

# 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

MARCH 17, 2009 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
Building Inspector	John Batson
Public Works	Sonny Beeker
Town Clerk	Kaysie Pralle

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

#### CALL TO ORDER AND WELCOME

Mayor Montgomery called the meeting to order at 6:30 pm. Pastor Devin Kerns from Church on the Cape in Wilmington delivered the invocation. Mayor Montgomery led in the Pledge of Allegiance.

#### RECOGNITION AND AWARDS

Mayor Montgomery conducted the Oath of Office for Aimee Zimmerman, Board of Adjustments and Planning & Zoning Clerk to the Board

#### PRESENTATIONS TO COUNCIL

1. Tucker's Square Street Lights - Sonny Beeker  
Sonny Beeker distributed a packet to the Council which is incorporated by reference and made a part of these minutes.  
Sonny Beeker explained that Spot Lane is very dark at night and all but one person on Spot Lane is supportive of having street lights. The recommended placement of the lights, as shown in the informational packet, is where there are existing power poles.

ACTION – Commissioner Vattr MADE THE MOTION to place street lights on Spot Lane as recommended by Sonny Beeker. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Sonny distributed a binder of information to Council regarding the Stormwater Management Update. This information will be available at Town Hall.

Sonny announced that the 3<sup>rd</sup> Annual Free Trash pickup is Thursday, April 16, 2009. Sonny also announced that on Thursday, March 26, 2009 the Annual Dune Replanting will take place in Kure Beach. Steve Mercer with Coastal Transplant is donating the plants.

2. Teresa Hill of The Cape Fear Garden Club addressed Council about planting azaleas in Kure Beach. Mayor Montgomery presented her with a proclamation.
3. Deborah Galloway, NC Representative for the Silver Star Families of America addressed Council. Mayor Montgomery presented the Silver Star Banner Day Proclamation to her.

Mayor Montgomery emphasized the importance of recognizing the families of those serving our Town and Country.

4. Tom Jarrett, Sr. Vice President, Coastal Planning & Engineering of NC  
Static Line Variations Exceptions  
The CRC is looking at passing a couple of rules. One of those was a graduated static rule. The static line variance is in effect as of March 16, 2009. Under the existing rules there are several buildings past that line. Under current setback laws, if a building past this line were to be destroyed it could not be rebuilt. If the Town were to seek to have exceptions to this line for these properties it would move the line for these properties. This would not move the easement line. The price of the proposed report from Coastal Planning & Engineering is \$12,200. Let it be noted that this report is being completed for Wrightsville Beach and Carolina Beach.  
Mayor Montgomery questioned what Council would like to do with this issue. Commissioner Vattr & Nelder recommended passing this issue to the Planning & Zoning Commission (P&Z), but they emphasized the need for P&Z to know exactly what the criteria are. (44:01)

ACTION – Commissioner Nelder MADE THE MOTION to refer this issue to P&Z and the Building Inspector for consideration. They are to give Council an exact number of homes in Kure Beach this will affect. Commissioner Vattr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

5. Discussion of BOA Ruling – Randy Martin  
Randy Martin lives at 773 Sloop Point Lane in Kure Beach. He requested a permit to build an extension of his deck with a cantilever design. Building Inspector Batson denied his permit. He went to the Board of Adjustments (BOA) with his issue. They

also denied his request. His question is “why is he being treated differently than others?” At the BOA hearing, the board said if they would approve his deck at 18 inches over, not 24, would he accept that. When the Building Inspector was asked if he would approve 18 inches over, he said no.

Mayor Montgomery stated definitions are up for discussion later in this meeting. If Mr. Martin would like to stay he might find the information useful. Mayor Montgomery pointed out that the BOA is a quasi judicial body. Unless the Council went to the Supreme Court and sued their BOA, there is no way to overturn their ruling.

Attorney Canoutas recalled the BOA hearing regarding Mr. Martin’s case. He pointed out that the BOA offered him the 18 inches and he turned them down.

6. Administrator James presented two resolutions to Council.

Resolution R09-06 - Financing the cost of construction of wastewater collection system improvements. Administrator James pointed out this resolution completes the first step in the federal application process. We will either get a grant for the entire amount or we will get a loan with 50% forgiveness and zero interest.

**ACTION – Mayor Montgomery MADE THE MOTION to approve this resolution to apply for the funding. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.**

Resolution R09-06 is incorporated by reference and made a part of these minutes.

Resolution R09-07 - Federal Appropriation

This resolution states that Kure Beach will submit a request for \$750,000 to financially assist in the acquisition of the Ocean Front Park. (1:11:00)

**ACTION – Commissioner Vatrtr MADE THE MOTION to apply for a FY 2009-2010 appropriation from the US Federal Government to acquire property for the public of North Carolina to use in perpetuity as an Ocean Front Park. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.**

Resolution R09-07 is incorporated by reference and made a part of these minutes.

Administrator James presented a finance and grants update to Council. She distributed a handout to Council with grant status and information. This handout is incorporated by reference and made a part of these minutes.

Administrator James recommended that the Town complete a water & sewer rate study. She will be working with the Cape Fear Council of Governments to determine the cost of the rate study.

Commissioner Vattrt recommends going forward with the rate study due to the fact that Carolina Beach's wastewater rates will be going up. He feels this is a good indication that ours will as well.

### PERSONS TO ADDRESS COUNCIL

(3 minutes- please sign in with the clerk before the meeting)

- ~ Frances Regan stated that she is very proud of the Public Works Department here in Town.
- ~ Tommy apologized to Administrator James for a previous incident. He stated that there is a boat outside of his window that has become a nuisance.
- ~ Mr. McKay is wondering why the Town is paying for the study from NC State. He stated that the Town could have hired a private firm to do the study, with possibly more detail, for the same amount of money to help small businesses in this time of economic difficulty. Council directed him to discuss this issue further, and at a later time with Commissioner Vattrt who is heading up the new Economic Development Study Committee.

Mayor Montgomery called for recess at 8:15 pm  
The meeting returned to session at 8:30

### APPROVAL OF CONSENT AGENDA

1. Building Department report: February 2009
2. Finance report: February 2009
3. Fire Department report: February 2009
4. Police Department report: February 2009
5. Accept resignation from Eric Vann, Stormwater Committee
6. Accept Tim Fuller as a regular member to the Planning & Zoning Commission
7. Resolution of Support of Bicycle Facility Improvements on the Snow's Cut Bridge
8. Establish Kure Beach Hall of Fame Committee - Emile Swearingen Chair
9. New Hanover County contract to inspect Kure Beach town construction projects
10. Council minutes:
  - o 2/2/09 Closed
  - o 2/3/09 Workshop
  - o 2/17/09 Regular
  - o 3/2/09 Workshop
11. Closed Session minutes released as Open Records  
2006
  - o 8/25/06 Myrtle-Trout LLC/Rolling Surf/Ring - Signs/Pools
  - o 9/19/06 Jim Ring - Signs/Rolling Surf/Riggings
  - o 10/10/06 Atlantic Ave. Building Permit

2007

- o 1/18/07 Single family homes on 105 Atlantic Ave
- o 5/15/07 Building Insp. Certifications
- o 6/19/07 Dept. Head Performance Evaluations
- o 7/17/07 Land Acquisition
- o 8/21/07 Land Acquisition
- o 9/18/07 Park Land Acquisition
- o 10/16/07 Park Land Acquisition
- o 11/20/07 Discuss Qualifications of final applicants for town administrator

2008

- o 4/15/08 Ocean Front Park Grants
- o 4/24/08 Performance of assistant fire chief/lifeguards
- o 5/20/08 Performance of assistant fire chief
- o 5/29/08 Proposed salary for fire fighter/driver
- o 6/9/08 Prepare for Dept. Head evaluation
- o 6/16/08 Dept. Head performance evaluation
- o 7/15/08 S. Suggs performance evaluation
- o 9/16/08 Waste Management contract negotiation
- o 9/25/08 Continued - Beach re-nourishment easement/Climate study
- o 9/29/08 Continued - Climate study
- o 10/2/08 Continued - Personnel Issue
- o 10/24/08 Interview for Town Clerk
- o 11/6/08 Ocean Front property easement
- o 12/16/08 Selection of design firm for Ocean Front Park

ACTION – Mayor Pro Tem Dugan 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 Nelder MADE THE MOTION to amend the agenda to add as Item #2 under New Business the discussion of the Stormwater Committee. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to amend the agenda to add as Item #3 under New Business the discussion of Floor Area Ratios (F.A.R.). Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Mayor Montgomery revised Item #1 under New Business to read as follows: (1:47:00)

- a. Chapter 19 Zoning ARTICLE 1. IN GENERAL. Sec. 19-1. Definitions.
- b. Chapter 5 ARTICLE X. OCEAN FRONT DECKS. Section 5-185  
OCEANFRONT DECK ENCROACHMENT

ACTION - Commissioner Vattr MADE THE MOTION to approve the amended Agenda. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

### OLD BUSINESS

1. Discussion and consideration of approval for the following:
  - a. Chapter 19 Zoning ARTICLE 1. IN GENERAL. Sec. 19-1. Definitions.  
Building Inspector Batson and P&Z recommend adding these definitions to the Code of Ordinances.

ACTION - Commissioner Vattr MADE THE MOTION to add the recommended definitions to the Kure Beach Code of Ordinances. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

- c. Chapter 5 ARTICLE X. OCEAN FRONT DECKS. Section 5-185  
OCEANFRONT DECK ENCROACHMENT  
Building Inspector Batson pointed out this addition to the Code of Ordinance's will only apply to lots within the Seawatch Community.  
Building Inspector Batson and P&Z recommend adding this Article to the Code of Ordinances.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to adopt the addition to the Code of Ordinance. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Discussion and consideration of payment - Seawatch Community electricity bill, January - September, 2008.

ACTION - Commissioner Nelder MADE THE MOTION to allow Commissioner Vattr to recuse himself from voting due to a conflict of interest. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

In October 2008, the Town Council agreed to pay the utility bill for the Seawatch Community from that point forward. The bill would be \$1404.00 for Jan.-Aug. 2008.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to authorize retroactive payment for the utility bill of \$1404.00. Mayor Montgomery seconded the motion. Commissioner Nelder and Lambeth voted against the motion. THE MOTION FAILED DUE TO A TIE VOTE.

Mayor Pro Tem Dugan and Commissioner Lambeth clarified that the community chose the poles and they would not consider a discussion on paying for the usage of the poles.

ACTION - Mayor Montgomery MADE THE MOTION to refer this back to the Town Administrator to work with the Seawatch HOA and return to Council a composite recommendation that includes poles and electricity to the April meeting. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Ocean Front Park Update (Dugan)

Agreements so far:

Building in SW corner

Placed at an angle on the lot

Separate restrooms

Private restrooms within the main structure for event participants.

