



TOWN COUNCIL MINUTES

REGULAR MEETING

Monday, August 19, 2024 @ 6:00 p.m.

The Kure Beach Town Council held its regular meeting on Monday, August 19, 2024 @ 6:00 p.m. Town Attorney Jim Eldridge was present, and there was a quorum of Council members present.

COUNCIL MEMBERS PRESENT

Mayor Allen Oliver
MPT David Heglar
Commissioner John Ellen
Commissioner Dennis Panicali
Commissioner Connie Mearkle

COUNCIL MEMBERS ABSENT

STAFF PRESENT

Director of Administration – Mandy Sanders
Director of Development and Compliance – Bethany White
Finance Officer – Arlen Copenhaver
Fire Chief – Ed Kennedy
Police Chief – Mike Bowden
Police Lieutenant – Brandon Bailey
Public Works Director – Jimmy Mesimer

Mayor Oliver called the meeting to order at 6:00 p.m., and Commissioner Ellen gave the invocation followed by the Pledge of Allegiance.

APPROVAL OF CONSENT AGENDA ITEMS

1. R24-09 Atlantic Union Public Finance Financing for Garbage Truck
2. Approve Mayor Oliver's Attendance at the NC Mayors Association Fall Meeting
3. Approve NCBIWA Sponsorship in the Amount of \$1600.00 That Includes Mayor Oliver, Commissioner Panicali, Commissioner Ellen, and Commissioner Mearkle to Attend Conference in Wilmington
4. Accept Resignation of John Shalanski from the Community Center Committee
5. 2024 Fall Events
6. 2025 Polar Plunge
7. Minutes
 - June 17, 2024 Regular
 - July 15, 2024 Regular

MOTION – MPT Heglar made a motion to approve the consent agenda as presented

SECOND – Commissioner Ellen

VOTE – Unanimous

ADOPTION OF THE AGENDA



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Mayor Oliver stated there was a handout updating information for item 3 under New Business.

MOTION – MPT Heglar made a motion to approve the agenda as presented

SECOND – Commissioner Ellen

VOTE – Unanimous

PUBLIC COMMENT

None

PRESENTATIONS

None

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Bike/Ped Committee

Commissioner Ellen stated the Committee is planning to ask Council to adopt a proclamation recognizing October as Pedestrian Safety Month.

2. Community Center Committee

Mayor Oliver stated Council approved the resignation of the Committee Chair in the consent agenda, and a new Chair will be elected next month with advertising of the opening starting soon.

3. Marketing Committee

Commissioner Mearkle stated the Committee will meet on August 27, and representatives from Wilmington and Beaches Convention and Visitors Bureau (CVB) will be there to give an update on how the Town is doing so far this year regarding room occupancy tax (ROT).

4. Shoreline Access and Beach Protection Committee

Commissioner Panicali commented that there will be a back-to-school beach cleanup event in partnership with the Aquarium this Saturday from 8:00-10:00 a.m. starting at Ocean Front Park. He stated everything will be provided, and participants will go to different sections of the beach.

5. Stormwater Committee

MPT Heglar stated there is no update from the Committee, but he wanted to take time to update Council and citizens about the recent heavy rainfall from Tropical Storm Debby and another weather system that followed. MPT Heglar, who serves as the Town's Emergency Response Coordinator, gave a presentation that is hereby incorporated into the minutes.

Mayor Oliver commented that outfalls will be rebuilt as part of the upcoming coastal storm damage reduction project. MPT Heglar stated he thinks the outfall rebuilding will be done before that project, and this will be his recommendation to Council.



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Commissioner Panicali asked if the outfalls would be extended. MPT Heglar stated that as part of the project, they put them back past the ridge of the dune line.

Mayor Oliver stated that some of the outfalls are more complicated than others, especially on the south end, and they will get more information from the U.S. Army Corps of Engineers.

MPT Heglar thanked staff for their response to the situation. He commented that while there was damage and people were understandably upset, no one got hurt and property can be fixed. MPT Heglar stated the Town does its best with the systems in place, and he hopes citizens recognize staff's excellent job.

DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Police Department

Lieutenant Bailey stated the Police Department is asking for approval of a social media presence on Facebook and Instagram. He commented that this would be an easy and cost-effective way to keep people updated, promote events, and create more of a sense of community. Lieutenant Bailey stated the posts would be for informational purposes only and handled by two in-house administrators, and any posts will require prior approval from Chief Bowden. He commented that they want to pattern their social media presence after the City of Wilmington and Town of Carolina Beach, which do not allow comments on posts.

