

KURE BEACH TOWN COUNCIL

REGULAR MEETING

JANUARY 18, 2005

6:30 P.M. Public Hearing cancelled.

7:30 p.m. Regular Meeting

CALL TO ORDER

Mayor Medlin called the regular monthly meeting of January 18, 2005 to order welcoming everyone to the meeting.

All Commissioners, Attorney Canoutas, Public Works Director Beeker, Building Inspector Dixon Ivey, Sgt. Andy Everhart and Fire Chief Heglar were present.

INVOCATION

Invocation given by Mayor Medlin.

PLEDGE OF ALLEGIANCE

Following the invocation, Mayor Medlin requested that all rise for the Pledge of Allegiance to the Flag.

PERSONS TO ADDRESS COUNCIL (Excerpts of comments)

Mr. Charles Allo speaking not as a representative of Planning & Zoning, but as a resident noted that he would like to talk about Kure Beach and its development. As far as he is concerned, when he came here Kure Beach was a treasure, people that were independent, people that were supportive, people that didn't rely on government, people that were thrifty and basically got along with the other people of the Town regardless of their views.....it was always a community.....he mentioned the size of the structures then ('55), neither density nor parking were a problem.....He mentioned the pressures today and the way things have changed.....Kure Beach had a small town flavor.....He mentioned that he felt Kure Beach is at a critical point in our development, the "tipping" point"this is going to add to your property values, or this is going to add.....he mentioned that he did not know how others looked at property values but this is his home—he is not speculating.... He is all for the people who want to live here and call it home and look out for it....if you're only interested in is money, he would prefer they go someplace else.....He would like the people who want to live here, look at it as home

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and keep it positive.....point is decide which way you want to go we want to go, we, the community, the Council, the businesses, the residents want to go.

Mayor Medlin thanked Mr. Allo noting that he made a lot of good points.

Ms. Kathie Winsek, President Island of Lights, thanked Council for allowing her to address and personally thank the Town and the Town workers for the New Year Celebration that has been handled here for the past few years. She read aloud a letter of appreciation for the celebration and fire works being held at Kure Beach. She mentioned that in 2005—at the request of Council, the celebration will move back to Carolina Beach—and she invited everyone to come to next year's celebration, and thanked Kure Beach for the continued relationship.

Mayor Pro Tem Dugan mentioned that on behalf of Council, Kure Beach loves being able to do this, the only reason for requesting the respite is due to the size of the work force being so small. We cannot rotate personnel through on the holidays.....plus we have hosted it (New Year's celebration) for the past four(4) years.....we hope it comes back.

Mayor Pro Tem Dugan noted that he would love to have it back at Kure Beach but the workers need a break.

In commenting, Comm. LeQuire asked if we could co-op with Carolina Beach with say Police, Firemen.....

Mayor Pro Tem Dugan noted that the Carolina Beach Fire Department helps out now.

In additional comments, Sgt. Everhart mentioned that the employees need a break and as Carolina Beach has a bigger employment force, they have people that can handle it.

Ms. Winsek again thanked Council.

Mayor Pro Tem Dugan noted that as the next person to address Council is not a Kure Beach citizen but someone asked to give the Council a projects status report, he would request that the two(2) minute time limit be waived.

Mr. David Criser gave the following project status report:

Cutter Court Drainage—contractor is getting ready to turn on Cutter Court and he is hoping to finish laying pipe by the end of next week—he will then start building catch basin tops and start getting the driveways back in and the road back in--there has been

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some extra cost and there is some proposed extra cost.....and present change order items that have occurred so far total \$42,875.00 the biggest being the sewer line relocation due to interference of the storm drain...other possible change orders for consideration by Council is, the contract calls for grass seeding, we ask contractor how much would it cost to put sod in—approximate cost versus square yardage basis—the big ditch will need to be lowered so the pipe will drain completely—also there is a proposal to extend the 36” to Bonito Lane and clean up drainage in that area using high density plastic pipe \$20,000.00. There is a potential that if the contractor did no grassing except at the well house area that there would be a \$3,000.00 credit. Mr. Criser mentioned these items for Council’s consideration. He would like direction from Council and asked if Council had any questions.

Mayor Medlin asked if the grassing will cost \$3,000.00 and the sod \$16,000.00.

Mr. Criser mentioned that sod is very expensive.

Comm. Le Quire noted that Carolina Beach is producing and possibly selling sod....

Comm. LeQuire asked if extending the system to Bonito Lane was something planned for the future, a

Mayor Pro Tem Dugan noted this was one of the projects Public Works had talked about....an open ditch with Bonito Lane running into it.

Mr. Criser noted that it would help the drainage in the area.