No parking on Atlantic Ave. in front of the structure

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to schedule another workshop to discuss Park features and structures on Monday, March 30, 2009 at 3:30 pm at Town Hall. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Atlantic Avenue Update (Batson)

Building Inspector Batson pointed out that he had received nine applications. He stated that he had received the final set of plans today. He will be meeting with the architect on Friday, March 20. On April 2 bids will open to those contractors who have pre-qualified.

5. Discussion and Consideration of Economic Development Committee members (Vatrt)

Commissioner Vatrt listed the members selected for the committee. They are as follows: Jim Vatrt and Jim Dugan will Co-Chair the committee, Michelle Stellaccio Chuck Keener, Brant Barnwell, Eric Vann, James Schutta, Ronnie Pernell and Dan Bell will be regular members. The committee will meet regularly the first Monday of the month at 5:30pm at Town Hall. They will have their first meeting Monday, March 30 at 5:30pm at Town Hall.

6. Insurance Rate Increase Update (Montgomery)

Mayor Montgomery stated that he has been contacted by many property owners from all over the State, as well as out of State property owners, asking who they contact about the insurance increase. House Bill H426 is being considered on Thursday, March 19. He pointed out the NC Association of Realtors is not supporting the Bill to stay the increase.

o Update on North Carolina 20 (Lambeth)

They are continuing to change the process of how these rates are determined to help it become a more fair and equitable process.

**NEW BUSINESS**

1. Discussion and Consideration of Contract with Pleasure Island Sea Turtle Project

Administrator James pointed out this contract has been approved every year. There is an increase of \$100 from last year due to the fact they will no longer be using the Town's ATV.

ACTION - Commissioner Vatrt MADE THE MOTION to accept the current year contract with the Pleasure Island Sea Turtle Project. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

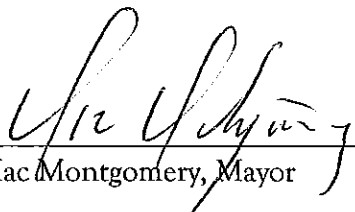
2. Discuss the purpose of the Stormwater Committee (Nelder)  
Commissioner Nelder stated that the committee feels they have fulfilled their purpose at this time.  
Stormwater will have meeting and meet with cooperative extension.  
Stormwater will propose their new mission to Council at the regular meeting on Tuesday, April 21.
3. Floor Area Ratios (F.A.R.) (Dugan)  
Ratios may need to be redefined in the Land Use Plan.

ACTION - Commissioner Lambeth MADE THE MOTION to refer this issue to P&Z. Commissioner Vatrt seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

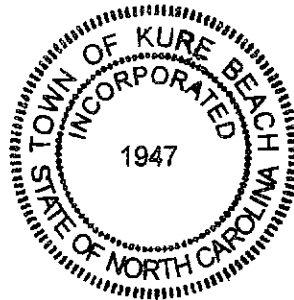
EXECUTIVE SESSION (If necessary)

ADJOURNMENT

ACTION - Commissioner Nelder MADE THE MOTION to adjourn the meeting at 9:55 pm. Commissioner Vatrt 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.



ITEMS  
INCORPORATED BY REFERENCE  
AND MADE A PART OF THESE  
MINUTES

OR

SIGNED AND SEALED  
ORDINANCE  
RESOLUTION  
PROCLAMATION  
CONTRACT



# KURE BEACH PUBLIC WORKS

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401 H. AVE. • POST OFFICE BOX 3 • KURE BEACH, NORTH CAROLINA 28449  
TELEPHONE (910) 458-5816 • FAX (910) 458-5905

To: Council Members  
From: Sonny Beeker  
Re: Streetlights  
Date: March 17, 2009

Robyn Buck of 117 Spot Lane has requested streetlights for that area.

This packet provides relevant information regarding that request, including

- A list of property owners affected by the request. These owners were contacted by the Public Works Department and their responses are included.
- A map showing the addresses affected.
- An e-mail from one of the property owners expressing his objections.
- An aerial streetlight map of the area.
- An aerial streetlight map showing typical placement in other areas.

SPOT LANE PROPERTY OWNERS

Address	Owner	Mailing Address	Phone Number	Reaction
806 Mississippi	David Eckert	3413 Song Sparrow, Wake Forest, NC 27587	252-443-8043	Yes
1705 Spot	Dennis Teel	4009 Ladys Secret Dr., Indian Trail, NC 28079	704-628-0257	Yes
1709 Spot	Windy Boswell	4804 Glen Eagles Lane, Wilson, NC 27896	252-237-2180	Yes
1713 Spot	Gordon Beckhart	2702 Andromeda Dr., Colorado Springs, CO 80906	719-442-6877	phone disconnected
1717 Spot	Robyn Buck	1717 Spot Lane, Kure Beach, NC 28449		Requested light
1721 Spot	Jason Gatt	7330 Leharne Dr., Charlotte, NC 28270	704-442-5534	okay if not in middle of block
1725 Spot	Edward Perdek, Jr.	746 Sloop Pointe Lane, Kure Beach, NC 28449	910-458-2060	no response
807 Alabama	Kevin Thayer	308 Chantclair Dr., Apex, NC 27502	919-606-0007	No



## Public Works

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**From:** Michelle James [townadministrator@townofkurebeach.org]  
**Sent:** Monday, March 31, 2008 4:13 PM  
**To:** kbpublicworks@charter.net  
**Subject:** FW: Proposed Alabama Ave Street Light

Robin:

Here are the comments made by Mr. Thayer about the lights being requested for Spot/Alabama. I have also sent this information to Sonny. Thanks.

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**From:** Michelle James [mailto:townadministrator@townofkurebeach.org]  
**Sent:** Monday, March 31, 2008 1:47 PM  
**To:** 'Sonny Beeker'; 'publicworks@townofkurebeach.org'  
**Subject:** FW: Proposed Alabama Ave Street Light

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**From:** Kevin Thayer (kethayer) [mailto:kethayer@cisco.com]  
**Sent:** Monday, March 31, 2008 9:59 AM  
**To:** townadministrator@townofkurebeach.org  
**Subject:** Proposed Alabama Ave Street Light

Good morning Michelle !

Thanks for wanting to hear our concerns about not wanting to put a street light in front of our house at the corner of Spot Lane and Alabama Ave. First my wife Linda and I would like you to know that we are definitely against putting a light there. When we looked at homes on Pleasure Island we had narrowed it down to three different homes. We checked them out at various times of the day and night, we loved the fact that when we stand on our porch at night we can see hundreds of stars in the sky because we have no street lights too close to our corner destroying our beautiful sky. We have never felt it was too dark or unsafe. We walk our dogs through the neighborhood at night all the time. At the corner of Alabama and Searay Lane which is only four houses down towards Ft. Fisher Blvd. there is a street light which illuminates up to our corner quite satisfactorily.

There are only two permanent residents on Spot Lane the rest are part time occupants. One of the permanent residents is the family that requested the lights to be installed which by the way they have recently put their home up for sale. None of the homes on Spot Lane are weekly or weekend rentals. So during vacation season we do not see different people rotating through our area every week.

We are part time residents; we are not real estate investors. We purchased our home with every intention of retiring there. And our plan is that will be in the next four to six years. So we do have a vested interest in the quality of life and services in our neighborhood. With that in mind, I do have two suggestions that would help our end of Alabama and the rest of the Tucker Square neighborhood.

3/16/2009

Since Alabama is a dead end my first suggestion would be to post a "No Outlet" sign at the corner of Alabama and Pinfish. This would reduce the unnecessary traffic that we see down at the end of Alabama. By the way positioning a street light at the end would also encourage people to think that the street continues on even further. My second suggestion would be to post a "Stop" sign at the end of Alabama at Spot Lane. Both of these suggestions are easier and less costly to implement and there are no recurring electrical or maintenance costs associated with them.

Thanks for listening and considering a better solution !

Kevin

**Kevin W. Thayer**

Cisco Systems  
Systems Engineer - Inside Sales

Single Number Reach 919-392-5376

No virus found in this incoming message.

Checked by AVG - [www.avg.com](http://www.avg.com)

Version: 8.0.233 / Virus Database: 270.10.20/1944 - Release Date: 02/10/09 17:44:00



Requested Location

ALABAMA

ALABAMA

ALABAMA

SPOT

SEARAY

PINFISH

MISSISSIPPI

MISSISSIPPI

SEARAY

PINFISH

SETTLERS





## MEMORANDUM

Date: March 17, 2009  
To: Kure Beach Town Council  
From: Michelle W. James, Town Administrator  
Re: Park Grants Update

### **Grants Approved, Received and Applied to Loan Principal:**

NC Parks & Recreation Trust Fund (PARTF)	\$500,000
NC Division of Water Resources (DWR)	\$300,000
New Hanover County	\$500,000
<b>Total Applied to Loan Principal:</b>	<b>\$1,300,000</b>

### **Grants Approved, NOT Received or Applied to Principal:**

NC Division of Coastal Management (CAMA)	\$600,000
NC Natural Heritage Trust Fund (NHTF)	\$500,000
Federal Appropriations FY 2008-09	\$95,000
<b>Total Approved and To Apply to Principal:</b>	<b>\$1,195,000</b>

### **Grants Approved and NOT Received for Development**

Clean Water Management Trust Fund	\$204,000
ON HOLD and DEFERRED FOR TWO YEARS BY GOVERNOR	

### **Grants Applied for and NOT Approved Yet (Development and Land Acquisition):**

Division of Water Quality (DWR) - Acquisition	\$300,000
Federal Appropriations Request – Acquisition	\$750,000
Parks & Recreation Trust Fund (PARTF) – Development	\$500,000
Division of Coastal Management (CAMA) – Development	\$500,000
<b>Total Applied for and Not Approved Yet</b>	<b>\$2,050,000</b>

## **Ocean Front Park Loan - Snapshot**

Total Mortgage on Ocean Front Park (Interest Rate at 4.28%)	\$3.600.000
Total Grants applied to Principal	\$1.300.000.
Mortgage Loan Payment Paid 12/19/2008 (Interest \$131,954.78; Principal \$115,000)	\$246,954.78
<b><u>Current Total Loan Balance:</u></b>	<b><u>\$2.185.000.00</u></b>
Total Funds to be Applied to Principal this year	\$1.195.000
Mortgage Loan Payment Due 12/19/2009 (To be budgeted in FY 2009-10)	\$208,518.00



**COPY**

## TOWN COUNCIL TOWN OF KURE BEACH

### RESOLUTION

**WHEREAS**, The Federal Clean Water Act Amendments of 1987 and the North Carolina the Water Infrastructure Act of 2005 (NCGS 159G) have authorized the making of loans and grants to aid eligible units of government in financing the cost of construction of wastewater collection system improvements, and

**WHEREAS**, The Town of Kure Beach has need for and intends to construct improvements to the wastewater collection system which includes rehabilitating, replacing and making repairs to the existing sanitary sewer system, and

**WHEREAS**, The Town of Kure Beach intends to request state loan and grant assistance for the project,

**NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF KURE BEACH:**

That Kure Beach, the **Applicant**, will arrange financing for all remaining costs of the project, if approved for a State loan and/or grant award.

