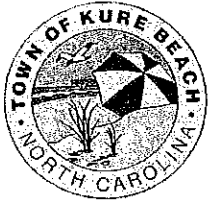


MINUTES



TOWN OF KURE BEACH TOWN COUNCIL

117 Settlers Lane ▪ Kure Beach, NC 28449

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

Michelle James, Town Administrator ▪ Kaysie Pralle, Town Clerk

REGULAR MEETING

DECEMBER 16, 2008 6:30 PM

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Town Administrator	Michelle James
Fire Department	Harold Heglar
Police Department	Dennis Cooper
Building Department	John Batson
Finance Department	Susan Suggs
Town Clerk	Kaysie Pralle

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

CALL TO ORDER

Mayor Montgomery called the meeting to order at 6:33 pm. Rev. Dr. Richard Graff of Kure Memorial Lutheran Church delivered the invocation. Mayor Montgomery led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

✳ *AAA Carolinas' Foundation for Traffic Safety recognized the Town of Kure Beach for promoting traffic safety (Dugan)*

Mayor Pro Tem Dugan recognized the Town of Kure Beach officers for being singled out by the AAA Carolinas' Foundation for Traffic Safety, making Kure Beach one of North Carolinas safest towns.

Kure Beach Officer Ed Palmeto was recognized and presented with a plaque from Mayor Montgomery.

Mayor Montgomery pointed out that he recently noticed several area officers were being recognized for numerous citations issued to drunk drivers during the Booze It and Lose It campaign.

Mayor Pro Tem mentioned that Officer David Cooley received an award from Justice in Motion. He will be recognized at the January Council meeting.

✳ *Presentation to Susan Suggs, Finance Officer (Montgomery)*

Mayor Montgomery recognized Susan Suggs for her work. Dean presented her with a gift from the Town.

AJ McClure from the Council of Governments began working with Susan almost 30 years ago. He pointed out that Susan "never had anything bad to say about anybody" and "Susan was always supportive." He toasted Susan by ending with a quote, "May the worst times in your future be the best times of your past."

New Hanover County Finance Officer, Avril Pender recognized Susan's work over the years. "She is not pushy and not demanding, but she gets what she wants."

Michelle James presented Susan with a gift and invited everyone to her party on Tuesday, December 30, 2008 from 2:00-4:00 pm at Town Hall. Administrator James stated "She (Susan) always drops what she is doing to help get you what you need" and "she has truly built the financial infrastructure at Town Hall."

Mac presented Susan with a card and a gift card from the Council members for their appreciation of her hard work and dedication to the Town.

Susan thanked the Citizens, the Mayor, the Council members, the Kure Beach Staff, the staff at New Hanover County and the Kure Beach Committee members for putting their faith in her during her years of employment. She stated she "appreciates the opportunity of working here at the Town of Kure Beach."

PERSONS TO ADDRESS COUNCIL (3 minutes- please sign in with the clerk before the meeting)

Jerry Hammel – Asks the Council to apply for the federal money that will be brought to the State over the next couple of months.

Commissioner Lambeth and Mayor Montgomery reassured Mr. Hammel that the Town Administrator is keeping a close eye on any monies that may be available to the Town. Commissioner Nelder thanked him for his input.

PRESENTATIONS TO COUNCIL

✧ *Island of Lights presentation – Commissioner Nelder*

Commissioner Nelder announced that the New Year's festivities start on New Year's Eve at 9:00 pm with the ball drop and fireworks at Mid-night. The Town of Kure Beach alternates with the Town of Carolina Beach in hosting the celebration every year.

Mayor Montgomery relayed that the Town's departments will be working with the Island of Lights Committee and Carolina Beach Fire and Police Departments to coordinate the celebration activities.

✧ *Sponsorship for Polar Plunge - Emilie Swearingen, Special Olympics of New Hanover County*

Mayor Montgomery introduced Emilie. Emilie recognized and thanked the Kure Beach Police Department and Susan Suggs for all their hard work. "We are going to miss you tremendously." She announced that February 21, 2009 will be the date of the Polar Plunge. It will be held at Carolina Beach. The Plunge will be at 3:00 pm. Activities are to begin at 1pm. There will be a silent auction, ice carvings, Sun Coast Cruisers presentation and a dance for the Special Olympians. Money raised during this event is used to support the Special Olympics of New Hanover County. They would also welcome any volunteers.

Mayor Montgomery announced that he would be making the plunge this year and if anyone wished to make a pledge of support they should contact the Town Clerk.

✧ *New fire truck in service for Kure Beach Fire Department – Chief Harold Heglar*

Mayor Montgomery tabled this item for the January meeting.

✧ *Seeding and Irrigation of Sandman Property – Bob Fitzsimons, Parks & Rec. Chair*

Bob Fitzsimons is requesting Council's permission to obtain estimates for irrigation and seeding of the Sandman property.

Commissioner Lambeth pointed out that New Hanover County did a Bond Referendum for County municipalities and several other local Town's. If the Town approves a proposal for the Sandman property the Parks & Recreation Committee will submit it to the County for bond money approval. If they

approve it, the Town may move forward with the project. After the project's completion, the Town would submit receipts for the project for reimbursement from the Bond. He talked with Neal Lewis about whether going this route would make Sandman the property of New Hanover County. He assured Commissioner Lambeth it would not.

Commissioner Nelder pointed out that because of legal advice he questions whether this would be a good idea. He has no problem with the seeding, but does not think that the irrigation is a wise decision. Many in the Beautification Committee feel that the Parks and Recreation Committee took over the project without permission. He would like Attorney Canoutas to look into what would and would not be legal.

Bob Fitzsimons pointed out that there was a public meeting regarding this issue.

Commissioner Nelder acknowledged that meeting and stated that the space was agreed to be used only as a green space.

Commissioner Vatrtr stated that he was not aware that the Council had voted to make this area a green space. He would like it added to the January Agenda to discuss with Staff, Department Heads and Council.

Commissioner Lambeth pointed out that the Beautification Committee wanted Parks & Recreation Committee to take the lead on this project.

Mayor Montgomery clarified that there was a lack of a final decision on this property.

Commissioner Nelder wants this property to remain under the control of the Town and does not want outside money to affect the control of the property.

Mayor Montgomery clarified that when the Parks & Recreation Committee approaches the Town, then the Town contacts the County regarding getting bond funding.

CONSENSUS – The Council directed Bob Fitzsimons, along with the Public Works Director, to get pricing estimates for irrigating and seeding the Sandman property. Administrator James was directed to check with New Hanover County to see if improvements are eligible for reimbursement from Park Bond Funds. This item will be carried forward to the January meeting. Council directed the Planning Commission to receive training from the Cape Fear Council of Governments since they will have several new members.

Mayor Montgomery reminded everyone of the January 15, 2009 public workshop between Council, Department Heads, and Committee Chairs that will be moderated by Chris May from the Cape Fear Council of Governments.

APPROVAL OF CONSENT AGENDA

1. Building Department report: November 2008
2. Finance report: November 2008
3. Fire Department report: November 2008
4. Police Department report: November 2008
5. Accept resignation for:
 - * Betty Swann, Board of Adjustments
 - * Janet Foster, Planning & Zoning
 - * Don Mojzis, Emergency Management
 - * Fred Tesh, ADA and Shoreline Access & Parking
6. Resolution approving financing two police vehicles
7. Resolution Authorizing Local Government Execution of Public Access Grant Contract
8. Budget Amendment to make annual Ocean Front Park Loan Payment
9. Council minutes:
 - * 11/18/2008 Regular & Closed

ACTION - Commissioner Vatrtr MADE THE MOTION to approve the Consent Agenda. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADOPTION OF THE AGENDA

ACTION - Commissioner Vatrtr MADE THE MOTION to remove item 4a, under New Business, Closing Town Hall Two Afternoons a Month from the Agenda. Mayor Pro Tem Dugan seconded the motion. The motion passed four to one. Commissioner Lambeth was opposed.

Commissioner Lambeth pointed out that he would have a problem with Town Hall being closed for any reason during business hours.

Attorney Canoutas made recommendation of adding, as item #6 to New Business, Discussion and Consideration of Amending Code of Ordinances to add Section 1-16 Mistaken Interpretation of Regulations Shall Not Establish Precedence.

- * Mayor Montgomery stated he does not agree with adding it to this month's agenda.
- * Commissioner Vatrtr would like to hear Andy's reasoning.

- * Attorney Canoutas stated he proposed this Amendment to help in future situations where if an item of discussion is being questioned, the Code will help clarify if there is Precedence.
- * Harry Humphries, Chairman to the Board of Adjustments, stated he would also like this item added to the Agenda.

ACTION - Commissioner Vatrtr MADE THE MOTION to add as item #6 to New Business, Discussion and Consideration of Amending Code of Ordinances to add Section 1-16 Mistaken Interpretation of Regulations Shall Not Establish Precedence. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Lambeth MADE THE MOTION to amend Item #2 on the Agenda to read as follows: Recommendation from Planning & Zoning to Amend Chapter 19, ARTICLE IV. SUPPLEMENTAL DISTRICT REGULATIONS, Sec. 19-320. Control of setbacks. Subsection 3, and adopt the following as a supplemental regulation. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Vatrtr MADE THE MOTION to go into Closed Session to discuss contractual issues with the Town Attorney regarding Ocean Front Park design firm candidates at the end of the meeting. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Lambeth MADE THE MOTION to adopt the Amended Agenda. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

OLD BUSINESS

1. Update on Policy & Procedures for Public Emails (James)

Administrator James stated that all emails discussing town business are a matter of public record, with the exception of contractual, personnel and criminal investigation-type information. She stated that according to Open Records Law and the Freedom of Information Act local governments are required to reproduce this information if it is requested by the media or the public. This must be done within a reasonable amount of time and at a reasonable cost to the Town.

Commissioner Nelder stated that he had a problem with his personal email's being made available to public.

Administrator James gave examples of when emails are subject to public record. They are as follows:

- * Email from the Town Administrator to a Commissioners Hotmail address
- * Email from the Mayor's Hotmail address to a Commissioners Hotmail address
- * Email from the Police Chief to the Pleasure Island Chamber

Administrator James gave a list of several North Carolina municipalities that regularly compile email's for public record.

- * City of Chapel Hill makes a binder for media. It takes two assistants 5-8 hours per week to sort through these emails.
- * Town of Carrboro makes the Mayor's emails available via a Google search engine and on the Town's website. This is accomplished by the Mayor.
- * Town of Belville maintains a terminal at Town Hall to view public emails. Staff screens emails and puts them into a folder for public view. This is very time consuming and is accomplished manually or by searchable key words.

Administrator James discusses this subject with the Cape Fear Council of Governments, the Institute of Government, and the NC League of Municipalities. From her discussions with these institutions she drew several conclusions.

- * Is public information being withheld by the Town from public view?
- * Is the expense to the public going to result in a "tangible benefit?"
- * If a process is established, the Council should take great caution to protect information that is considered confidential.
- * This is a new topic and needs more research. Each institution requested I keep them informed of research progress.

Administrator James also points out several points of interest from her conversations with other municipalities who regularly compile emails.

- * It hinders the staffs work because of the need form more face-to-face meetings as opposed to email draft documents.
- * It is very time consuming for staff.
- * It decreases the amount of non-work related email's.
- * There are more person-to-person and phone conversations.

Administrator James stated she would like to come back to Council at the January meeting with more information on this subject.

Mayor Montgomery questioned whether our server could produce all emails that were from any Council member electronically.

Administrator James confirmed that we could with enough hours and staff.

CONSENSUS - Administrator James to continue research and to return to Council at the January meeting with a final recommendation.

2. *Update on Atlantic Avenue permit status (Nelder/Montgomery)*

Commissioner Nelder stated we received the revised plans at 3 pm today. Mr. Batson will make a few minor changes. He questioned Attorney Canoutas as to what should be our next step?