Public Works Director Beeker noted that he and Mayor Pro Tem Dugan had discussed using sod in lieu of the grass....Mayor Pro Tem Dugan had some contact with the homeowners association.....

Mayor Pro Tem Dugan noted that they had talked about maybe checking with the homeowners association of Kure Beach Village as all that drainage is within that one association’s area and see if they would cooperate with laying of the sod if we (town) get the sod for them.....

Mr. Criser noted that once the area is graded the sod needs to go in as soon as possible.

Mayor Pro Tem Dugan noted they would be going to the homeowners meeting tomorrow to discuss this.

Mr. Criser noted he would need an answer this week if possible.

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Comm. LeQuire asked if the homeowners did it, would it lessen the \$16,000.00.

Mr. Criser in commenting noted the contractor had located someone today who would lay the sod for \$6.00 a square yard....

In discussion Comm. LeQuire asked about the big ditch.

Public Works Director Beeker noted that this is something that needs to be done although he is not real happy with the \$10,000.00 bid. Also special type of machinery will be needed to do this job.

Comm. Fuller asked about the depth of the ditch and if it would affect the sloping, width at the top or

Mr. Criser noted that plans are to lower the ditch 12" to 18", proposing to lower just part of the ditch position presently holding water.....

Mayor Medlin asked how the choice of grass versus sod came about.

Mayor Pro Tem Dugan noted that some of the homeowners had requested we look into it for consideration.

Public Works Director Beeker suggested that the portion to extend the system to Bonito Lane be pulled out of the change orders and let the Town do it..... this could reduce the cost thus saving about \$15,000.00.

In discussion relative to costs incurred to date, Comm. Fuller noted that it has not gone over the contract amount as a contingency fee had been built in it and he felt the first four items mentioned (on list submitted by Mr. Criser) had used that.....

Comm. LeQuire asked where additional monies would come from.

Comm. Fuller noted estimated cost of the overage will be about \$33,000 to \$34000 and we have additional monies in the storm water fund and had not anticipated using it in this project. We can possibly re-arrange or postpone some of these projects.

Motion by Mayor Pro Tem Dugan that the Town cover the additional cost of the lowering of the big ditch and authorize the Town to use local labor to do the extension on Bonito Lane.

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In commenting relative to the grass or sod, Mr. Criser mentioned that if someone other than the contractor does the sod, there will not be a warranty as the contractors warranty covers his work under his contract.

Comm. LeQuire asked if Mayor Pro Tem Dugan would restate his motion.

Mayor Pro Tem Dugan noted that his motion is to accept the proposal for the \$10,000.00 to lower the big ditch, to accept Sonny's proposal for the Town to extend Bonito Lane.

Public Works Director Beeker noted that relative to the sod, even though \$16,000 sounds like a lot of money, the project costs a lot of money....A lot of the houses had sod torn up and as it was in the easement. We had the right to move it and replace it with grass seed. He felt that the finished product of the project would be so much better if we sod the areas.....

Comm. Fuller asked the urgency to do the Bonito Lane tonight—if we are going to do it ourselves—if so there is not reason the rest of the project could not be finished.....

Mayor Pro Tem Dugan withdrew his motion.

Comm. Fuller suggested (motioned) that we do items 1 and 2 now and we can work out the financing from the stormwater----Jim, Sonny and I can figure how to do the other.

Motion seconded by Comm. Lequire.

Following additional comments, motion unanimously approved.

Mr. Criser noted his next item to bring before Council is the Elevated Tank and Well. He submitted to Public Works Director Beeker the contract signed by the contractor for the test well and production well—they need to be reviewed and signed by the Town and then the Notice to Proceed can be issued.....the contractor will then have 90 days to accomplish the work. He mentioned that he and Sonny had met and they decided to pull out the tank plans in order to submit these first to the state for approval....We cannot submit the water tank plans until we have the test well water results.....

Comm. Fuller asked if any type sand filter will be put on the well.

Mr. Criser noted that it depends on the results of the water samples.....

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Mr. Criser mentioned that the sidewalk project will be included in another project.

Public Works Building Plans are being finalized and we hope to have them finished by the end of January, middle of February and put them out for bids.

Comm. Fuller asked when the tank itself would go out for bids.

Mr. Criser noted that it has to go to the state for approval and the state has been taking 90 days.....if submitted early February—March, it will be the end of May before it can be advertised.....

Mayor Medlin thanked Mr. Criser for the update.

