

KURE BEACH TOWN COUNCIL
REGULAR MEETING
AUGUST 19, 2008
6:30 pm

MINUTES

The Kure Beach Town Council held its regular meeting on Tuesday, August 19, 2008 at 6:30 pm.

COUNCIL MEMBERS PRESENT:

Mayor Mac Montgomery
Commissioner Dean Lambeth
Commissioner Barry Nelder
Commissioner Jim Vatr

COUNCIL MEMBERS ABSENT:

Mayor Pro Tem Jim Dugan

STAFF PRESENT:

Town Administrator Michelle James
Police Department Dennis Cooper
Building Department John Batson
Town Clerk Nancy Avery

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

Mayor Montgomery called the meeting to order at 6:33 pm. Pastor Joey Cannady of the Kure Beach First Baptist Church delivered the invocation. Mayor Montgomery led the audience in the pledge of allegiance.

RECOGNITION AND AWARDS

Mayor Montgomery awarded Police Officer David Cooley with a Certificate of Recognition stating that Officer Cooley had been instrumental in helping the Carolina Beach Police Department in apprehending robbers. Mayor Montgomery thanked Officer Cooley for his dedicated service in performing his duties above the call of duty.

Mayor Montgomery introduced Miss North Carolina Senior America, Jeanette Wilkie, Martha Nicholson, Angie Burgess, Anne Jones and Doris Brinkley Yacks, all members of the Red Hat Society, and thanked them for attending the meeting.

Mayor Montgomery presented a proclamation to Doris Eakes claiming August 20 - 23, 2008 as "Trinity Children Charity Days".

PERSONS TO ADDRESS COUNCIL

1. Candace Clark, resident of 229 Atlantic Avenue, stated:

- I would like to talk about tonight the wonderful spirit of democracy that has been flourishing here in Kure Beach.
- If you were not available for the previous meeting, it appears that the Atlantic Avenue walkway is going to be called a walkway and made as a walkway and Council is supporting it.
- I am here to thank Council.

2. Ron Younts, 313 Atlantic Avenue, stated:

- I echo Ms. Clark's statements and thank you for listening to the desires of the people along Atlantic Avenue.
- I want to discuss the traffic flow on Atlantic Avenue and want to go on record for property owners and residents on Atlantic Avenue that we are in favor of redirecting the south to north traffic flow to north to south for the two blocks that make up the residential area.
- We experience heavy traffic of all sorts. Part of it is the inadequacy of the speed bumps that don't seem to slow anyone down.
- Please try to complete all of the work in that area at one time for the convenience of those that live there and enjoy the walkway.

PRESENTATIONS TO COUNCIL

None

APPROVAL OF CONSENT AGENDA

1. Building Department report: July 2008
2. Fire Department report: July 2008
3. Police Department report: July 2008
4. Finance report: July 2008
5. Appoint Pam Bramhall and Lore Eccleston to the Community Center committee
6. Appoint Sandra Sink and Carl Bryant to the EOC committee
7. Approve Proclamation (P08-02) declaring September 17 - 23, 2008 as Constitution Week
8. Approve Proclamation (P080-04) declaring August 20 - 23, 2008 as "Trinity Children Charity Days"
9. Approve funding request in the amount of \$1500 to the Island of Lights from account # 10-533-00-00
10. Approve funding contribution in the amount of \$3000 to Kure Beach Fire Board for the Christmas Fantasy Show from account # 10-533-00-00
11. Council minutes:
 - July 15, 2008 regular meeting
 - July 15, 2008 special meeting
 - July 15, 2008 closed session
 - July 29, 2008 public hearing
 - August 11, 2008 public hearing

ADOPTION OF THE CONSENT AGENDA

ACTION - Commissioner Lambeth MADE THE MOTION to remove the approval of the job description for the Town Administrator from the consent agenda. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ACTION – Commissioner Vatr MADE THE MOTION to add approval of the August 11, 2008 public hearing minutes to the consent agenda. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Nelder MADE THE MOTION to adopt the amended consent agenda. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ADOPTION OF THE AGENDA

Mayor Montgomery stated that Mayor Pro Tem Dugan is not in attendance tonight due to a death in his family.

