



KURE BEACH TOWN COUNCIL
REGULAR MEETING
MARCH 18TH, 2008
6:30 pm

MINUTES

The regular meeting of the Kure Beach Town Council was held on Tuesday, March 18, 2008. Mayor Montgomery called the meeting to order at 6:32 pm and introduced Pastor Richard Graff who gave the invocation. Mayor Pro Tem Dugan led in the pledge of allegiance.

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Town Administrator	Michelle James
Building Inspector	John Batson
Finance	Jennifer Watson
Fire Chief	Harold Heglar
Police	Andy Everhart
Public Works	Sonny Beeker
Town Clerk	Nancy Avery

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

OPENING OF HEARING ON BUDGET REQUESTS FOR FISCAL YEAR 2008-2009 (as per budget calendar adopted by Council 2/19/08)

Mayor Montgomery opened the hearing on budget requests at 6:37 pm.

The following outside agencies presented written budget requests:

1. Fantasy Christmas Show submitted written request for \$2500.
2. Federal Point Help Center submitted written request for \$750.
3. Katie B. Hines Senior Center submitted written request for \$4,000.
4. Federal Point Historic Preservation Society, Inc. submitted written request for \$2,000

Said written budget requests are herein included as part of these minutes.

The following committees presented written budget requests:

1. ADA

2. Beautification
3. Citizen Beach Protection and Beach Renourishment
4. Community Center
5. Parks and Recreation
6. Shoreline Access and Parking
7. Storm water
8. Street festival

Said written budget requests are herein incorporated as part of these minutes.

Town Administrator James stated that:

- she, Commissioner Vatr and staff member Jennifer Watson will be in touch with each committee chair as they review each request and will schedule another meeting with each committee chair to finalize preliminary budgets
- April 24th will be the Council and staff budget retreat to review the initial proposed budget
- May Council meeting will be the presentation of the revised proposed budget
- June Council meeting will be the final budget presented for vote by Council

CLOSING OF HEARING ON BUDGET REQUESTS

Mayor Montgomery closed the hearing on budget requests at 7:04 pm.

RECOGNITION AND AWARDS

None

PRESENTATIONS TO COUNCIL

1. State Senator Julia Boseman stated:

- the tax relief bill that passed in the last session only applied to folks over 65, permanently disabled or blind. It raised the income requirement to get the homestead exemption up to \$25,000, so if a property owner fits in that category and makes less than \$25,000, that property owner could receive property tax relief up to \$25,000 or 50% of the property value, whichever is greater
- the tax relief bill also included a 'circuit breaker' that allows a property owner that makes under \$25,000 to pay only 4% of annual income in property tax. This is not a total deferment. The property owner is only responsible for last three years of taxes when the property changes hands (death, transfer or deed)
- legislature is looking at measures to provide relief when passing property to heirs
- #1 issue in state senate is transportation issues – trying to figure best way to pay for roads (developers, heavier trucks that abuse the roads)
- she thinks Kure Beach is the best kept secret in New Hanover County

In response to questions from the audience and Council, Senator Boseman responded that:

- I believe the Senate is committed to having measures to reduce the transfer of funds from the highway trust fund to the general fund and the high price of

gasoline is a problem. Last year, the Senate froze a variable portion of gas tax so that you didn't pay as much once you reached a certain percentage.

- the Senate has looked at banning smoking in restaurants, but she believes it is not always necessary to do things legislatively- when people get tired of things and start complaining, things take care of themselves.
- the Senate is looking at freezing the tax rate from the time of transfer of property to help prevent property owners from being taxed out of their homes, but it still leaves the question of if frozen then, how do we make up the difference? A good part of the money comes from property taxes. This is more of a local and county issue. We don't want to force people out of their homes, particularly people who have been in their homes a long time. It is similar to annexation when you end up with double taxes
- there is good and bad news to be considered when property values go up, because then so do taxes and you are not necessarily getting additional services for the increase in tax
- the Senate has a short session this year and can't do controversial legislation. If there are any local bills that we can agree on, let her and or Representative Danny McComas know as soon as possible so they can start drafting them

2. Paula Withrow – street festival funding request for Fiscal Year 2007-08

Ms. Withrow stated:

- she is requesting funding in the amount of \$2,500 for this year's annual street festival to be held April 26th, 2008
- this funding is for fiscal year budget 2007-2008
- \$2,000 goes towards fireworks and \$500 goes for marketing.
- requesting only \$2,500 due to profit from last year's festival