MPT Heglar asked if this follows the current policy in place. Lieutenant Bailey said yes. MPT Heglar questioned whether Council approval was necessary. Director of Administration Sanders stated it is recommended that department heads come to Council to ask for approval.

MOTION – Commissioner Ellen made a motion to approve the Police Department's recommendation for a social media presence

SECOND – MPT Heglar

VOTE – Unanimous

2. Public Works Department

Public Works Director Mesimer stated he is proud of his team of 13 employees in the department. He commented that they start working at 6:00 a.m. every day, and they often don't know when they will finish because it can be a 24/7 job. Public Works Director Mesimer stated last week was stressful, and only eight employees were on duty last Monday, resulting in them working many hours. He commented that the team has noticed issues and is working on them.

Mayor Oliver stated some of the Public Works staff spent the night during this busy time. Public Works Director Mesimer commented that this was correct and added that many people don't comprehend the duties involved. He stated his crew did a great job, especially on Tuesday afternoon. Mayor Oliver commented that the Public Works Department is dedicated to citizens and expressed appreciation for that.



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DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Consideration of and Action on a Proposed Memorandum of Understanding with the Friends of Kure Beach

Mayor Oliver provided background information, stating there was a group of residents who wanted to form an organization to give people the opportunity to donate money to the Town for special projects. He commented that a memorandum of understanding clearly stating responsibilities is the best way to handle this. Mayor Oliver stated the residents formed a non-profit organization, provided a proposed memorandum of understanding, and submitted it to Attorney Eldridge for review and additions.

Attorney Eldridge stated he added general contract provisions, including a process that calls for the organization to earmark funds and Council to accept the offer in open session. He commented that he wanted to make it clear that final authority rests with Council, and he recommended that Council approve the memorandum of understanding and authorize Mayor Oliver to sign it.

Commissioner Ellen asked what happens if a project falls short of its fundraising goal. Mayor Oliver stated this would be up to Council and would have to be worked out in the agreement, but the organization will not raise funds until there is a project approved by the Town. Attorney Eldridge stated there are control mechanisms that give Council necessary flexibility and authority.

Mayor Oliver stated the organization has agreed to the changes.

MOTION – Commissioner Ellen made a motion to approve the memorandum of understanding between the organization known as Friends of Kure Beach and the Town

SECOND – MPT Heglar

VOTE – Unanimous

2. Consideration of and Action on Proposed Text Amendments to KBC 10.06.040 Prohibiting E-Bikes on the Beach

Attorney Eldridge stated he worked with Lieutenant Bailey and Planning and Zoning Commission Vice Chair Joe Barlok on revisions, so if Council adopts this tonight the motion should be subject to the additional syntactical changes proposed. He commented that one of the issues examined was the definition of the beach strand, which is defined in the current code as the 20-foot-wide strip from the toe of the dune toward the ocean. Attorney Eldridge stated that he looked at the beach strand definition for other municipalities and liked the one for Sunset Beach, which defined the beach strand as the low-water mark to the vegetation line, removing any gap. He also reviewed other proposed changes and stated the bottom line is with the text amendments, you cannot operate an e-bike, e-scooter, or hoverboard anywhere on the beach.



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Commissioner Ellen asked if the proposed changes would allow people to ride an e-bike like a regular bike without the electric power activated. Attorney Eldridge stated he thinks it would be allowed if it's not electrically assisted. Commissioner Ellen commented that it would be difficult to determine if electric mode is engaged. MPT Heglar stated that another municipality in Brunswick County banned e-bikes from being on the beach at all, and he agreed that riders could pretend to pedal in order to skirt the law.

Commissioner Mearkle commented that she would support banning e-bikes whether they are engaged or not. Attorney Eldridge stated he would like to find out how the Police Department feels about it. Lieutenant Bailey commented that it would be difficult to determine whether an e-bike is under electric or human power. He stated that banning bikes on the beach altogether is the only way to be foolproof, but he's not necessarily in favor of this. MPT Heglar commented that Sunset Beach addressed the issue by prohibiting e-bikes on the beach.