Mayor Montgomery pointed out that there are two permits. Permit #1, which was approved, has boardwalk elevated. Permit #2 has the boardwalk flat on the ground and required more information. It was reviewed by the Attorney General and was found to not be in compliance with NC Statutes which would require seeking a variance. The Council is questioning whether to modify the approved permit to lower the boardwalk as much as possible and resubmit, or to submit the second permit which will probably be denied.

Commissioner Lambeth referred to letter from Asst. Attorney Christine Goebel. The letter states it "appears" that the second set of plans will be denied. He would like the Town to try this first.

Mr. Batson has been working with Beautification Committee Co-Chair, Ken Withrow. Mr. Withrow is working with the information that Mr. Batson has provided and feels there is no need for additional plans to be drawn.

Mayor Montgomery questioned if we have, at any time, requested a variance for this project.

Mr. Batson reassured that we had not. He also clarified that if Mr. Withrow's revised plan is denied then we can request a variance.

Attorney Canoutas pointed out that the letter from Christine Goebel states "DCM staff would have to deny permit application."

Commissioner Vatrtr would like for Council to ask Ken to go forward finishing the plans. And then decide whether we will move forward with the Atlantic Avenue boardwalk. Mr. Withrow stated that it will be approximately two weeks to complete the plan revisions.

ACTION - Commissioner Vatrtr MADE THE MOTION to directed Ken Withrow and Building Inspector Batson to complete drawings and requested additional items from CAMA and submit the information to CAMA for a final decision on the second permit. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Commissioner Lambeth questioned the cost for these revisions. Mr. Batson pointed out that there would be an adjustment to the pricing. Commissioner Lambeth pointed out the expenses for this permit request can be recovered through the grant.

ACTION - Commissioner Dugan MADE THE MOTION to continue this item to the next agenda. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS U N A N I M O U S.

Mayor Montgomery requested a 10 minute recess at 8:30 pm
Mayor Montgomery returned to open session at 8:45 pm.

NEW BUSINESS

1. *Recommendation from Planning & Zoning Commission to Amend Chapter 19, Article VI Signs - Craig Galbraith, Planning & Zoning Commission*

Craig Galbraith presented this recommendation for the Planning & Zoning Commission. They want to address signage that would be considered unsafe. The updates to the Ordinance would then be consistent with current zoning maps and the Land Use Plan of 2006.

A strong and consistent sign ordinance will benefit the Town in many ways. The proposed revision to the Sign Ordinance amortization is for a seven year term. Mr. Galbraith stated there is a Workshop scheduled in February by Dexter Hayes to address any issues concerning this Amendment.

Mayor Montgomery stated such an amendment would require a public hearing.

MOTION - Commissioner Nelder MADE THE MOTION to schedule a Public Hearing for January 20, 2009 at 5 pm to gather public opinion on this matter. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. *Recommendation from Planning & Zoning to Amend Section 19-320, Subsection 3 and adopt the following as a supplemental regulation (Batson)*
"No more than 250 square feet of single level, freestanding, uncovered deck, which does not include the walkway to the beach, may not encroach more than 15 feet. This would apply to lots where CAMA 60 foot setback is within five feet of the perpetual easement line. All proposed construction will also be subject to all CAMA deadlines."

Building Inspector Batson presented recommended Amendments from the Planning & Zoning Commission.

Mayor Montgomery clarified that Mr. Batson is requesting a public hearing to Amend the Ordinance. Mr. Batson agreed this was correct.

ACTION - Commissioner Vatrt MADE THE MOTION to schedule a Public Hearing for January 20, 2009 at 6 pm, or soon thereafter, to gather public opinion on this matter. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Discussion and Approval of Board of Adjustment Request for Definitions

Harry Humphries, Chair of the Board of Adjustments, pointed out that the Board is in need of definitions for a porch, deck, sun deck, balcony, loft, widow's walk, spire, and dome. They are also requesting how far can each encroach onto a set back?

Mayor Montgomery pointed out that in most Town's Code of Ordinances there is a list of definitions.

ACTION - Commissioner Vatrt MADE THE MOTION to direct Board of Adjustments to request Planning & Zoning present a list of definitions for the Town's Ordinances. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Vatrt MADE THE MOTION to modify previous motion to allow the Planning & Zoning Commission to consult with a design professional if necessary. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Approval and Consideration of Cost-Savings Proposals

a. Reduce Newsletter Publication from Quarterly to Twice a Year

Administrator James recommended the Town reduce the newsletter from quarterly to twice a year which would save around \$2000.00 annually. The Town can still communicate to several hundred Kure Beach citizens through the email distribution list.

Mayor Montgomery clarified we can still send citizens a hard copy if they would like this.

Administrator James stated that the Town is looking to send a questionnaire in the January water bill. They would state whether they would like the newsletter via email or hard copy.

Commissioner Lambeth questioned as to how the Town will communicate this on the water bill.

Administrator James explained a sticker could be placed on the water bill with this information. When a new resident applies for water service they will fill out a form that will question how they would like to receive their newsletter.

Commissioner Vatrtr stated that the quarterly newsletter is a good idea, but the information sent quarterly is usually relatively old news. It would be nice to have a monthly publication going out to the public. He pointed out that if we relay to them there would be a cost savings to the Town it might help convince the public to accept the reduction in newsletters

Administrator James made the recommendation to begin monthly and quarterly Council columns in the Island Gazette instead of publishing a January newsletter.

Eric Vann is recommending publishing the newsletter in its usual format in January. However, the newsletter could contain a memo to residents stating the intentions of the Town, and request feedback.

MOTION – Commissioner Lambeth MADE THE MOTION to have the Columns in the Island Gazette with notice of change and request for feedback on the January water bill. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

CONSENSUS – Council agreed to only publish the newsletter twice a year.

5. *Discussion and Approval of Funding Requests*

a. Purchasing additional Christmas decorations (Nelder)

Commissioner Nelder is requesting permission to purchase one additional Christmas decoration. He also would like approval for Public Works to maintain this light.

Commissioner Vatrtr pointed out that Department Heads may have funds that are available but that does not grant that individual the authority to spend the funds indiscriminately. They would still have to come to Council to request funding.

Commissioner Lambeth stated that he would not support getting money from Public Works budget unless it got a full vote from Council.

ACTION - Commissioner Nelder MADE THE MOTION for Council to authorize the purchase of one Christmas decoration for the Town at a cost of \$450 to be purchased now and erected before Christmas. The MOTION DIED for lack of a second.

- b. *Contributing to:*
 - i. *Help Center of Federal Point*
 - ii. *Federal Point History Center*
 - iii. *K. B. Hines Senior Center*

Commissioner Vatrtr highly recommends waiting until the end of February until the Town has a better idea of where it stands financially to contribute to these agencies.

Mayor Pro Tem Dugan is unaware of any request for donations that have not been a good request. He acknowledged that it is the Town's duty to help organizations that help others.

Commissioner Lambeth is requesting that all requests be deferred until the February meeting.

Commissioner Nelder asked for clarification on whether the money available is TDA money or general fund money. Administrator James confirmed that it is general fund.

MOTION - Commissioner Vatrtr MADE THE MOTION to defer these requests until the February meeting when the Town will have a better idea of financial capabilities. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

CONSENSUS - Mayor Montgomery asked Council to acknowledge and recognize that these are valid requests and the Town will consider contributing once they have a better idea of their financial forecast.

6. *Discussion and Consideration of Amending Code of Ordinances to add Section 1-16 Mistaken Interpretation of Regulations Shall Not Establish Precedence.*

Harry Humphries

ACTION - Commissioner Nelder MADE THE MOTION to adopt the Ordinance Amendment. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

EXECUTIVE SESSION (If Necessary)

ACTION - Commissioner Vatrtr MADE THE MOTION to go into closed session at 9:49 pm to discuss contractual issues with the Town Attorney regarding Ocean Front Park design firm candidates. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Vatrtr MADE THE MOTION to return to open session at 10:30 pm. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

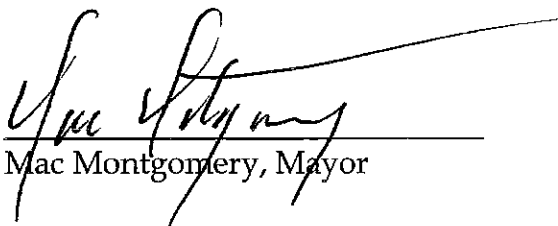
CONSENSUS - The Council will invite LS3P and Withers & Ravenel to return on January 2, 2009 for a second presentation and discussion of contractual terms. The time will be determined upon availability of the firms. This will allow enough time for due process.

CONSENSUS - The Council directed Administrator James and the Town Clerk to draft a letter and a card of thanks to Hipp & Best.

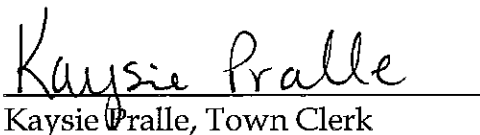
ACTION - Commissioner Nelder MADE THE MOTION to invite LS3P and Withers & Ravenel to return on January 2, 2009 (time is yet undetermined) for a second presentation and discussion of contractual terms. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADJOURNMENT

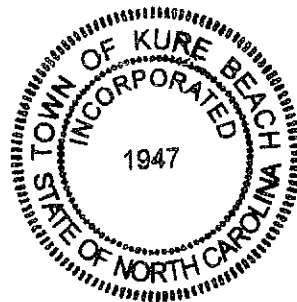
ACTION - Commissioner Nelder MADE THE MOTION to adjourn the meeting at 10:30 pm. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Mac Montgomery, Mayor



Kaysie Pralle, Town Clerk



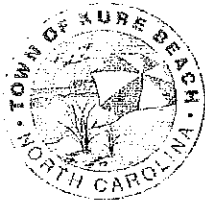
NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. Persons wishing to hear the recording of this meeting may request to do so by contacting the Town Clerk.

Town of Kure Beach

Town Council

12/16/2008

Agenda Packet



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

AGENDA

THIS AGENDA MAY BE AMENDED AT ANY TIME AND IS SUBJECT TO CHANGE.

Call to Order and Welcome – Mayor Montgomery
Invocation – Rev. Dr. Richard Graff, Kure Memorial Lutheran Church
Pledge of Allegiance – Mayor Montgomery

RECOGNITION AND AWARDS

- ❖ AAA Carolinas' Foundation for Traffic Safety recognized the Town of Kure Beach for promoting traffic safety (Dugan)

PERSONS TO ADDRESS COUNCIL (3 minutes- please sign in with the clerk before the meeting)

PRESENTATIONS TO COUNCIL

- ❖ Island of Lights presentation - Marti Fuller
- ❖ Sponsorship for Polar Plunge - Emilie Swearingen, Special Olympics of New Hanover County
- ❖ New fire truck in service for Kure Beach Fire Department – Chief Harold Heglar
- ❖ Seeding and Irrigation of Sandman Property – Bob Fitzsimons, Parks & Rec. Chair

APPROVAL OF CONSENT AGENDA

1. Building Department report: November 2008
2. Finance report: November 2008
3. Fire Department report: November 2008
4. Police Department report: November 2008
5. Accept resignation for:
 - ❖ Betty Swann, Board of Adjustments
 - ❖ Janet Foster, Planning & Zoning
 - ❖ Don Mojzis, Emergency Management
 - ❖ Fred Tesh, ADA and Shoreline Access & Parking
6. Resolution approving financing two police vehicles
7. Resolution Authorizing Local Government Execution of Public Access Grant Contract
8. Budget Amendment to make annual Ocean Front Park Loan Payment
9. Council minutes:
 - ❖ 11/18/2008 Regular & Closed

ADOPTION OF THE AGENDA

OLD BUSINESS

1. Update on Policy & Procedures for Public Emails (James)
2. Update on Atlantic Avenue permit status (Nelder/Montgomery)

NEW BUSINESS

1. Recommendation from Planning & Zoning Commission to Amend Chapter 19, Article VI Signs – Craig Galbraith, Planning & Zoning Commission
2. Recommendation from Planning & Zoning to Amend Chapter 19 and adopt the following as a supplemental regulation (Batson)
“No more that 250 feet of single level, freestanding, uncovered deck, which does not include the walkway to the beach, may not encroach more than 15 feet. This would apply to lots where CAMA 60 foot setback is within five feet of the perpetual easement line. All proposed construction will also be subject to all CAMA deadlines.”
3. Discussion and Approval of Board of Adjustment Request for Definitions
4. Approval and Consideration of Cost-Savings Proposals
 - A. Closing Town Hall Two Afternoons a Month
 - B. Reduce Newsletter Publication from Quarterly to Twice a Year
5. Discussion and Approval of Funding Requests
 - A. Purchasing additional Christmas decorations (Nelder)
 - B. Contributing to:
 - a. Help Center of Federal Point
 - b. Federal Point History Center
 - c. K. B. Hines Senior Center

EXECUTIVE SESSION (If Necessary)

ADJOURNMENT

Recognition
And
Awards

Burgaw, Kure Bch. safety steps earn praise

CROSSROADS

PAT
GANNON



Any time part of Southeastern North Carolina is recognized in a positive way in the traffic and transportation realm, it's reason to celebrate.