ACTION – Commissioner Lambeth MADE THE MOTION to allocate \$2,500 for the street festival. Commissioner Nelder seconded the motion. THE VOTE OF APPROVL WAS UNANIMOUS

ACTION - Commissioner Lambeth MADE THE MOTION to apply to the Tourist Development Authority for Room Occupancy Tax for the \$2,500 allocation. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVL WAS UNANIMOUS

3. Terry Youngbluth - briefing on Washington DC visit

Mr. Youngbluth stated:

- he and resident Bill McGee have been working on obtaining federal funds for the purchase of the ocean front park property and have had Senators Burr and Dole, and Congressman McIntyre on site to view the ocean front park site.
- they are working to obtain \$500,000 in federal appropriations
- purpose of the trip to Washington, DC was to meet with Congressmen McIntyre and Price and Senators Dole and Burr and their staffs to ask for support

- they specifically asked Secretary of Department of Environment and Natural Resources Bill Ross for a letter of support
- the strategy is to garnish the support of Senators Burr and Dole for when the appropriations request reaches the Senate floor
- they also met with Congressman David Price, Raleigh/Durham, as he is the only one on the House appropriation committee and has considerable influence
- nothing is guaranteed, but they are optimistic and should know by the end of June if they were successful in acquiring federal appropriation or not

APPROVAL OF CONSENT AGENDA

1. Council minutes: February 6th retreat, February 19th regular, February 20th retreat, March 10th public hearing on zoning amendments
2. Police Report: February 2008
3. Building Inspector report: February 2008
4. Fire Department report: February 2008
5. Approve BB&T's resolution adding the Town Administrator as an authorized signatory for all checks issued by the Town
6. Appoint Nancy Delozier to the Marketing committee
7. Accept resignation of Jane Fiery from Parks and Recreation Committee
8. Adopt policy on grant application process

ACTION – Mayor Pro Tem Dugan **MADE THE MOTION** to approve the consent agenda. Commissioner Vatrtr seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS**

ADOPTION OF THE AGENDA

ACTION – Commissioner Lambeth **MADE THE MOTION** to adopt the agenda with three changes as follows:

Move item # 5 on MPO under old business to item # 2 under new business

Add new item # 3 on coastal communities luncheon under new business

Add new item # 4 on discussion of federal appropriations for congressional lobbying trips under new business

Mayor Pro Tem Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

ACTION - Mayor Montgomery recessed the meeting at 7:55 pm for a 10 minute recess.

ACTION - Mayor Montgomery resumed the meeting at 8:05 pm.

OLD BUSINESS

1. Status of ocean front park

Commissioner Dugan stated:

- the oversight committee's first meeting was held March 3rd and was organizational in nature
- the committee will meet the first Monday of every month at 6 pm
- the goal is to receive as much public input as possible

- the committee will have a booth at the April Street Festival and will take any one's ideas about the theme/concept/function of the park

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to schedule a work session to take public input for the ocean front park for Tuesday, April 15th, 2008, 5:30 pm. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

2. Discussion and approval of proposed amendments to zoning ordinance for B1 district as recommended by Planning and Zoning Commission (public hearing held March 10, 2008). Mayor Montgomery stated that discussion and vote would be on each individual amendment.

Amendment # 1 – Article III, Division 10, Sections 242 and 243

- Removes five currently permitted uses in the B1 Business District:
 - automobile sales and service
 - college, business colleges, trade schools, dancing schools, and similar organization without students in residences)
 - dental laboratories
 - manufacturing of articles to be sold exclusively on the premises providing such manufacturing is incidental to the retail business and employs not more than five (5) operators engaged in the production of such items
 - wholesale business
- Changes two currently permitted uses in the B1 Business District to Special Use Permit only
 - dwelling when constructed in conjunction with permitted use provided such dwellings are an integral part of the main building of such a permitted use
 - parking lots

Discussion highlights:

- automobile sales and service –are these really appropriate for the B1 district?
- if a use is eliminated, can it still be approved later as a special use?
(Attorney Canoutas stated yes, it could)
- use of business college/ trade schools, etc – think that should be left in
- the Land Use Plan states the B1 district should have a small town flavor– existing uses to be eliminated are because they aren't in compliance with the Land Use Plan
- uses to be eliminated are also uses that would bring a lot of parking issues
- are the uses being eliminated allowed in other zoning areas in town?
- manufacturing shouldn't be eliminated
- manufacturing is creating a tee shirt, but putting a design on a tee shirt is not the same as manufacturing the tee shirt

