



KURE BEACH TOWN COUNCIL

REGULAR MEETING
July 18, 2006

MINUTES

The regular meeting of the Town Council of the Town of Kure Beach was held at Town Hall at 7:30 pm on July 18, 2006. A quorum was present.

COUNCIL MEMBERS PRESENT:

Mayor	Tim Fuller
Mayor Pro Tem	Mac Montgomery
Commissioner	Jim Dugan
Commissioner	Bill Ufferman
Commissioner	Dean Lambeth

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Building Inspection	John Batson
Finance	Susan Suggs
Police	Chief Dennis Cooper
Public Works	Sonny Beeker
Interim Town Clerk	Susan Suggs

STAFF ABSENT:

Fire Chief Harold Heglar

Town Attorney A.A. Canoutas was in attendance.

CALL TO ORDER

Mayor Fuller called the meeting to order at 7:30 p.m., gave the invocation and led the pledge of allegiance.

RECOGNITION AND AWARDS

Mayor Fuller administered the Oath of Office to Nancy Avery as Town Clerk and John Batson as Building Inspector.

PERSONS TO ADDRESS COUNCIL:

1) Mr. Neal Lewis, Director of the New Hanover County Parks Department, stated that a bond referendum passed in May of 2006 allows for \$200,000 in grant money each for the beach communities of Kure Beach, Carolina Beach and Wrightsville Beach. Mr. Lewis also stated:

- the grant is limited to capital projects for public recreation only
- details are still to be worked out
- an inter-local agreement will most likely be required
- funds will probably be administered on a reimbursement basis meaning the town would spend the funds upfront and apply for reimbursement – the county would provide a letter of credit
- 8/25/06 is the “spending green light” date

Mr. Lewis also stated there are other grants available such as:

- PARTIF grant – a 50/50 matching grant between the state and the town for area recreation with a two year time period, an application deadline of 1/31/07, and notification in May 2007



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- CAMA grant – a 75/25 matching grant with the state funding 75% that is available each spring and fall
- State grant – specifically for ‘adopt a trail’ which is a 100% funding in smaller amounts for trails and benches
- T21 grant – to help determine transportation alternatives

2. Ron Hanna, resident of Sloop Point Lane in Kure Beach Village, thanked the council and Building Inspector (John Batson), for looking into and resolving the Dow Avenue duplex issue. Mr. Hanna recommended letters requesting compliance be sent to the public concerning planting in the right of way (ROW), placement of trash containers and placement of signs.

Mr. Hanna also stated he was looking for a response from his booklet on right of way violations.

Mayor Fuller responded that Mayor Pro Tem Montgomery, Commissioner Lambeth and Public Works director Sonny Beeker have been discussing the subject of plantings in the right of way.

Trash enforcement

Mayor Pro Tem Montgomery stated:

- that on July 16, 2006, he personally covered every street and noted serious violations of the town’s code regarding trash
- most violations were at vacation/rental homes
- sixteen violations were on Fort Fisher Boulevard
- the town’s code states it is the responsibility of the property owner to purchase “sufficient containers” that will be picked up at no additional charge
- enforcement letters will be sent to violators quoting section 7-32 of the ordinance and warning that a citation will be issued for the next violation
- NC General Statute 42A treats vacation rentals as a business of a fashion and these rentals could be charged a commercial rate which is substantially higher

Mr. Hanna asked if violators couldn’t be located through the room occupancy tax.

Mayor Pro Tem Montgomery stated that the town doesn’t have access to that information.

Mayor Fuller stated that the town has entered into a contract with New Hanover County to identify folks that should be paying room occupancy tax in an effort to recover back taxes. The town will receive a percentage.

Resident Anne Brodsky asked when the town would proceed with sending the letters and what can citizens do to help?

Mayor Pro Tem Montgomery replied that the first letters will go out this week and that citizens can purchase an extra trash can to prevent the use of individual bags stacked beside the can, which causes more physical labor for the Public Works staff.



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Public Works Director Beeker suggested the letter include the ordinance information about when cans may be put out for pick up.

Resident Hanna recommended the letter also address storage of the cans, as this was not being enforced.

Mayor Fuller stated this would be included in the enforcement letter.