That happened last week, as AAA Carolinas' Foundation for Traffic Safety recognized the towns of Burgaw and Kure Beach for their efforts in promoting traffic safety.

While Kure Beach and Burgaw weren't AAA's "grand" winners, they were both recognized in the category for places with fewer than 10,000 residents. AAA recognized a total of 15 communities across the state. Of course, Burgaw and Kure Beach don't have nearly the traffic volumes or road miles of larger places such as Wilmington, but the recognition is welcome nonetheless. Conversely, Wilmington is routinely recognized by AAA in the wrong way, as the most dangerous place in the state to drive.

AAA chose the winners based on criteria including crash statistics, the number of law enforcement officers per capita and the presence of a formal traffic safety program. The University of North Carolina at Charlotte provided the statistical analysis, and AAA Carolinas' Traffic Safety Foundation chose winners in each category, giving extra emphasis to communities that are proactive in enhancing traffic safety efforts.

Knock on wood, but to the best of the Burgaw Police Department's recollection, no one has died in a crash on a Burgaw road since the early 1980s, when a young child was killed in a car/train wreck.

Burgaw, the county seat of Pender County, has adopted civil citations for turning across double-yellow lines to park, passing on the right and speed violations, according to AAA.

Its Police Department also recently hired a new officer, whose primary goal is to make the public aware of the dangers of speeding and accidents. The officer speaks to seniors, churches, civic associations, schools and other groups. The department also uses speed trailers, and eight of 11 officers are radar-certified, Police Chief Bill King said.

Visibility of officers is key. Police officers are very visible in the high-traffic areas of town, including its two main intersections, the chief said.

"I think the citizens in the town are very aware, and I think the award goes to them," King said.

Every school day in Kure Beach, uniformed officers in marked cars follow school buses to and from school.

SEE CROSSROADS | 3B

CROSSROADS

CONTINUED FROM 1B

Jason Cummings, a Kure Beach K-9 officer, said commuters in New Hanover County's southernmost beach town know that where there's a bus, there's usually a cop car.

Once in a while, if there's a problem between students on a bus, the drivers will stop and let the officer on to straighten it out, Cummings said.

"We have very little issues now with any type of school bus violations," he said.

While the town only has a 10-person police force, everyone works traffic, and all are certified to use radar and the devices that check for alcohol impairment in drivers.

The Police Department also conducts checkpoints on side streets, letting motorists know they'll be out in force in problem areas and writing citations for traffic- and vehicle-related violations.

Officers also attend property owners' association meetings to hear residents' complaints about traffic.

Just like in Burgaw, police presence and enforcement are

the keys to safe streets.

"I think everybody takes a lot of pride in the low number of serious-injury-type accidents" in Kure Beach, Cummings said.

Congratulations Burgaw and Kure Beach. Maybe next year, more Southeastern North Carolina locales will make the cut.

Patrick Gannon covers the city of Wilmington and transportation for the Star-News. Reach him at his blog, Crossroads. StarNewsOnline.com, by e-mail at patrick.gannon@starnews online.com or by phone at 343-2328.

Presentations



Business Sponsorship Available

100% of your tax free donation goes directly to serve our New Hanover County Special Olympics population. Here are some of the benefits for sponsorship:

GOLD LEVEL - \$3000.00

- Take the plunge as an individual, group or team.
- Recognition on event website and Public Access TV
- Logo placement on official Polar Plunge shirt, poster and all SONHC 2009 volunteer t-shirts.
- Display company provided marketing materials at the Polar Plunge event.

SILVER LEVEL - \$2000.00

- Take the plunge as an individual, group or team.
- Recognition on event website and Public Access TV
- Business name on official Polar Plunge shirt, poster and all SONHC 2009 volunteer t-shirts.
- Display company provided marketing materials at the Polar Plunge event.

BRONZE LEVEL - \$1000.00

- Take the plunge as an individual, group or team.
- Recognition on event website and Public Access TV
- Business name on official Polar Plunge shirt, poster and all SONHC 2009 volunteer t-shirts.
- Display company provided marketing materials at the Polar Plunge event.



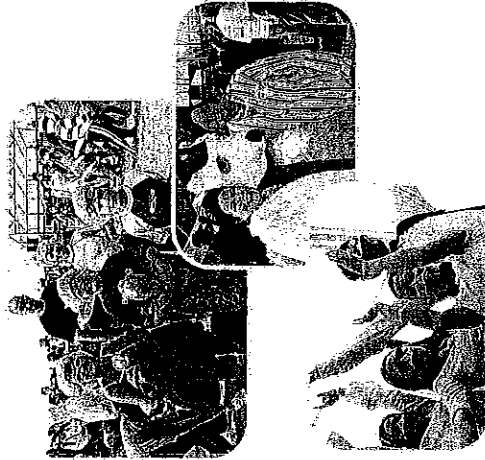
What to wear?

Attire for the plunge is swimsuits or costumes only. No Wet Suits! You may want to wear water shoes. You must be at least 8 years old with a parent's release to plunge.

Costume Contest

Teams or individuals can dress in costume to add to the fun. Prizes will be awarded for the best costumes.

- Individual award - 16 under
- Individual award - 17 and over
- Group Award - less than 10 people
- Group award - more than 10 people



Contact Information

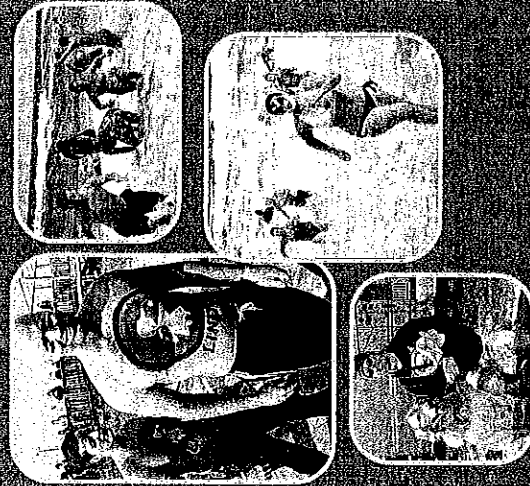
The City of Wilmington/Special Olympics
 302 Willard Street
 Wilmington NC 28402
 910.341.5876 Fax 910.341.7854
 Visit our web site:
www.PlungeNHC.com
 or e-mail - PolarPlunge@plungehnc.com

All proceeds for this event will benefit the athletes of Special Olympics, New Hanover County Special Olympics is a 501(c)(3) charitable organization. All or a portion of your sponsorship may be tax deductible. Consult your tax advisor.

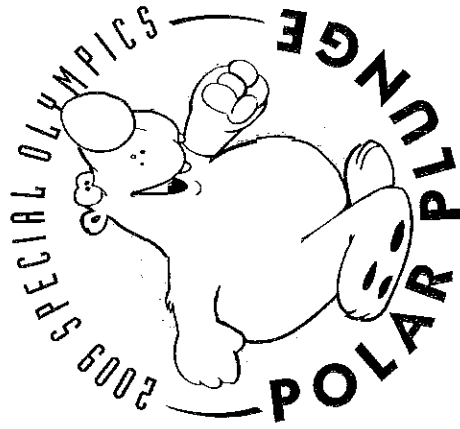
Polar Plunge Schedule of Events

- 11:00 gates open. Enjoy live music, a silent auction, costume contest, DJ, food, friends, art and more.
- 11:00 - 2:00 Silent auction
- 1:00 Costume contest judging begins
- 3:00 Line up for the plunge
- 3:05 Athletes and small children plunge
- 3:10 All others plunge

(NOTE: schedule may change as activities are added)



Special Olympics
North Carolina
New Hanover County



Saturday, February 21, 2009

Pleasure Island

Carolina Beach Boardwalk, NC

www.PlungeNHC.com

Consent Agenda

Kure Beach Building Dept. Fees Received: 11/1/2008 - 11/30/2008

Type / No	Fee SubType	Parcel ID	StreetNo / Street	Property Owner'	Date	Fee	Date Recd	Fee Recd	Balance
5103	Permit Fee Convert screen porch to sunroom	R09209-013-003-000	426 SETTLERS LN	SLACHETKA. PATRICIA M JOSEPH	11/3/2008	\$300.00	11/3/2008	\$300.00	\$0.00
5104	Permit Fee Close in bottom patio	R09205-015-071-000	782 SETTLERS LN	MC GEE. RICHARD C SHARON L	11/10/2008	\$50.00	11/10/2008	\$50.00	\$0.00
5105	Residential Pool Install 16x35 pool	R09316-003-004-000	113 HOWARDS HILL ***	GONSALVES. ANTHONY E DEBRA L	11/19/2008	\$300.00	11/19/2008	\$300.00	\$0.00
					Total Fees from : Building				\$650.00
					Total Balance Due from : Building				\$0.00

Total Fees: 3

Total Fees Recd: \$650.00
Total Balance Due: \$0.00

Kure Beach Building Dept.-All Permits Issue Date: 11/1/2008 - 11/30/2008

PermitNo	Issue Date	Applicant	Owner	Project Addr	Est Cost	Fee	Descript	Final
Building								
New Construction								
5103	11/3/2008	SLACHETKA, PATRICIA M JOSEPH	SLACHETKA, PATRICIA M JOSEPH	426 SETTLERS LN	\$35,000	\$300.00	Convert screen porch to s	
5104	11/10/2008	MCGEE, RICHARD C SHARON L	MCGEE, RICHARD C SHARON L	782 SETTLERS LN	\$2,500	\$50.00	Close in bottom patio	
				Total New Construction 2	\$37,500	\$350.00		
pool								
5105	11/19/2008	GONSALVES, ANTHONY E DEBRA L	GONSALVES, ANTHONY E DEBRA L	113 HOWARDS HILL ***	\$40,000	\$300.00	Install 16x35 pool	
				Total pool 1	\$40,000	\$300.00		
				Total Building 3	\$77,500	\$650.00		
				Total Permits: 3	\$77,500	\$650.00		

Town of Kure Beach
FINANCIAL SUMMARY REPORT
5 MONTHS ENDING 11/30/2008

GENERAL FUND

REVENUES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % COLLECTED
AD VALOREM TAXES	568,876	1,580,092	613,227	39.31%
MOTOR VEHICLE TAXES	11,134	28,180	10,925	38.77%
LOCAL OPTION SALES TAX	210,452	494,900	256,405	51.81%
NHC ABC REVENUES	558	15,424	7,093	45.99%
COMM. TOWER RENT	58,976	66,950	25,977	38.80%
FRANCHISE FEES & VIDEO TAX	23,760	106,710	29,508	27.65%
BUILDING PERMIT FEES	3,086	32,650	17,615	53.95%
GARBAGE & RECYCLING	58,976	129,000	55,305	42.87%
GF BALANCE APPROPRIATED	-	58,337	-	0.00%
ALL OTHER REVENUES	62,581	308,968	116,826	37.81%
	\$ 1,009,399	\$ 2,801,211	\$ 1,132,881	40.44%
				37.34%

