

KURE BEACH TOWN COUNCIL
REGULAR MEETING
SEPTEMBER 16, 2008
6:30 pm

MINUTES

The Kure Beach Town Council held its regular meeting on Tuesday, September 16, 2008 at 6:30 pm.

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

STAFF PRESENT:

Town Administrator	Michelle James
Police Department	Dennis Cooper
Public Works	Sonny Beeker
Finance Officer	Susan Suggs
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 6:30 pm. Sandra Sink delivered the invocation. Mayor Montgomery led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

1. Mayor Montgomery presented Tom Russell with a certificate of appreciation for his work through Step up for Soldiers in raising funds for the purchase of a monument for Fallen Soldiers to honor the memory of the 120th National Guard Brigade killed in Iraq.
2. Chief Cooper presented Officer Paul Hubbard with the Advanced Law Enforcement Certification which is the highest level of achievement.

PERSONS TO ADDRESS COUNCIL

1. Debbie Price, 773 Settlers Lane, stated:
 - I thank Council for allowing a format for citizens to express their feelings.
 - Many strongly oppose the use of the Fire Lane of the Sunny Point Buffer Zone for a bike path.
 - Objections are security, safety and fire concerns for homeowners and users; creation of noise, trash and additional storm water runoff; increased cost to

taxpayer's for support such as police and fire services and maintenance and loss of wildlife habitat.

- Citizens do support a bike path adjacent to but separate from Dow Road but not in the Fire Lane of the Sunny Point Buffer Zone.
- As a representative of concerned citizens, I request that the Town Council issue a formal resolution to support a separate bike path parallel to Dow Road.

2. Brant Barnwell, resident at 201 Seawatch Way, stated:

- I am a member of the Home Owners Association (HOA) Board at Seawatch.
- In January, the HOA presented a written request to Council to pick up payment for street lights.
- I understand the Town researched past minutes to see why the Town was not paying for street lights.
- The HOA is requesting the Town pay street lighting payments for 2008 and all future payments for Seawatch Way, Reily Place and SeaHorse Place.

Mayor Montgomery stated he had not seen the written request and Council would need to see the request to be able to respond.

3. Tony Gonsalves, Shoreline Access and Parking Committee, stated:

- The committee wants Council's approval to start researching the following projects to bring back to Council:
 - A permanent restroom facility and additional impervious surface parking spaces in close proximity to Joe Eakes Park on Sunny Point land.
 - A permanent restroom facility and extend parking on all of I Avenue.
 - A permanent restroom facility on J Avenue with possibly a new walkway and lifeguard relief station.
 - Solar lighting at all beach accesses which will be defused and turtle friendly.
 - Ocean Front Park crossover and gazebo.

Council discussion points:

- The restroom facility is close to residences. I think we need to survey residents in that area before we go any further so we don't end up with a project that no one likes. (Nelder)
- I suggest the committee look at the preliminary plans for the restroom facility at Ocean Front Park for ideas and paved ADA parking at Joe Eakes Park. I don't think any of us could support this without consent of the public. (Lambeth)
- Before we get too far with architectural detail work, I think Council needs to look at the preliminary thinking verbally so that Council can get a sense as to where the bathrooms will be and that the committee has done due diligence with determining any issues residents may have. We want to be in sync with public view. (Vatrt)

Mayor Montgomery stated that once the committee has preliminary plans they can come back to Council to schedule public meetings.

4. Sean Cook, Pleasure Island Rentals, stated:

- I own a chair and umbrella rental service.
- In the past 5 years, I have delivered umbrellas and chairs for rental by John Deere gator into the Carolina Beach district but once we get to Kure Beach we have to turn around.
- The Town's ordinance doesn't allow my business to come onto the beach.
- Most of my business is done with hotels in Carolina Beach and is handled over the internet or phone.
- Day to day access would be by gator on the beach – no soliciting.
- My business does drive the beach in Carolina Beach with equipment available for rental in between scheduled trips.
- I estimate that I did about \$100,000 in gross rentals in the last year for chairs and umbrellas.
- I request Council approval to deliver rentals on the beach with approximately three to four passes each day on the beach.