Right of way enforcement:

Commissioner Lambeth stated that a certificate of occupancy was granted to a duplex only after a boulder was removed from the right of way, yet the boulder re-appeared in the right of way.

Commissioner Lambeth also stated that sections seven and fourteen of the town's Code of Ordinances encourages landscaping, the protection of trees and protection of the right of way. It is the policy of council that before planting in the right of way is approved, that a plan be submitted, a permit be issued only after review and approval by the Fire, Police and Public Works departments and that property owners understand that when the town needs to access the right of way, there is no obligation by the town to replace any landscaping.

Resident Ron Hanna said he thought the purpose of the right of way is to pull vehicles off the road, if needed.

Mayor Fuller responded that according to the ordinance, that is not the purpose, because the ordinance allows for planting in the right of way.

Resident Hanna replied that most planting in the right of way has not been permitted.

Mayor Fuller stated that planting will have to be treated on a case by case basis. In Beach Walk, a citation was issued for a dry stack of blocks in the right of way.

Resident Hanna responded that three of the council members live in Beach Walk.

Mayor Fuller replied that three members of council do live in Beach Walk and that rules will be enforced there just as they are everywhere and the council will keep everyone posted on the progress of enforcement.



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ORDER OF BUSINESS:

APPROVAL OF CONSENT AGENDA

ACTION – Commissioner Ufferman MADE THE MOTION to approve the consent agenda with no changes. Mayor Pro Tem Montgomery seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

1. Council Minutes: 5/16/06, 6/20/06, 6/30/06 (continued from 6/20/06), 6/30/06 work session
2. Finance Report
3. Police Report for June 1 – 30, 2006
4. P & Z draft minutes 7/11/06 meeting
5. Web Administrator report

End of Consent Agenda

ADOPTION OF THE AGENDA

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to approve the agenda with one change:

Add a closed session for personnel to the closed session for consultation with attorney Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

DEPARTMENT HEADS' ITEMS TO PRESENT TO COUNCIL:

Building Inspection - Inspector Batson requested council to consider allowing swimming pools in the RA3 zoning district. Mr. Batson stated:

- permits have been issued in the past
- every other district allows swimming pools except RA1 and RA3
- since the RA3 district allows tourist, hotels and motels this may become an issue in the future, since these establishments usually include a swimming pool.

ACTION – Commissioner Dugan MADE THE MOTION to refer the request to allow swimming pools in the RA3 district to the Planning and Zoning Commissioner for consideration with the additional duty of looking at all zoning districts with private residences to allow swimming pools. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Emergency Management - Chair David Heglar stated:

- he would have a draft brochure to council members by this Friday
- the advertisement for EOC staffing didn't get results
- at least 6-8 volunteers are needed
- he would draft a description of basic duties for volunteers



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Finance – Finance Officer Suggs recommended:

- the town get out of the rental business for water and sewer
- currently renters must pay a \$60 deposit, even though the ordinance states water and sewer bills are the responsibility of the property owner
- allowing bills to be in the property owners name only would reduce the staff's workload

ACTION - After discussion, the council agreed that as each renter moves out of a property, the property owner will be notified that, as per the ordinance, the responsibility for the water and sewer bill belongs to the owner and the bill will no longer be put in a renter's name.

ACTION – Commissioner Dugan **MADE THE MOTION** that it is the consensus of the council that the Finance Officer and the Billing Clerk comply with the existing ordinance for water and sewer deposits. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

Finance Officer Suggs introduced Brenda Mash, branch manager for BB& T Bank. Ms. Marsh thanked the council for the town's business on behalf of BB&T. Commissioner Ufferman stated that the town's CD had earned \$67,000 in interest since BB&T had taken over.

Commissioner Lambeth stated that he rode with the ocean rescue team on Sunday and that the team requested signs be posted in English and Spanish to keep an area under the pier clear for the ranger to pass through.

Police Department - Chief Cooper informed council that:

- he needs the TDA request by August
- the Special Events forms have been completed, the town clerk is checking on insurance liability requirements, and will forward the forms to the town's attorney
- he would like to see the Civil Citation revenue allocated to a line item for Police and Code Enforcement to use for public relations, awareness, education, signage and brochures.