Public Works Director Beeker gave a talk on the sewer system/collection system. He noted that a project is already budgeted for in this year and he wanted to talk on increasing the project and give reasons why. He talked about and explained the terminology noting that this lesson would be Sewer Collection 101. In referring to sketches he explained how a “spider” flushed down the commode traveled through the system from H Avenue at Kure Beach to the treatment plant at Carolina Beach. He also mentioned infiltration defining same and noted that a lot of the old clay pipe (terra cotta) which was installed in 1951 is in poor condition.....Infiltration is important because of the cost, it costs electricity due to the pump running, maintenance on the pumps due to sand going into the system, sewer lines being stopped up and per gallon cost at the treatment facility.....the more gallons we pump the higher the cost. Infiltration also causes pot holes and in the old section of town, we have been “nibbling” at the problem—spending \$100,000.00 every two years, then \$200,000.00. To finish up the old section, at the rate we are presently going, it will be 2013 or 2015 to finish the project. In the meanwhile, he noted that we don’t want to pave the streets before the sewer repairs are completed...if we do we will have pot holes in new streets. Due to some of the comments in the Land Use Plan, he and Comm. Fuller have been reviewing this matter and he requested this be further looked at to see if possibly a larger portion if the lines could be repaired because of the street problem.

Public Works Director Beeker noted that he has requested Criser, Troutman & Tanner (CT & T) to review this and see if a larger project could be made out of the \$200,000.00 granted during the budget process. He referred Council to the information submitted indicating the breakdown by laterals, street paving, etc. He requested Council review the information submitted and consider increasing the budgeted amount in order to accelerate the project..... He noted that he is not looking for an answer tonight.

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Comm. LeQuire mentioned that another aspect of enlarging the project, the cost will be less due to the larger quantities being used, i.e., 10 feet of pipe versus 100 feet of pipe.....

Public Works Director Beeker noted that based on information submitted, the cost is over \$900,000.00, close to a million dollars for one project.

In additional comments/discussion Comm. Fuller mentioned that the dollar amount on the sheet submitted is about \$950,000.00.

Public Works Director Beeker noted this would represent Third, Fourth, Fifth, Sixth and Seventh Avenues and K Avenue to G and Fifth to H Avenue.....

Mr. Alphin mentioned the condition of Third and Fourth Avenues at M Avenue where work was previously done.

Public Works Director Beeker noted that he would check the area.

Comm. LeQuire noted that she is in favor of looking at what has been presented as a total project and she would like for the Finance Commissioner review the proposal.

Comm. Fuller noted we have a good part of the money and asked if they (Jim, Sonny and himself) come back to Council with a full financing proposal and a construction schedule at next month's meeting, will this be time enough.

Public Works Director Beeker noted he felt it would.

Mr. Criser noted that this will stretch the project over the summer but.....

Mayor Pro Tem Dugan noted that it will be difficult not to be in some part of the season.

Following additional comments, Council thanked Public Works Director Beeker for the information.

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ADOPTION OF THE AGENDA

Mayor Medlin asked if Council had additions, deletions or changes they would like to make to the agenda.

Comm. Ufferman requested to add under Old Business, an item previously mentioned by Comm. LeQuire relative to fines for cutting down trees and he would like to add this item and maybe increase the fines and impose a penalty.

Comm. LeQuire mentioned that she had several items to add:

Discussion on the Inspection Department reports—add under New Business
Advancing of Section 7.5 for distribution and also speak a little on this ordinance
Would like to discuss follow through motions as set by Town Council in April 2003—
Old Business
Requested an executive session for a legal matter as soon as the agenda is adopted

Comm. Ufferman requested an update on the Riggings project—Old Business.

There being no additional changes to the agenda, **motion by Comm. LeQuire and seconded by Comm. Ufferman to adopt the agenda with changes as noted. Motion approved.**

Motion by Comm. LeQuire and seconded by Comm. Ufferman to go into closed session to discuss a legal matter. Motion approved.

Closed Session

Re-Open Regular Meeting

Following the closed session, Mayor Medlin recalled the regular meeting back into session noting that Attorney Canoutas will give the decision of the closed session.

Attorney Canoutas noted that the purpose of the closed session was to discuss whether or not the Town should continue with the appeal filed last week in the Russo Cross-over matter. After discussing the pros and cons and what had been decided by the courts, we feel that the money it would cost to appeal would be better spent elsewhere in the Town, and therefore Council has considered withdrawing the appeal and then proceed later to update and refurbish the crossover beach access close to these folks in the near future.

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Motion by Mayor Pro Tem Dugan to withdraw the appeal on the matter regarding the Russo crossover. Motion seconded by Comm. Fuller. Motion approved.

APPROVAL OF THE FOLLOWING MINUTES

December 21, 2004 Public Hearing re: Sections 19-323.5 and 19-243(8)
December 21, 2004 Regular Meeting

Motion by Comm. Fuller and seconded by Comm. Ufferman to accept as submitted. Motion approved.