Council discussion points:

- Are you planning on opening a business and conducting retail sales in the Town? Our ordinance precludes motorized vehicles on the beach. Are you planning on soliciting business and writing contracts in Kure Beach? (Montgomery)
- Would day to day access be by gator on the beach? (Dugan)
- This might be an asset to the beach. Mr. Cook's business is growing every year. (Lambeth)
- How do we say yes to one business on the beach and not to other businesses on the beach? Currently Mr. Cook does business in Kure Beach, but not on the beach and he only delivers equipment to people to take on the beach. (Vatrt)

Mayor Montgomery asked Mr. Cook to attend the Citizen Beach Protection Committee meeting and work with them and the Chief of Police.

5. Ken Withrow, Beautification Committee chairman, stated:

- The committee's primary objective is the Atlantic Avenue Walkway Project.
- The committee voted unanimously at the last meeting to recommend that Council install a hatteras style walkway on Atlantic Avenue for the following reasons:
 - ADA compliance
 - For animal control – no place underneath walkway to harbor them.
 - Hatteras style would support emergency vehicles driving on the walkway.
 - The public hearing showed a hatteras style walk is preferred.
 - The original cost is \$296,475, but a hatteras style is estimated to cost \$135,600 for an estimated savings of \$150,875.
 - The committee suggests submitting a drawing of the hatteras style for revision to the CAMA permit to see if we can do this.

6. Sandy Cox, Beach Protection Committee, stated:

- The committee commended the Police Department for their performance on July 4th, 2008.

- It was reported by the turtle people that firework debris was still left on the beach.
- The committee is concerned about debris left by individual's setting off fireworks and possible resulting fires.
- Aside from debris, the committee feels it is their responsibility to bring to Council's attention the illegal activity of fireworks being set off and Police Department knowledge of this. What is the Town's liability if someone gets hurts?
- The committee is also concerned about the boat still on the beach and wants the ordinance enforced to get the boat off the beach – when will the boat be taken off the beach? It was a detriment during the recent storm.
- The committee feels strongly that fireworks should not be allowed except in a controlled environment because there may be injuries.

7. Joe Truelove, 512 Shell Drive, stated

- I am here on behalf of the Beachwalk HOA that has passed a resolution that they support a bike path on the island but not in the Sunny Point fire break.

8. Francis Regan, Community Center committee chairman, stated:

- The committee is asking Council to consider member Helen Wilson as resigned due to excessive absences due to health problems and allow advertisement for a replacement. A letter was sent to Ms. Wilson and no response has been received. The policy for committees states an appointee should not have more than three excused absences.

9. Marty Sibiga, resident at 408 Settlers Lane, stated:

- I agree with everything that Debbie Price stated earlier and in the interest of time I won't repeat it.

9. Wanda Tsangerides, resident, stated:

- Please listen to the Beautification committee on their proposal on the Atlantic Avenue boardwalk and try to agree on something that pleases everybody.

PRESENTATIONS TO COUNCIL

1. Jeffrey Owen – Fort Fisher Air Force Recreation Area, stated:

- In 1986, the area became part of the State parks system.
- The recreation area offers many amenities such as hiking, swimming, fishing, and 4 wheel drive beach access 24 hours a day, etc. all free of charge.
- In fiscal year 2004-2005, an economic impact study was done on primary visitors (those here only to visit the park) and results were:
 - Total number of visitors was 740,300.
 - This park was 8th overall in number of visitors to state parks.
 - Visitors generated sales in New Hanover County of approximately \$19 million.
 - Local residents derived an estimated \$7.5 million impact from this spending.

- The State's investment for fiscal year operating expenses was \$398,000. Local area benefit estimates are \$25.10 for every dollar the State invests.
- The recreation area's website has a lot of information at www.ncsparks.net.
- We thank the Police, Fire and EMS for all the support and assistance throughout the summer.