WATER & SEWER FUND

REVENUES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % COLLECTED
WATER & SEWER CHARGES COLLECTED	556,431	1,386,000	642,030	46.32%
WF APPROPRIATED FUND BALANCE	-	195,817	-	0.00%
OTHER WATER & SEWER REVENUE	10,522	67,500	45,130	66.86%
	\$ 566,953	\$ 1,649,317	\$ 687,160	41.66%
				39%

ADDITIONAL PRIOR YEAR COMPARATIVE INFORMATION

EXPENDITURES

EXPENDITURES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % SPENT
410 GOVERNING BODY	10,511	30,553	10,511	34.40%
411 TOWN CLERK	17,292	50,522	17,292	34.23%
415 FINANCE DEPARTMENT	12,549	75,586	12,549	16.60%
420 ADMINISTRATION	133,433	310,683	133,433	0.00%
421 COMMUNITY CENTER	3,536	12,865	3,536	27.49%
431 P&Z & BD OF ADJ EXPENSE	-	2,500	-	0.00%
446 EMERGENCY MANAGEMENT	264	750	264	33.87%
460 TAX COLLECTION	3,133	27,900	3,133	11.23%
470 LEGAL DEPARTMENT	15,237	44,980	15,237	34.03%
510 POLICE DEPARTMENT	316,498	941,294	316,498	33.62%
530 FIRE DEPARTMENT	100,229	240,741	100,229	41.63%
531 LIFE GUARDS	101,080	172,939	101,080	58.45%
532 PARKS & RECREATION CLASSES	87	-	87	0.00%
533 PROJECTS/REQUESTS	4,800	10,000	4,800	0.00%
540 BUILDING INSPECTION/ENFORCEMENT	31,509	86,790	31,509	36.30%
550 STREETS & SANITATION DEPARTMENT	307,984	793,128	307,984	38.63%
	\$ 1,058,192	\$ 2,801,211	\$ 1,058,192	37.78%

SPECIAL PROJECTS AND RESTRICTED FUNDS

EXPENDITURES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % SPENT
POWELL FUND - REVENUES	-	72,692	71,333	98.13%
POWELL FUND - EXPENSES	-	72,692	13,783	18.96%
BEACH RENOURISHMENT FUND - REVENUES	-	12,300	174	1.41%
BEACH RENOURISHMENT FUND - EXPENSES	-	12,300	1,007	8.19%
STORM WATER FUND - REVENUES	-	251,220	70,544	28.08%
STORM WATER FUND - EXPENSES	-	251,220	42,926	17.05%
CAPITAL PROJECTS - REVENUES	-	1,011,716	\$ 4,912,828	485.59%
CAPITAL PROJECTS - EXPENSE THORP	-	1,011,716	5,403,636	534.11%

FINANCIAL & OPERATING INFORMATION

EXPENDITURES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % SPENT
WATER ADMINISTRATION & FINANCE	556,431	1,386,000	642,030	46.32%
WATER DEPARTMENT OPERATIONS	10,522	67,500	45,130	66.86%
	\$ 566,953	\$ 1,649,317	\$ 687,160	41.66%

SPECIAL PROJECTS AND RESTRICTED FUNDS

EXPENDITURES	ACTUAL 11/30/2007	CURRENT BUDGET	ACTUAL 11/30/2008	Y-T-D % SPENT
WATER/SEWER EXPANSION RESERVE FUND - REVENUES	-	-	10,000	0.00%
WATER/SEWER EXPANSION RESERVE FUND - EXPENSES	-	-	-	0.00%
WATER/SEWER CAPITAL PROJECT - REVENUES	-	-	48,267	0.00%
SEWER REHAB PROJECT - EXPENSES	-	-	34,224	0.00%

Checking

Certificates of Deposit

GRAND TOTAL

\$ 686,208

\$ 1,395,626

\$ 2,081,834

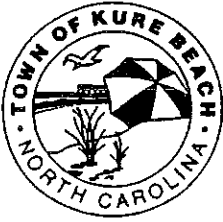
KURE BEACH FIRE DEPARTMENT

FIRE CHIEF'S REPORT NOVEMBER, 2008

DATE	PURPOSE
11/03/08	ARSON CLASS
11/08/08	MUTUAL AID Cbfd
11/10/08	DRILL
11/17/08	DRILL
11/18/08	STRANGE ODOR
11/19/08	MUTUAL AID FPFd
11/23/08	MUTUAL AID FPFd
11/24/08	FIRE FIGHTER I & II CLASS
11/30/08	FALSE ALARM

All equipment checked and found to be in working order

Harold Heglar
Chief



KURE BEACH POLICE

114 N. 7TH AVENUE, KURE BEACH, NORTH CAROLINA 28499
TELEPHONE (910) 458-7586 • FAX (910) 458-9882

Police Activity Reports for November 2008

Page 1	Activity Log Summary Totals
Page 2	Arrest Status/Disposition Totals by Offense
Page 3	Citation Totals by Charge
Page 4	Civil Papers Summary Totals
Page 5	Criminal Papers Summary Totals
Page 6	Incident Status/Disposition Totals by Offense
Page 7	Chief's Notes

Activity Log Event Summary (Totals)

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

911 Hangup	3	Alarm Activation	1
Animal Complaint	3	Assist Citizen	1
Assist Other Agency - Fire	1	Assist Other Agency - Law Enforcement	6
Assist Other Agency - Medical	7	BOLO	1
Check Welfare	2	Citizen Complaint	3
Dispute	4	Domestic	1
Found Property / K-9	1	Information	3
Internal Information - LEO Only	4	Lost or Found Property	1
Missing Person	1	Noise Complaint	2
Open Door	2	Property Damage - No Report	1
Surrender Registration Plate - Revocation Order	1	Suspicious Person/Vehicle	5
Traffic Complaint	2		

Total Number Of Events: 56

Arrest Status/Disposition Totals by Offense

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

Offense:	Further Invest.:	Inactive:	Closed/Cleared:	Arrest/No Supp.:	Arrest/No Invest.:	Felony:	Misd.:	Juvenile:	Adult:	Offense:
1810 - Drug Violations	0	0	3	3	0	2	1	1	2	3
1834 - Drug Violations - Equipment/Paraphernalia - Possessing/Concealing	0	0	2	2	0	0	2	1	1	2
2214 - Using/Consuming - Tax Paid Liquor	0	0	1	1	0	0	1	0	1	1
2690 - All Other Offenses	0	0	1	1	0	0	1	0	1	1
Totals:	0	0	7	7	0	2	5	2	5	7

Citation Totals by Charge

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

Charge:	Number of Charges:
Speeding (Infraction)	1
Driving While License Revoked	1
Expired Registration	1
Running Red Light	1
Other (2nd Charge - Misdemeanor)	1
Total:	5

Civil Papers Summary Totals (by Paper Type)

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

Type of Civil Paper:	Total Served:	Total Returned:	Total Ret. to Clerk:	Total Issued:	Total Issued Outstanding:
Subpoena	2	1	3	5	4
Totals:	2	1	3	5	4

Criminal Papers Summary Totals (by Paper Type)

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

Type of Criminal Paper:	Total Served:	Total Returned:	Total Ret. to Clerk:	Total Issued:	Total Issued Outstanding:
Order For Arrest	0	1	1	4	4
Warrant	0	0	0	2	2
Totals:	0	1	1	6	6

Incident Status/Disposition Totals (With Percentages) by Offense

Kure Beach Police Department

(11/01/2008 - 11/30/2008)

Primary Offense:	Total		Actual Incidents:	% Unfounded:	Cleared Arrest:	Cleared Other:	% Cleared:	% Active:		% Inactive:	
	Reported:	Unfounded:						Active:	Inactive:		
8010 - Missing Persons	1	0	1	0%	0	1	100%	0	0%	0	0%
Totals:	1	0	1	0%	0	1	100%	0	0%	0	0%

Chief's Notes

Self Initiated Police Services:

Business Security Checks	205
Home Security Checks	286
Open Doors	4
Senior Welfare Checks	18

Training and Other Activity:

November 10, 2008: Officer Byron (Ron) Thigpen Jr. was sworn in as the newest addition to our 'family'. He brings with him high-caliber experience in law enforcement and will be an asset to our department.

November 12-13, 2008: Chief Dennis Cooper, Sgt. Paul Hubbard and K9 Officer Jason Cummings were instructors for the State Mandated In-Service Training held at the Kure Beach Police Dept. Lt. Andy Everhart, Sgt. Mike Bowden, Ed Palmeter, Richard Price, Greg Barr, David Cooley, Jamie King, Shane Holtzclaw, Ron Thigpen and Eric Earnhardt were in attendance.

Respectfully yours,

Dennis Cooper
Chief of Police

Honorable Mayor and
Members of the Kure Beach
Town Council,


11 November 2008

This is to inform you of my decision to resign from the Kure Beach Board of Adjustment.

I have proudly served for over ten years and would like to step down and pursue other volunteer interests within the community at large.

Thank you for your support and best wishes to the other volunteers I have served with.

Sincerely,

A handwritten signature in cursive script that reads "Elizabeth Swann".

Elizabeth Swann

December 3rd, 2008

Town of Kure Beach
David Heglar, Chairman of EOC
Jim Dugan, Commissioner
Barry Nelder, Commissioner
Michelle James, Town Administrator ✓

This letter is to inform you of my decision to resign from the EOC committee effective immediately. I am currently applying for a position on the Damage Assessment Committee. If accepted to this committee, my time would conflict with the EOC.

My original intentions when I joined the EOC were to help any way I could, here, in our town. I feel that being involved with the Damage Assessment Committee will utilize my time in a more productive way. Hoping it never happens, I look forward to serving my town in time of need during the hurricane season.

Respectfully,

Don Mojzis
Don Mojzis
811 Largo Way
458.0878

Subj: **Tesh resignation SLAP 12/4/08**
Date: 12/4/2008 6:18:45 P.M. Eastern Standard Time
From: DLGRNC
To: TonyIBEW164

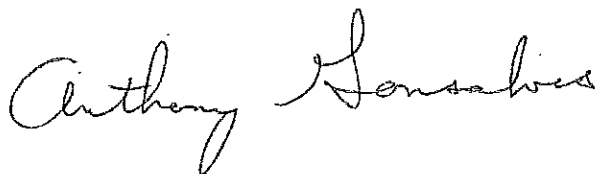
Today I spoke with Fred Tesh today regarding the SLAP committee. Mr. Tesh had not been able to make many of the meetings due to work. Fred recently moved out of Kure Beach. Mr. Tesh advised me that he is not able to continue as a member of the SLAP committee and as of today is resigning. I requested a letter of resignation from Mr Tesh to which he stated he did not intend to provide one.

I am now advising the Town of Fred Tesh' resignation and the vacancy on the SLAP committe.

Sincerely,

Anthony Gonsalves
Chairperson Shoreline Access and Parking

Trim your tree and your spending! [Get the AOL Holiday Shopping Toolbar](#) for money saving offers and gift ideas.



November 26, 2008

Fred Tesh
421 N. 5th Avenue
Kure Beach, NC 28449

Dear Fred,

On behalf of the Town of Kure Beach's ADA Committee, we would like to extend our gratitude and appreciation for your time of service. Without the commitment and dedication of our committee members, Kure Beach would not be what it is today.

In light of your recent move from the Town of Kure Beach, we bid you a warm farewell wish as we accept your resignation from Town of Kure Beach's ADA Committee.

Fred, upon visiting Kure Beach, please feel free to drop by as our guest!