APPROVAL OF THE FOLLOWING MONTHLY REPORTS:

Police Report—Month of December 2004
Fire Department Report—Month of December 2004
Building Inspector's Report—Month of December 2004
P & Z Commission Draft Minutes—January 4, 2005
Continued Meeting January 11, 2005

Motion by Comm. LeQuire and seconded by Mayor Pro Tem Dugan to accept as presented. Motion approved.

COMMITTEE REPORTS

Shoreline Access & Parking Committee

Chairman Mac Montgomery apologized for not having a written report/minutes. Item he would be mentioning will not need a decision to be made tonight:

Work has begun on N Avenue with parking, L Avenue and E Avenue with dismantling the old crossovers below the dune lines, on the old portion a lot of sand has already covered it. Material is now stored (on site) to put the new ones in and we are on schedule....should be complete before Easter.

The second item, the committee has not acted on it yet, but a part of the Shoreline Access project for the Town identifies other access that would be available for development in the future.....one is in the area of approximately 950 Fort Fisher Blvd. S., a 10 foot piece of property controlled by the Department of Transportation, approximate location across

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from President Davis Avenue.... We will contact DOT before coming back to Council. Also this was identified in the LUP and would be relatively low cost.

Also at the December meeting Council deferred action on an ordinance proposed by the committee and drafted by the Town Attorney relative to timed parking. This item was deferred until after the business summit, held last week. He asked how Council would like to proceed. He mentioned that the ordinance provides for time limited parking upon application through the Shoreline Access & Parking Committee, coordination with the Chief of Police and approval by the Council.

Comm. LeQuire mentioned that she is in favor of proceeding with discussion and then go ahead with it.

During Council discussion, Comm. Fuller noted in looking back at the minutes and reading aloud a portion there of, he read that Attorney Canoutas noted that language could be added to indicate that this applies to business that no on-site parking which will limit the number of businesses this will be available to. At this point we deferred....

In discussion, Attorney Canoutas mentioned that the Police Chief also needs to be added.

Chairman Montgomery noted for clarification, the request would go through the Shoreline Access & Parking Committee and the Police Chief before going to Council.

Mayor Pro Tem Dugan asked if Gilbert's request was approved, how many individual Requests will be forthcomingAlso he has no problem with approving just need to be sure we are consistent in what we are doing.

In commenting, Mr. Montgomery mentioned that the businesses depending on transient customers for the most part have on site parking re: the other two convenient type stores—Trading Post and Kwik Mart. There are restaurants, a gift shop, realtor, bar, etc. and all are potential....

Mayor Medlin noted that one business owner had a question and she recognized Mr. Tom Humphrey.

Mr. Humphrey noted that at this time of year parking is not a problem and we have no plans or results of the business summit, why should this be passed now—if he understands anyone on K Avenue can request time parking.....we have time on this issue.

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Comm. LeQuire recommended further time also as this pre-supposes a business owner has required parking.....This is a good plan but does not take into consideration of the present downtown parking.

Mr. Montgomery in commenting noted this is to provide parking on a temporary basis to provide customer's access to that particular business, i.e., Gilbert at the Blue Marlin has no dedicated parking for his business.....this is not being proposed as a fix for a business that should have parking but does not, we are looking at it as a request from one business which will help that business remain viable and stay in business when at times, he is being starved out.....we try to make business viable and not do anything to hinder it....We just need Council guidance and telling us which way to go.

Comm. LeQuire asked what will the guidelines be to determine how this will be reviewed.

Mr. Montgomery noted that guidelines have not been developed yet as we have no ordinance. We would have to look at the needs of the business, the available parking in the vicinity, discussion with adjacent property owners as stated in the proposed ordinance and what the impact would be.....He mentioned that letters would have to be sent out, same as we do for access improvements.....also the enforcement issue would have to be considered, impact on other areas.....

During comments/discussion Attorney Canoutas advised Council that unless and until we come up with some sort of plan for this limited parking discussed earlier, at the present moment and the way our code is written, the Police Chief has that authority now.

Mr. Jerry Hammil in commenting noted that New Year's Eve he walked around and saw only one vehicle probably 6 inches from the bumper block but other than that he did not feel Kure Beach has a parking problem.....just like then people could park on other streets, in front of residences as long as they do not block driveways.....he does not see a parking problem.

Mayor Pro Tem Dugan noted that in session, the Attorney had mentioned that one of the things Council wanted to do was have the closest beach access to the problem area (830 Fort Fisher Blvd. N.) looked at as early as possible. Mayor Pro Tem Dugan asked if the Shoreline Access Committee could do this.

Mr. Montgomery noted they could review this and have proposal ready to submit in a timely manner for a grant.

It was mentioned that the parking could be held for now.

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Comm. LeQuire commented on the N Avenue access and how good it looks.

Community Center Report

Mr. Griffin noted that a resignation has been submitted by M. Jettie Payne as she will be moving out of the area (Clerk noted that resignation has been received).