APPROVAL OF CONSENT AGENDA

1. Building Department report: August 2008
2. Fire Department report: August 2008
3. Police Department report: August 2008
4. Finance report: August 2008
5. Appointment of Peter Boulter to the Marketing committee
6. Reappointment of David Heglar as the Emergency Response Coordinator
7. Approval of proclamation P08-05 "Litter Sweep Roadside Cleanup from September 20 to October 4, 2008"
8. End State of Emergency for Tropical Storm Hanna effective Monday, 9/8 at 9 am
9. Approve Holiday Staff Party, Thursday, November 20 at 1 pm. Town Hall to close at noon
10. Approval of 3 day Christmas Holiday to coincide with municipalities in New Hanover County
11. Community Center committee:
 - Authorize advertisement for volunteers – terms of three members expiring and replacement for Helen Wilson
 - Approve change in meeting date from first Tuesday of the month at 10 am to the second Tuesday of the month at 10 am effective with October meeting
12. Adopt Mutual Aid Agreement with Carolina Beach for Fire services
13. Council minutes:
 - September 9, 2008 public hearing
 - September 4, 2008 emergency meeting
 - August 19, 2008 special meeting
 - August 19, 2008 closed session
 - August 19, 2008 regular

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to adopt the consent agenda with one addition to item 11 (Community Center vacancies) – advertise for replacement for Helen Wilson. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADOPTION OF THE AGENDA

ACTION - Commissioner Vatr MADE THE MOTION to adopt the agenda with no changes. Mayor Pro Tem Dugan seconded the motion with no changes. THE VOTE OF APPROVAL WAS UNANIMOUS.

OLD BUSINESS

1. Update on Ocean Front Park

Mayor Pro Tem Dugan stated the committee:

- Will be writing and issuing Requests for Proposal (RFP) for the building of park facilities and there is no cost to do this. The requests will include items that were received in feedback from citizens.
- Will gather information from different architectural firms and try to move forward with a structure and placement of the structure as grant requests will require a picture and this will help to provide this.
- Received a request from the Chamber of Commerce to use the park as it exists now and what cost would be associated with it. The existing fee structure for the Town will be the same for the park. Many things are taken into consideration such as whether it is for profit or non profit and workload for staff.

2. Review and approval of 35 foot height exception application and amendment to zoning Ordinance.

Town Administrator James and Building Inspector Batson stated:

- They were asked by Council to meet with Planning and Zoning Commission (P&Z) members to give direction to Council.
- P&Z stated they are okay with being a review board for exceptions to the 35 foot height limit.
- State law does provide for exceptions to the height limit.
- An appeal review process has been drafted that gives authority to P&Z to become a Technical Review Committee (TRC) to review the eleven items in the Town's ordinance to approve or disapprove items over 35 feet with criteria and provides for an application process.
- They heard at Council's workshop that Council wanted to hear from a contractor or developer why they wanted or economically needed something over the 35 foot height limit.
- The proposal assigns an application fee of \$250.

Discussion highlights:

- Does the fee cover multiple issues that would need to be addressed and is it per issue or per one blanket application? (Vatrt)

Building Inspector Batson replied it is \$250 per zoned property.

- If a person disagrees with P&Z 's decision what is the recourse? (Vatrt)

Building Inspector Batson responded that the appeal is to Council.

- What happens if they don't like Council's decision? (Dugan)

Town Attorney Canoutas stated that the Board Of Adjustment (BOA) would be next in the appeal process before Superior Court.

- I don't see anything about discussions for plans when a certain item is substituted – will this be allowed? (Lambeth)

Town Administrator James replied that numbers five and six address that and has substitution language in there. P&Z felt any change to what was approved would require another application for modification.