Sincerely,

A handwritten signature in cursive script that reads "Gilbert Alphin".

Gilbert Alphin
Kure Beach American with Disability Committee Chair

The Kure Beach ADA Committee Members:

Gilbert Alphin
Dick Graham
Anne Brodsky
Jerome Belcastro

Cc: Dean Lambeth

MEMORANDUM

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

FROM: Susan Suggs
Finance Officer

DATE: 2-Dec-08

SUBJECT Financing Agreement

The KB Police Department scheduled the purchase of two police cars in the current budget year. The total cost of the two new fully loaded (with police package) '09 Ford Crown Vic is \$61, 719.64. Our budgeted plan is to purchase the cars over four years with the first payment up front.

I contacted three banks and received three quotes on the financing:

SunTrust Bank	4.26%
BB&T	3.27%
RBC Bank	3.38%

I have requested BB&T provide documentation for your approval on this loan.

Resolution Approving Financing Terms

WHEREAS: The Town of Kure Beach ("Town") has previously determined to undertake a project for two 2009 Police Vehicles (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated December 9, 2008. The amount financed shall not exceed \$61,719.64, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.27%, and the financing term shall not exceed four (4) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as BB&T may request.

3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

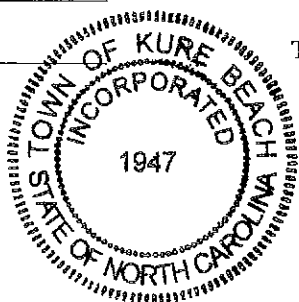
6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or Towns thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

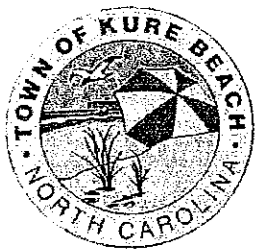
Approved this 16th day of December, 2008.

By: [Signature]
Title: MAYOR

By: [Signature]
Title: Town Clerk

SEAL





TOWN COUNCIL
TOWN OF KURE BEACH, NC

*R*ESOLUTION AUTHORIZING THE TOWN OF KURE BEACH TO

EXECUTE PUBLIC ACCESS GRANT CONTRACT

A regular meeting of the Town of Kure Beach Council of New Hanover County was held in the Council Chamber of Town Hall on December 16, 2008. A quorum of the Council was present.

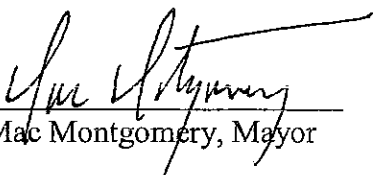
The Council was advised that a proposed contract between the Town of Kure Beach and the North Carolina Department of Environment and Natural Resources for the provision of Public Access grant funds was presented for the project known as Kure Beach Ocean Front Park and discussed; that, under the terms of the said contract, the Town will pay a total of \$3,125,080.00 as its local share of the total project costs.

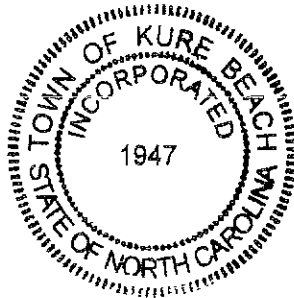
BE IT RESOLVED, by the Kure Beach Town Council of New Hanover County:


1. That the contract between the Town of Kure Beach and the North Carolina Department of Environment and Natural Resources be and the same is hereby approved.
2. That the Town Administrator and the Town Clerk be and they are hereby authorized to sign and execute the said contract for and on behalf of the Town.
3. That upon final execution, a copy of the said contract be filed with the minutes. Upon motion of Commissioner Vartt, seconded by Commissioner Nelder at a meeting held on December 15th, 2008 as related to the contract between the Town and the North Carolina Department of Environment and Natural Resources, relative to the public access project for the Town of Kure Beach, North Carolina.

I, Kaysie Pralle, Clerk to the Board of the Town of Kure Beach, North Carolina do hereby certify that the foregoing is a true copy of so much of the proceedings of the Kure Beach Town Council at a meeting held on December 16, 2008 as related to the contract between the Town and the North Carolina Department of Environment and Natural Resources, relative to the public access project for the Town of Kure Beach, North Carolina.

WITNESS my hand and the corporate seal of the said Town of Kure Beach, North Carolina on this 16th day of December, 2008.

By: 
Mac Montgomery, Mayor



ATTEST: 
Kaysie Pralle, Town Clerk



KURE BEACH TOWN COUNCIL
REGULAR MEETING
NOVEMBER 18, 2008
6:30 pm

MINUTES

The Kure Beach Town Council held its regular meeting on Tuesday, November 18, 2008 at 6:30 pm.

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Town Administrator	Michelle James
Fire Department	Harold Heglar
Police Department	Dennis Cooper
Building Department	John Batson
Finance Department	Susan Suggs
Town Clerk	Kaysie Pralle

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

CALL TO ORDER

Mayor Montgomery called the meeting to order at 6:30 pm. County Commissioner Jonathon Barfield delivered the invocation. Mayor Montgomery led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

- *Presentation to Medlin family (Mayor Montgomery)*

Mayor Montgomery presented the daughters of the late Mayor Betty Medlin with a proclamation from the Town for her leadership and guidance to the Town. He also unveiled the plaque to be placed in the Annex which will be dedicated to Medlin. Rhonda Smith (Betty's daughter) expressed her thanks for this dedication. Betty Lois Brantley (Betty's daughter) also expressed her thanks. Representative Danny McComas pointed out how Medlin had always placed the town as a high priority.

Bobby Greer, Chairman of New Hanover County Commissioners, expressed his thanks for this dedication.

Vice Chairman of the New Hanover County Commissioners Bill Caster pointed out Medlin's compassion for the Town, her community, and public service. He also mentioned that the Town and others got an award for beach re-nourishment.

Tommy Full gave a very emotional statement that he would miss Medlin greatly.

Wanda Tsangarides (citizen) stated that Betty was many things, but she was a good friend. "We lost a big chunk of Kure Beach when we lost Betty." She also recalled that right after she moved to Kure Beach she received a hand written note from Betty welcoming her to the town. She expressed how much that small gesture meant to her. Mayor Pro-Tem Dugan recalled how Medlin would put him in his place at times. He pointed out that the Town was her "second family."

Commissioner Vatrre recalled a time when he was in Washington, DC at a conference. Many attendees came up to tell him about Medlin and how much she was missed. This was a very uncommon occurrence for these events.

Commissioner Nelder expressed his thanks for her family coming and attending.

Commissioner Lambeth stated that Betty was his sparring partner when she was here.

Mayor Montgomery pointed out that Betty will always be a part of this town. He also presented her daughters with flowers from the Town.

Mayor Montgomery called for a 10 minute recess at 6:50.

Mayor Montgomery returned to session at 7:04.

- *Presentation to Jamie King, Crisis Intervention Training Officer of the Year (Chief Cooper)*

Chief Cooper introduced Carolyn Craddock, Director of Consumer Affairs and Customer Services with the Southeastern Center for Mental Health, Developmental Disabilities and Substance Abuse Services and Debra Vuocolo of Consumer Affairs.

Carolyn from Crisis Intervention Team explained how the team was developed and what its mission is. National Alliance for the Mentally Ill wanted to recognize an officer for the first time. Jamie King was presented with a plaque of recognition from the Crisis Intervention Team.

Debra Vuocolo manages 1-800 line at the center and work's closely with the officers.

Chief Cooper wanted to express his thanks for Officer King's work and dedication.

Jamie King thanked the Council, Chief Cooper and the Town.

Commissioner Nelder personally expressed his thanks for Officer King's hard work and pointed out that in today's economy it is refreshing to see a program such as this.

Mayor Montgomery pointed out how important a program like this is for the community. "We owe a lot to our citizens and law enforcement officers."

- *Presentation to Betty Swann, Chair of Board of Adjustments (Mayor Montgomery)*

Mayor Montgomery introduced Betty Swann, Chair of the Board of Adjustments. He presented Betty with a certificate in recognition of her service on the BOA.

- *Oath of office Town Clerk*

The Oath of Office was administered by Mayor Montgomery to Kaysie Pralle, the new Town Clerk for Kure Beach.

PERSONS TO ADDRESS COUNCIL (3 minutes- please sign in with the clerk before the meeting)

Jerry Hammel –

- Expressed his disappointment and shame of what he read in the Island Gazette this past week. He stated that the interaction should have taken place elsewhere.
- He stated that he is 100% behind the park for the Town. Offered four lots if the Town is interested. He also has three on the other side of the road. Mayor Montgomery recognized Mr. Hammel's dedication to the town. He pointed out that several commissioners are aware of the lots being offered.
- Mr. Hammel also pointed out that Dow Road is dark at night. He asked if Council would still consider lighting for the road.

PRESENTATIONS TO COUNCIL

1. Presentation of 2007-08 Audit – Auditor Greg Adams

Mayor Montgomery stated that every town must have a formal audit. He reassured that this is a public document and it would be available on the Town's website. He also pointed out that the money in reserve may seem like a lot of money, but it is not. The money we have is a necessary cushion for times of need (ex: hurricane expense).

Mayor Montgomery introduced Auditor Greg Adams.

- Mr. Adams presented the Summary of Audit for the previous fiscal year for the Town of Kure Beach. This summary is included in the agenda packet for this meeting. Mr. Adams pointed out that the town is well above the minimum required unreserved fund balance of 8% for general fund expenditures. The Town's percentage is 38.03%. The state average for similar size towns is 66.98%. This means that the Town is below the State average for towns similar in size to Kure Beach. He explained that the Water and Sewer have no minimum requirements due to the fact they are supposed to operate like a business and sustain themselves. Total overall tax collections for the Town were 99.03%. The state average for similar size towns is 96.79%. This means the Town is well above the state average for towns similar in size to Kure Beach.
- Mayor Montgomery opened the floor for questions.
- Commissioner Lambeth questioned if Greg had any idea of what to expect for upcoming tax changes due to the economy being what it is right now. Greg stated that because Kure Beach is a beach community we should expect to have a higher collection percentage than town's similar in size.

- Commissioner Vatrtr recognized Susan Suggs, Jennifer Watson and Pat Fortier for their hard work. He pointed out that the Town's revenue collections overall were 15% less than in previous years. He asked if other towns of similar size were having the same issue. Mr. Adams stated that he would not be able to determine that at this time.

2. *Design of Informational and Beach Signs – Candace Clark, Beautification Committee*

Candace Clark pointed out that the P&Z committee has been looking at re-doing some of the signs in Kure Beach.

The Beautification committee would like one uniform sign at all the beach access areas to replace the many signs that currently exist.

Candace stated that the Beautification Committee has met with Ruth Arnold Graggs, of Ruth Arnold Signs, regarding designing new signs for the Town. These were some of the recommendations that were made.

- Using a beach style sign with the town logo on it.
- Recommended using 4x4 posts
- Making them uniform
- Consolidating signs that are on one post already.
- Using Starboard, a polymer, it does not fade, cannot be painted or vandalized which will mean less work for Public Works and they last approx. 20 years.
- Uniform real estate signs, which are actually less expensive than current signs.

The Beautification Committee would like the permission to obtain funding for developing a sign plan. The estimated cost would be approx. \$500.00.

CONSENSUS- This Council is taking no action at this time.

3. *Seeking Grant for Solar Lighting & Parking Study Update – Tony Gonsalves, Chairman for the Shoreline Access and Parking Committee*

Tony Gonsalves addressed two issues with the council.

