



KURE BEACH TOWN COUNCIL  
REGULAR MEETING  
JUNE 17, 2008  
6:30 pm

## *MINUTES*

The Kure Beach Town Council held its regular meeting on Tuesday, June 17, 2008 at 6:30pm.

**COUNCIL MEMBERS PRESENT:**

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

**COUNCIL MEMBERS ABSENT:**

None

**STAFF PRESENT:**

Town Administrator	Michelle James
Building Inspector	John Batson
Fire Department	Harold Heglar
Police Department	Andy Everhart
Public Works	Sonny Beeker
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 6:34pm. Pastor Richard Graf delivered the invocation. Mayor Montgomery led in the pledge of allegiance.

### **RECOGNITION AND AWARDS**

Mayor Montgomery recognized Chuck Keener with an appreciation award for years of service on Town committees.

Mike Christenbury, Coastal Area Management Authority (CAMA) representative, presented an award of appreciation to Chuck Keener stating that during Mr. Keener's 5 ½ years on the Shoreline Access and Parking committee, the Town received approximately \$500,000 in grants to help with public access programs.

### **PUBLIC HEARING - Proposed fiscal year 2008-2009 budget**

Notice of the public hearing on the proposed fiscal year 2008-2009 budget was posted at Town Hall on May 30<sup>th</sup> and advertised in the Island Gazette newspaper on June 4 and 11, 2008. Copies of the proposed budget were provided to the local newspapers on June 4<sup>th</sup> as per N. C. General Statute requirements. Mayor Montgomery opened the public hearing on the fiscal year 2008-2009 budget at 6:47pm.

Public Comments:

Vinnie Doran, resident, stated he would like to see a comparison of numbers from prior year budgets so the public can see where any adjustments occurred.

There being no further public comments, Mayor Montgomery closed the public hearing on the fiscal year 2008-2009 at 6:49pm.

**PERSONS TO ADDRESS COUNCIL**

Vinnie Doran, resident, stated:

- We went to Raleigh to get the 35 foot height limitation with no exceptions – let's maintain that.
- What are we doing with Dow Road? We don't need a four lane highway.
- We need more policing on the beach regarding big holes that people dig and don't fill back in. We could use lifeguards to tell people to fill in the holes.

Bo Goodman, resident, stated:

- Making Dow Road into a four lane road would be detrimental to the Town.
- Recycling twice a week is a joke. The recycling bin at the park is always full. I think the Town should go to recycling once a week and all citizens should be made aware of this.

**PRESENTATIONS TO COUNCIL**

1. Jean Martin, Community Center committee representative, stated the committee would like to add two members to the size of the committee.

ACTION – Commissioner Vatr MADE THE MOTION to increase the size of the Community Center committee by two members and advertise for volunteers. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Ken Withrow, chairman of the Beautification committee stated:

- His committee reviewed the revised plans for the Atlantic Avenue Boardwalk.
- One single item the committee has wanted since the inception of the project is to keep the boardwalk as close to the street as possible – at least three feet. The plans now show 5 feet. Three feet from the street will prevent parking along the street and parking would disrupt the view. Three feet would also need less landscaping.

3. Planning and Zoning Commission – recommendations to height exceptions

Chairman of the Planning and Zoning Commission, Jim Schutta, stated:

- When I came on the Planning and Zoning Commission (P&Z), the Land Use Plan (LUP) was just revised and P&Z was directed by Council to follow the intent of the LUP.
- During my term, Council hired a consultant to evaluate the B1 business district. Sawyer's evaluation shows we are losing hotel business, which means we will lose weekend business.
- The LUP states on page after page that the Town will support the B1 district.

- P&Z's first duty was to meet density requirements as per the LUP.
- P&Z's second duty was to address height limit exceptions. The state law allows these exceptions and other towns that I have researched also allow these exceptions.
- I believe we are in jeopardy of losing the B1 district which will result in lost revenue for the Town.
- The facts say there are reasons for these exceptions, some for fire protection, some for value of homes and business. P&Z is trying to put codes into place to protect the business district.
- The Code today allows a tower, elevator shaft, etc to extend well beyond the 35 foot height with no limit. P&Z is trying to limit this.
- If we restrict everything to 35 feet, then business people coming in showing an interest in investing may have problems meeting these restrictions.
- The initial bill that the Town submitted to the General Assembly had three things: 35 foot height restriction, the decision about height to be determined by voter referendum and height exceptions. The referendum portion was taken out of the bill.
- Members of P&Z feel like we have to defend ourselves when we are trying to do things that are reasonable that will allow us to promote our business district.