ACTION – Commissioner Nelder MADE THE MOTION to approve amendment #1 as presented with the exclusion of deleting permitted use # 13 (Manufacturing of articles to be sold exclusively on the premises providing such manufacturing is incidental to the retail business and employs not more than five (5) operators engaged in the production of such items) – this use is to remain in the ordinance as a permitted use by right. Commission Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ACTION – Commissioner Nelder MADE THE MOTION to return the portion of amendment # 1 not approved to the Planning and Zoning Commission to reconsider wording of permitted use # 13 regarding manufacturing, as referenced above, and define the term ‘manufacturing’. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Amendment # 2 – Article III, Division I, adds sections 82 and 83

- establishes special use permit process and Site Plan requirements with Town Council as approver

Discussion highlights:

- this is a big move -historically special use has not been used to avoid any slippery slopes, but it does have it's uses

ACTION – Commissioner Lambeth MADE THE MOTION to approve amendment # 2 as read. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Amendment # 3 – Article IV, Sections 333(b) and 332.5

- revises height limit exceptions in supplemental districts, states parapet walls may extend up to four (4) feet above the 35 foot height limit and uncovered roof-decks less than 150 sq ft may also exceed the 35 foot height limit
- establishes roof pitch for all residential structures at a minimum of 4/12 height limit exceptions

Discussion highlights:

- the roof pitch minimum was mainly recommended to get away from flat roofs in town
- the purpose of a parapet wall is for fire separation in a mixed used building – the architect may design the parapet wall to extend beyond height limits
- there are different definitions of parapet walls
- can't an engineer or architect design a building so that the 35 ft height limit is not exceeded? A lot of people fought very hard for the 35 foot height limit, and this doesn't need to be vague
- the old ordinance does not have a height limit at all - this is trying to restrict it. We can define parapet walls in our ordinance
- maybe we should double check fire codes – how high does a parapet wall need to be and if 4 foot isn't required, then we should go less

- the state building code says if a parapet wall is required, it must be 30 inches
- the state law on the 35 foot height allows for exceptions such as this
- this is for the B1 district only and parapet walls can be used to hide an air conditioning unit or duct work
- no roof deck anywhere in Kure Beach should exceed the 35 foot height limit – too vague – doesn't say how high above the 35 foot limit the deck can be

ACTION – Commissioner Lambeth MADE THE MOTION to approve only the portion of amendment # 3 regarding minimum roof pitch, to not approve the rest of amendment # 3 pertaining to height limit exceptions and return to the Planning and Zoning Commission for reconsideration and further recommendation on the following:

- parapet walls extending 4 feet beyond the 35 foot height limit - too high – no higher than 35 feet (check the fire code)
- size of roof decks and the fact that that they are allowed to exceed the 35 foot height limit with no restriction

Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Amendment # 4 - Article I, Section 19-1 Definitions)

- revises definition of hotels and tourist lodgings

Discussion highlights:

- a hotel owner suggested also amending room size from 425 square feet to to 600 square feet
- another hotel owner stated displeasure about the amendment stating a room couldn't be rented for longer than 90 days

ACTION – Commissioner Lambeth MADE THE MOTION to not approve amendment # 4 and return it to the Planning and Zoning Commission to consider modifying the allowable room size from 425 ft to 600 ft. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Amendment # 5 - Articles III and IV, Division 10, Sections 246, 334, 336 and 340)

- changes parking requirements in the B1 Business District to allow for remote parking off-site and shared parking when the uses do not conflict
- eliminates off-street parking in the B-1 district

Discussion highlights:

- does this pertain to existing businesses in the B1 district?
(Attorney Canoutas replied no, only new businesses. Existing business would operate under old ordinance. New plans would have to come to Council for approval to do away with parking required under existing ordinance)
- this amendment makes parking requirements less restrictive

ACTION - Commissioner Nelder MADE THE MOTION to approve amendment # 5 as read. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Amendment # 6 – Article VI, Sections 379 and 382)

- Revises sign regulations in supplemental districts as follows;
 - Lowers dimension maximum of 80 sq ft/35 ft height to 20 sq ft/12 ft height to free standing signs in RA-3, RA-3A, RA-4, RB-1, B-1, B-2 and B-3 districts
 - adds limitation to marquee signs in B1 Business District of 20% of projecting structure
 - limits projecting signs in B1 Business District to no more than 12 sq ft and no more than 18 inches from building
 - prohibits roof signs in B1 Business District extending above roof line
 - limits shingle signs in B1 Business District to 4 sq ft
 - limits wall signs in B1 Business District to 15% of building's façade or window area
- Adds additional restrictions to temporary signs to not cover more than 10% of the interior window area