1. Parking Study - Had a meeting with MPO & SLAP committee who requested a scope of work be presented to them. The scope is still in progress and will be addressed at a later time. This will be accomplished at no cost to the Town.
2. Solar lighting – Tony would like to get paperwork going to seek grants for solar lighting on the boardwalk. The SLAP committee is seeking permission from Council in order for Mr. Gonsalves and Administrator James to start looking into solar lighting.
 - Commissioner Vatrtr stated that the council has to approve solar lighting before giving the committee the approval to look into this. He pointed out that turtles nesting could be an issue in regards to lighting at the beach.
Commissioner Vatrtr wanted to know if Tony had looked into what other towns were doing. Tony stated he had not.
 - Commissioner Lambeth questioned whether it would pose a liability if we had lights on and then turned them off. Attorney Canoutas pointed out that this would certainly be a liability.

Commissioner Lambeth pointed out that Administrator James was busy enough without adding more to her workload.

- Mayor Pro Tem Dugan asked if there were grants available. Tony stated that Michelle would need the Council's approval to start looking for grants. Mayor Pro Tem Dugan pointed out that the lighting that is currently on the boardwalk, when installed, brought complaints of it being too bright. However, he was glad the Town and its committees are looking at ways to go green.
- Mayor Montgomery pointed out that the Department of Transportation is now using solar panels to power some of their street lights. Mayor Montgomery pointed out that Michelle and Tony would be looking for information, not obtaining a grant. Mayor Montgomery stated that we would look into getting someone to come in and discuss this, with no obligation on the Town. Looking for approval for the SLAP to explore solar lighting with the Administrator, and come back with a briefing.

ACTION – Commissioner Lambeth MADE THE MOTION to authorize the SLAP committee to contact solar lighting companies and gather information to present to the Council at a future meeting. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

APPROVAL OF CONSENT AGENDA

1. Building Department report: October 2008
2. Fire Department report: October 2008
3. Police Department report: October 2008
4. Finance report: October 2008
5. Accept resignation from Betty Swann - Board of Adjustments
6. Code Enforcement/Zoning Administration Employee to support Planning & Zoning and Board of Adjustments
7. Resolution designating applicant's agent for NC Division of Emergency Management
8. Council minutes:
 - 10/21/08 public hearing, regular, closed
 - 10/24/08 special, closed
 - 11/6/08 workshop, closed

ADOPTION OF THE CONSENT AGENDA

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to add the Job Description of Finance Officer to the consent agenda. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Nelder MADE THE MOTION to remove item number 5 from the consent agenda. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Nelder MADE THE MOTION to adopt the amended Consent Agenda. COMMISSIONER VATRT seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADOPTION OF THE AGENDA

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to add as Item #6 Acceptance of Request from Seymour Johnson Air Force Base to connect Fort Fisher Recreational Area to Town’s Water Distribution System and Item #7 Donation of Motorized Scooter to the Agenda. Commissioner Vatr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Nedler MADE THE MOTION to add as Item #1 Public Protocol to the Agenda. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatr MADE THE MOTION to go into executive session at the end of the meeting to consult with the Town Attorney and discuss legal matters involving paving of roads (Tucker Square) and Atlantic Avenue Boardwalk (CAMA Judicial Review/Appeal). Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

OLD BUSINESS

1. Update on Ocean Front Park (Dugan)

- Mayor Pro Tem Dugan discussed the Request for Proposal (RFP) for the park. We have received 10 different plans. The plans will be reviewed later this month by the sub-committee. He clarified that the sub-committee is made up of staff, council, and members of the Utilization committee. Following the review, the committee will make a recommendation to the council.
- Administrator James clarified that the design firms that are chosen to make a presentation to the council will do so on December 2, 2008.
- Commissioner Vatr mentioned that he met with Georgia Visios, the head of the Design School at NC State. The students would come in, give ideas and design concepts for the park at no cost to the town.

2. Update on Atlantic Avenue boardwalk project (Nelder)

Commissioner Nelder stated that the new permit was submitted but was returned because it did not have enough detail in it for a decision to be made. Ken Withrow, Beautification Committee Chair, will look into it when he gets back. Mayor Montgomery pointed out that there is an issue with spending money on the new revisions. The Town has already spent approx. \$7000.00 on this project, none of which is chargeable against the grant.

- John Batson stated that to have the existing plans revised will cost approximately \$2500-\$4000. He verified that the cost was \$300.00 for the new permit.
- Commissioner Vatr questioned if we were to bring the plans down to sand level, could we modify without incurring fees. Mr. Batson stated that inevitably it will cost the Town money. He stated that our best bet would be to go with the original plan, with the boardwalk approx. six inches above the sand.

- Commissioner Lambeth pointed out that if we pursue this option; John should give the architect the letter from CAMA, show them the scope of work, and get a guaranteed price from the firm on the costs.
- Mayor Montgomery requested that Inspector Batson contact the architect to get more information.

3. *Update on Policy and Procedures for Public E-mails (James)*

Administrator James is researching towns in North Carolina and a town in Florida for models. The models allow for emails among town officials to be monitored by the public on the town's website. She is still researching what the protocol is and would like to bring this back to the council in December. She clarified that all communication in town emails, on computers, and telephones are subject to public review under the Freedom of Information Act.

- Mayor Montgomery questioned whether it would be possible for the Town to have a computer located here at Town Hall where the public could sign in and review archived emails. Administrator James clarified that would be possible, but it could also be accessible online using a personal pc.
- Commissioner Lambeth would like the models website's placed in the council's boxes for review. Dean would like Michelle to talk with other Town Administrators to see what kind of problems they are having.
- Commissioner Nelder stated that he uses his personal email address, and he does not want his personal address made public.
- Mayor Montgomery questioned if using personal email to conduct Town business makes his personal email subject to the Freedom of Information Act for public documents.
- Commissioner Vattr recommended that Administrator James address this issue with the Council of Government.
- Chief Cooper pointed out that making the emails accessible would require extensive IT knowledge and work. This would also cost a lot of money to the town and require having a full time IT specialist on staff.

Mayor Montgomery pointed out that all email records, including archived items, could be retrieved. However, it would take a lot of time and work to retrieve them.

Mayor Montgomery called for recess at 8:44.

Mayor Montgomery re opened the session at 8:54.

4. *Release of Climate Work Study to Public (Lambeth & Montgomery)*

Commissioner Lambeth pointed out that Chris May from the Cape Fear Council of Governments had completed a revised version of the climate study and presented it to the Council. Commissioner Lambeth stated that in his opinion the revised version is better and is more clear and understandable than the original.

ACTION – Commissioner Lambeth MADE THE MOTION to release the revised version of the Climate Work Study to the public. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

- Mayor Montgomery stated the Climate Work Study would be posted on the website, circulated to the news, and made available to the public.
- Commissioner Vatr stated that one of the main issues in the climate study was interdepartmental communications.
- Commissioner Vatr recommended that in light of our current revenue shortfalls we put a freeze on all projects that the committees are working on, unless they are fully budgeted and have been approved by council. He also recommended having a workshop session in January with department heads, committees, and council to discuss the Town's goals and objectives as well as review the committee's directions, initiatives and goals.

Mayor Montgomery clarified that Chris May would facilitate the meeting and that a day time meeting would work best.

ACTION – Commissioner Vatr MADE THE MOTION to schedule a workshop with department heads, committees, and council in January to discuss the role and purpose of committees. Mayor Pro Tem Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

NEW BUSINESS

1. Public Protocol (Nelder)

Commissioner Nelder read his personal statement letter. This letter is included in the agenda packet.

2. Discussion & Approval of Amendment to Article IX. Swimming Pools, Section 5-180. All single-family and duplex/multi-family residences (Batson)

John Batson discussed the Amendment and its specifications which state that pools are not to be built past the easement.

- Mayor Montgomery points out that the Amendment is found in Section 5 in the Code of Ordinances, which means that we are not required by statute to hold a public hearing. He clarified that the Amendment states that beachfront swimming pools cannot be built if it encroaches upon the perpetual easement necessary for beach re-nourishment.
- Commissioner Dugan questioned that when the Attorney and Building Inspector listed the zones on the Amendment they made sure there were no zones omitted from the ordinance.
- Attorney Canoutas recommended that the Amendment state “in all zones” instead of individually listing zones.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to adopt the Ordinance as presented and modified regarding swimming pools. Commissioner Nelder seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

Attorney Canoutas will return to Council at the December meeting with changes to the above ordinance.

3. Discussion & Approval of Golf Cart Ordinance (Cooper)

Chief Cooper points out that Golf Carts are beginning to be regulated like a vehicle.

There are two types of golf carts.

Type 1 - This type has a tag, inspection sticker, and insurance requirements. It also has to have a rear view mirror, seatbelts, lights, horn, etc just like a regular vehicle.

NOTE - This ordinance does not apply to registered and licensed golf carts.

Type 2 - The other does not have to abide by these regulations. The Town of Kure Beach would be responsible for regulating these golf carts.

The ordinance is identical to the Golf Cart Ordinance passed at Carolina Beach recently.

Chief Cooper has two main concerns:

The person must be licensed driver.

The NC Alcohol and Beverage laws would apply.

- Commissioner Lambeth pointed out there is no mention of seat belts in this ordinance. He stated that he could not support this ordinance without the seatbelt revision.
- Mayor Montgomery questioned whether we could add a provision for seatbelts in our town. Chief Cooper stated that we could, but we might be better off staying in line with what the Town of Carolina Beach does. If we have different set of rules, that would make enforcement very hard.
- Mayor Pro Tem referred to House Bill 538 where the Town of Kure Beach was given an exception allowance for Golf Cart operation along with several other local municipalities. He questioned why we were added to this bill and see's no reason to change the way we operate currently in regards to Golf Carts.
- Chief Cooper explained that he is simply presenting this information and not looking for a yes or no vote. He will get with Carolina Beaches Chief of Police to address the issues that were discussed at this meeting. He emphasized the fact that he fully supports any measure that will make people safer when driving on the Town's roads. There was also mention that liability insurance would fall under the drivers Home Owners Insurance Policy as a rider. The Town could require this insurance when the driver requests their permit, but the police department would have no way to know if their policy still carried that rider.
- Commissioner Vatr asked for Chief Cooper's opinion on the seatbelts issue.
- Citizen in the audience stated we should ask to be taken off of the bill.
- Mayor Montgomery recommended that the Council collectively give their concerns to Chief Cooper to acquire more detail in this matter before putting this up for a vote. He also pointed out that if taken off the bill, we would never be able to get back on. Comments should be submitted to the clerk.

CONSENSUS – This discussion will be tabled for the next Council meeting.

4. *Discussion of American flag presented outside of Town Hall (Mayor Montgomery)*

Administrator James pointed out that the Police Department and Administration would maintain the flag at Town Hall.

5. *Waste Management procedures (Re: Sharps containers & CFL lights) (James)*

Administrator James mentioned that she & Dean recently attended a Waste Management meeting. One of the topics discussed were CFL light bulbs that contain mercury which is toxic if released into the environment. There is a container that can be purchased from Waste Management for proper disposal. The container containing the CFL bulbs can be mailed to a disposal center.

Sharps containers can be ordered from Waste Management and placed in the recycle bin. Mayor Montgomery questioned if Home Depot has a drop off for CFL light bulbs. Michelle stated that she will research for further information.

Michelle also pointed out that there is a RoboCycler that will be at the street fair to promote recycling and inform the public on recycling protocol.

6. *Discussion of political signs (Dugan)*

Mayor Pro Tem Dugan mentioned that the Planning & Zoning Commission is looking at changing the ordinance for placement of political signs. He would like to ensure P&Z clearly state that no political signs are to be placed on all public property.

Mayor Montgomery would like for it to clearly define the area surrounding the polling place where political signs would be allowed.

Commissioner Nelder is questioning whether the ordinance could state that it would be illegal to place a sign anywhere other than private property.