That the **Applicant** will adopt and place into effect on or before completion of the project a schedule of fees and charges and other available funds which will provide adequate funds for proper operation, maintenance, and administration of the system and the repayment of all principal and interest on the debt.

That the governing body of the **Applicant** agrees to include in the loan agreement a provision authorizing the State Treasurer, upon failure of the Town of Kure Beach to make scheduled repayment of the loan, to withhold from the Town of Kure Beach any State funds that would otherwise be distributed to the local government unit in an amount sufficient to pay all sums then due and payable to the State as a repayment of the loan.

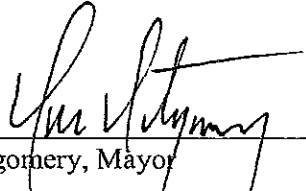
That the **Applicant** will provide for efficient operation and maintenance of the project on completion of construction thereof.

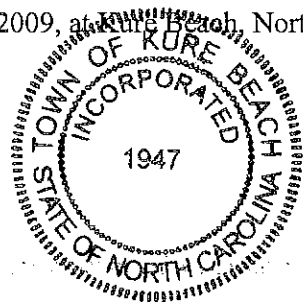
That Mayor Mac Montgomery, the **Authorized Official**, and successors so titled, is hereby authorized to execute and file an application on behalf of the **Applicant** with the State of North Carolina for a loan and/or grant to aid in the construction of the project described above.

That the **Authorized Official**, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the application.

That the **Applicant** has substantially complied or will substantially comply with all Federal, State, and local laws, rules, regulations, and ordinances applicable to the project and to Federal and State grants and loans pertaining thereto.

Adopted this the seventeenth day of March, 2009, at Kure Beach, North Carolina.

  
\_\_\_\_\_  
Mac Montgomery, Mayor

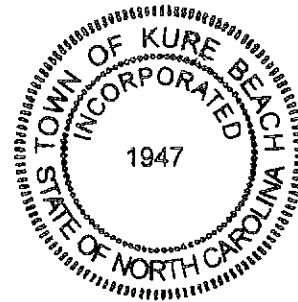


  
\_\_\_\_\_  
Kaysie Pralle, Town Clerk

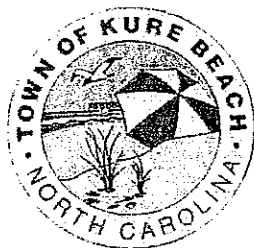
**CERTIFICATION BY RECORDING OFFICER**

The undersigned duly qualified and acting Town Clerk does hereby certify: That the above/attached resolution is a true and correct copy of the resolution authorizing the filing of an application with the State of North Carolina, as regularly adopted at a legally convened meeting of the town council duly held on the 17<sup>th</sup> day of March, 2009; and, further, that such resolution has been fully recorded in the journal of proceedings and records in my office. IN WITNESS WHEREOF, I have hereunto set my hand this 17<sup>th</sup> day of March, 2009.

Kaysie Pralle  
(Signature of Recording Officer)



Town Clerk  
(Title of Recording Officer)



**COPY**

**TOWN COUNCIL  
TOWN OF KURE BEACH**

*R*ESOLUTION

**WHEREAS**, the Town of Kure Beach intends to apply for a FY 2009-10 appropriation from the US Federal Government to acquire property for the public of North Carolina to use in perpetuity as an Ocean Front Park.

**WHEREAS**, the Ocean Front Park is one of a kind in the Southeast, along Atlantic Avenue in Kure Beach, North Carolina.

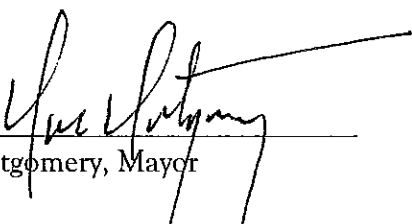
**WHEREAS**, the Town has received over \$1.2 million from state, local and federal grants to decrease the property mortgage of the Ocean Front Park.

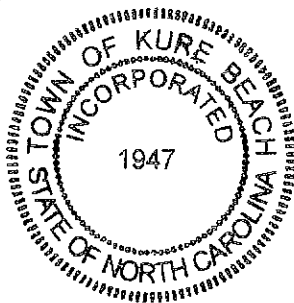
**WHEREAS**, the Town is in need of additional financial contributions to retire the property mortgage and begin developing this unique project for the public to use and enjoy year-round.

**NOW THEREFORE BE IT RESOLVED, BY THE TOWN COUNCIL OF THE TOWN OF KURE BEACH:**

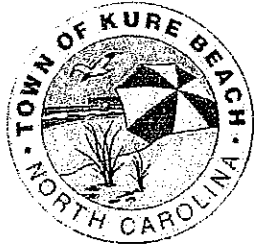
That Kure Beach will submit a request for \$750,000 introduced through the Office of Congressman Mike McIntyre to financially assist in the acquisition of the Ocean Front Park.

Adopted this the seventeenth day of March, 2009, at Kure Beach, North Carolina.

  
\_\_\_\_\_  
Mac Montgomery, Mayor



  
\_\_\_\_\_  
Kaysie Pralle, Town Clerk



TOWN COUNCIL  
TOWN OF KURE BEACH

*R*ESOLUTION OF SUPPORT OF BICYCLE FACILITY IMPROVEMENTS

ON THE SNOWS CUT BRIDGE

**WHEREAS**, the Wilmington Urban Area Metropolitan Planning Organization provides transportation planning services for the City of Wilmington, Town of Carolina Beach, Town of Kure Beach, Town of Wrightsville Beach, Town of Bellville, Town of Leland, Town of Navassa, New Hanover County, Brunswick County, Pender County, Cape Fear Public Transportation Authority and the North Carolina Board of Transportation; and

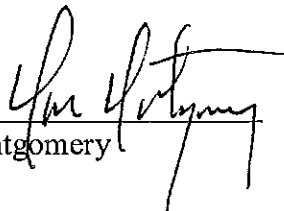
**WHEREAS**, bicycle and pedestrian facilities in the Wilmington Urban Area are desired by local residents to connect neighborhoods, schools and regional attractions; and

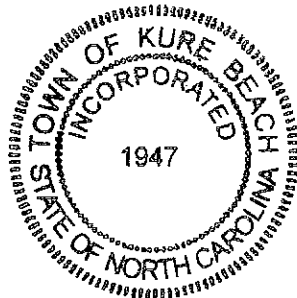
**WHEREAS**, the Snows Cut Bridge is designated as North Carolina Bicycling Highway 3 and 5; and

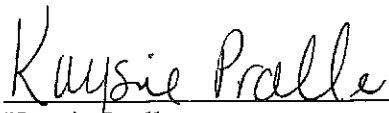
**WHEREAS**, the WMPO Bike/Ped Committee, Town of Carolina Beach and the Island Greenway Committee have identified the need for bicycle improvements on the bridge.

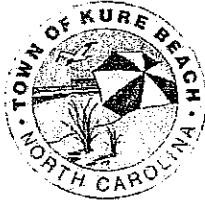
**NOW, THEREFORE, BE IT RESOLVED**, the Town of Kure Beach supports bicycle facility improvements on the Snows Cut Bridge and requests that the North Carolina Department of Transportation Division 3, North Carolina Department of Transportation Division of Bicycle and Pedestrian Transportation, and the Wilmington Metropolitan Planning Organization Staff work cooperatively to identify bicycle facility improvements on the bridge and potential funding sources for these improvements.

Adopted this the seventeenth day of March, 2009.

  
\_\_\_\_\_  
Mac Montgomery  
Mayor



  
\_\_\_\_\_  
Kaysie Pralle  
Town Clerk

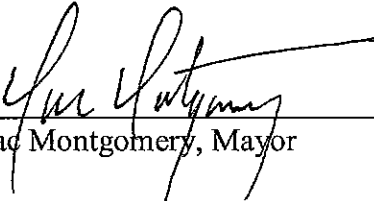


That the Code of the Town of Kure Beach, North Carolina, is hereby amended by adding ARTICLE X to be numbered Section 5-185, which shall read as follows:

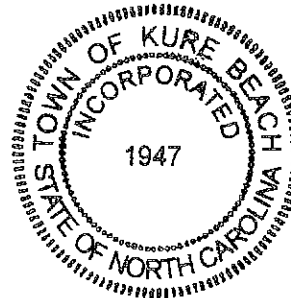
Sec. 5-185 OCEANFRONT DECK ENCROACHMENT

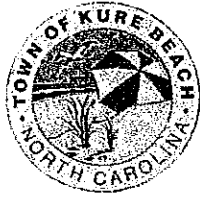
No more than 250 square feet of single level, freestanding, uncovered deck, which does not include the walkway to the beach, may not encroach more than 15 feet. This would apply to lots where the CAMA 60 foot setback is within 5 feet of the perpetual easement line. All proposed construction will also be subject to all CAMA guidelines. Should any encroachment extend into the Perpetual Beach Storm Damage Reduction Easement area granted to the Town of Kure Beach; then and in that event, it shall be subject to the terms of the easement and as such is subject to removal at the owners expense. Such removal shall be at the discretion of the U.S. Army Corps of Engineers for beach renourishment purposes.

Adopted this the 17<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_  
Mac Montgomery, Mayor

  
\_\_\_\_\_  
Kaysie Pralle, Town Clerk





That Section 19-1 of the Code of the Town of Kure Beach, North Carolina, is hereby amended by the addition of the following definitions which shall read as follows:

Sec. 19-1 Definitions.

Porch – A covered area adjoining an entrance to a building and usually having a separate roof.

Deck – An open, unroofed porch or platform extending from or in near proximity from a house or other building.

Balcony – An open platform projecting from the wall of a building usually supported by brackets and enclosed by a railing.

Loft – A room or storage area within a sloping roof or attic.

Widow's Walk – A railed observation platform usually atop a coastal house.

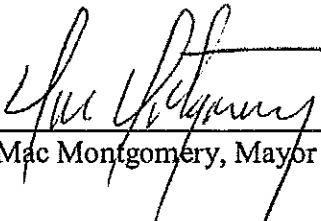
Dome – A large hemispherical roof or ceiling.

Spire – A steeply pointed roof termination to a tower.


Pergola – A structure consisting of parallel colonnades supporting an open roof of girders and cross rafters.