Public Works - Public Works Director Beeker stated:

- completion of the lateral work for the sewer project is thirty days from completion. Pavement patching and concrete repair should begin in the next couple of weeks and then resurfacing will start
- signs for the storm water project will be erected this week

Fire Department - no report



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Town Clerk – Town Clerk Avery:

- stated Cindy Murphy with Manpower Temporary Service had been filling the receptionist position for the last couple of months, but her last day was July 14, 2006. This position will continue to be filled with a temporary employee for the next month or so to give the clerk time to assess workload
- thanked Irene Barber, Marty Fuller, Commissioner Dugan and Mayor Fuller for taking turns filling in at the front desk
- stated the Town Hall facility will be re-keyed later in the week and new keys will be issued.

COMMITTEE REPORTS:

ADA - no report

Beautification – Chair John Gordon stated the committee:

- received results of the survey for Atlantic Avenue
- painted the sign at the corner of town hall - thanks to Judy Larrick
- will be painting more signs – looking for volunteers
- received \$3,250 in grant money
- will be planting live oaks and other native trees
- is discussing possibly putting up doggie bag dispensers
- may need additional money for landscaping at the community center

Beach Renourishment Coordinator - Chair Tom Barber reported:

- meeting date moved to 1st Tuesday from 3:30 – 4:30 pm with the next meeting August 1
- plastic wrapping from fireworks is being left on the beach and is dangerous for the turtles
- beach vitex was found on Atlantic Avenue and was eradicated – this plant chokes out other beach grasses and doesn't help keep sand in place during storms
- 10 beach stations have been measured to help in future determination of amount of beach lost from storms
- Kure Beach and South Carolina Beach received \$681,000 in state funding for renourishment

Chairman Barber asked the council to appoint Christine Blish-Bell as the 7th member of the committee.

ACTION – Commissioner Ufferman MADE THE MOTION to appoint Ms. Blish-Bell to the Beach Renourishment Committee. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Community Center – no report

Shoreline Access and Parking - no report **Website Administrator** - written report submitted (herein incorporated as part of these minutes as attachment A)



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Council took a short recess at 8:45 pm.
Council reconvened at 8:55 pm

OLD BUSINESS:

1. Planning & Zoning (P&Z) - Commissioner Lambeth

Commissioner Lambeth stated that the Planning & Zoning Commission met with Vagn Hansen, a planner with the NC Department of Commerce Community Assistance Division, at their July 11th meeting. Mr. Hansen answered questions about mixed use and gave the commission members some pointers on mixed use zoning. P&Z is requesting a work session with the town council before their next meeting on August first to discuss mixed use zoning.

ACTION – Commissioner Lambeth **MADE THE MOTION** to hold a joint work session with P&Z at their August 1st, 2006 meeting as the first item on the agenda. Commissioner Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

NEW BUSINESS:

1. Park Bond Referendum Funds

ACTION – Commissioner Ufferman **MADE THE MOTION** to form a committee to look into possibilities and make recommendations on how to spend the Park Bond Referendum funds. Commissioner Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**
Said committee to consist of:

- Mayor Pro Tem Mac Montgomery
- Public Works Director Sonny Beeker
- Beautification Committee Chair John Gordon
- Shoreline Access and Parking Committee Chair Chuck Keener
- Community Center Committee Chair Frances Regan
- ADA Committee Chair Gilbert Alphin
- Commissioner Bill Ufferman - liason

Mayor Pro Tem Montgomery and Commissioner Ufferman will coordinate meeting times and advertise meeting dates.

2. Code of Ordinances

Town Clerk Avery recommended council authorize Municipal Code to digitize Code of Ordinances for loading on their website, add link to town's website, and purchase a disk at an approximate cost of \$1895 for all. Administration's budget allows \$5000 for codification. Timeframe for completion = 90 days

ACTION – Commissioner Ufferman **MADE THE MOTION** to enter into an agreement with Municipal Code to prepare the Code of Ordinances to be placed on their website with a link on the town's website and to purchase a disk containing the Code of Ordinances. Commissioner Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS**



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3. Text amendment heard by Planning & Zoning on 7/11/06
Commissioner Lambeth stated that Mr. Charles Allo submitted a request for a text amendment to the Code of Ordinances as follows:

Section 19-107 currently reads:

The RA-1A district, is composed of quiet, low density residential developments compatible with existing single family structures and for the housing of seasonal tourists.