Attorney Canoutas stated that the State of North Carolina prohibits any signs in a right of way.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to direct P&Z to explore placement of signs on municipal property & length of time it can be on private property. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. *Accept request from Seymour Johnson Air Force Base to connect Fort Fisher Recreation Area to the Town's Water Distribution System*

Sonny Beeker stated this has been in discussion for about 10 years. Sonny gave specs, and they have met them. The Town has requested a set of plans from their engineers. However, at this point all they need to have is approval from the state to do the tie in. They are looking to do a 6" tap off the Town's 8" line. It will cross under the street. It will be metered with a compound meter. They are looking for a Fire Protection Order which Chief Heglar is aware of. The fire flow would need to be 1,500 gallons per minute, for 120 minutes.

Mayor Pro Tem Dugan questioned how they would be charged. Sonny stated they would be charged as an out of town rate. Michelle and Sonny are going to get together with them to discuss the charges.

Mayor Montgomery requested the Administrator draft a letter of acceptance to Seymour Johnson Air Force Base.

ACTION – Commissioner Vatr MADE THE MOTION to approve request from Seymour Johnson Air Force Base to connect to the Town’s water distribution system. Mayor Pro Tem Dugan seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

8. Donation of Motorized Scooter (Lambeth)

The scooter was willed to the Town of Kure Beach with the intention of allowing anyone who needs it to have access to it. The Police Department has the scooter along with a grill that was donated.

9. Executive Session to discuss legal matters involving paving of roads (Tucker Square) and Atlantic Ave Boardwalk (CAMA Judicial Review/Appeal)

CLOSED SESSION

ACTION – Commissioner Vatr MADE THE MOTION to go into closed session at 9:59 for a consultation with the Town Attorney regarding to discuss legal matters involving paving of roads (Tuckers Square) and the Atlantic Avenue Boardwalk (CAMA Judicial Review/Appeal). Commissioner Nelder seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

ACTION – Commissioner Nelder MADE THE MOTION to return to open session at 10:37 pm. Commissioner Lambeth seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

CONSENSUS - The Council directed Sonny Beeker to explore the costs and options for paving existing street right of ways (Tucker Square) and return to Council with a recommendation.

CONSENSUS – The Council will contact the architect John Sawyer and ask him to revise the existing permit in accordance with the approved sketch provided by John Batson. Mr. Batson will also follow up with the estimated costs of this with Council intervening as necessary in regards to cost.

CONSENSUS - The Council would also like Attorney Canoutas to answer a letter that was received from Christine Goebel from the Attorney General’s office indicating that it was never the intention of the Council to request a variance from the Coastal Resource Commission for any permits denied by the Division of Coastal Management.

ADJOURNMENT

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to adjourn at 10:41 pm. Commissioner Varrt seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Mac Montgomery, Mayor

ATTEST: _____
Kaysie Pralle, Town Clerk

DRAFT

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.

Old
Business

New Business

Memo

To: Kure Beach Town Council
From: Kure Beach Planning and Zoning Commission
Date: December 8, 2008
Re: Recommendations to Council from December 2, 2008 Planning and Zoning meeting

Following discussion at the December 2, 2008 Planning and Zoning Commission meeting, the Commission makes the following recommendation to the Kure Beach Town Council:

1. Amendment to Article VI: Signs

It is the Planning and Zoning Commission's recommendation that Council adopt the attached as Article VI of the Town of Kure Beach Code of Ordinances.

2. Beach Renourishment Easements

It is the recommendation of the Planning and Zoning Commission that Council adopt as a supplemental regulation to the Kure Beach Code of Ordinance Chapter 19, the following:

"No more than 250 square feet of single level, freestanding, uncovered deck, which does not include the walkway to the beach, may not encroach more than 15' ft. This would apply to lots where the CAMA 60 foot setback is within 5 feet of the perpetual easement line. All proposed construction will also be subject to all CAMA guidelines."

RECOMMENDED AMENDMENT TO KURE BEACH SIGN ORDINANCE
(Deleted B1, B2 and B3)

ARTICLE VI. SIGNS

NEW SECTION: Intent

The purpose of the following sign requirements is to promote and protect the public health, welfare and safety by regulating existing and proposed outdoor advertising signs, and outdoor signs of all types. It is intended to protect property values, create a more attractive economic and business climate, and enhance and protect the scenic and natural beauty of designated areas. It is further intended to reduce sign or advertising distraction and obstructions that may be caused by signs overhanging or projecting over public rights-of-way, provide more open space, curb the deterioration of the natural environment and enhance community development.

The sign ordinance applies to the incorporated Town limits unless otherwise identified. It applies to commercial buildings in all zones

Sec. 19-371. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Billboard shall mean an independent advertising device used to disseminate information concerning a person, place, activity or thing not pertaining to the use of the land upon which the advertising device is located.

Freestanding sign shall mean an outdoor sign when such sign is supported by uprights or braces in or upon the ground. Ground sign does not mean billboard.

Canopy sign shall mean a projecting sign attached to or hung from a marquee and such marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building line or property line.

Portable sign shall mean any sign which is not securely and permanently attached to the ground or a building.

Projecting sign shall mean an outdoor sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line.

Roof sign shall mean an outdoor sign erected, constructed or attached above or to the roof of any building.

Shingle Sign shall mean a projection or wall sign attached to a building.

Sign shall mean any outdoor device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks, or demonstrations designed to advertise, inform, identify or to attract the attention of persons. A sign shall be construed to be a display or device containing elements organized, related and composed to form a single unit. In the event material is displayed in a random or unconnected fashion without organized relationship of the components, each component or element shall be considered a single sign.

Temporary sign shall mean a sign to be used on an interim basis.

Wall sign shall mean an outdoor sign that is affixed to or painted on the wall of any building, providing it does not project more than twelve (12) inches from the building.

(Ord. of 8-19-03)

Extraterritorial Jurisdiction shall mean the area adjacent to the Town where Town land development regulations can be applied.

Sec. 19-372. Application of regulations.

All signs within the jurisdictional area shall be covered by these regulations and shall be erected, constructed and maintained in accordance with the provisions of this article, the North Carolina Building Code, and the National Electrical code. Only those signs that are permitted shall be erected within the jurisdictional areas of this article. See the table on file in the town clerk's office for a list of signs that are prohibited by zone.

Sec. 19-372(a) to read:

Computation of area of individual signs.

The area or "surface area" of a sign is defined by the smallest perimeter (formed by a rectangle) fully enclosing the total surface devoted to the sign's message, together with any ornamentation, embellishment, and associated background, excluding any necessary supports or uprights on which the message is placed and excluding any architectural ornamentation. As an aid to interpreting this formulation, the following is to be employed:

If the message is on a surface, structure or frame specifically employed for holding signage, the entire surface area within the frame's border is counted;

If the message is on a door, wall or other structural part of a building, only that portion of the door, wall or structure actually devoted to the message and associated symbols and back ground, if any, is counted

If a sign has two (2) or more faces, the area of all faces shall be included in determining the area of the sign and the area of the sign shall be taken as the area of one face if the two faces are of equal area, or the area of the larger face if the two faces are of unequal area.

19-372(b) to read:

Total Sign Area Allowed for Permanent Non-Residential Signs

Each commercial and business property is allowed a total aggregate surface area not to exceed one and one-half (1½) square feet for each linear foot of building frontage. Buildings located on corner lots (fronting upon two (2) public commercial street right-of-ways, excluding alleys, walkways, side streets and residential streets) and multi-story buildings with upper floor non-residential occupants or tenants are allowed a maximum sign surface not to exceed one and one-half (1½) square feet for every linear foot of building frontage. Suspended and projecting signs shall be calculated separately from other wall signs

19-372(c) to read:

Signs Not Included in Total Area Allowance

All permanent signs permitted and regulated through the ordinance shall count as part of the property's total allowed signage except: building markers, flags and flagpoles, identification, incidental wall mounted directory of no larger than three (3) square feet, suspended signs of no larger than two (2) square feet in total area. In addition, signs specifically associated with

sidewalk cafes, sandwich boards and street furniture shall not be calculated as part of the establishment's total sign area.

Sec. 19-373. Exceptions.

The signs listed below are excluded from these regulations:

- (1) Signs not exceeding four (4) square feet in area and bearing only property numbers, post office box numbers, name of occupants of premises or other identification of premises not having commercial connotations and are on owner's property.
- (2) Flags, signs and insignias of current governmental agency, except where displayed in connection with commercial promotion; items in this category are not to exceed thirty-two square feet. ~~Only one flag per property is allowed.~~
- (3) Signs directing and guiding traffic, parking and safety signs on private property, but bearing no advertising matter. Items in this category are not to exceed six (6) square feet.
- (4) Yard sale and for sale signs which are temporary. Items in this category are not to exceed six (6) square feet. All signs in this category must be set off street right-of-ways in all zones except commercial. All signs in this category in the commercial districts must be set back three (3) feet from the right-of-way. If three (3) feet is not available the sign must be behind the sidewalk or attached to the structure.
- (5) Signs located on church property not exceeding thirty-two (32) square feet. A maximum of two (2) church signs directing persons to churches located within the town not exceeding four (4) square feet each.
- ~~(6) All existing signs which existed at the time of adoption of the ordinance from which this section was derived shall be allowed to continue to exist and to be repaired or replaced provided the square footage of the sign areas remain the same.~~
- (6) One may erect non-illuminated political signs, not greater than six (6) square feet, for a period of fifteen (15) days prior to any primary or general election. Political signs shall be removed within seven (7) days after the general or run-off election to which the sign pertains or after the termination of a candidacy, whichever occurs first. Political signs will not be allowed within the right-of-way in the town limits or its extraterritorial jurisdiction. No political signs are allowed on public property.
(Ord. of 8-19-03)
- (7) Current residential monument signs erected prior to 2008 are allowed. Monument signs must be approved and are subject to the subdivision approval process.
- (8) *Historically significant signs.* The Federal Point Historic Preservation Society, the committee charged with protecting historical districts, may nominate signs located in such districts as historically significant signs. The Town Council shall hold a public hearing and make final determination as to the historical significance of such nominated sign, and if such sign is found to be historically significant then the prohibition herein shall not regulate such sign. However, such sign may only be maintained and shall not be enlarged, diminished or significantly changed, and in the event of such notification of change, it shall lose the protection as an historically significant sign.

Sec. 19-374. Permit required; administration.

- (a) The code enforcement officer shall issue a permit for the erection or construction only for a sign which meets the requirements of this article.

- (b) Filing procedures for permits to erect, hang, place, paint or alter the structure of a sign shall be submitted on forms obtainable from the code enforcement officer.
 - (c) Each application shall be accompanied by a plan showing the following:
 - (1) Area of the sign;
 - (2) Size, character, general layout and designs proposed for painted displays;
 - (3) The method and type of illumination, if any;
 - (4) The location proposed for such signs in relation to property lines, zoning district boundaries, right-of-way lines, and existing signs;
 - (5) If conditions warrant it, the code enforcement officer may require such additional information as to enable him to determine if such sign is to be erected in conformance with the requirements of this article; and
 - (6) Payment of fee to obtain building permit.
- (Ord. of 8-19-03)

Sec. 19-375. [Prohibited signs.]