Discussion highlights:

- No discussion

ACTION – Commissioner Lambeth MADE THE MOTION to not approve amendment # 6 and return it to the Planning and Zoning Commission for further consideration with special emphasis on suggestions made by Mr. Galbraith at the public hearing and to make a special consideration to work with business owners. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Note: suggestions made by Mr. Galbraith at the public hearing held March 10, 2008 were:

- punch up prohibited sign regulations
- establish amortization process to allow signs that will be made non-conforming under ordinance amendment to become conforming, possibly over a 7-10 year time period
- define illegal signs and set up a process for dealing with violations

Amendment # 7 – Articles IV and V, sections 323.5, 323 and 357 (1) and (4)

- Deletes sections 323.5 (Minimum Use of Lot) and section 323 (Lot of record) for supplemental districts
- Revises section 357 subsections (1) and (4) Continuance of Non conforming Situation and Extension in Use

Discussion highlights:

- I have two residential lots and have been denied the right to build a residence in the past – will this allow me to build RA-1A on these lots?

(Planning and Zoning Chairman Schutta stated yes it will)

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to approve amendment # 7 as read. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

3. Discussion of commercial recycling program

Recommendation from Public Works Director and Town Administrator:

- each of the four businesses work together and contract directly with Waste Management
- Town should not to get into the commercial recycling business - cost prohibitive
- Town could possibly end up sharing in liability for a business that decided not to comply with recycling law regarding alcohol bottles
- provide the bulkhead property for the location of a container for the businesses to user and maintain it in terms of keeping it clean.

Discussion highlights:

- a business owner asked for financial assistance by possibly splitting the cost with the businesses because the businesses are struggling
- the Town should explore more options

ACTION - Commissioner Dugan MADE THE MOTION to defer a decision until the April Council meeting with the direction that Commissioner Nelder be the liason to work with businesses to recommend a solution. Commissioner Vatrt seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

4. Discussion of deer over-population

Mayor Montgomery stated that the Town Administrator and Chief of Police are currently working on the topic of over population of deer and discussing with the NC Wildlife Resources Commission and the army since the Town has no control over deer population in the buffer zone.

Mayor Montgomery called for a break at 9:50 pm
Mayor Montgomery resumed the meeting at 10:00 pm

NEW BUSINESS

1. Summary of Water Resources Congress trip to Washington, DC

Commissioner Vatrt stated:

- on February 26 – 28th, he attended the Water Resources Organization trip to Washington, DC
- purpose was to on lobby on behalf of the Corps of Engineers in support of inlet waterway dredging
- the group met with all thirteen districts up in Washington, DC and with Congressman McIntyre and Senators Dole and Burr and presented a presentation

on every project on the Corps of Engineers site line for the next 12 months – a cost of \$180 million in North Carolina only for both coastal and inland

- current federal budget is about 2% of that amount, so there is a huge gap.

2. Update and discussion on MPO Transportation Advisory Committee

Commissioner Lambeth stated:

- The greater Wilmington Metropolitan Planning Organization (MPO) is in the trust of the mayor of Wilmington – Kure Beach is subordinate – is for long range transportation planning
- State senate bill 1513 passed last year - never went to committee – for Department of Transportation to add a quarter of a cent sales tax increase to be used for infrastructure, hospitals, and road construction.
- Laura Padgett, City of Wilmington commissioner, stated at a recent meeting that she wanted to send a resolution to the County Commissioners to use this tax increase for two projects: extension of military cutoff and acquisition and extension of Independence Blvd. – would bring in approx \$8 million a year
- He questioned the County Commissioners on how the beach communities would benefit from this tax increase and was told that beach residents drive on those roads also
- the agenda at the last County Commissioner meeting had an item on the agenda to do an engineering study on Dow Road – at this point, only a feasibility study has been done - the study would be in conjunction with Sunny Point Military Operations Terminal, but no extension would take place without the blessing of Sunny Point because the extension would go through their blast zone
- he received an update to the resolution a week later that says Dow Road extension and update will be part of this resolution to be sent to the County Commissioners requesting this increase in tax
- there was a mix up with the Kure Beach Council's designation of Paul Martinez as the member of the MPO citizen advisory committee –Richard Mandel was listed as member – Town Administrator and Mayor straightened out with MPO representative
- he will personally not support any tax increase to build roads with Department Of Transportation (DOT) in the financial shape it is in now

Mayor Montgomery polled the Council members on their opinion as to whether we need to four lane Dow Road now or is this a 'down the road' project as this item involving a sales tax increase will be on the agenda of the next MPO meeting.