Commissioner Panicali stated he doesn't want to ban all bikes, but because it's impossible to tell whether electric assist is engaged, he thinks e-bikes on the beach should be prohibited. Attorney Eldridge commented that the text amendment could be revised to ban electrically powered or assisted bicycles, scooters, or hoverboards on the beach whether or not they are being operated electrically.

Director of Administration Sanders stated they may want to consider adding skateboards, and Attorney Eldridge agreed this could be done. He asked Council to entertain a motion to adopt the text amendments with the changes discussed.

MOTION – MPT Heglar made a motion to adopt the text amendments to ban e-bikes on the beach as discussed

SECOND – Commissioner Ellen

VOTE – Unanimous

3. Consideration of and Action on Proposed Text Amendments Regulating Ice Cream Trucks

Attorney Eldridge commented that this was discussed somewhat at the last meeting. He reviewed the proposed text amendments, including what a permit needs to contain and route considerations. Attorney Eldridge stated that under the proposal, ice cream trucks must operate during daylight hours and stop for a maximum of 20 minutes per location. He commented that the proposed text amendments address safety concerns by prohibiting ice cream trucks from operating, stopping, or conducting sales anywhere within the B-1 Business District, on Fort Fisher Boulevard, at any beach access, or at any point on a public right-of-way abutting the beach. Attorney Eldridge stated that Planning and Zoning Commission Vice Chair Barlok provided syntactical changes, and he added that enforcement would be via a revocation of the permit by Council in open session.



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Mayor Oliver asked if the permit would go through the Police Department. Attorney Eldridge stated that he thinks law enforcement should review the applications, and the Police Department's administrative assistant could issue the permits.

Mayor Oliver commented that the proposed text amendments don't address noise. Attorney Eldridge stated this would be covered in the noise ordinance and solicitation ordinance.

Commissioner Panicali commented that in some instances an ice cream truck would have to drive down Fort Fisher Boulevard to access other areas. Attorney Eldridge stated he wouldn't interpret operation of the vehicle as operation of the business.

MOTION – Commissioner Ellen made a motion to accept the proposed text amendments to Kure Beach Code 5.06

SECOND – MPT Heglar

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Discussion of Current Park Hours - Mayor Oliver

Mayor Oliver stated that the Town's summer intern reviewed the hours of operation of recreation areas in New Hanover County and found that very few go as late as 11:00 p.m. He commented that staff has recommended that Joe Eakes Park close at 10:00 p.m. instead of 11:00 p.m. to help with noise and traffic concerns.

MPT Heglar asked if this was a citizen request and questioned if there were also concerns about early-morning operation. Mayor Oliver stated a lot of residents come out early in the morning to get exercise or play sports, so staff is only looking at reducing evening hours.

Commissioner Panicali commented that having the park open at sunrise is a little early, and he suggested changing it to 7:00 a.m.

Commissioner Mearkle asked if a lot of people are using the park from 10:00-11:00 p.m. Mayor Oliver commented that he doesn't know because he's normally asleep, but some residents would likely say yes. Members of the audience commented that pickleball courts are often used late.

Mayor Oliver commented that staff can put up signage showing new hours and have lights turn off at 10:00 p.m.

MPT Heglar stated that it doesn't sound like the morning is a problem, but Commissioner Panicali commented that it depends on how close you live to the park. Mayor Oliver stated that he is open to leaving the start time as sunrise. MPT Heglar commented that he wants to satisfy neighboring residents.



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MOTION – MPT Heglar made a motion to accept staff’s recommendation to reduce evening hours to 10:00 p.m.

SECOND – Commissioner Ellen

VOTE – 4-1 (For: Mayor Oliver, MPT Heglar, Commissioner Ellen, Commissioner Mearkle; Against: Commissioner Panicali)

2. Discussion of CAMA Grant for Beach Access #99

Mayor Oliver stated this is regarding the beach access adjacent to the lifeguard shack. He commented that the Town applied for a grant last year, but there were issues with the match amount. Mayor Oliver stated that during the process of reapplying the cost estimates were coming in high, so with other projects requiring matches this year it may not be the best timing to do this grant application. He commented that the recommendation is to postpone the grant application for a year, and this would not require any action.

CONSENSUS – Council agreed to postpone the grant application for a year.