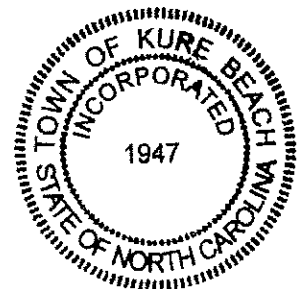
Gazebo – A free standing, roofed structure open on the sides.

Adopted this the 17<sup>th</sup> day of March, 2009.

  
\_\_\_\_\_  
Mac Montgomery, Mayor

ATTEST:

  
\_\_\_\_\_  
Kaysie Pralle, Town Clerk





Town of Kure Beach

Town Council  
2/17/2009

Agenda Packet

# AGENDA



## 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 Vattr, Commissioner

Michelle James, Town Administrator ▪ Kaysie Pralle, Town Clerk

### REGULAR MEETING

MARCH 17, 2009 6:30 P.M.

CALL TO ORDER AND WELCOME - Mayor Montgomery

INVOCATION - Pastor Devin Kerns from Church on the Cape, Wilmington, NC

PLEDGE OF ALLEGIANCE - Mayor Montgomery

### RECOGNITION AND AWARDS

1. Oath of Office, Aimee Zimmerman, Board of Adjustments and Planning & Zoning Clerk to the Board

### PERSONS TO ADDRESS COUNCIL

(3 minutes- please sign in with the clerk before the meeting)

### PRESENTATIONS TO COUNCIL

1. Tucker's Square Street Lights - Sonny Beeker
2. Teresa Hill of The Cape Fear Garden Club will address Council about planting azaleas in Kure Beach. Mayor Montgomery to present proclamation.
3. Deborah Galloway, NC Representative for the Silver Star Families of America will address Council. Mayor Montgomery to present Silver Star Banner Day Proclamation.
4. Tom Jarrett, Sr. Vice President, Coastal Planning & Engineering of NC Static Line Variations Exceptions
5. Randy Martin - Discussion of BOA Ruling

### APPROVAL OF CONSENT AGENDA

1. Building Department report: February 2009
2. Finance report: February 2009
3. Fire Department report: February 2009
4. Police Department report: February 2009

5. Accept resignation from Eric Vann, Stormwater Committee
6. Accept Tim Fuller as a regular member to the Planning & Zoning Commission
7. Resolution of Support of Bicycle Facility Improvements on the Snow's Cut Bridge
8. Establish Kure Beach Hall of Fame Committee - Emile Swearingen Chair
9. New Hanover County contract to inspect Kure Beach town construction projects
10. Council minutes:

- o 2/2/09 Closed
- o 2/3/09 Workshop
- o 2/17/09 Regular
- o 3/2/09 Workshop

11. Closed Session minutes released as Open Records

2006

- o 8/25/06 Myrtle-Trout LLC/Rolling Surf/Ring - Signs/Pools
- o 9/19/06 Jim Ring - Signs/Rolling Surf/Riggings
- o 10/10/06 Atlantic Ave. Building Permit

2007

- o 1/18/07 Single family homes on 105 Atlantic Ave
- o 5/15/07 Building Insp. Certifications
- o 6/19/07 Dept. Head Performance Evaluations
- o 7/17/07 Land Acquisition
- o 8/21/07 Land Acquisition
- o 9/18/07 Park Land Acquisition
- o 10/16/07 Park Land Acquisition
- o 11/20/07 Discuss Qualifications of final applicants for town administrator

2008

- o 4/15/08 Ocean Front Park Grants
- o 4/24/08 Performance of assistant fire chief/lifeguards
- o 5/20/08 Performance of assistant fire chief
- o 5/29/08 Proposed salary for fire fighter/driver
- o 6/9/08 Prepare for Dept. Head evaluation
- o 6/16/08 Dept. Head performance evaluation
- o 7/15/08 S. Suggs performance evaluation
- o 9/16/08 Waste Management contract negotiation
- o 9/25/08 Continued - Beach re-nourishment easement/Climate study
- o 9/29/08 Continued - Climate study
- o 10/2/08 Continued - Personnel Issue
- o 10/24/08 Interview for Town Clerk
- o 11/6/08 Ocean Front property easement
- o 12/16/08 Selection of design firm for Ocean Front Park

## **ADOPTION OF THE AGENDA**

### **OLD BUSINESS**

1. Discussion and consideration of approval for the following:
  - a. Recommended Definitions - Article VI. SIGNS, Sec.19-371. Definitions.
  - b. Supplemental Regulation, Chapter 19 Code of Ordinances
2. Discussion and consideration of payment - Seawatch community electricity bill, January - September, 2008.
3. Ocean Front Park Update (Dugan)
4. Atlantic Avenue Update (Batson)
5. Discussion and Consideration of Economic Development Committee members (Vatrt)
6. Insurance Rate Increase Update (Montgomery)
  - o Update on North Carolina 20 (Lambeth)

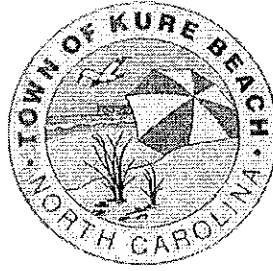
### **NEW BUSINESS**

1. Discussion and Consideration of Contract with Pleasure Island Sea Turtle Project (Batson)

### **EXECUTIVE SESSION (If necessary)**

### **ADJOURNMENT**

Recognition  
And  
Awards



## OATH OF OFFICE

I, Aimee Zimmerman, swear that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge my duties as Clerk to the Board for the Town of Kure Beach, so help me God.

---

Aimee Zimmerman, Clerk to the Board

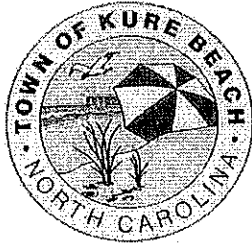
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Mac Montgomery, Mayor

# Persons to Address Council

# Presentations





## PROCLAMATION

### *"Plant an Azalea Week" Proclamation*

**WHEREAS**, the Cape Fear Garden Club was organized in 1925 and is the oldest and largest garden club in North Carolina and among the largest garden clubs in the nation; and

**WHEREAS**, the first Azalea Festival was held in 1948 and has grown into a five-day celebration that includes a parade, street fair, circus, concert, and the Cape Fear Garden Club Azalea Garden Tour, and is regarded as one of the premier events on the Southeast Coast; and

**WHEREAS**, 2009 marks the 84<sup>th</sup> anniversary of the Cape Fear Garden Club and the 62<sup>nd</sup> anniversary of the North Carolina Azalea Festival; and

**WHEREAS**, asking our citizens to plant azaleas will show support for the Cape Fear Garden Club Azalea Garden Tour and the North Carolina Azalea Festival, and will also provide an opportunity to showcase the beauty and charm of our wonderful community for our "festival guests."

**NOW, THEREFORE**, I, Mayor Mac Montgomery, by virtue of the authority vested in me as Mayor of the Town of Kure Beach, North Carolina, and on behalf of the Town Council and all of our citizens, do hereby proclaim the week of March 22-28, 2009 as "**Plant an Azalea Week**" in Kure Beach to promote the Cape Fear Garden Club Azalea Garden Tour to be held April 3-5, 2009 and the North Carolina Azalea Festival to be held April 1-5, 2009.

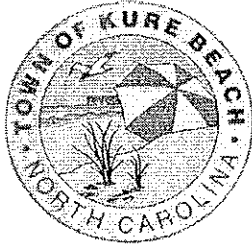
Adopted this 17th day of March, 2009.

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Mac Montgomery, Mayor

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Kaysie Pralle, Town Clerk



## PROCLAMATION

### *Silver Star Banner Day Proclamation*

**WHEREAS**, the Town of Kure Beach, as always honors the sacrifice of the men and women in the Armed Forces; and

**WHEREAS**, The Silver Star Families of America was formed to make sure we remember the blood sacrifice of our wounded and ill by designing and manufacturing a Silver Star Banner and Flag; and

**WHEREAS**, to date, The Silver Star Families of America has freely given thousands of Silver Star Banners to the wounded and their families; and

**WHEREAS**, the members of The Silver Star Families of America have worked tirelessly to provide the wounded of this City and Country with Silver Star Banners, Flags and care packages; and

**WHEREAS**, The Silver Star Families of America's sole mission is that every time someone sees a Silver Star Banner in a window or a Silver Star Flag flying that people remember the sacrifices for this City, State and Nation; and

**WHEREAS**, the people and Mayor of Kure Beach wish that the sacrifice of so many in our Armed Forces never be forgotten;

**NOW, THEREFORE**, I, Mac Montgomery, Mayor of the Town of Kure Beach do hereby proclaim my appreciation for The Silver Star Families of America and honor their commitment to our wounded and hereby declare May 1<sup>st</sup> "Silver Star Banner Day," the permanent and official day to honor the wounded and ill members of the Armed Forces of the Town of Kure Beach.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and caused to be affixed the Great Seal of the Town of Kure Beach in the State of North Carolina this 17<sup>th</sup> day of March, 2009.

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Mac Montgomery, Mayor

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Kaysie Pralle, Town Clerk

**AGREEMENT BETWEEN  
THE TOWN OF CAROLINA BEACH, NC  
AND  
COASTAL PLANNING & ENGINEERING OF  
NORTH CAROLINA, INC.  
FOR  
PROFESSIONAL SERVICES**

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THIS IS AN AGREEMENT made as of January \_\_\_\_, 2009, between The Town of Carolina Beach, NC (OWNER) and Coastal Planning & Engineering of North Carolina, Inc. (ENGINEER). OWNER intends to obtain professional services to prepare an application for a static line exception in accordance with 15A NCAC 07J .1201. The application and accompanying report will be referred to hereinafter as the Project.

OWNER and ENGINEER in consideration of their mutual covenants herein agree in respect of the performance of professional engineering services by ENGINEER and the payment for those services by OWNER as set forth below.

**SECTION 1 - BASIC SERVICES  
OF ENGINEER**

---

**1.1. Project Management and Coordination.**

Upon contract signing, ENGINEER shall:

1.1.1. Provide for OWNER professional engineering services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as OWNER's professional engineering representative for the Project, providing professional engineering consultation and advice and furnishing customary coastal engineering and geotechnical services and customary environmental consulting services incidental thereto.

The duties and responsibilities of ENGINEER during the Study and Report Phase are amended and supplemented as indicated in Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina".

**1.2. Report Preparation, Geotechnical Investigations, and Exception Application.**

Upon contract signing, ENGINEER shall:

1.2.1. Consult with OWNER to clarify and define OWNER's requirements for the Project and review available data.

1.2.2. Advise OWNER as to the necessity of OWNER's providing or obtaining from others data or services of the types described in paragraph 3.3, and assist OWNER in obtaining such data and services.