Commissioner Vatr stated he supports Senator Boseman's comments earlier in the meeting, he supports Commissioner Lambeth's position and it is incorrect for the Town to support a program that should be supported by DOT not the taxpayers of Kure Beach - he is not in favor of an increase in the sales tax.

Mayor Pro Tem Dugan stated it sounds like if there was a problem with Dow Road, that the Town would have to go to the county instead of the State. He can't fathom four lanes on Dow Road. He is not in support of a sales tax increase.

Commissioner Nelder stated he is not in support of a sales tax increase for the State to siphon it off. The State has been negligent.

Commissioner Lambeth stated he is not in support of a sales tax increase.

Emilie Swearingen, resident, stated that:

- the Wilmington City Council passed a resolution today as part of their consent agenda authorizing the award of the engineering services contract for the study of the Dow Road widening and the referendum to go to the State legislature for a quarter of a cent sales tax increase for New Hanover County for construction of the Independence Boulevard extension and widening of Dow Road
- the reason I am giving my input is because I am opposed to the Dow Road extension while we are trying to revitalize the downtown business because the Dow Road extension will by-pass the business district. I hope residents will have a chance to be involved
- Mike Kozlosky (MPO) told her that a feasibility and economic impact study has not be done
- she thinks there should be a serious environmental study done before considering widening Dow Road
- she doesn't think citizens of Kure Beach should be paying the quarter of a cent sales tax increase

3. coastal communities luncheon

Commissioner Nelder stated:

- Dr. Jim Lutz, chairman of the Byways Committee, Colonel Pullam of the Corps of Engineers, and Congressman Mike McIntyre were at a luncheon he attended today
- now is time to contact current legislators and candidates running for office to get commitments from them for renourishment of the NC shore - as of now funding is zilch -unless we hold them to the fire and convince presidential and other candidates, then the funding of beach renourishment projects will fall on municipalities
- Corps of Engineers can't do anything about current shoaling until the federal government releases some funding.

4. Discussion of federal appropriations for congressional lobbying trips

ACTION – Mayor Pro Tem Dugan **MADE THE MOTION** for Commissioner Nelder to give his report at the retreat on April 17th. Commissioner Vartt seconded the motion.
THE VOTE OF APPROVAL WAS UNANIMOUS

CLOSED SESSION – none

PUBLIC COMMENTS:

1. Gilbert Alphin, resident, stated this is the third year he has requested that a crosswalk the Town built on 319 Atlantic Avenue (property his family donated to the Town) be removed and replaced with a flat walkway.

ACTION – consensus – Commissioners Lambeth and Nelder to research and get back to Mr. Alphin before the April council meeting if and when it is scheduled.

Mr. Alphin also stated:

In 1988, the Town installed an underground storm water system on Fort Fisher Blvd in front of his business, Blue Marlin, and ever since his sewer stops up every 14 months. The Town has run the camera in there and it shows it is full of water and last summer he had human feces coming out.

Mayor Montgomery stated that the Town has a project in the works to renovate sewer lines in that area, has received some grant money and hope to be starting soon. This renovation will correct the problem.

ACTION – consensus - Commissioner Lambeth to get with PW Director Beeker to investigate Mr. Alphin’s problem for a solution before the season.

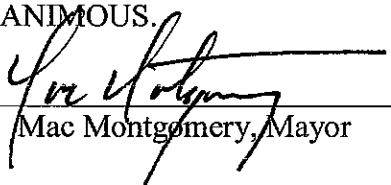
2. Question from audience: I have been here 4 years and I am curious as to why all the street water is pumped into the ocean. Can’t the Town put up some screening?

Commissioner Lambeth stated that the outfalls belong to the Department Of Transportation, not Kure Beach, and we can’t touch.

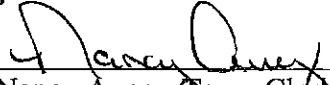
Mayor Montgomery recommended looking at the newer type of outfall installed at L and M Avenue. The Town is working on installing these at all other locations. There is a project in process.

ADJOURNMENT

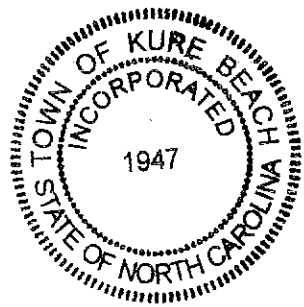
ACTION – Commissioner Vatr MADE THE MOTION to adjourn at 10:51pm. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Mac Montgomery, Mayor

ATTEST: 

Nancy Avery, 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.