Mr. Griffin mentioned that the Committee has elected Mr. Mike Blasko to fill the co-chair position on the Committee.

Also he mentioned that this is the third year of the Community Spirit Awards. A sub-committee is presently working on the details but encourage the public to start thinking about someone to receive the award. The next Community Center Committee meeting is February 1 and he will have more details at the next Council meeting. Three categories for the award are lifetime achievement award, an annual award and a youth award.

For information, the next dance will be held Saturday night February 12 at 7:30—posters will be going up announcing the dance—prices will be the same, \$8.00 single, \$15.00 for two persons, music provided by Diane and Toney. He encouraged everyone to bring their valentine to the dance.

Web Page Report

Mr. Griffin noted that he had submitted a written report for Council's review.

Comm. LeQuire asked if the other departments, the Building Dept. and Police Dept. have their pages up and running.

Mr. Griffin noted that they do not and if and when it is completed, we will be exceeding the capacity on our web hosting service.....He and Comm. Fuller have talked about it and he (Mr. Griffin) is on a fact finding mission to see what is available and is the most feasible.....

Mayor Medlin thanked Mr. Griffin for the reports.

Beautification Committee

Mr. John Gordon noted they met yesterday and he has not had time to do the minutes but would like to talk about the committee. It was his understanding when this first started the committee would be doing small projects.....which has been done to some extent.....the Public Works Department offered to help us and they did but they are quite

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busy with water/sewer work, etc. but if Council wants the Committee to continue to plant things, etc., we will need a commitment of some kind for additional people, contractor to come in and do landscaping, maintenance or an additional town person to do the work—volunteers do not always work....He is asking Council what they want the Beautification Committee to do if we continue we need help. He mentioned there are presently four members.

Mayor Pro Tem Dugan noted that when Beautification was formed it was for small projects, they were given a limited budget and they were not to do things that Public Works did not have the time to do, things low on the priority list of things to do. The Committee has done an outstanding job but the heavy work, i.e., lifting timbers, etc., public works employees do. Also the volunteers are not always available. He mentioned that in conversation with Mr. Gordon, he requested the committee consider projects that do not have to be maintained.

ADA Committee

Chairman Gilbert Alphin mentioned he had no report.

Department Heads Items to present to Council

No items to present.

OLD BUSINESS

Committee Appointments

- Community Center Committee (1 vacancy and 1 alternate)
- Beautification Committee (2 vacancies)
- ADA Committee (2 vacancies)

Mayor Medlin noted the positions have been advertised but to date no applications have been received. She asked how Council would like to proceed.

In discussion, Mr. Montgomery noted that there is also a vacancy on the Shoreline Access and Parking Committee.

In additional discussion, it was the consensus of Council not to advertise any more right now, maybe put it in the newsletter.

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Mr. Griffin mentioned that he does show the vacancies on the web site.

Comm. LeQuire suggested that each committees' purpose and what they do could also be on the web site.

Surplus Property

Mayor Medlin noted bids received are as follows:

Key Board—1 bid received \$120.00
Pool Table—2 bids received \$140.00 and \$100.00
Grill—1 bid \$50.00

Motion by Comm. LeQuire to accept the bids for the surplus property submitted by Scott Jones as noted. Motion seconded by Comm. Ufferman. Motion approved.

Reschedule Public Hearings

P & Z Memo—05-01—Proposed Amendment to:
Kure Beach Zoning Ord. Sect. 19-331—Density Control Requirements for Residential Units
Kure Beach Zoning Ordinance Sect. 19-325.5 Minimum Use of Lot
Kure Beach Zoning Ordinance Sect. 19-243(8) Permitted Uses

It was noted that at the December meeting Council had sent the amendment to P & Z for clarification—it is now returned to Council to be a part of the public hearing. It was also noted that there was no change—it was returned for clarification.

(Clerk noted that Council has two memos from P & Z 05-01 is Old Business, 05-02 is New Business).

Motion by Comm. Ufferman and seconded by Mayor Pro Tem Dugan.

Comm. Fuller asked what needs to be done in terms of notification and advertisement for the public hearing for this change in the B-1 District. If the B-1 District change will limit the possibility of building, a single family home.....

Mayor Pro Tem Dugan mentioned that it is his understanding that there is no change, it is for clarification.

Comm. LeQuire noted that it is for clarification.

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Comm. Fuller read the present ordinance....present wording says single family dwelling shall be permitted in all district provided they conform to the RA-1A ordinance of August '03—proposed amendment says it shall be as specified in Section 19-243—paragraph 8.

Mr. Allo noted that he was not reading what P & Z sent back.

In discussion Comm. LeQuire noted what is presented ties the two together as it is ambiguous now.