ACTION – Commissioner Vatr MADE THE MOTION to excuse Mayor Pro Tem Dugan from tonight’s meeting. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatr MADE THE MOTION to amend the agenda by adding the following as an item under new business:

“Discussion and approval of authorizing the Town Administrator and Public Works Director to establish weekly recycling for businesses”.

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

OLD BUSINESS

1. Ocean Front Park update

Commissioner Lambeth stated that at the last meeting, Mayor Pro Tem Dugan met with the park committee members on site to review the physical layout of the land in reference to CAMA setbacks.

2. Discussion of options to overpopulation of deer

Town Administrator James stated:

- She and the Chief of Police have been meeting with representatives from Sunny Point and the North Carolina Wildlife Resources Commission and have compiled statistics on deer sightings in the Town.
- Options available to control deer overpopulation are:
 - Allow a public hunt.
 - Hire federal professionals.
 - Maintain the status quo by providing education on not feeding the deer.
 - Build a fence (over 8 feet) along the perimeter.

Administrator James introduced Richard Lockwood with the Military Ocean Terminal Depot at Sunny Point and Robert Norville with the North Carolina Wildlife Resources Commission.

Mr. Lockwood stated:

- We don't have the manpower to control this.
- The cost of a controlled hunt is approximately \$5,000 per deer. It would be archery only, no fire arms and we would have to restrict certain hunting areas away from backyards.

Mr. Norville stated:

- Our website has educational materials about deer control plant suggestions that are less desirable to deer.
- Plantings on the Kure Beach side look more like a buffet to the deer than what is planted on Federal land.
- Supplemental feedings (not shrubbery/flowers) is always going to cause problems particularly with a rabies species such as foxes and raccoons because they learn to associate people with food. This will eventually cause the animal to die.
- A controlled hunt is a band aid, we can't get them all.
- We have no evidence that the deer are diseased. Some foxes are. We haven't heard of any rabid raccoons.
- Bald Head Island did two years of deer removal and now do an occasional maintenance removal.
- Hunts that I have been involved in have been successful with few incidents.
- The killed deer are donated to organizations that feed needy people.
- The hunt could be controlled by limiting the area, type of weapons, and permits would have to be issued.
- Birth control is ineffective, even in controlled areas.

ACTION – Commissioner Vatr MADE THE MOTION to hold a public hearing on the options to controlling the over population of deer on Tuesday, September 9, 2008 at 6 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Mayor Montgomery asked the Town Administrator to invite the Carolina Beach Town Manager to attend the public hearing and Chief Cooper to ask the Carolina Beach Police Chief to attend.

Mayor Montgomery asked the Town Administrator to make the Wildlife Resources Commission education information on deer available on the Town's website.

3. Update of 35 foot height limitation

Commissioner Nelder stated:

- Council held a work shop on exceptions to the 35 foot height limit.

- At the last Council meeting, we left Building Inspector Batson up in the air about the direction the Council wants him to go with widow walks, observation decks, etc. Based on the rulings from both the Town Attorney (Canoutas) and the Planning and Zoning Attorney (Moore), we are within our rights to limit the railings at 35 feet which would put the deck at 36 inches below the 35 foot limit. We waited until Planning and Zoning had their meeting and nothing was done to relieve the pressure the Building Inspector was under, so I wrote a directive to the Building Inspector stating that with the instructions and advice of both attorneys that no more decks, etc, will be approved by the Building Inspector for single family housing. This resolves this issue.

Mayor Montgomery stated there are some more things that need to be resolved and we need Planning and Zoning's help. There are questions as to what extent we can go over 35 feet and under what circumstances. The consensus is that Council wants Mayor Pro Tem Dugan involved in the final decision. There are concerns about the approval process and circumstances involved that would allow exceptions.

ACTION - consensus of Council is they want the Town Administrator and Building Inspector to work with Schutta and Votta (Planning and Zoning) to give clarification on an approval process and under what circumstances something would be approved as an exception to the 35 foot height limit prior to the September Council meeting and come back to Council with a recommendation.