Unless expressly permitted elsewhere in this chapter, the following commercial signs are prohibited:

- (1) *No commercial sign shall be erected within or encroach upon any public property or within any public right-of-way, or which obstructs the sight distance at intersections.*
- (2) *Flashing, moving, pulsating or intermittently lighted signs, electronic reader boards, programmable signs, time and temperature signs, laser lighting and search lights.*
- (3) *Signs which conflict with or imitate any traffic control device due to color, wording, design, location or illumination, or which interfere with the safe and efficient flow of vehicular and/or pedestrian traffic.*
- (4) *Animals, or human beings, live or simulated, designed or used so as to attract attention to the premises.*
- (5) *Loudspeakers, or signs which emit sound, odor or visible matter.*
- (6) *Signs with mechanical movement.*
- (7) *Flags, kites, pennants, balloons, spinners, streamers, or other such advertising devices or displays – except seasonal holiday decorations.*
- (8) *Signs which constitute a nuisance or hazard due to their intensity of light.*
- (9) *Signs which no longer identify a bona fide business conducted on the premises. Such signs shall be removed by the owner of the sign within 60 days of the business' closing date.*
- (10) *Vehicle signs, trailer signs, signs affixed to automobiles, trucks, trailers, or other vehicles parked on any property within the Town for the principal purpose of advertising or display. The following shall constitute a prima facie violation of this section:*
 - (a) *The advertising medium utilized on the vehicle is a sign, device, or structure separate from the vehicle.*
 - (b) *The copy is readily changeable, including but not limited to, repainting such sign, device or structure.*

- (c) *The sign, device or structure exceeds nine (9) square feet in area and the vehicle is parked on the street or on the business premises to which the advertising relates or in reasonable proximity thereto and the location of the advertising is reasonably calculated to direct an observer toward the business. It shall be considered that advertising was the principal purpose of the parking of the vehicle, notwithstanding the fact that the vehicle is driven to and from the business premises on a daily basis. The vehicle is not parked in a manner to circumvent the standards of this chapter for the amount or type of signing permissible on a site by either parking on the site or on public right-of-ways immediately adjoining the site in such a manner as to call attention to the sign or vehicle.*
- (11) *Exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries, unless approved as part of a planned sign program. An attractive and artistic ~~traditional-small~~ exposed neon "open" sign is allowed.*
- (12) *Window signs, except as expressly permitted by this division, or as required by law. The definition of window signs is any sign that is placed within 4 feet of a window for the purposes of being able to view the sign from outside the business.*
- (13) *Price signs, except as required by law and approved by the Code Enforcement Officer of community development.*
- (14) *Signs which have less horizontal or vertical clearance from authorized communication or energized electrical power lines than that prescribed by the laws of the State of North Carolina.*
- (15) *Painted-on-the-wall signs, signs constructed on cloth, canvas, fabric, cardboard, wall board, or other light flimsy material with or without frames.*
- (16) *Notices, placards, bills, posters, cards, stickers, banners, signs, advertisings, or other devices designed to attract the attention of the public that are posted or otherwise affixed upon any street, street furniture, right-of-way public sidewalk, crosswalk, curb, lamppost, hydrant, tree, alley, telephone pole, public telephone, vehicle, lighting system, or other public alarm or communication system.*
- (17) *Obscene or offensive signs containing statements, words or pictures of an obscene or indecent character which appeals to a prurient interest in sex, or which are patently offensive;*
- (18) *Portable signs, except moveable commercial A-frame, or easel type signs may be permitted for businesses to advertise menus, sale items, or other business promotions. These signs shall be designed to complement the décor of the business or building where they occur and shall comply with the following standards: One moveable, freestanding sign shall be permitted for each business; All signs shall be located on private property and must allow sufficient access to doors/pathways and not impede pedestrian movement; All signs must be removed when business is closed. The maximum allowable size of the sign and supporting structure shall not exceed 48 inches in height, 30 inches in width and 36 inches in depth. The maximum sign area shall not exceed 10 square feet; Signs shall not contain illumination*
- (19) *Temporary "grand opening" signs are allowed no more than two months.*

(20) Signs affixed to trees or other natural vegetation or rocks.

(21) All roof signs and signs projecting above the roof-line.

(22) Signs shall not be illuminated with low luminance lighting, including but not limited to neon, light emitting diodes, and halo lighting. Signs shall not be illuminated with flashing lights, except for emergency vehicles. Signs shall not be illuminated with lights that are visible from the rear of a vehicle. Signs shall not be illuminated with lights that are visible from the side of a vehicle. Signs shall not be illuminated with lights that are visible from the front of a vehicle. Signs shall not be illuminated with lights that are visible from the rear of a vehicle. Signs shall not be illuminated with lights that are visible from the side of a vehicle. Signs shall not be illuminated with lights that are visible from the front of a vehicle.

(23) Billboards are prohibited in any district.

(24) No pole signs are allowed

No sign shall be erected that:

(1) Obstructs the sight distance at intersections or along public right-of-ways; or

(2) Would tend by its location, color or nature, to be confused with or obstruct the view of traffic signs or signals, or would be confused with a flashing light of an emergency vehicle;

(3) Might be confused with traffic directional signals and signs such as "stop", "go", "slow", "danger", etc; or

(4) Is a flashing or intermittently illuminated or moving sign that impairs or distracts a motorist or pedestrian's vision or attention.

(Ord. of 8-19-03)

Sec. 19-376. Maintenance and Replacement

Any permitted or nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within 30 days and completed within 90 days of such damage. Any repair to a non-conforming sign does not change the amortization schedule for bringing that particular sign into conformance. However, if the sign should be declared unsafe by the Town of Kure Beach Building Inspector, the owner of the sign or the owner of the property whereon the sign is located shall immediately correct all unsafe conditions in a manner satisfactory to the Town of Kure Beach Building Inspector. For purposes of this section a nonconforming sign (or its structure) shall be considered destroyed, and therefore shall not be repaired or replaced except in full conformance with the Sign Code, if it receives damage to the extent of more than fifty percent of its value as determined by the Town of Kure Beach Building Inspector. Signs destroyed by proven vandalism may be replaced, but may not be changed, altered, enlarged, from their original state. If damaged by less than fifty percent (50%) of the estimated total value, but repairs are not made within 60 days of the time such damage occurs, the nonconforming sign shall not be allowed to continue and must be removed.

Sec. 19-377. Location:

~~No sign shall be attached to or painted on any telephone pole, light pole, telegraph pole, or sign post erected by any governmental agency. This includes manmade objects or natural objects not intended to support a sign.~~

~~(Ord. of 8-19-03)~~

Sec. 19-378. Illumination.

Illumination devices such as, but not limited to, flood or spot lights shall be placed and shielded to prevent the rays of illumination from being cast upon neighboring buildings, pedestrians in public right-of-ways, and/or vehicles approaching from either direction.

(Ord. of 8-19-03)

Sec. 19-379. Temporary signs.

Temporary signs *announcing an opening of a new business* may be used one (1) time for a period of not longer than sixty (60) days.

(Ord. of 8-19-03)

Sec. 19-380. Prohibited signs.

~~No signs shall be permitted advertising or directing persons to services, places or products not in the jurisdiction of this article. Billboards are prohibited in any district.~~

(Ord. of 8-19-03)

Sec. 19-381. Nonconforming signs.

Any sign located within the zoning jurisdiction of the Town of Kure Beach which on the date of the adoption of this article, or any amendment thereto, does not conform with the provisions of this article, or the amendment thereto, is eligible for characterization as a "legal nonconforming sign," if the sign was in compliance with applicable law on the date of the adoption of this article, or the applicable amendment thereto. A legal nonconforming sign shall immediately lose its legal nonconforming designation upon the happening of any of the following events:

- (1) It was determined that the sign was not permitted or in conformance with the applicable previous law when the sign was erected.*
- (2) The sign is altered in any way in structure, which tends to make the sign less in compliance with the requirements of the article than it was before the alteration; or*
- (3) The sign structure is relocated to a position making it less in compliance with the requirements of this article; or*
- (4) The sign is replaced; or*
- (5) Signs based upon the following amortization schedule:*
 - a) Temporary, sandwich board, movable freestanding, tire stacks, and wind signs: 60 days after notification*
 - b) Signs of less than \$100.00 in valuation: 60 days after notification*
 - c) Signs painted on buildings, walls or fences: 2 years after notification*
 - d) All off-site advertising signs together with all other signs: 5 7 years after notification*

On the happening of any of the above events, the sign shall be immediately brought into compliance with this article with a new permit secured therefore, or shall be removed.

~~All signs or advertising structures located in districts where they would not be permitted as a new use under the terms of these regulations are hereby declared to be nonconforming uses. However,~~

signs that are nonconforming as a result of improper illumination shall be made to conform to the requirements of this article within six (6) months.
 (Ord. of 8-19-03)

Sec. 19-382. Schedule of sign regulations.
 The following is a schedule of the sign regulations:
 TABLE INSET current ordinance

ZONE S	BILLBOARD	FREESTANDING	MARQUEE	PORTABLE	PROJECTING	ROOF SIGN	SHINGLED	TEMPORARY	WALL	MAX. SIZE	MAX. HEIGHT
X = PROHIBITED											
RA-1	X	X	X	X	X	X	X	X	X	N/A	N/A
RA1A	X	X	X	X	X	X	X	X	X	N/A	N/A
RA-2	X	X	X	X	X	X	X	X	X	N/A	N/A
RA-2A	X	X	X	X	X	X	X	X	X	N/A	N/A
RA-2T	X	X	X	X	X	X	X	X	X	N/A	N/A
RA-3	X			X					X	50 SQ. FT	35'
RA-3A	X			X					X	50 SQ. FT	35'
RA-4	X			X					X	50 SQ. FT	35'
RB-1	X			X					X	50 SQ. FT	35'
B-1	X			X						80 SQ. FT	35'
B-2	X			X						80 SQ. FT	35'
B-3	X			X						80 SQ. FT	35'

(Ord. of 8-19-03)
 Secs. 19-383--19-400. Reserved.

ZONES	BILL BOARD	FREE STANDING size & ht (max)	MARQUEE CANOPY	PORTABLE See exceptions 19-375 *	PROJECTING	ROOF SIGN	SHINGLE	TEMPORARY See exceptions 19-375 *	WALL
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AMENDED CHART:

Proposed New Sign Table

Sec. 19-382 Schedule of sign regulations.

Maximum Sign Dimensions					X = PROHIBITED				
B-4	X	X	X	X	X	X	X	X	X
RA-1	X	X	X	X	X	X	X	X	X
RA1A	X	X	X	X	X	X	X	X	X
RA-2	X	X	X	X	X	X	X	X	X
RA-2A	X	X	X	X	X	X	X	X	X
RA-2T	X	X	X	X	X	X	X	X	X
RA-3A Off Ft. Fisher	X	X	X	X	X	X	X	X	X
RA-3 On Ft. Fisher	X	40 SQ FT 42' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	X
RA-3A On Ft. Fisher	X	40 SQ FT 42' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	X
RA-4 On Ft. Fisher	X	40 SQ FT 42' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	X
RB-1 On Ft. Fisher	X	40 SQ FT 42' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	X
B-1	X	40 SQ FT 42' 8'	1 sign 20% of projecting	X	12 sq ft Minimum 8 foot	X	4 sq ft		15% of façade

		30% of sign may be illuminated changeable copy sign	structure		clearance from ground			X	
B-2	X	40 SQ FT 12' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	
B-3	X	40 SQ FT 12' 8' 30% of sign may be illuminated changeable copy sign	1 sign 20% of projecting structure	X	12 sq ft Minimum 8 foot clearance from ground	X	4 sq ft	X	

NEW SECTION: Sec 19-383: Abatement of illegal and abandoned signs.

An inventory of illegal and abandoned signs may be undertaken by the Code Enforcement Officer at any time. Every illegal or abandoned sign hereafter identified shall be deemed to constitute a public nuisance.

The Code Enforcement Officer is authorized to abate all illegal or abandoned signs. Illegal signs posted in the public right-of-way or upon public property may be removed by the Code Enforcement Officer or a Town code enforcement officer. Said signs shall be retained at Town hall for a period of not less than three working days. Thereafter, any unclaimed signs may be discarded.

Should the Town be required to remove any illegal or abandoned sign pursuant in the public right of way to this chapter, the reasonable cost of such removal shall be assessed against the owner of such sign. The cost of removal shall be \$50 per sign.

Any violation of the provisions of the Town of Kure Beach Sign Ordinance shall subject the offender to a civil penalty in the amount of fifty dollars (\$50.00), which shall be due and payable within seventy-two (72) hours after the offender has been cited for violation of the ordinance. Each day's continuing violation shall be a separate and distinct offense. Failure to pay said civil penalty within the specified time shall constitute a misdemeanor. In addition, any civil penalty may be recovered by the Town in a civil action in the nature of debt.