1.2.3. Identify and analyze requirements of governmental authorities having jurisdiction to approve the Project and participate in consultations with such authorities.

1.2.4. Provide analyses of OWNER's needs, and site evaluations.

The duties and responsibilities of ENGINEER during the Report Preparation Phase are amended and supplemented as indicated in Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina".

SECTION 2 - ADDITIONAL SERVICES  
OF ENGINEER NOT INCLUDED IN  
EXHIBIT "A" WORK

---

2.1. If authorized in writing by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed in paragraphs 2.1.1 through 2.1.8, inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in Exhibit A "Scope of Professional Services Town of Carolina Beach, North Carolina"; these will be paid for by OWNER as indicated in Section 5.

2.1.1. Preparation of application and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effect on the design requirements of the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.

2.1.2. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule, character of construction or method of financing; and revising previously accepted studies or reports, when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to

any other causes beyond ENGINEER's control.

2.1.3. Providing renderings or models for OWNER's use.

2.1.4. Furnishing services of independent professional associates and consultants for other than Basic Services (which include, but are not limited to, customary civil, structural, mechanical and electrical engineering and customary architectural design incidental thereto); and providing data or services of the types described in paragraph 3.4 when OWNER employs ENGINEER to provide such data or services in lieu of furnishing the same in accordance with paragraph 3.4.

2.1.5. Services during out-of-town travel required of ENGINEER other than visits to the site or OWNER's office as required by Section 1.

2.1.6. Providing any type of property surveys or related engineering services needed for the transfer of interests in real property and other special field surveys.

2.1.7. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other legal or administrative proceeding involving the Project.

2.1.8. Additional services in connection with the Project, including services which are to be furnished by OWNER, and services not otherwise provided for in this Agreement.

SECTION 3 - OWNER'S  
RESPONSIBILITIES

---

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER:

3.1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to ENGINEER's services for the Project.

3.2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will require to be included in the Project.

3.3. Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to ~~design or construction~~ of the Project.

3.4. Furnish to ENGINEER, as required for performing of ENGINEER's Basic Services (except to the extent provided otherwise in Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina"), the following:

3.4.1. ~~data prepared by or services of others, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;~~ (Included in EXHIBIT A)

3.4.2. ~~appropriate professional interpretations of all of the foregoing;~~ (Included in EXHIBIT A)

3.4.3. ~~environmental assessment and impact statements;~~ (Included in EXHIBIT A)

3.4.4. property, boundary, easement, right-of-way, topographic and utility surveys;

3.4.5. property descriptions;

3.4.6. zoning, deed and other land use restriction; and

3.4.7. other special data or consultations not covered in Section 2;

all of which ENGINEER may use and rely upon in performing services under this Agreement.

3.5. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.

3.6. Examine all studies, reports, sketches, Drawings, Specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such an examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

3.7. Provide such accounting, independent cost estimating and insurance counseling services as may be required for the Project, such legal services as may be required for the Project, such legal services as OWNER may require or ENGINEER may reasonably

request with regard to legal issues pertaining to the Project.

3.8. If OWNER designates a person to represent OWNER at the site who is not ENGINEER or ENGINEER's agent or employee, the duties, responsibilities and limitations of authority of such other person and the effect thereof on the duties and responsibilities of ENGINEER and the Resident Project Representative (and any assistants) is set forth in the exhibit attached to and made a part of this Agreement.

3.9. Furnish to ENGINEER data or estimated figures as to OWNER's anticipated costs for services to be provided by others for OWNER (such as services pursuant to paragraphs 3.6 through 3.11, inclusive) so that ENGINEER may make the necessary findings to support opinions of probable Total Project Costs.

3.10. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services.

3.11. Furnish, or direct ENGINEER to provide, Additional Services as stipulated in paragraph 2.1 of this Agreement or other services as required.

3.12. Bear all costs incident to compliance with the requirements of this Section 3.

#### SECTION 4 - PERIODS OF SERVICE

---

4.1. The provisions of this Section 4 and the various rates of compensation for ENGINEER's services provided for elsewhere in this Agreement have been agreed to in anticipation of the orderly and

continuous progress of the Project. ENGINEER's obligation to render services hereunder will extend for a period which may reasonably be required for project management, coordination, field investigations and report preparation, including extra work and required extensions thereto. If in Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina" specific periods of time for rendering services are set forth or specific dates by which services are to be completed and provided, and if such dates are exceeded through no fault of ENGINEER, all rates, measures and amounts of compensation provided herein shall be subject to equitable adjustment.

~~4.2. The services called for in the Final Design & Environmental Services Phase will be completed and the report submitted within the stipulated period indicated in Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina" after written authorization to proceed with that phase of services which will be given by OWNER within thirty days after ENGINEER has signed this Agreement. (Not Applicable)~~

4.3. ENGINEER's services shall each be considered complete at the earlier of (1) the date when the submissions for that phase have been accepted by OWNER or (2) thirty days after the date when such submissions are delivered to OWNER for final acceptance, plus in each case such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the design of the Project.

4.4. If OWNER has requested significant modifications or changes in the general scope, extent or character of the Project, the



time of performance of ENGINEER's services shall be adjusted equitably.

## SECTION 5- PAYMENTS TO ENGINEER

---

### **5.1. Methods of Payment for Services and Expenses of Engineer**

5.1.1. *For Services:* OWNER shall pay ENGINEER for Basic Services rendered under Section 1 (as amended and supplemented by Exhibit A "Scope of Professional Services, Town of Carolina Beach, North Carolina") as follows:

5.1.1.1. For those services identified as lump sum, these services shall be billed on a percentage complete basis and at 100% of stated fee when they are complete.

5.1.1.2. For those services listed as upper limit fees, these will be billed on an hourly basis based on rates shown on Exhibit "B" up to the limits shown in Exhibit "A." If the limit is reached and item is not complete, additional authorization will be sought by the ENGINEER before proceeding further.

5.1.2. *For Additional Services (Services Not Listed in Exhibit "A"):* OWNER shall pay ENGINEER for Additional Services rendered under Section 2 as follows:

5.1.2.1. Compensation will be on a basis agreed upon in writing at time of the additional authorization.

5.1.3. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 5.1.1. and 5.1.2. OWNER shall pay ENGINEER the actual costs of all Reimbursable Expenses incurred in connection with all Basic and Additional Services. ENGINEER shall provide receipts

to OWNER for all reimbursable expenses. There are no reimbursable expenses associated with lump sum items shown in Exhibit "A".

### **5.2. Times of Payments.**

5.2.1. ENGINEER shall submit monthly statements for Basic and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based upon ENGINEER's estimate of the proportion of the total services actually completed at the time of billing. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

### **5.3. Other Provisions Concerning Payments.**

5.3.1. If OWNER fails to make any payment due ENGINEER for services and expenses within thirty days after receipt of ENGINEER's valid statement therefor, the amounts due ENGINEER will be increased at the rate of 1% per month from said thirtieth day, and in addition, ENGINEER may, after giving seven days' written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses and charges.

5.3.2. In the event of termination by OWNER under paragraph 6.1 upon the completion of any phase of the Project, progress payments due to ENGINEER for services rendered through such phase shall constitute total payment for such services. In the event of such termination by OWNER during any phase of the Project, ENGINEER will be paid for services rendered during that phase on the basis of ENGINEER's Hourly Rates shown in Exhibit "B". In the event of any such termination, ENGINEER also will

be reimbursed for the charges of independent professional associates and consultants accrued up to the date of such termination employed by ENGINEER to render services, and paid for all unpaid Additional Services and unpaid Reimbursable Expenses, plus all termination expenses. Termination expenses mean Reimbursable Expenses directly attributable to termination, which, if termination is at OWNER's convenience, shall include an amount computed as a percentage of total compensation for Project Services earned by ENGINEER to the date of termination, as follows:

10% if termination occurs after commencement of the Project Management & Coordination Task.

5.3.3. Records of ENGINEER's Salary Costs pertinent to ENGINEER's compensation under this Agreement will be kept in accordance with generally accepted accounting practices. Copies will be made available to OWNER at cost on request prior to final payment for ENGINEER's services.

5.3.4. Whenever a factor is applied to Salary Costs in determining compensation payable to ENGINEER that factor will be adjusted periodically and equitably to reflect changes in the various elements that comprise such factor. All such adjustments will be reasonable in scope and in accordance with generally accepted accounting practices as applied on a consistent basis by ENGINEER and consistent with ENGINEER's overall compensation practices and procedures subject to written approval by OWNER.

#### **5.4. Definitions.**

5.4.1. The Salary Costs used as a basis for payment mean salaries and wages (basic and

incentive) paid to all ENGINEER's personnel engaged directly on the Project, including, but not limited to, engineers, architects, surveyors, designers, biologists, geologists, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

The hourly Salary Costs of principals of ENGINEER will be adjusted equitably to reflect changes in personnel and in ENGINEER's overall compensation procedures and practices.

5.4.2. Reimbursable Expenses mean the actual expenses incurred by ENGINEER or ENGINEER's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for: transportation and subsidence incidental thereto; reproduction of reports, Drawings, and similar Project-related items in addition to those required under Section 1; and, if authorized in writing and in advance by OWNER, overtime work requiring higher than regular rates.

## **SECTION 6 - GENERAL CONSIDERATIONS**

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### **6.1. Termination.**

The obligation to provide further services under this Agreement may be terminated by either party upon thirty days' written notice in the event of substantial failure by the other party to perform in accordance with

the terms hereof through no fault of the terminating party.

6.1.1 Upon termination of this agreement by either ENGINEER or OWNER and upon payment of all outstanding amounts due to the ENGINEER as of the date of such termination, ENGINEER shall deliver to OWNER all items and/or documents provided to ENGINEER by OWNER or any other source where said items or documents are related to the Project. Likewise, upon termination, ENGINEER shall deliver to OWNER, a copy of documents, addenda, drawings, record drawings, samples, and any and all work product or deliverables prepared by, obtained by, in the possession of, under the control of, or reasonably available to the ENGINEER with a written release from ENGINEER allowing OWNER to use such items at the sole risk of the OWNER. Furthermore, upon termination by either OWNER or ENGINEER, ENGINEER shall immediately cease all activities associated with the Project which are not directly related to demobilization of personnel and equipment from the site, to completion of tasks whose value would otherwise be lost, to preparation of notes as to the status completed and uncompleted tasks, to assembly of project materials in orderly files or to other such activities reasonably necessary for the protections and stabilization of any work already performed by ENGINEER and/or Contractor. ENGINEER shall utilize all reasonable means to mitigate all costs for such activities.