ACTION – Consensus is for Town Attorney Canoutas to rule on his opinion if Council does nothing about the exceptions to the 35 foot height limit, then denies an application for a vent on top of the roof as to whether that opens the Town up to a lawsuit for violating state law. This is to be presented at the September Council meeting.

4. Update of Atlantic Avenue Boardwalk Project

Mayor Montgomery stated Council held a work session earlier in the day and discussed the Atlantic Avenue boardwalk project.

Commissioner Vartt stated:

- For some of us when we looked at the plans it was the first time.
- Some residents have problems and concerns about raised or hatteras and I heard that message at the public hearing.
- We think hatteras is ADA compliant.
- We think we can save money on hatteras rather than raised.
- We could maintain fencing, place trash cans more aesthetically, plant indigenous plantings and try to blend the walkway into the seascape as much as possible.
- I thought the public hearing was an excellent session.

Commissioner Nelder stated:

- He was happy to see that everyone got to say what they wanted to say.
- One of great things about living in Kure Beach is the vocal population and I think it's great that they were heard.

Commissioner Lambeth stated:

- After discussions and particularly the first public hearing, I think this will conform with the Land Use Plan, page 96 that reads 'the Town shall not condone or approve public access opportunities which the Town believes will conflict with the residents right to use and enjoy their property'. I think this is a win-win situation for all of us.
- I appreciate the due diligence the citizens put into this.
- I take as much blame as anybody and think we jumped the gun with these plans.

Mayor Montgomery stated:

- The money is not time sensitive, the State won't take it back.
- We talked about keeping vehicles off the road and Mr. Humphrey (John Sawyer Architects) suggested putting a curb in.
- We are driven by the budget. We may free some money up to be used on another public project or activity.
- To make a decision, we need more information and I would like for Mayor Pro Tem Dugan to be part of the decision.

Mayor Montgomery requested the Building Inspector, Town Administrator, Public Works Director and Commissioner Nelder to work with the architect to get a cost estimate to modify the existing design to an above ground walkway (CAMA requirement boardwalk can't be level with surface of ground – must be above.). The plans are to show how to secure it so it doesn't shift, suggestions for some type of small bumper rail, and possibly 4 x 4's along the road to act as a bumper. Communicate back to Council as to when ready for a definitive discussion.

5. Discussion of memorial to former Mayor Betty Medlin in new hallway at Town Hall
Commissioner Lambeth stated:

- The former Council adopted a proclamation with former Mayor Medlin's name.
- The ones we have framed look like something we got at Walmart.
- I suggest a plaque similar to the one we did for our former clerk.

ACTION – Commissioner Lambeth MADE THE MOTION to have funds available to create a plaque to honor Mayor Medlin and placed in the hallway at the end of the building. Commissioner Nelder seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

Consensus - Town Administrator is to take care of getting the plaque. Chief Cooper said he would find money in his budget for a nice plaque. Town Administrator and Commissioner Lambeth are to coordinate with the two daughters of former Mayor Medlin to invite them for the installation of the plaque.

6. Approval of amendment to Chapter 12 (Parks and Recreation), Article II, Division 2, section 44 of the Code of Ordinances which adds the following language " which may be

issued by the Kure Beach Police Department, the Chief and Assistant Fire Chief of the Kure Beach Fire Department”

Mayor Montgomery stated that this amendment is to authorize the Fire Chief and assistant Fire Chief to issue civil citations on the beach.

ACTION – Commissioner Nelder **MADE THE MOTION** to approve the amendment as follows:

add the following language “ which may be issued by the Kure Beach Police Department, the Chief and Assistant Fire Chief of the Kure Beach Fire Department” to Chapter 12 (Parks and Recreation), Article II, Division 2, section 44 of the Code of Ordinances. Commissioner Vatr seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

Mayor Montgomery called for 10 minutes recess at 7:45 pm.
Mayor Montgomery resumed the meeting at 7:55 pm.

NEW BUSINESS

1. Discussion of public access to Council member emails

Commissioner Lambeth stated:

- I want a feasibility and cost analysis study and guidelines done to set up an archive for public emails between the commissioners and the mayor.
- Per State law we have to keep them for seven years and have to get permission to delete them.