- I have a problem with percentages. I want a specific number over 35 feet. I would also like to see the application fee be steeper. \$250 won't cover the cost the Town

will incur. I don't want to be strapped into a percentage that may or may not be changed later on. This doesn't apply the way I want it to. (Nelder)

- Antennas are incorporated in to the State law and we can't change that. I hope we continue the discussion now and tell P&Z what we think and give them some direction. (Dugan)
- I don't see where it says commercial or not - P&Z was working towards commercial only. I was under the impression that we were shooting for regulation for height exceptions pertaining only to the commercial district. (Nelder)

Town Attorney Canoutas responded that the state law applies to commercial and residential both. Also if you do it just for commercial, and do nothing for residential and someone wants an exception for residential there will be no regulation and they can do what they want to under state law.

- Isn't it possible that we could make the height limit for all exceptions at 35 feet and 7/8 inches if we desired – isn't that what you said? (Nelder)

Town Attorney Canoutas replied that yes you could but it wouldn't be realistic.

- I don't have a problem with a percentage against a fixed height. To me it is more of an issue whether it is 7 or 10%. We need to clear that up and get comfortable with percentage. A good recommendation is to see what other towns are doing in terms of an application fee. If we are trying to develop the downtown, I caution us not to get too greedy with the application fee. It might be pennywise and pound foolish. (Vatrt)
- Everything discussed has been aired in public discussion, but the addition of the Technical Review committee has not, therefore Council can't approve the appeal review process tonight without another public hearing. (Montgomery)

Mayor Montgomery asked Council members if there were objections to the appeal review process as presented. None of the Council members voiced objection.

Town Administrator James stated:

- No building permit would be issued just because P&Z approved the exception. There would still be a thorough review done by the Building Inspector before a permit would be issued.
- P&Z looked at it more towards the B1 district because of economic development and making sure the area could prosper and providing for exceptions over 35 feet would help developers and contractors.
- In consulting with the attorney, it does need to be for the entire Town because State law does allow for exceptions for both. Right now, the Building Inspector has to allow someone to build over 35 feet for exceptions because the State law allows it.

ACTION - consensus – items still to be addressed:

- Fee structure – survey community of towns for consistency in fee charged.
- Establish separate criteria for commercial and separate criteria for residential.
- Make sure there is no doubt that substitutions of any kind subsequent to the initial approval require the developer/contractor to bring it back to the TRC for approval.

- There needs to be a public hearing to consider the provision to establish a TRC since P&Z doesn't have the authority now. The public hearing will be in conjunction with the October Council meeting

ACTION - Commissioner Nelder MADE THE MOTION to schedule a public hearing for October 21, 2008 at 6 pm to consider public input for the establishment of a Technical Review Committee for the Town. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Update on Atlantic Avenue boardwalk project

Commissioner Nelder stated:

- We want to keep track of all these costs of revisions to recoup in the grant.
- \$4,500 is the estimate from John Sawyer Architects to redo the plans to be resubmitted to CAMA.
- After the hearing, I think everyone went away with the thought that we would have a hatteras style walkway.
- I would like Council to approve the Beautification committee going forward with submitting their recommended plans for a walkway.

Mayor Montgomery stated:

- The opinion from the Coastal Resource Commission (CRC) on the denial of the appeal stated that had the Town applied for a hatteras style walkway, it would have been declined unless it was to be used for emergency vehicles because the hatteras style is not a practical or permitted alternative for public access.
- The CRC has to issue a variance and will only do so if a permit has been turned down.
- If we want the Department of Coastal Management to rule we have to submit a formal request for the hatteras and they will have to deny it. Then the Town will have to apply for a variance. We already have a permit – are you suggesting we void the existing permit?

ACTION - Commissioner Nelder MADE THE MOTION that Council reject the other permit and apply for one for the hatteras style. Commissioner Lambeth seconded the motion.

Building Inspector Batson stated that the Town doesn't have to do away with the permit it has now to apply for another permit. All the Town has to do is file for another permit and pay the \$100 fee.

ACTION – Commissioner Nelder withdrew his motion to reject the other permit and apply for one for the hatteras style. Commissioner Lambeth withdrew his second to the motion.

Chuck Keener, resident, stated:

- On Atlantic Avenue at M and N Avenues, CAMA approved a project that allowed different size pieces of hatteras ramps to be installed on the ground.