## **6.2. Reuse of Documents.**

All documents including Drawings and Specifications prepared or furnished by ENGINEER (and ENGINEER's independent professional associates and consultants) pursuant to this Agreement are instruments

of service in respect of the Project and ENGINEER shall retain an ownership and property interest therein whether or not the Project is completed. OWNER may make and retain copies for information and reference in connection with the use and occupancy of the Project by OWNER and others; however, such documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any reuse without written verification or adoption by ENGINEER for the specific purpose intended will be at OWNER's sole risk and without liability or legal exposure to ENGINEER, or to ENGINEER's independent professional associates or consultants, and OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom, unless arising from negligent acts or omissions by same while acting on behalf of the ENGINEER in a prudent professional capacity. Any such verification or adaptation by ENGINEER will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

## **6.3. Insurance.**

6.3.1. ENGINEER shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease or death of any and all employees or of any person other than such employees, and from claims or damages because injury to or destruction of property including loss of use resulting therefrom.

#### **6.4. Controlling Law.**

This Agreement is to be governed by the laws of the State of North Carolina.

#### **6.5. Successors and Assigns.**

6.5.1. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.5.2. the assigns of OWNER and ENGINEER) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such party, in respect of all covenants, agreements and obligations of this Agreement.

6.5.2. Neither OWNER nor ENGINEER shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent ENGINEER at its sole expense (except for hourly contract elements where subconsultants are needed), from employing such independent professional associates and consultants as ENGINEER may deem appropriate to assist in the performance of services hereunder.

6.5.3. Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than OWNER and ENGINEER, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party.

#### **6.6. Arbitration.**

OWNER and ENGINEER agree that they shall first make a good faith effort to resolve any issues which may arise between the parties during this Agreement and the business relationship created thereby and to submit any and all unsettled claims, counterclaims, disputes and other matters in question between them arising out of or relating to this Agreement or the breach thereof ("disputes"), to mediation prior to either of them seeking recourse by legal process. The above notwithstanding, nothing shall limit the right of any party to this Agreement to: (1) to seek judicial equitable relief, or other equitable relief available to it under applicable statutory and/or case law including, but not limited to, injunctive relief and the appointment of a receiver; or (2) to exercise any self-help rights or any other rights or remedies available to it by contract or applicable statutory or case law (including but not limited to the filing of an involuntary petition in bankruptcy, the right of set off, attachment, recoupment, foreclosure, or repossession) with respect to its extension of credit, the protection and preservation of collateral, the liquidation and realization of collateral, the protection, continuation and preservation of lien rights and priorities, the collection of indebtedness, and the processing and payment or return of checks, whether such occurs before, during or after

the pendency of any negotiation or mediation proceeding. The institution and maintenance of an action for judicial relief or pursuit of provisional or ancillary rights or remedies or exercise of self help remedies, all as provided herein, and the pursuit of any such rights or remedies, shall not constitute a waiver of the right or obligation of any Party, including the plaintiff seeking judicial relief or remedies, to submit a dispute to negotiation and mediation, including disputes that may arise from the exercise of such rights. The costs of the mediation, including the fees and expenses of the mediator, shall be borne by the parties to the mediation in equal shares, each party to this agreement bearing the expense of its own counsel, experts, witnesses, and preparation and presentations at the mediation. The mediation process is non-binding and shall conform with the following rules and procedures:

#### **A. Request for Mediation**

When a dispute between the parties is not resolved by informal negotiations, any party shall serve upon the other(s) a request for mediation which shall contain a brief statement of the nature of the dispute and the names, addresses, and telephone numbers of all parties to the dispute and those who will represent them, if any, in the mediation. Upon service of the request for mediation, the parties shall have ten (10) days to select a mediator.

#### **B. The Mediator:**

The parties shall select a mediator from the following list of eastern North Carolina Certified Mediators:

Charles K. McCotter, Jr.  
William F. Ward, III

John A. J. Ward  
David A. Stoler

The mediator will control the procedural aspects of the mediation. The parties agree to cooperate fully with the mediator throughout the proceeding.

During the mediation, the mediator is free to meet and communicate separately with each party or groupings of parties. The mediator will not transmit information which has been disclosed to him or her in confidence by any party to another party without the former party's express authorization. The mediator may freely express his or her views to the parties on the legal issues of the dispute, however, each party, shall rely exclusively on its own counsel for legal representation and advice. The mediator shall be compensated by payment of a one-time administrative fee and an hourly rate which represents the mediator's standard rates for such services and as agreed upon by the parties with the mediator. Each party shall bear an equal share of the mediator's compensation.

#### **C. Pre Mediation Submissions**

Prior to the date that mediation is scheduled to begin, each party shall cooperate with each other in exchanging all documents that are relevant to the dispute and in permitting reasonable review of each other's contract files. Not later than ten (10) days prior to mediation, each party will send to the mediator with copies to each other, the following documents: a) all documents that are relevant to the dispute (parties will cooperate in selecting documents to avoid duplication between the submissions of each party); b) a list of the issues to be determined (the parties will make every effort to submit a joint list of issues in the

order that is most logical for presentation); c) a list of witnesses and participants in the mediation proceeding. Within the same time frame, any party may submit to the mediator a written brief of not more than 15 typewritten pages (Times New Roman, 12 pitch), outlining the nature of and basis for its claims and its principal defenses to the claims of others. Each brief will include an analysis by each party of the cause or causes of the damages or other harm based on evidence presently available to it, including the opinions of its own personnel and any independent experts. Each party must send copies of its brief to all other participants in the mediation simultaneously with its submission to the mediator. The mediator may request any party to provide clarification and additional information prior to and during the mediation and may request any party's attorney to brief legal issues.

#### **D. Mediation Conference**

Once the mediator has familiarized himself or herself with the case, the mediator will mediate settlement discussions between and among the representatives of the parties. In addition to party counsel (if any), each party must be represented at the mediation by a person authorized to conclude a settlement of the dispute on behalf of that party, or in the case of a governmental entity, by a person who has authority to negotiate for and make recommendations to the governing board subject to such board's approval. Each representative must participate in the mediation process in good faith toward the settlement of all issues. Each party will notify the mediator of its designated representatives prior to the mediation. The mediation will be conducted at any location selected by the mediator which will facilitate the joint and individual

meetings involved in the mediation and otherwise accommodate the needs of the representatives of the parties and the mediator. The mediation process will be conducted expeditiously and privately. Each representative (and counsel, if any) will be available for meetings throughout the entire time period set aside for the mediation. Other persons may attend only with the permission of the parties and with the consent of the mediator. The mediator will decide when to meet or confer separately with each party or parties and when to hold joint meetings.

There shall be no stenographic record of the mediation process. The mediator will fix the time and place of each session and the agenda in consultation with the parties. The mediator may assist the parties in arriving at a settlement in such ways as he or she deems advisable and proper under the circumstances. Efforts to reach a settlement will continue until a settlement is reached or when the mediator concludes and informs the parties that further effort would not be useful. Continuation will be on terms and conditions to which the parties agree.

The mediation proceeding will begin with each party making an opening statement of no longer than fifteen minutes. The first statement will be made by the proponent of the major elements of the dispute. Following opening statements, each issue will be discussed using a round table discussion technique. Each party will make its relevant key employees and consultants available to participate in this discussion. In the discussion, the proponent of the issue will make a brief presentation of its position on the issue. The other party will then make a brief presentation of its defense. The neutral advisor will then moderate a discussion--calling on participants from each

side as they request to address the issues in question. There will be no side discussions and no participant will speak until called on by the neutral advisor. The goal of this discussion is to fully develop all information relevant to the determination of the facts of the dispute and the precise position of each party. All participants will refrain from statements that are unduly argumentative or contentious.

The proceedings will not be recorded and witnesses will not be sworn. However, all participants will be expected to be forthright in their statements and to be fully open and honest in their dealings with each other. Attorneys may participate in the discussion and may call on other personnel when necessary to ensure that they contribute their knowledge to the discussion. Attorneys will not cross-examine witnesses of the other party.

Following the round table discussions, each party may summarize its position in a statement no longer than one-half hour. The parties may, by mutual agreement, waive these statements. Following the summarizations, if any, the parties and mediator will meet negotiate a settlement that is fair to both parties. The parties may conduct these discussions with or without the mediator. The mediator may present his views on any issues or propose resolution of one or more of the issues in dispute. Either party or the mediator may request a private, confidential meeting with the mediator to discuss possible settlement positions, and the mediator will not reveal any confidential information to the other party, unless authorized to do so. Either party may adjourn the meeting at any time to caucus with his team, but all parties will endeavor to keep the negotiations active until a settlement has been reached.

The entire mediation process is confidential. No record of the proceedings, electronic or otherwise, will be made. The parties and the mediator will not disclose information regarding the process, including settlement terms, to third parties, unless otherwise agreed. The process will be treated as a compromise and settlement negotiation purposes of federal and state Rules of Evidence, and in no case may any conversation or communication originating during the mediation process, whether written or oral, be used as evidence in a court of law. The mediator is disqualified as a witness, consultant, or expert in any pending or future action relating to the subject matter of the mediation, including those between persons not parties to the mediation.

#### **E. Settlement**

If a settlement is reached, the mediator, or counsel for one of the parties at the mediator's request, will draft a written settlement document incorporating all settlement terms. This draft will be circulated among the parties, edited as necessary, and, if acceptable, formally executed. A consent judgment or one or more voluntary dismissals shall be filed with the Court in which any proceedings have been brought before or during mediation as stipulated in the settlement agreement reached by the parties.

**6.7.** Any time frames and/or billing rates described elsewhere in this document subject to equitable adjustment may not be so adjusted without the written consent of OWNER.

6.8. ENGINEER shall cause OWNER to be listed as an additional insured on any general liability or property insurance policies carried by ENGINEER which are applicable to the Project. Likewise,

OWNER shall cause ENGINEER to be listed as an additional insured on any general liability or property insurance policies carried by OWNER which are applicable to the Project.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement as of the day and year first above written.

OWNER:

ENGINEER:

\_\_\_\_\_  
Tim Owens, Town Manager  
Town of Carolina Beach, North Carolina

\_\_\_\_\_  
Tom Jarrett, P.E., Senior Vice President  
Coastal Planning & Engineering of NC, Inc.

Address for giving notices:

Address for giving notices:

Town of Carolina Beach,  
1121 N. Lake Park Blvd.  
Carolina Beach, NC 28428

Coastal Planning & Engineering of NC, Inc.  
4038 Masonboro Loop Rd.  
Wilmington, NC 28412



EXHIBIT A  
SCOPE OF PROFESSIONAL SERVICES  
TOWN OF CAROLINA BEACH, NC  
STATIC LINE EXCEPTION

Coastal Planning & Engineering of North Carolina, Inc. (CPE-NC) will prepare a report to support the Town of Carolina Beach's (TOWN) application for a static line exception. A draft of the report will be submitted to the TOWN within 30 days following the notice to proceed. A final report will be submitted to the TOWN within 15 days following the receipt of review comments from the TOWN.

