects of the ordinances that choke the businesses. As to the prohibition on banners, her business is a popular spot to hang banners for upcoming community events.

Jerry Pilcher, past Council member, addressed Council:

- When he retired, he sold his motel, Southwind, which he has now repurchased.

- His business has a message board which he would like to utilize to advertize his reopening and to show price specials.
- These signs were there when he initially purchased the property.
- Should this ordinance pass, all signs will be non-conforming in his eyes.
- Asked if something new came into Town, would their signs be limited to 35 square feet? He believed that is too small.
- Section 19-391(d) states that off-site advertising signs together with all other signs will lose their nonconforming designation five years after notification. Is it the intent of Council to order owners to amortize these signs and remove them?

Ronnie Pernell, Kure Beach property owner, addressed Council.

- He asked for clarification of Commissioner Nelder's statement regarding ambiance.
- He questioned the intent of the Ordinance.
- He is concerned about the flag provision. The biggest question is the generality of the ordinance.
- He questioned the provision on neon signs. Does that mean he can't put up a "Vacancy" sign?
- He questioned magnetic signs on vehicles. Those signs help owner's get a tax deduction.
- He stated that the owners need specifics.

Commissioner Vatr asked about Mr. Pernell's signs and how important those signs are to his hotel. Mr. Pernell stated that he lost a sign in a storm but replaced it with a smaller one. He further stated that people have stopped there asking that he keep the sign as it is. That sign is a throwback to the 60's and he has had three different movies filmed at his hotel because of that sign.

Commissioner Lambeth asked how long he has operated his hotel. Mr. Pernell stated he has been in business since 1972, and has paid taxes that entire time.

Mayor Montgomery asked Craig Galbriath, Planning and Zoning Member, to come before Council for questioning.

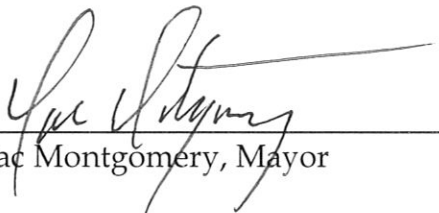
- Q: During Planning and Zoning meetings, how many public input sessions were there during the development stage?  
A: There was one major input session with 5-6 people appearing from the business community. P&Z looked at concerns and tried to incorporate those into the draft ordinance. Jim Schutta, Chairman of P&Z, stated the board tried to address every issue.
- Mayor Montgomery stated that he had heard comments and that the feeling is that people have been left out of the process. He wanted to

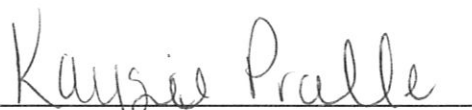
make sure all concerns have been heard. He stated all business owners in the B-1 district were present tonight, with the exception of Big Daddy's.

- Mr. Galbraith stated that P&Z was tasked with this issue in April of 2008 and it was addressed at each P&Z meeting.
- Mr. Galbraith stated that P&Z wants the area to be attractive in order to get people to come visit. He stated the Federal Reserve just did a study and attractiveness of a Town was most important to the tourists. He further stated that P&Z looked at more than 200 other sign ordinances. They also tried to make this ordinance conform to local zoning and attempted to close any loopholes.
- Mr. Schutta clarified that provision in the draft ordinance pertaining to allowing only one flag was removed. At this point it became apparent that the audience members did not have the most recent version.
- Commissioner Vatrtr asked what Mr. Galbraith's opinion was regarding branding and its relation to signs. Mr. Galbraith stated that branding is an issue. He hoped the most people returned to a business due to the quality of that business and not because of a sign. He further stated that there have been clear demonstrations of branding signs.

## ADJOURNMENT

**ACTION - COMMISSIONER DUGAN MADE A MOTION TO ADJOURN THE PUBLIC HEARING AT 6:10 P.M. COMMISSIONER VATRTR SECONDED THE MOTION. THE MOTION CARRIED UNANIMOUSLY.**

  
\_\_\_\_\_  
Mac Montgomery, Mayor

  
\_\_\_\_\_  
Aimee Zimmerman for  
Kaysie Pralle, Town Clerk



NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. Persons wishing to hear the recording of this meeting may request to do so by contacting the Town Clerk.