Building Inspector Batson stated:

- The project Mr. Keener referred to was from two years ago that allowed extensions to access ways to make the access more ADA compliant. The hatteras style was used and it was on the ground.
- CAMA says the only way we can use a hatteras ramp is for emergency vehicle use.
- Mr. Keener has a valid point that CAMA has approved hatteras style in the past with a much smaller area. It might help to point this out if we apply for a permit for hatteras. However, I have been told by CAMA that it will be denied.

ACTION – Commissioner Nelder MADE THE MOTION for the Town to apply for a minor CAMA permit to install a hatteras style walkway from L to N Avenues adjacent to Atlantic Avenue. Commissioner Lambeth seconded the motion.

THE VOTE OF APPROVAL carried with a four to one vote as follows:

Mayor Pro Tem Dugan, Commissioners Lambeth, Nelder, and Vatr in the affirmative. Mayor Montgomery in the negative.

Building Inspector Batson asked Commissioner Nelder if he wanted Mr. Withrow and himself to work with John Sawyer Architects to draw the plans. Commissioner Nelder stated he does not want to use John Sawyer Architects at this time to redraw the plans. Mayor Pro Tem Dugan asked what was the drawing that was just handed out to Council. Commissioner Nelder stated it is what CAMA has said they will approve – it is the style we are left with if CAMA won't approve the hatteras style.

Commissioner Vatr asked if this is turned down, are there any other recourses or is this it? Commissioner Nelder stated he hopes that if this is turned down that we go back to what was approved which is a 5 ½ inch rather than a 3 ½ inch above the grade.

Commissioner Lambeth stated that it should be included in the application to CAMA that because State and Federal funds are being used on this project, the proximity of this to the road and ADA accessibility should be considerations.

Building Inspector Batson stated:

- The drawing that was just handed to Council is the one I sent to CAMA to see if it would work.
- CAMA replied in a letter that I gave copies of to Council that it would be okay but the entire structure would have to sit on the ground and could not be dug into the ground. It would sit 5 ½ inches off the ground.
- In the other picture, the walkway does not sit on the ground, but is dug into the ground with three inches in the ground and 3 inches sticking out.

Mayor Montgomery called for a 10 minute recess at 8:40 pm.

Mayor Montgomery resumed the meeting at 8:50 pm.

NEW BUSINESS

1. Update on Pleasure Island Greenway Project

Mayor Montgomery stated:

- Pleasure Island Greenway Project is a project for a bicycle path. I think there is a consensus among almost all people that a bicycle path is supported on Pleasure Island and there is a great deal of concern about safety and security, and how and who would be responsible for controlling and keeping it clean and who would bear the cost.
- The Island Greenway committee has not asked Kure Beach to either support or reject their proposal.
- The Island Greenway committee would like those opposed to be part of the process to find a solution before asking for Kure Beach Town Council involvement or support.
- Consensus of Council is that there are concerns that need to be addressed before we can support the project as a Council.
- I think it is an unacceptable option to put it in the fire lane. There are concerns about the path being used by children going back and forth to school. If it is a pedestrian bike path and someone falls, he or she is where nobody patrols so I'm concerned about the safety of the people that will use it.
- I think there are other alternatives. The residential streets in Kure Beach are already used by walkers, joggers and bikers and it is safe. The biggest obstruction now is I can't get from Kure Beach to Carolina Beach on Town streets because of the Carolina Sands subdivision which blocks the two towns. But this is a much safer way.
- I encourage Kure Beach's Parks and Recreation committee to work with the Pleasure Island Greenway Project committee. The Greenway committee is not communicating with the Town's Parks & Recreation committee so the residents are not being kept informed.