Alan Votta, member of the Planning and Zoning Commission (P&Z), stated:

- This was a tough job for P&Z and I commend the committee for taking this head on and I believe we have done our homework.
- My comments on the seven exceptions that we are proposing are:
  - Chimneys exceeding height limit – I have been building in the Town for 14 years and a lot of homes have gas fireplaces. If the fireplace is in the bedroom, it must be vented through the roof by state law.
  - Electronic communication antennas – an exception is allowed to be in compliance with FAA regulations.
  - Parapet firewalls are allowed a height exception because we have a fire district in our business district that has zero setbacks. Most other commercial districts have a three foot setback. I think this is an issue of public safety to have parapet firewalls since our district has zero setbacks. These walls will slow the spread of fire.
  - Architectural details are allowed an exception so that such things as HVAC or antennas on the back of a building can be screened from view at the front of the building.
  - Ventilation hoods, HVAC equipment and so on are allowed an exception for commercial buildings only
  - Elevator bulkheads and roof access stairways are allowed an exception for possible future building in the Town. If a hotel comes in and puts a restaurant on third floor, they will need roof access stairways, etc
  - Human use – this is self explanatory in that no exceptions are allowed for anything strictly for human use.
- In previous years, the Building Inspector and Town Council have allowed roof decks above the 35 foot height limit because of a line in the ordinance that says

scenery lofts are allowed. I think the proposed amendment we are presenting makes the Building Inspector's job easier. If it is not listed, then it is not allowed.

#### **APPROVAL OF CONSENT AGENDA**

1. Building Department report: May 2008
2. Fire Department report: May 2008
3. Financial Report: May 2008
4. Police Department report: May 2008
5. Accept resignation of Dan and Chris Bell from the EOC committee
6. Accept resignation of Karen Delozier from the Marketing committee
7. Accept resignation of Chuck Keener from the SLAP and Ocean Front Park committees
8. Appoint Sandy and Gary Cox to the EOC committee
9. Approve budget amendments FY07-08
10. Minutes:
  - May 29<sup>th</sup> special meeting – proposed FY08-09 budget
  - May 29<sup>th</sup> closed meeting – personnel
  - May 20<sup>th</sup> regular meeting
  - May 20<sup>th</sup> closed meeting – personnel
  - June 9<sup>th</sup> special meeting - personnel
  - June 9<sup>th</sup> closed meeting – department head evaluations
  - June 16<sup>th</sup> special/closed meeting – individual department head evaluations
  - June 16<sup>th</sup> special meeting – B1 economic development

**ACTION** – Commissioner Vatrtr MADE THE MOTION to adopt the consent agenda with no changes. Commissioner Nelder seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS**

#### **ADOPTION OF THE AGENDA**

**ACTION** – Commissioner Vatrtr MADE THE MOTION to adopt the agenda with the addition of one item under new business 'discussion about addition to Town Hall' as requested by Commissioner Lambeth. Commissioner Nelder seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUSL**

#### **OLD BUSINESS**

1. Ocean Front Park update

Commissioner Lambeth stated that at the last meeting, the Ocean Front Park utilization committee determined three criteria for the Ocean Front Park as follows:

1. Must haves
  1. Porch-type swings (like those at park in Southport)
  2. Indigenous Plants (trees, shrubbery & flowers)
  3. Bandstand for multi-purposes (concerts, movies, open-air education)
  4. Drinking fountain (preferable bird-proof)

5. Storm Water System, including a cistern
6. Electric power for all park needs/solar
7. Elevated or unobstructed view of beach with continuous connectivity
8. Restrooms, preferably doorless and properly ventilated
9. Built for the enjoyment of residents, tourists and day-trippers, in that order
10. Flagpole for flag(s)
11. Aesthetically pleasing trash cans

## 2. Wants

1. Swings
2. Amphitheatre for multi-purposes as stated in item #3 of MUSTS.
3. Shade from trees or structures over seating areas
4. Historic marker and other historical information markers
5. Bike racks
6. Water feature, perhaps a wall of water rather than a fountain/pool feature.
7. Potential trolley stop, if Island gets a trolley service
8. Portable movie screen to be incorporated into the construction of bandstand or amphitheatre
9. Signature sculpture
10. Educational facility
11. Signage for upcoming events, such as a roofed bulletin board
12. Dance floor
13. Booths for art vendors to rent on weekends like a "Farmer's Market" for arts/crafts

## 3. Don't wants

1. Vending machines
2. Port-a-johns
3. Parking
4. Showers
5. Playground equipment
6. Grills
7. Picnic tables
8. Public Restrooms
9. Tall structures obstructing view from Ft. Fisher to the ocean
10. Pets policy
11. Skate boarding/skating

ACTION - consensus –at the request of Mayor Montgomery, Council agreed to add another item under new business on 'Cape Fear Council of Government organization effectiveness assessment study'.