Comm. Fuller noted if we are not changing the use of the district or the actual permitted use in the district then all we need to do is advertise in the newspaper—but if we are making it more restrictive than it was originally, then we need to do more in notifying the effected property owners.

Mr. Allo in commenting noted that in prior discussion it was clear that the position was ambiguous to some people as to what the intent was.....

Comm. Fuller asked if it would be acceptable to the Council, that when we advertise that we ask the Clerk in addition to this advertisement that we send a letter to the property owners in the B-1 District so they will know what we are doing.

Mayor Medlin noted she would agree to do this.

Mr. Allo noted that his understanding reading the statutes, when so much time goes by and the property is not acted upon, then it is to be used as noted in the ordinance. He asked that Council make this request of the Attorney so he can check it out and do away with that essentially.

Mayor Medlin noted for clarification, that when Frankie sent out the notices for the business summit, there were some that said, I'm a property owner in B-1 but not a business owner. How do you want this done.

Attorney Canoutas noted everybody should receive notice.

Comm. LeQuire asked about the lot of record change...

Mr. Allo noted it is his understanding that lot of record is the lot that is held at the time that the initial ordinance is presented, only that time the original ordinance—1973. That is lot of record, not something that is changed after the initial ordinance date that is not a lot of record.....

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Mayor Medlin noted there is a motion and second—all in favor. **Motion approved.**

Comm. Fuller noted that Mayor Pro Tem Dugan made a motion to schedule a public hearing for February 15 @ 6:30. Jennifer seconded it.

Comm. Fuller noted that he would like to make a motion that for the purpose of that public hearing, that in addition to the newspaper advertisement that the Clerk send a notice of the public hearing and the proposed changes to all the property owners in the B-1 District. Motion seconded by Comm. Ufferman. Motion approved.

Mayor Pro Tem Dugan noted this (schedule a public hearing) would also need to be done for memo 05-02 under New Business.

Resolution Requesting Local Bill Authorizing Citizens Referendum on Amending the Town Charter to include 35 Foot Building Height Limit (Excerpts of Comments)

Comm. Fuller mentioned that in the spring or summer of last year (2004) we first started talking about this and the 35' height limit is an issue of much conversation. He noted that he felt it is fundamental to the Town and as was pointed out in the business summit, the decision about the height limit is crucial as to what kind of town we have. He felt all along that it should not be left in the hands of a few people and that we should make sure any change to the height limit is the result of a broad consensus within the Town...

He is proposing that we ask the State Legislature under the General Statutes for specific limited permission to hold a referendum in the Town of Kure Beach for purposes of regulating the building height, this will give us an additional measure of protection.

Comm. Fuller proposed to Council that we adopt a resolution tonight requesting that local bill and in addition to the resolution that we include a letter further clarifying our purpose in this. (Copy of proposed resolution and letter attached).

Motion by Comm. Fuller to adopt the resolution, motion seconded by Comm. Ufferman.

Comm. LeQuire read aloud a statement opposing getting Raleigh to include height limit changes to our list of allowable petition referendums.....(for you information—copy of statement will be attached when rec'd.).

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In closing she stated that the last thing we need to do is tie up more of our independence to the limits of the North Carolina Legislature. (audience applauded).

Mayor Medlin noted that she does not have a business in that district anymore but she agrees with what Comm. LeQuire has said—first step in the process was to have the business summit, we have not yet received the moderator’s summary..... Also this is only the first step, as we said we would have one for the citizens of the Town. She noted that she is not sure this is about the 35’ height limit anymore. I feel it is more than that. We do need and owe it to go through the steps as mentioned by Comm. LeQuire and come together as a whole, both citizens and business owners.....She felt we need to broaden the scope and give the system time to work. Let’s have the next part of the business or the summit/discussions. We have gotten through the first step and we can continue.....Mayor Medlin noted she felt more thought needs to be given to this situation. (audience applauded).

Mayor Pro Tem Dugan mentioned that he has not changed his position—one of the things, probably everybody in town has been deficient in one way or another....he has heard Council let down the businesses, people don’t want businesses.....All he can go by is what he feels will be the best for the Town and that means businesses and citizens.....He totally agrees with Jennifer—this is a huge step we have taken and we cannot drop the ball. We need to have more meetings on specific subjects, parking, types of business and what specific things we can do for the businesses that are there to make it work—but....the big question is what is the vision for the Town. He has not seen a vision for the Town which is as much his fault as anyone’s.....He has a number of friends out in the audience and we have had number of discussions about this and he hopes the discussions can continue and work through this. He does not feel that this is the end—this is less of a change than some people think, we’re not asking for the height requirement to be changed—not asking for anything other than the fact that the citizens as a whole vote on this—this is a window of opportunity, that we are being put together between, if in fact Raleigh does anything, we are being forced to be together between the people when an election takes place to come up with something. He does not know what the business people’s plans are other than some want to go higher....He noted he is more than happy to talk about the height, he is not tied to any one year of Kure Beach....if it’s time for Kure Beach to move on to something else, then if the majority of the people can see that then he is all for that. But what he doesn’t want to do is end up turning over something that he doesn’t know....when he builds a house, he has to present a plan.....He hopes the meetings will lead him in the direction we need to go.