Section 19-107 proposed to read:

The RA-1A district, is composed of quiet, low density residential developments compatible with existing single family structures.

Amendment would remove words “and for the housing of seasonal tourists”

The Planning & Zoning Commission recommended non-approval of text amendment after discussion at their July 11, 2006 meeting and issued the following statement:

* The Planning & Zoning Commission believes that North Carolina General Statute 42A differentiating tourist rental property from that of residential property, as referenced by Mr. Allo’s documentation as the reason for the text amendment request, allows for enforcement of rental units but does not justify changing the town’s ordinance to not allow for the housing of seasonal tourists in the RA-1A zoning district. The Planning Board believes section 19-107 of the town’s Code of Ordinances is in line with the town’s current Land Use Plan adopted in 1997 *

Mayor Pro Tem Montgomery stated:

- After reviewing NC General Statute 42A and the current land use, he concurs with Planning and Zoning’s finding
- Council encourages residential building rather than high rise condos
- Shouldn’t place restrictions on property when clearly tourist residential beach
- Agrees that sometimes use of property is being abused and council has not been as diligent as it should be in enforcement
- Should enforce and use tools in hand to regulate rather than legislate
- If the text was changed to eliminate housing of seasonal tourists, then 90% of trash and parking related issues would go away, however the town benefits in revenue if the council encourages individuals to build within the established requirements
- He suggests the council work more diligently to build a compliant community to work together – zoning is not the way to approach issues

Mayor Fuller asked Attorney Canoutas if the council was required to take any action since the Planning and Zoning Commission was not recommending approval of the text requirement.

Attorney Canoutas stated the council was not required to act or hold a public hearing since there was no recommendation from the Planning and Zoning Commission to adopt the text amendment.



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ACTION - No motion to adopt was forthcoming from the Town Council, therefore the text amendment request died for lack of action. The Council directed the town clerk to send notification to Mr. Allo.

PERSONS TO ADDRESS COUNCIL:

None

COMMISSIONERS' ITEMS

Commissioner Ufferman stated the schedule for the upcoming audit is as follows:

June 2006 – Preliminary Work

August 16 & 17, 2006 – Field Work

September, 2006 – Write Up

October 2006 – Audit Report Due

Local Government Review

Commissioner Lambeth thanked Mayor Fuller for the time and effort he put into the passing of the 35 foot height limit bill.

Commissioner Dugan – asked everyone to be considerate of the staff collecting trash in the hot weather and maybe offer a cold drink of water

Mayor Pro-Tem Montgomery stated he and Public Works Director Beeker met with Jody Smith, coordinator for the Pleasure Island Sea Turtle program. To date there are seven nests in Kure Beach with the first nests due to hatch in two weeks. Lights should be turned out after 8 pm so as not to confuse the hatchlings.

ATTORNEY'S ITEMS

None

MAYOR'S ITEMS

None

ANY AND ALL PERTINENT ITEMS WHICH MAY REQUIRE COUNCIL ATTENTION:

Resident Ron Hanna asked if there was going to be a replacement for the code enforcement position. Mayor Fuller responded that there had been a lot of discussion, but no decision yet.

CLOSED SESSION

ACTION – Commissioner Ufferman **MADE THE MOTION** to go into closed session at 9:25 pm for the purpose of consultation with the attorney and to discuss personnel items.

Commissioner Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS**

Council returned to open session at 9:50 pm.

Mayor Fuller stated that the consensus of the Council is that Town Attorney Canoutas serve as the legal council for the Board of Adjustment in all proceedings and attend all meetings.



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ADJOURNMENT:

ACTION – Commissioner Dugan **MADE THE MOTION** to adjourn the meeting at 9:53 pm. Commissioner Ufferman seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS**

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 THE JULY 18, 2006 MEETING MAY REQUEST TO DO SO BY CONTACTING THE TOWN CLERK.

Tim Fuller, Mayor

ATTEST:

Nancy Avery, Town Clerk