Discussion points:

- The Wilmington Metropolitan Planning Organization (WMPO) came out with a resolution that rejects the behind Kure Beach corridor plan and supports a Dow Rod corridor plan. I would like to have some sort of resolution stating we support the Dow Road corridor and no other corridor. With the current economic and security reasons, Sunny Point isn't going to allow any access on their property. I have been told by Sunny Point officials they would support a Dow Rd corridor for a bicycle path. (Nelder)
- None of us will be alive when the Dow Road expansion is done or possibly the bike path because the state doesn't have the money nor does the Town. I won't blindly say I won't work with Mr. Himmelstein on a bike path behind the homes or in the fire district (MOTSU). I will talk about other locations. It's a great idea but a hard struggle. (Lambeth)
- There is no funding in the Town's budget for any project in this nature. Personally, I endorse the concept of a bike path, but not in the fire lane. Whether it is Dow Road or a different location that is acceptable to all residents of Kure Beach, I am still waiting to see that proposal. (Vatrt)

- I am for a bike path and would love to see a separated area along Dow Road. I'm not willing to say Dow Road or nothing. I have absolutely no problem with a river bike path (Dugan)

ACTION – consensus - request the Town's Parks & Recreation committee work with the Pleasure Island Greenway committee as the Town's representative before bringing any proposal to Council.

ACTION - Commissioner Vatr MADE THE MOTION that the Town Council of Kure Beach does not support construction of a bicycle/pedestrian path in the fire lane behind Kure Beach on Sunny Point property. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Discussion and approval of policy regarding public access to Council member emails
Town Administrator James stated:

- She and Willard Killough, managing editor of the Island Gazette, didn't get a chance to meet last week but she will get back to Council in October regarding public access to Council member emails

3. Debt load obligations

Commissioner Lambeth stated:

- The Town is now carrying \$5,223,000 in debt. That excludes the \$300,000 just received recently (grant for Ocean Front Park acquisition). Of that, General Fund debt is \$3,280,000, Water/Sewer Enterprise debit \$1,247,000, and Storm water debit for the Cutter Court project is \$695,000.
- I want to bring to everyone's attention since we are getting ready to request additional financing that these loan applications all state that if we can't pay the debt load we raise taxes or fees.

Finance Officer Suggs stated the payback on the total debt is less than 15% of the General Fund. The Local Government Commission has approved all of our loans and wouldn't do so if they didn't feel like the Town could handle the debt. Some of the debt is short term for things such as financing vehicles. Part of the long term debt is the Ocean Front Park and we have applied for additional grants.

4. Discussion of request for resolutions regarding elimination of the 3 day waiting rule for private club status for ABC license holders and empowering local policing authorities with the ability to regulate Liquor-By-the-Drink retailers. Review and approval of resolutions R08-07 request to ABC to eliminate 3 day wait and R08-08 request to ABC to review fee structure.

Discussion points:

- Mayor Montgomery stated that this doesn't apply too much to Kure Beach.
- Commissioner Nelder stated the Town has no dog in this fight.
- Commissioner Lambeth agreed that the Town has no dog in this fight.

ACTION – Commissioner Vatrtr MADE THE MOTION to support the request of Wilmington Downtown, Inc. to the Alcohol Beverage Control commission to eliminate the three day wait rule (resolution R08-07). Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL carried with a vote of three to two as follows: Mayor Montgomery, Mayor Pro Tem Dugan and Commissioner Vatrtr in the affirmative. Commissioners Nelder and Lambeth in the negative.

Mayor Montgomery asked for a motion on resolution R08-08 supporting Wilmington Downtown’s request to the ABC commission to revise the fee structure.

ACTION – no motion was forthcoming.

5. Approval of new weekly recycling rate for businesses

Town Administrator James stated she wanted to speak with Council in closed session regarding a rate/contract negotiation.

6. Authorize Town Administrator to competitively bid financing for water/sewer rehab Project.

ACTION - Commissioner Nelder MADE THE MOTION to table authorizing the Town Administrator to competitively bid for financing for the water/sewer rehab on Fort Fisher Boulevard. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. Federal Trade Commission/Identify Theft Program requirement for municipalities.

Town Administrator James stated:

- The Federal Trade Commission (FTC) is requiring municipalities that have utility accounts to have an Identify Theft Program.
- The League of Municipalities is recommending purchasing a program from the Tennessee Valley Public Association at a cost of approximately \$400.
- I don’t need approval for funding since it is below \$10,000. No money is budgeted for this.