## 2. Discussion and approval of the Atlantic Avenue Boardwalk plans and drawings

Building Inspector Batson, staff lead on the Atlantic Avenue Boardwalk project, stated the revised plans call for the following changes from the original plans:

- The boardwalk is to be located five feet from the road. The Beautification Committee doesn't want the boardwalk more than three feet off the road, but staff believes for safety and maintenance reasons it needs to be five feet off the road.
- There will be three arbors rather than two. This will place an arbor at each access for aesthetic reasons.
- The boardwalk will be six feet wide rather than eight feet which CAMA wouldn't allow.
- The boardwalk will be as close to the ground as feasible and will vary in height as needed but no higher than eighteen inches.
- There are some changes in material to make it less costly and allow for easier construction.
- The sand fencing will be replaced and it will run right against the boardwalk.
- Handrails won't be installed unless absolutely necessary – only required if the deck is 30 inches above grade.
- The plan calls for low voltage lighting at elevation changes only.

Inspector Batson stated he is requesting Council approve the plans as presented. He stated there may be additional minor changes and those will be reviewed by Ken Withrow, Chairman of the Beautification committee, the Town Attorney and himself.

ACTION – Commissioner Nelder MADE THE MOTION to approve the plans for the Atlantic Avenue Boardwalk as presented. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. A copy of the plans are filed in the office of the Building Inspector and are not included as part of these minutes.

ACTION – consensus – if money left over after construction, Beautification committee is allowed to use for landscaping in area of boardwalk.

3. Recommendation from Planning and Zoning regarding proposed amendment to Chapter 19, section 333, subsection (b) of the zoning ordinance regarding height limit exceptions.

The Planning and Zoning Commission recommend Town Council consider approving the following proposed amendment:

“That the Code of the Town of Kure Beach, North Carolina is hereby amended by replacing existing language in Chapter 19, Section 333, subsection (b) Height limit exceptions with the following language:

The following list of exceptions shall be allowed to exceed the thirty five foot height limit in all zoning districts unless noted otherwise.

1. Chimneys may exceed the height limit only to the extent necessary to meet local and state building codes.
2. Electronic communication antennas may exceed the height limit and must meet any provisions regulating such installations.

3. Parapet firewalls may exceed the height limit to the extent necessary to meet local and state building codes. \*
4. Architectural details and screening may exceed the height limit by not more than 7% of the building height. \*
5. Ventilation hoods, HVAC equipment and any mechanical appurtenance required for building operation may exceed the height limit.\*
6. Elevator bulkheads and roof access stairways including their enclosure may exceed the height limit.\*
7. At no time shall the area allowed to exceed the height limit be used for human use.

\* Pertains to commercial buildings only.”

ACTION – Commissioner Nelder MADE THE MOTION to ask the clerk to hold a public hearing to discuss the “flexibility of applying any part of any inhabitable structure over the 35 foot height limit, which may result in an amendment to the zoning ordinance”. Mayor Pro Tem Dugan seconded the motion. THE MOTION CARRIED WITH A VOTE OF FOUR TO ONE with Mayor Montgomery, Mayor Pro Tem Dugan, Commissioners Nelder and Vatrt voting in the affirmative and Commissioner Lambeth voting in the negative.

ACTION – Commissioner Nelder MADE THE MOTION to direct the clerk to advertise a public hearing for Tuesday, July 22<sup>nd</sup> at 6pm. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – consensus – Planning and Zoning Commission representatives are to be at the hearing with information on firewall regulations. The County Building Inspector and other resources are also to be requested to attend the hearing.

Mayor Montgomery called for a 10 minute recess at 8:06pm.  
Mayor Montgomery resumed the meeting at 8:16pm.

## **NEW BUSINESS**

1. Adoption of fiscal year 2008-2009 budget ordinance

ACTION - Commissioner Vatrt MADE THE MOTION to adopt the fiscal year 2008-2009 budget ordinance as presented. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said budget ordinance for fiscal year 2008-2009 is herein included as part of these minutes.

2. Consideration of funding requests for FY08-09 in the amount of \$37,400. \$10,000 is the budgeted amount.

Mayor Montgomery explained that the Town received funding requests in the amount of \$37,400, but budgeted \$10,000 for this category and Council needs to make a decision about funding these requests.

Commissioner Vatr suggested:

- Put all the requests in the budget unfunded.
- Separate the requests into a list that impacts Kure Beach residents directly and those that don't.
- Fund the requests that directly impact Kure Beach residents first.
- Fund other requests if money comes available.

Mayor Pro Tem Dugan asked why committee requests were on the list when usually funding requests are from outside agencies only and committee requests have been separate in the budget. Mayor Montgomery suggested removing committee requests totaling \$16,000 from the list and find funding for the ADA and Shoreline Access and Parking committee requests.

Commissioner Lambeth recommended researching grants available for handicap wheel chairs.