Town Administrator James stated there are ways to do this besides using a terminal, such as a google website that is cost effective that other Towns have explored.

Discussion highlights;

- I believe we are allowed to charge for staff’s time. (Vatr)
- In the example from the Town of Carrboro, it collects all of the mayor’s emails that are copied to a gmail account and the public would have to sign in to view. Couldn’t we have a public terminal where people can come in and view emails? Every email is subject to public disclosure. (Montgomery).

Town Administrator James stated she is more concerned about policies and procedures that we don’t have in place now regarding email and what we keep or don’t keep.

Willard Killough, editor of the Island Gazette newspaper stated:

- The newspaper’s system server has a catch all account for all email servers that has the capability to capture emails. This is true for any run of the mill server that can put emails into one account and anything labeled ‘personal’ can be dropped into a separate account. There are systems that will archive emails.
- Law states you can only charge the public the actual cost to provide a copy or CD.

- Any public record, printed or electronic is governed by the Department of Cultural Resources and Archives.

Mayor Montgomery requested the Town Administrator and Town Clerk work together to bring a report, possible options, guidance and rules in dealing with Town emails for all email users to the September meeting.

2. Discussion and Approval of Parking Study with Wilmington MPO

Town Administrator James stated:

- She is requesting Council participate in a parking study to be done by the Wilmington Metropolitan Planning Organization (MPO) in conjunction with the Town's Shore Line Access and Parking (SLAP) committee. There is no charge for the study.
- She is asking Council to authorize her to set this up and report on how it is to be conducted.

ACTION – Commissioner Lambeth MADE THE MOTION to authorize the Town Administrator to begin to set up the parking study, to work with the SLAP committee and bring a report to Council as to how it is to be conducted. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Approval of conservation easement for Natural Heritage Trust Fund Grant for purchase of Ocean Front Park property

Mayor Montgomery stated that when the Natural Heritage Trust Fund (NHTF) awarded a grant to the Town for the purchase of the property for the Ocean Front Park it was with the following conditions:

- The Attorney General to indicate the NHTF had the authority to give the grant. That was done.
- The Park had to be recognized by the Parks and Recreation Trust Fund (PARTIF). That was done.
- Something had to be done about Atlantic Avenue and the recommendation is to leave it open and use permeable pavers.
- A conservation easement that restricts the use of this property for recreational purposes only has to be approved.

Mayor Montgomery said that he is asking Council to approve the conservation easement.

Commissioner Lambeth stated Council knew this would be a requirement when we went after the grant.

ACTION – Commissioner Lambeth MADE THE MOTION to approve the perpetual conservation easement on the Ocean Front Park as required by the NHTF grant. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Business weekly recycling program

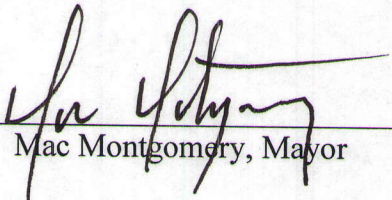
Town Administrator James stated:

- She is asking for the authority to establish a rate to charge businesses for weekly recycling and to negotiate a contract with Waste Management.
- We don't know at this point if this will be a revenue generator or a wash for the Town.
- She wants permission to explore offering this program.
- This would include churches as they are considered small businesses per Waste Management.

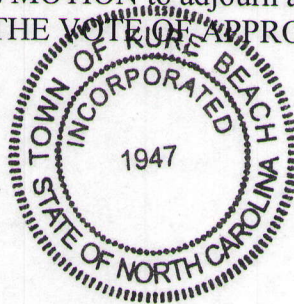
ACTION – Commissioner Nelder MADE THE MOTION to authorize the Public Works Director and the Town Administrator to negotiate rates with Waste Management to provide weekly recycling for businesses with the understanding they have to come back to Council to get the final approval. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADJOURNMENT

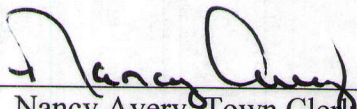
ACTION – Commissioner Vatr MADE THE MOTION to adjourn at 8:30 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Mac Montgomery, Mayor



ATTEST:



Nancy Avery, Town Clerk