ACTION - Commissioner Lambeth MADE THE MOTION to accept the Tennessee Valley Public Association program and authorize the Town Administrator to contract. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

8. Approval of Budget Amendment for Tropical Storm Hanna overtime and expenses. Town Administrator James presented Council with a report to the Federal Emergency Management Authority (FEMA) for expenses incurred during Tropical Storm Hanna in the amount of \$16,149.94 and a budget amendment to transfer funds from the General Fund fund balance to separate line items impacted.

ACTION – Commissioner Lambeth MADE THE MOTION to approve the budget amendment as presented and transfer \$16,149.94 from the General Fund fund balance to

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

Said budget amendment is herein included as part of these minutes.

CLOSED SESSION

ACTION –Commissioner Vatrtr MADE THE MOTION to go into a closed session at 9:50 pm to discuss two items: contract negotiation and personnel issues. The Town Administrator and the Town Clerk were asked to attend the session on contract negotiation but not personnel issues. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatrtr MADE THE MOTION to return to open session at 10:47 pm. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Mayor Pro Dugan MADE THE MOTION to authorize the Town Administrator to contact Waste Management on behalf of Town to have Waste Management contract with businesses directly to negotiate recycling service without Town involvement. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION –Commissioner Vatrtr MADE THE MOTION to continue the September 16, 2008 Council meeting to Thursday, September 25, 2008 at 3 pm to go into closed session to discuss the Climate Survey with Chris May of the Council of Government. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

CONTINUED MEETING
SEPTEMBER 25, 2008

COUNCIL MEMBERS PRESENT:

Mayor	Mac Montgomery
Mayor Pro Tem	Jim Dugan
Commissioner	Dean Lambeth
Commissioner	Barry Nelder (arrived at 3:20 pm)
Commissioner	Jim Vatrtr

COUNCIL MEMBERS ABSENT:

STAFF PRESENT:

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

Call to order

Mayor Montgomery called the continued meeting to order at 3:10 pm stating:

- This meeting is a continuation of the regular Council meeting held September 16, 2008.
- Purpose of continuing the September 16, 2008 meeting was to hold a closed session on a personnel matter. Chris May of the Cape Fear Council of Government was invited to attend the closed session.

ACTION – Commissioner Vatrtr MADE THE MOTION to add the following two items to the agenda:

- Surplus ATVs – Fire Department
- NC BIWA sponsorship

Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Note - Commissioner Nelder was not in attendance at the time of this vote- he arrived at the meeting after the vote.

1. Surplus ATV's – Fire Dept.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to declare surplus and authorize the Fire Chief to sell the following vehicles:

2005 Honda 4-wheeler, Serial Number 1HFTE240/054408556, purchased 6/9/05.

2005 Honda 4-wheeler, Serial number 1HTFTE240/454410486, purchased 6/9/05.

Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Note- Commissioner Nelder was not in attendance at the time of this vote – he arrived at the meeting after the vote.

2. NC Beach Inlet Waterway Association (NCBIWA) sponsorship

Commissioner Lambeth stated he recommends Council sponsor the local conference for the NC Beach Inlet Waterway Association in the amount of \$350.00.

ACTION – Commissioner Lambeth MADE THE MOTION to sponsor the local conference for the NC Beach Inlet Waterway Association in the amount of \$350.00. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Closed session

ACTION - Commissioner Vatrtr MADE THE MOTION to go into a closed session at 3:17 pm to discuss a personnel matter and consult with the Town Attorney on legal advice on a zoning issue. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Note - Commissioner Nelder was not in attendance at the time of this vote – he arrived at the meeting after the vote. Note – Commissioner Lambeth left the room during this vote. There was a quorum of the Council present. The Town Clerk was excused from attending the closed session.