Mr. Ronnie Pernell mentioned that what was said might be right but we can’t make the plans with the ordinances we have in place now....

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Mayor Pro Tem Dugan noted that he is not putting it back on the businesses to make a plan, this is for us all together and we need to provide the direction.

Ann _____, business owner in the business district and attended the business summit.....she expressed appreciation to Comm. LeQuire for putting the summit together and mentioned that she too agreed that we need to slow down a little bit. She mentioned that Einstein did say the most effective way to cope with change is to create it. The businesses clearly said at the summit “Let’s work together, stop tying our hands, help us come up with a plan so we can work together in the community”. Our taxes are very important, we give a lot of taxes, there are numerous issues to bring up, there is a lot of division—let’s stop the division and work as a team....The business community has said let’s sit down and talk before we put something in the charter that will be very difficult to change.... let’s slow down and figure it out—the Kure Beach business community—which is not limited to your B-1 District.....have vehemently and unanimously voted to oppose the charter. When she came into the meeting (summit) it was firmly understood that she would be heard, respected and validated. What you (Mr. Fuller) are saying now is that all this doesn’t matter—as you are going ahead with the charter. At the meeting, the mediator said how can he get the business community on board with the residents. She felt she was hearing a lot about no trust and she feared that she is hearing that now.....We ask that we slow down, all work together if possible—this may take a little time but she felt people would come to “the board”. (Audience applauded).

Mr. Mike Guzzello noted that when he came here (to Kure Beach) 10 years ago, this was a nice quiet little town and he felt this is why many people moved here. He believes the business people do have a problem. He asked Comm. Fuller the time table for getting this into the charter.

Comm. Fuller noted that the earliest this could happen would be November of this year.

Mr. Guzzello asked if the board would say for another year that they would not raise the height limit—can we get everyone to give the word out.

Comm. LeQuire indicated she would give her word. (several talking at once).

Mayor Medlin mentioned that she felt it would take that long to put a plan together.

Mr. Guzzello noted that he has two, three and this answers his question.

Mr. Kraus noted the real purpose of Mr. Fuller’s resolution needs to be understood. What it does is it sets aside any action stating now until November of next year. It is only

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asking Council to move forward and say come that time, we as citizens and business owners are gonna make this decision....work together to get this thing resolved....He felt that tonight the board is forced to go ahead and let everybody have a chance.....

Mayor Medlin mentioned the procedure if the resolution is passed, it goes to legislators to decide if they want to approve it to go on the ballot.....

Mr. Stephen LeQuire mentioned the issue tonight is not 35 feet, the issue is whether or not an elected representative body is going to turn over to a pure democracy and that is not the way the system is set up to run. It's okay in California if they have a plebiscite to decide every issue that an elected board is to handle, but our state is not set up that way to run a plebiscite. You guys are elected because you represent to us certain views, we make decisions about whether we can trust you to hold to those views.....and we turn over the power of government. We can take it back every two or four years and that is where the safety is. But if you turn it over to a plebiscite and say there are 1500 voters and there is 40 business owners, tell me how the decision is going to go. It's your job to make the decision, it is not your job to turn it over to a plebiscite.

Ms. Marty Fuller mentioned the problem is Carolina Beach is that three people made the decision. We have even fewer citizens who are able to have input and to make the decision of the entire Town—and a few developers benefited.....an the rest of the Town is beginning to look like Myrtle Beach.

(Several talking at once)

Comm. LeQuire mentioned that Carolina Beach is set up entirely different than Kure Beach. They issue conditional use permits, we do not.....that's how some of these thing are done.....if certain conditions are met it may be permitted. Kure Beach does not operate that way.....comparing apples and oranges.....

Ms. Fuller noted it only takes three votes.....

(Several talking at once).

Mr. Jerry Hammill asked why should someone on the south end of town or the north end of town tell me down in the B-1 District what is best for me....He referred to the petition that was sent around town regarding the 35' height limit.....

Mr. Tom Humphrey noted that we all agree that the biggest problem is that we are not united, we can unite. You see what the referendum is doing....we are going to be so divided on this issue.....we elected ya'll.... just do your job.

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Mr. Barry Nelder asked when the citizen summit will be held.