*(Note: report times may increase slightly for multiple static line exception applications)*

The Carolina Beach project was authorized by Congress in 1962 (House Document Number 418, 87th Congress, 2nd Session). The project extends along 14,000 lineal feet of ocean shoreline starting just north of the Carolina Beach Fishing Pier. The project, as originally authorized, consisted of a beach fill shaped to form a 25-foot wide dune with a crest elevation of 13.5 feet above NGVD fronted by a 50-foot wide storm berm at elevation 10.5 feet above NGVD. The project was later modified to include a 2,050-foot long rock revetment at the extreme north end of the project which is fronted by a 130-foot wide berm at elevation 6.5 feet above NGVD. The crest elevation of the revetment is at 10.5 feet NGVD. Initial construction of the project began in December 1964.

The Water Resources Development Act of 1986 (PL 99-662), specifically Section 934 of the Act, provides for Federal participation in beach nourishment for a total period of 50 years beginning at the initiation of construction. The Carolina Beach portion of the authorized project was reevaluated under Section 934 in February 1993 and was found to be eligible for continued Federal participation in beach nourishment for the remaining economic life of the project. Therefore, the Carolina Beach project is eligible for federal cost-sharing through 2014

While initial construction of the Carolina Beach began in December 1964, the project was not officially declared complete until August 1982. The delay in the official completion date was associated with inordinate rates of erosion along the north end caused by sediment entrapment in Carolina Beach Inlet and an on-going federal study of possible navigation improvements for the inlet. Navigation improvements for Carolina Beach Inlet were eventually approved and the erosion problem along the north end of the project addressed with the adoption of a sand bypassing program from Carolina Beach Inlet to Carolina Beach. The Carolina Beach project was restored to authorized dimensions in 1982 with material obtained from an upland borrow site located on the river side of the peninsula. Beginning in 1985, material for periodic nourishment has been obtained primarily from a sediment trap (deposition basin) located in the throat of Carolina Beach Inlet with some periodic nourishment material derived from maintenance of the Atlantic Intracoastal Waterway (AIWW) at the juncture of Carolina Beach Inlet and the AIWW.

The Carolina Beach project has been in existence for over 45 years and easily satisfies the minimum requirement of 5 years of project performance stipulated in 15A NCAC 07J .1201.

While construction of the federal project actually began in 1964, the Coastal Resources Commission adopted the vegetation line shown on a 1980 aerial photograph to establish the static line. The 1980 aerial photograph was taken prior to the major reconstruction of the project accomplished between December 1981 and August 1982 mentioned previously.

In addition to the static line, seaward development along Carolina Beach is limited by the town's Building Line. This scope of work will include preparation of a map showing both the existing static line as established by the CRC and the town's Building Line.

Preparation of the report to support the exception application will comply with the rules set forth in 15A NCAC 07J .1201 will involve the following tasks.

#### TASK 1: Compile Information on Project History

CPE-NC will develop a complete history of the Carolina Beach project through coordination with the Wilmington District Corps of Engineers, the NC Division of Water Resources, the New Hanover County Ports, Waterways, and Beach Commission, and the Town of Carolina Beach. The project history will include the following:

- a. Federal authorization history
- b. Description of authorized project
- c. Plan drawings showing project limits, existing static line, and Town of Carolina Beach Building Line
- d. Typical beach fill cross-sections including the fill fronting the rock revetment
- e. Construction history:
  - i. Date of initial construction
  - ii. Periodic nourishment events including material sources
  - iii. Volumes of material placed along the shoreline
  - iv. Costs for initial construction and periodic nourishment
  - v. Past funding sources (Federal, State, County, & Local)
  - vi. Pre and post-construction surveys
- h. Compilation of pertinent reports and plan drawings developed by the Corps of Engineers.
- i. Compilation of existing geotechnical data in the Carolina Beach Inlet and potential offshore borrow areas.

#### TASK 2: Identify Future Nourishment Plans

CPE-NC will assess the sand volumes likely to be available from the Carolina Beach Inlet sediment trap/borrow area and from shoaling in the AIWW to accommodate future nourishment requirements. Based on recent periodic nourishment episodes, the sediment

trap in Carolina Beach Inlet appears to be able to provide a renewable source of beach nourishment material; however, contingency sources of beach quality material will be evaluated and identified to ensure the continuation of the project for at least the next 25 years. No new data will be collected for this Project.

The report will also identify future funding sources for continuation of the project. Historically, funding for the Carolina Beach project has come from the Federal Government, the State of North Carolina, New Hanover County, and the Town of Carolina Beach. CPE-NC understands the TOWN has initiated efforts to have their federal project reauthorized in order to allow continued federal cost sharing beyond the current 2014 expiration date. While reauthorization is a distinct possibility, CPE-NC will identify other funding options that exclude federal participation in order to demonstrate the economic viability of the project for at least the next 25 years.

### TASK 3: Report

The information collected under TASKS 1 and 2 will be incorporated into a comprehensive report that will summarize the findings and present plans for continuation of the Carolina Beach project for the next 25 years. CPE-NC will prepare a draft letter to be sent from the TOWN to the North Carolina Division of Coastal Management requesting the static line exception.

The Lump Sum fee for Tasks 1 to 3 will be \$13,500. (*See POSSIBLE FEE REDUCTION below*)

### TASK 4: Coordination

CPE-NC will be available upon request to attend coordination meetings initiated by the TOWN and monitor the developments associated with the static line exception guidelines. Meetings held in New Hanover County will be billed at a rate of \$135/hour with the total cost for each meeting not to exceed \$405. Meeting held outside New Hanover County will also be billed at \$135/hour plus a mileage fee of \$0.58/mile.

### POSSIBLE FEE REDUCTION

CPE-NC understands the Towns of Wrightsville Beach and Kure Beach may also have interest in applying for a static line exception. Efforts associated with preparing the static line exception could be performed concurrently for each town which would reduce the effort compared to that required if each application was accomplished individually. Given this possibility, CPE-NC proposes the following lump sum fees for multiple static line exception applications:

One Town	\$13,500
Two Towns	\$25,000
Three Towns	\$36,600

Individual contracts would be developed for each town but in the case of two towns applying for the static line exception, the cost for each town would be \$12,500 or a savings of \$1,000 for a single application. If all three towns apply for the exception, the fee for each town would be \$12,200, a \$1,300 savings for a single application.

# Consent Agenda

Kure Beach Building Dept.-All Permits Issue Date: 2/1/2009 - 2/28/2009

PermitNo	Issue Date	Applicant	Owner	Project Addr	Est Cost	Fee	Descript	Final
<b>Building</b>								
5113	2/17/2009	RABON, CAROL H	RABON, CAROL H	745 SAILOR CT	\$37,500	\$300.00	Build elevator shaft	
5114	2/26/2009	SHALANSKI, JOHN MARY JO	SHALANSKI, JOHN MARY JO	821 FORT FISHER BLV N	\$65,000	\$475.00	New 11x22 Addition	
				<b>Total Building 2</b>	<b>\$102,500</b>	<b>\$775.00</b>		
<b>CAMA</b>								
090001	2/17/2009	SHALANSKI, JOHN MARY JO	SHALANSKI, JOHN MARY JO	821 FORT FISHER BLV N	\$0	\$100.00	11' x 22' two story additi	
09002	2/26/2009	KURE DUNES HOA INC,	KURE DUNES HOA INC,	426 FORT FISHER BLV N	\$0	\$100.00		
				<b>Total CAMA 2</b>	<b>\$0</b>	<b>\$200.00</b>		
				<b>Total Permits: 4</b>	<b>\$102,500</b>	<b>\$975.00</b>		

**Town of Kure Beach  
FINANCIAL SUMMARY REPORT  
8 MONTHS ENDING 2/28/2009**

**GENERAL FUND**

REVENUES	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % COLLECTED
AD VALOREM TAXES	1,560,092	1,436,246	92.05%
MOTOR VEHICLE TAXES	28,180	16,561	58.73%
LOCAL OPTION SALES TAX	494,900	387,083	78.21%
NHC ABC REVENUES	15,424	9,875	64.02%
COMM. TOWER RENT	66,650	40,413	60.35%
FRANCHISE FEES & VIDEO TAX	106,710	72,668	68.00%
BUILDING PERMIT FEES	32,650	21,365	65.44%
GARBAGE & RECYCLING	129,000	80,284	62.22%
GF BALANCE APPROPRIATED	58,337	-	0.00%
ALL OTHER REVENUES	303,968	261,708	81.47%
	<b>\$ 2,801,211</b>	<b>\$ 2,316,072</b>	<b>82.68%</b>

**WATER & SEWER FUND**

REVENUES	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % COLLECTED
WATER & SEWER CHARGES COLLECTED	\$ 1,386,000	\$ 900,837	65.00%
WF APPROPRIATED FUND BALANCE	\$ 196,817	-	0.00%
OTHER WATER & SEWER REVENUE	\$ 67,500	\$ 76,496	113.33%
	<b>\$ 1,649,317</b>	<b>\$ 977,332</b>	<b>59.28%</b>

**EXPENDITURES**

EXPENDITURES	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % SPENT
WATER ADMINISTRATION & FINANCE	\$ 276,225	\$ 226,736	81.72%
WATER DEPARTMENT OPERATIONS	\$ 1,373,092	\$ 986,638	71.88%
	<b>\$ 1,649,317</b>	<b>\$ 1,212,373</b>	<b>73.51%</b>

**SPECIAL PROJECTS AND RESTRICTED FUNDS**

SPECIAL PROJECTS AND RESTRICTED FUNDS	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % SPENT
WATER/SEWER EXPANSION RESERVE FUND - REVENUES	\$ -	\$ 12,500	0.00%
WATER/SEWER EXPANSION RESERVE FUND - EXPENSES	\$ -	\$ -	0.00%
WATER/SEWER CAPITAL PROJECT - REVENUES	\$ -	\$ 52,382	0.00%
SEWER REHAB PROJECT - EXPENSES	\$ -	\$ 67,934	0.00%