ACTION - Commissioner Vatrtr MADE THE MOTION to return to open session at 5:56 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION –Commissioner Vatrt MADE THE MOTION to rewrite the job description for the Town Clerk and to advertise for a Town Clerk due to the resignation of the current Town Clerk, Nancy Avery, at the end of October 2008. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to continue the meeting to Monday, September 29, 2008 at 4 pm for the purpose of continuing the discussion of a personnel matter with Chris May of the Cape Fear Council of Government. Commissioner Vatrt seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

CONTINUED MEETING
SEPTEMBER 29, 2008

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

Mayor Pro Tem	Jim Dugan
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STAFF PRESENT:

Town Administrator	Michelle James
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 continued meeting to order at 3:55 pm stating:

- This meeting is a continuation of the regular Council meeting held September 16, 2008 that was continued to Thursday, September 25, 2008 at 3 pm.
- Purpose of continuing the September 16, 2008 meeting until September 25, 2008 and again until September 29, 2008 was to hold a closed session on a personnel matter. Chris May of the Cape Fear Council of Government was invited to attend the closed session.

Administrative State of Emergency

Mayor Montgomery stated Council needed to consider an item received from the Emergency Operations Manager for New Hanover County that was not previously on the agenda regarding Declaration of Administrative State of Emergency

ACTION - Commissioner Nelder MADE THE MOTION to adopt a Declaration of Administrative State of Emergency along with Carolina Beach beginning Wednesday, September 24, 2008 at 6:00 pm through Friday, September 26, 2008 at 6 pm due to

coastal flooding and beach erosion sustained by a 'no name storm'. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatrtr MADE THE MOTION to excuse Mayor Pro Tem Dugan from the meeting. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL carried three to one as follows:

Mayor Montgomery, Commissioner Nelder and Vatrtr in the affirmative.
Commissioner Lambeth in the negative.

Closed Session

ACTION – Commissioner Vatrtr MADE THE MOTION to go into closed session at 4:07 pm to discuss personnel matters with Chris May, Executive Director of the Cape Fear Council of Government. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatrtr MADE THE MOTION to also discuss while in closed session pending legal issues with the Town's Attorney. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

The Town Attorney attended the closed session regarding pending legal issues but was excused for the session on personnel issues.

Both the Town Administrator and Town Clerk were excused from the session on personnel issues.

ACTION – Commissioner Vatrtr MADE THE MOTION to return to open session at 6:30 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Nelder MADE THE MOTION to continue the meeting until Thursday, October 2, 2008 at 4 pm for the purpose of holding a closed session to discuss a personnel issue. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

CONTINUED MEETING OCTOBER 2, 2008

COUNCIL MEMBERS PRESENT:

Mayor	Mac Montgomery
Commissioner	Dean Lambeth
Commissioner	Jim Vatrtr

COUNCIL MEMBERS ABSENT:

Mayor Pro Tem	Jim Dugan
Commissioner	Barry Nelder

STAFF PRESENT:

Town Administrator	Michelle James
Town Clerk	Nancy Avery

There was a quorum of the Council present.

Mayor Montgomery called the continued meeting to order at 5:15 pm stating:

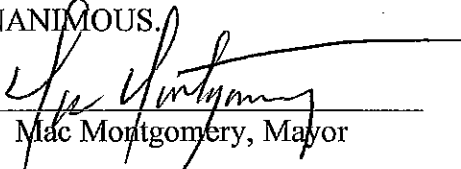
- This meeting is a continuation of the regular Council meeting held September 16 and continued on September 25 and 29, 2008.
- Purpose of continuing the September 16, 2008 meeting was to hold a closed session on a personnel matter.

ACTION -- Commissioner Lambeth MADE THE MOTION to go into closed session for the purpose of discussing a personnel issue. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

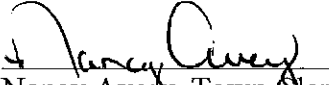
The Town Administrator attended the closed session. The Town Clerk was excused from the closed session.

ACTION -- Commissioner Vatrtr MADE THE MOTION to return to open session at 5:50 pm. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION -- Commissioner Vatrtr MADE THE MOTION to adjourn at 5:53 pm. 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