ACTION – Commissioner Vatr MADE THE MOTION to approve putting all the requests on the list in the FY08-09 budget at a funding level of zero to fund if money becomes available. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION -Commissioner Nelder MADE THE MOTION to defer until the July meeting, the distribution of funding for the available\$10,000 budgeted amount. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

## 2. Weekly Recycling Program

ACTION –Commissioner Lambeth MADE THE MOTION to approve the plan to go to weekly recycling and eliminate the bulk container. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

## 3. Discussion and approval of policy regarding payment of overtime for lifeguards

Mayor Pro Tem Dugan stated clarification is needed on overtime pay for lifeguards. As long as lifeguards perform lifeguard duties only, they are paid at a standard hourly rate with no overtime as per guidelines for seasonal employees. However, if lifeguards are expected to perform policing duties, then they must receive overtime.

## 3. Discussion of Beach Ordinances

Mayor Montgomery stated the staff is recommending two ordinance changes regarding unattended beach equipment and outdoor fires on the beach.

1. The first recommendation is for a new ordinance to be added to Chapter 12 (Parks and Recreation), Article II (Recreation), Division 2 (Beach), Sections 42, 43 and 44 (Beach equipment and Definitions).



Fire Chief Heglar stated he recommended:

- removing the word 'unattended' from the proposed new section 43 in Chapter 12
- changing the words 'sunset to sunrise' to '7 pm to 8 am' instead since the lifeguards leave the beach at 7 pm in the evening and arrive at the beach at 8 am in the mornings.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to change the time in the proposed ordinance from 'sunset to sunrise' to '7 pm to 8 am' and to remove the word 'unattended' as recommended by Chief Heglar. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Lambeth MADE THE MOTION to adopt the ordinance with changes to the new section 43 in Chapter 12 with the change from 'sunset to sunrise' to '7pm to 8am' and with the removal of 'unattended' from the title line in section 12-43. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said new ordinance is herein included as part of these minutes.

2. Mayor Montgomery stated the second recommendation was to amend Chapter 12 (Parks and Recreation), Article II (Recreation), Division 2 (Beach), Section 40 (Fire on beach) by replacing the existing language in subsections (a) and (b) with new language.

ACTION - Commissioner Vatrtr MADE THE MOTION to adopt the amendment to section 12-40 of the Code of Ordinances as proposed. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said new amendment is herein included as part of these minutes.

#### 4. Discussion of Dow Road Extension

Mayor Montgomery stated that the Wilmington Metropolitan Planning Organization (MPO) is doing a study regarding extending Dow Road from K Avenue to Fort Fisher Boulevard.

ACTION – Commissioner Lambeth MADE THE MOTION to adopt resolution R06-08 opposing the extension of Dow Road as presented and forward the resolution to the Wilmington Metropolitan Planning Organization. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

5. Approval of workshop to finalize Staff/Council Work Plan for Thursday, July 10<sup>th</sup>.

ACTION – Commissioner Vatrtr MADE THE MOTION to schedule a Council meeting at Town Hall for July 10<sup>th</sup> at 5pm to finalize the staff/Council work plan. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Discussion about addition to Town Hall

Commissioner Lambeth stated to Philip Humphries of John Sawyer Architects that the Town Council is concerned about the timeline on finishing the Town Hall addition.

Mr. Humphries stated he will pass this information to Mr. Sawyer.

7. Cape Fear Council of Government to do an organization effective assessment study

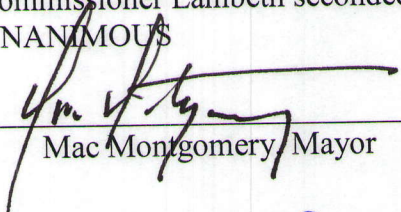
Mayor Montgomery suggested having the Cape Fear Council of Government conduct a mid-year organization effectiveness assessment study of where the Town is with the hiring of a Town Administrator and a new Council.

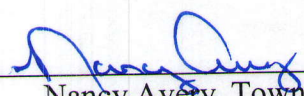
ACTION – Commissioner Vatr MADE THE MOTION to contact the Cape Fear Council of Government to have them conduct an organizational effectiveness assessment study. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

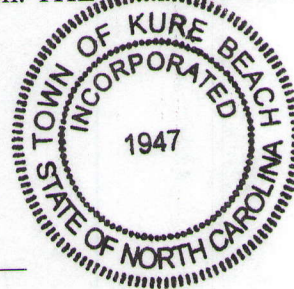
ACTION –Commissioner Vatr MADE THE MOTION to reschedule the date of the public hearing scheduled earlier in the meeting to discuss the “flexibility of applying any part of any inhabitable structure over the 35 foot height limit, which may result in an amendment to the zoning ordinance” from July 22 to July 29<sup>th</sup> at the same time. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

**ADJOURNMENT**

ACTION - Commissioner Nelder MADE THE MOTION to adjourn at 9:20pm. 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.