3. Consideration of and Action on Resolution 24-10, Appointing New Hanover County as the Town’s Agent for Collecting and Paying the Town’s Contributions Under the Project Cooperation Agreement with the Department of the Army

Attorney Eldridge stated this resolution deals with project cooperation agreements of New Hanover County beach towns with the Department of the Army for beach renourishment. He commented that the towns must contribute their share of financial obligations, which is funded in part by room occupancy tax (ROT) funds. Attorney Eldridge stated that historically without any kind of formal agreement, the County has assisted the beach towns with collecting, accounting, and dispersing those contributions through the ROT fund. He commented that he and Mayor Oliver met with officials from the other beach towns, the County, and the U.S. Army Corps of Engineers, and there was a request from Corps auditors to have a more clearly defined instrument whereby the County is formally acting as the beach towns’ agent for dispersing contributions to the Corps and receiving any refunds of excess funds from the Corps. Attorney Eldridge stated that the Town received a modified instrument this week that added items not covered in the original draft, including refunds.

Mayor Oliver stated the County is getting ready to pass a resolution of its own, and Carolina Beach passed one last week. He commented that the County felt like this would be the cleanest way to keep everything the way it’s always been.

MOTION – MPT Heglar made a motion to adopt version 2 of Resolution R24-10

SECOND – Commissioner Ellen

VOTE – Unanimous



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MAYOR UPDATES

Mayor Oliver stated that because the last Saturday falls on Labor Day weekend, Coffee with the Mayor will be canceled this month. He reminded everyone that the groundbreaking for the new Public Works building is Friday at 11:00 a.m. Mayor Oliver commented that he received an email asking about mosquito spraying, and he noticed that it is scheduled for Carolina Beach this week but nothing for the Town. He stated that he signed up for notifications and will make sure any updates are passed along to residents. Mayor Oliver reminded everyone of the Fort Fisher Museum ribbon cutting and grand opening on September 26 at 11:00 a.m.

COMMISSIONER ITEMS

MPT Heglar commented that residents who don't have flood insurance should consider getting it.

Commissioner Ellen stated that tonight's full moon is a supermoon, and it rises at 8:12 p.m. for those who want to go to the beach to take pictures.

Mayor Oliver stated he received an email about storm debris pickup, but after riding around he didn't see any debris that needs to be picked. He commented that he discussed the matter with Public Works Director Mesimer, but he didn't think it warranted Council consideration.

Commissioner Ellen commented that he drove around and took pictures during the recent rain event, and his favorite photo was of a boy and girl swimming in their driveway.

CLOSED SESSION

1. Motion to Go into Closed Session for Attorney-Client Privilege per N.C.G.S. 143-318.11(a)

MOTION – MPT Heglar made a motion to go into closed session for attorney-client privilege per North Carolina General Statute 143-318.11(a) at 7:05 p.m.

SECOND – Commissioner Ellen

VOTE – Unanimous

MOTION – Commissioner Ellen made a motion to come back into open session at 7:39 p.m.

SECOND – MPT Heglar

VOTE – Unanimous

Attorney Eldridge stated that during closed session Council discussed several matters involving legal issues, and no actions or votes were taken.

ADJOURNMENT

MOTION – Commissioner Ellen made a motion to adjourn the meeting at 7:39 p.m.

SECOND – MPT Heglar

VOTE – Unanimous



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Beth Chase

ATTEST: Mandy Sanders, Deputy Town Clerk

Allen Oliver

Allen Oliver, Mayor

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under [government>agendas&minutes](#)

Stormwater Update

David W. Heglar, PE
Emergency Response
Coordinator

1

- TS Debby brought >11" of rain in the previous 6 days – resulting in ground saturation
- Localized rain event on 8/12 resulted in official reporting of 4.34" of rain in less than 2 hours
- Multiple individuals reported in excess of 6" from local rain gauges in same time period
- The amount of rainfall exceeded the design capacity of all stormwater systems within the town – resulting in significant road ponding through the event and multiple properties being damaged.
- The event occurred at just after high tide which adds back pressure to the outfalls by putting hydraulic pressure (water) on the dune system.
- The amount of rainfall in this short duration was comparable to Hurricane Florence (2018) (during 2-4am) and Hurricane Floyd (1999).

2

Town Actions

- **Public Works**

- Ensured lift stations were not flooded / released to environment
 - 2 lift stations required manual pumping actions during event
 - With 4 others alarming throughout the event
- Ensured drain systems were not clogged during event – all personnel were in town moving from system to system during the 2 hour rain.
- Once rain stopped – systems operated as designed and within 30 mins to 2 hours all roads were passable and areas were clearing
- No system failures detected until the following day – pipe at Atlantic avenue failed and resulted in sinkhole –road blocked and repaired that day.