Comm. LeQuire noted that this had been talk about before she got sick. The plan is, and she has talked to Haskell Rhett about this, that when the Land Use Plan is presented, that in conjunction with that, he will also present the plan for Kure Beach. It will be designed a little different than the business summit, but that is when it will be done. Also the citizens completed the survey in conjunction with the Land Use Plan.

In continuing comments, Comm. Fuller mentioned that the reason for the referendum and the additional protection on the 35' height limit, and he was at the summit, a lot of the discussion was to the effect that there was no guidance as to what kind of town Kure Beach is to be and we don't have a plan....this (35' height limit) is not something new, it's been there....and even though its been there some of the business people in the B-1District say they don't know what to build for, what to plan on, etc., and we need to change. The number one thing brought up (on Thursday—summit) was the height limit...and it was repeated over and over that the businesses can't survive with the 35' height limit.

Several talking at once asked what meeting he was at and what was brought up was _____ not going over 35'.

_____ mentioned that the 35' limit has worked all these years.....it has worked, why would we want to have it go further and ask to have it put in the charter and have it in control of the legislature.

Comm. Fuller in commenting noted this would not put it in control of the legislature.... This town has already used the citizen initiative referendum to change the Town Charter....we did it when it was changed to directly elect the Mayor.....we thought we could do it on this issue but later found out it was not in the general statute that allows it.... He noted this is not a change, we want to make sure we slow down before anybody changes the 35' height limit....He has been told by more than one business owner that they want to change it—go up at least 50 feet.....once we change it we can't go back, the buildings will be there. A lot of people came to this town because it had small scale buildings....we have an obligation to the business people and we need to talk with them and we have the same obligation to consider what the residents want.....The answer in all Land Use Plans has been consistent to keep the 35' height limit and still somehow people are not convinced that this is the kind of town we want....we want a 35' height limit, we want small buildings, we want the small town atmosphere (audience applauded). He respects the notion that if you are in favor of the referendum on the 35' height limit you are anti-business....he has made suggestions about what can be done for the business district...if someone wants to say if you are for the height limit you are anti-

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business, then he will turn it around and say if you want to raise the height limit, then you are anti-homeowner.....

Mayor Pro Tem Dugan asked especially the larger landowner the business owners if they are willing not to do anything over the 35' height limit for at least a year.

(Several business owners, (Mike Robertson and Tom Humphey) both indicated yes—they do not have a plan now).

Comm. LeQuire in commenting noted that no one has asked to build over the 35' height limit

(Several talking at once)

Mr. Patrick Jones in commenting mentioned that he agreed with Mr. Dugan's approach—let's test the people—that's half the battle. He also noted that he was tired of being compared to Carolina Beach—this is not fair and he is tired of listening to the Myrtle Beach argument.....a plan has not been submitted to his knowledge to go over the 35'....all the people have asked for time, your efforts, your energy, your thought process....we agree with Mr. Dugan's approach and let's listen to the town, listen to the citizens, listen to some of these other people—if you're willing to do that—that's half the battle—don't give one vote away.....

Mr. Allo mentioned that what disturbs him is the building up of a situation where its residents against businesses, and whose gonna break the 35' height limit—he requests strongly without taking a position either way that we go by what the ordinance allows us to do and the reasons it allows us to do this.....if a business comes up with a suggestion that, creates problems, they will have to be resolved. You're looking at density, supplies, parking, etc. He would request that you all agree that your are not going to take any drastic action on something that has been accepted for a long time would you have looked at every aspect, parking, facilities, density, traffic flows, etc. look at all of this and if you satisfy all of this without shifting the cost to the general public, fine and dandy.

Mr. Kraus noted the motion is not a concrete order that gives this to Raleigh to make a decision on what we do, all we are asking Raleigh to do is give us permission next election is to vote on a referendum.....

Mayor Medlin noted there is a motion and second on the floor requesting a local bill authorizing the citizens referendum as motioned by Comm. Fuller and seconded by Comm. Ufferman.

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Comm. LeQuire asked if anyone would consider taking the motion off the table.

Comm. Fuller stated no.

Motion not approved. Voting in favor of adopting the resolution—Comm. Fuller, Comm. Ufferman. Voting against adopting the resolution—Comm. LeQuire, Mayor Pro Tem Dugan, Mayor Medlin.

Mayor Pro Tem Dugan restated that there is about one year of really hard work and everybody from both sides (businesses and residents) better show up.

(Several talking at once).

Mayor Medlin noted there would be a 5 minute recess.

Following the recess, Mayor Medlin called the meeting back in session.

Due to the time, motion was made by Comm. Ufferman and seconded by Comm. LeQuire to continue this meeting until Wednesday, January 26, 2005 at 7:00 p.m.
Motion approved.

Meeting continued.

Minutes by _____
F. Jones