3

Pipe failure – Atlantic Ave



4

Fire Department

- Multiple 911 calls during storm for flooded vehicles
 - 341 S Fort Fisher Blvd
 - 766 Sloope Point Ln
 - 600 block of South 4th ave
- Additional assistance as department was in community and observed issues

5

Police Department

- KBPD requested high-water vehicle from NHC Emergency Management – which was available late in event
- Road Closures during event-
 - Fort Fisher Blvd South from I Avenue to G Avenue-North and Southbound lanes closed
 - South 6th Avenue from I Ave. to J Ave.,- North and Southbound lanes closed
 - South 5th Avenue from I Ave to J Ave.- North and Southbound lanes closed
 - Sandman Court to Anchor Way- Road passable but put out cones as a precaution
 - Sloope Pt around Ashley and Cutter Court was next on list but water receded before limited resources could close off

6

Development and Compliance Department

- Requested information from affected citizens
- Shared FEMA recovery information
- Offered contact information (New Hanover County) to affected citizens for Mitigation Grant Funding

7

Reported Flooding – historic and this event



8

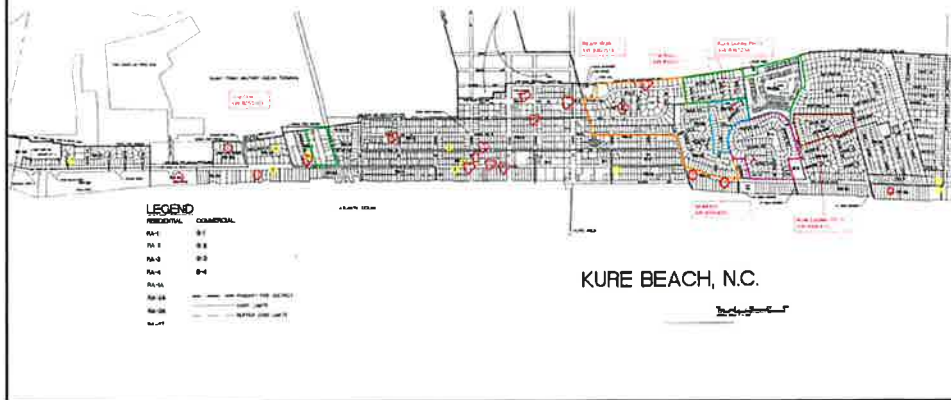
Reported Flooding – 8/12/24

- Surf Drive: Sent pictures of the yard flooded and water up to the foundation/crawlspace access but did not respond back to request for any internal/external damage.
- 200 block Fifth Ave S: Said that the lower level flooded both Friday and Monday but did not respond back with any specific damage
- 300 block Fort Fisher Blvd S: Stated that entire lower level had at least 6" of standing water in it. Lower level includes entry way, bathroom, storage room, air handler for ac, water heater, water filtration system and 2 garage stalls with drywall. She did not respond back with specific damage. Note that this property is in the VE Zone and current regulations require mechanical equipment to be raised above BFE, but probably was not required when their house was built.
- 400 block Fort Fisher Blvd S A & B: She just said she had water damage but did not respond back with specifics. This property is also in the flood zone.
- 300 block Settlers Lane: He said he had a few inches of water in his crawl space which tripped the breaker and killed the sump pump.
- 200 block Water Oak: Said he had flooding on the first floor
- 300 block Third Ave S: Had ½ inch of water on first level

9

Flooding reports

- Hurricane Florence 2018
- Hurricane Floyd 1999
- Storm August 12, 2024



10

Follow on actions from town

- Ensure that all outfall piping is intact with no damage
 - PW has reached out to vendor to schedule camera review of all 13 outfalls from the Fort Fisher Blvd to the beach IN PROGRESS
- Review and extend outfall piping to beyond the high ridgeline east – currently 4 outfalls end prior to the most eastern ridge
 - During the event the system flowed excessive amounts of water as Fort Fisher Blvd is the lowest point of the town east of 4th ave and all water flows to Fort Fisher Blvd and then to the 13 outfalls to the Atlantic Ocean. IN PROGRESS – PW works reaching out for quotes for this work

11

- Questions or Comments

12