**FINANCIAL CONTROL INFORMATION**

EXPENDITURES	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % SPENT
410 GOVERNING BODY	\$ 30,653	\$ 12,749	41.73%
411 TOWN CLERK	50,522	27,538	54.51%
415 FINANCE DEPARTMENT	75,596	25,410	33.61%
420 ADMINISTRATION	310,683	179,034	57.63%
421 COMMUNITY CENTER	12,865	5,704	44.33%
431 P&Z & BD OF ADJ EXPENSE	2,500	1,259	50.36%
446 EMERGENCY MANAGEMENT	750	298	39.73%
460 TAX COLLECTION	27,900	20,533	73.59%
470 LEGAL DEPARTMENT	44,950	26,220	58.33%
510 POLICE DEPARTMENT	941,294	571,815	60.75%
530 FIRE DEPARTMENT	240,741	148,662	61.89%
531 LIFE GUARDS	172,939	102,580	59.32%
532 PARKS & RECREATION CLASSES	-	387	0.00%
533 PROJECTS/REQUESTS	10,000	6,300	63.00%
540 BUILDING INSPECTION/CODE ENFORCEMENT	86,790	53,920	62.13%
590 STREETS & SANITATION DEPARTMENT	793,128	493,817	62.26%
	<b>\$ 2,801,211</b>	<b>\$ 1,676,526</b>	<b>59.85%</b>

**SPECIAL PROJECTS AND RESTRICTED FUNDS**

SPECIAL PROJECTS AND RESTRICTED FUNDS	CURRENT BUDGET	ACTUAL 2/28/09	Y-T-D % SPENT
POWELL FUND - REVENUES	\$ 72,662	\$ 71,333	98.13%
POWELL FUND - EXPENSES	72,662	17,650	24.28%
BEACH RENOURISHMENT FUND - REVENUES	\$ 12,300	\$ 174	1.41%
BEACH RENOURISHMENT FUND - EXPENSES	12,300	2,607	21.19%
STORM WATER FUND - REVENUES	\$ 251,220	\$ 98,040	39.03%
STORM WATER FUND - EXPENSES	251,220	76,598	30.49%
CAPITAL PROJECTS - REVENUES	\$ 1,011,716	\$ 4,912,839	485.59%
CAPITAL PROJECTS - EXPENSE TH/0FP	1,011,716	5,653,603	558.81%
		<b>\$ 2,366,190</b>	

**Checkings**

Certificates of Deposit

GRAND TOTAL

# KURE BEACH FIRE DEPARTMENT

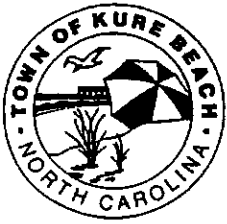
## FIRE CHIEF'S REPORT FEBUARY, 2009

DATE	PURPOSE
02/02/09	FIRE FIGHTER I & II CLASS
02/09/09	DRILL
02/16/09	DRILL
02/20/09	ASSIST PUBLIC
02/23/09	FIRE FIGHTER I & II CLASS

All equipment checked and found to be in working order

Harold Heglar  
Chief





# *KURE BEACH POLICE*

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

## **Police Activity Reports for February 2009**

Page 1	Activity Log Event 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

(02/01/2009 - 02/28/2009)

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911 Hangup	2	Alarm Activation	1
Animal Complaint	2	Assist Citizen	1
Assist Other Agency - Fire	1	Assist Other Agency - Law Enforcement	2
Assist Other Agency - Medical	8	Check Welfare	3
Dispute	1	Domestic	1
Found Property / K-9	1	Information	3
Internal Information - LEO Only	2	Lost or Found Property	1
Missing Person	1	Motor Vehicle Crash - Non-Reportable	1
Noise Complaint	1	Standby	1
Suspicious Person/Vehicle	1	Traffic Complaint	1

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Total Number Of Events: 35

# Arrest Status/Disposition Totals by Offense

Kure Beach Police Department

(02/01/2009 - 02/28/2009)

Offense:	Further Invest.:	Inactive:	Closed/Cleared:	Arrest/No Supp.:	Arrest/No Invest.:	Felony:	Misd.:	Juvenile:	Adult:	Offense:
0410 - Aggravated Assault	0	0	1	1	0	1	0	1	0	1
1330 - Possessing/Concealing Stolen Property	0	0	1	1	0	1	0	0	1	1
2100 - DWI - Alcohol and/or Drugs	0	0	2	2	0	0	2	0	2	2
2640 - Contempt of Court, Perjury, Court Violations	0	0	1	1	0	0	1	0	1	1
2690 - All Other Offenses	0	0	2	2	0	0	2	0	2	2
4010 - All Traffic (except DWI)	0	0	3	3	0	0	3	0	3	3
<b>Totals:</b>	<b>0</b>	<b>0</b>	<b>10</b>	<b>10</b>	<b>0</b>	<b>2</b>	<b>8</b>	<b>1</b>	<b>9</b>	<b>10</b>

# Citation Totals by Charge

Kure Beach Police Department

(02/01/2009 - 02/28/2009)

Charge:	Number of Charges:
Speeding (Infraction)	3
DWI	1
No Operator License	1
Driving While License Revoked	2
No Insurance	1
Other (Misdemeanor)	1
Other (2nd Charge - Misdemeanor)	2
<b>Total:</b>	<b>11</b>

# Civil Papers Summary Totals (by Paper Type)

Kure Beach Police Department

(02/01/2009 - 02/28/2009)

Type of Civil Paper:	Total Served:	Total Returned:	Total Ret. to Clerk:	Total Issued:	Total Issued Outstanding:
Other Notice	1	0	1	0	0
Subpoena	4	2	4	10	2
Subpoena to Produce Evidence	1	0	1	0	0
Totals:	6	2	6	10	2

# Criminal Papers Summary Totals (by Paper Type)

Kure Beach Police Department

(02/01/2009 - 02/28/2009)

Type of Criminal Paper:	Total Served:	Total Returned:	Total Ret. to Clerk:	Total Issued:	Total Issued Outstanding:
Order For Arrest	0	2	2	11	2
Warrant	0	0	0	21	19
Totals:	0	2	2	32	21

# Incident Status/Disposition Totals (With Percentages) by Offense

Kure Beach Police Department  
(02/01/2009 - 02/28/2009)

Primary Offense:	Total Reported:		Total Unfounded:	Actual Incidents:	% Unfounded:	Cleared Arrest:	Cleared Other:	% Cleared:	Active:	% Active:	Inactive:	% Inactive:
0510 - Burglary - Forcible Entry	2	0	0	2	0%	0	0	0%	2	100%	0	0%
0520 - Burglary - Non-Forced Entry	2	0	0	2	0%	0	0	0%	2	100%	0	0%
0690 - Larceny - All Other Larceny	1	0	0	1	0%	0	0	0%	1	100%	0	0%
1400 - Criminal Damage to Property (Vandalism)	2	0	0	2	0%	0	0	0%	1	50.0%	1	50.0%
1890 - Drug Violations - All Other Drug Violations	1	0	0	1	0%	0	0	0%	1	100%	0	0%
4020 - Suicide	1	0	0	1	0%	1	0	100%	0	0%	0	0%
8010 - Missing Persons	2	0	0	2	0%	0	1	50.0%	1	50.0%	0	0%
0000 - Crisis Intervention	1	0	0	1	0%	0	1	100%	0	0%	0	0%
<b>Totals:</b>	12	0	0	12	0%	1	2	25.0%	8	66.7%	1	8.3%

## Chief's Notes

### Self Initiated Police Services:

Business Security Checks	206
Home Security Checks	291
Open Doors	-0-
Senior Welfare Checks	16

### Training and Other Activity:

February 2, 2009: Ron Thigpen attended Taser Instructor Certification class, plus additional on-line training.

February 16-17, 2009: Paul Hubbard and Ed Palmeter attended Radar Recertification class.

February 17-20, 2009: Dennis Cooper continued Computer Forensics classes in Charlotte, NC.

### Mandated In-Service Training:

February 10 & 12, 2009: Andy Everhart, Mike Bowden, Ed Palmeter, Jason Cummings, Richard Price, Paul Hubbard, Dave Cooley, Shane Holtzclaw, Eric Earnhardt, Ron Thigpen, and Johnny Rumfelt attended Firearms Classroom, Legal Update, and Career Survival training.

February 24 & 26, 2009: Dennis Cooper, Andy Everhart, Mike Bowden, Ed Palmeter, Jason Cummings, Richard Price, Paul Hubbard, Greg Barr, Dave Cooley, Jamie King, Shane Holtzclaw, Eric Earnhardt, and Johnny Rumfelt attended JMST-Juvenile Law, Domestic Violence, and Drug Diversion for Patrol Officers training.

Respectfully yours,

Dennis Cooper  
Chief of Police



## Kaysie Pralle

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**From:** Michelle James [mjames@townofkurebeach.org]  
**Sent:** Wednesday, February 11, 2009 11:18 AM  
**To:** 'Kaysie Pralle'  
**Subject:** FW: Resignation from Stormwater Committee

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**From:** Eric Vann [mailto:ericwvann@yahoo.com]  
**Sent:** Wednesday, February 11, 2009 10:33 AM  
**To:** Mac Montgomery; Barry Nedler; Michelle James  
**Subject:** Resignation from Stormwater Committee

I tender my resignation from the Kure Beach Stormwater Committee effective immediatly.

I will be happy to assist other committee members, staff and council on any stormwater issues if I can be of help.

# Memo

To: Kure Beach Town Council

From: Kure Beach Planning and Zoning Commission

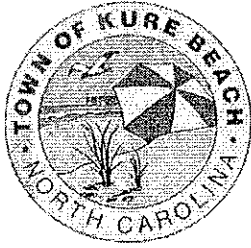
Date: March 6, 2009

Re: Recommendations to Council from March 3, 2009 Planning and Zoning meeting

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Following the March 3, 2009 regular meeting, the Planning and Zoning Commission makes the following recommendation to Council:

The Commission recommends that the Kure Beach Town Council approve Tim Fuller as a regular member to the Planning and Zoning Commission. At the March 3, 2009 regular meeting, the Commission voted unanimously to appoint Tim Fuller as a regular member of the Commission.



TOWN COUNCIL  
TOWN OF KURE BEACH

*R*ESOLUTION OF SUPPORT OF BICYCLE FACILITY IMPROVEMENTS

ON THE SNOWS CUT BRIDGE

**WHEREAS**, the Wilmington Urban Area Metropolitan Planning Organization provides transportation planning services for the City of Wilmington, Town of Carolina Beach, Town of Kure Beach, Town of Wrightsville Beach, Town of Bellville, Town of Leland, Town of Navassa, New Hanover County, Brunswick County, Pender County, Cape Fear Public Transportation Authority and the North Carolina Board of Transportation; and

**WHEREAS**, bicycle and pedestrian facilities in the Wilmington Urban Area are desired by local residents to connect neighborhoods, schools and regional attractions; and

**WHEREAS**, the Snows Cut Bridge is designated as North Carolina Bicycling Highway 3 and 5; and

**WHEREAS**, the WMPO Bike/Ped Committee, Town of Carolina Beach and the Island Greenway Committee have identified the need for bicycle improvements on the bridge.

**NOW, THEREFORE, BE IT RESOLVED**, the Town of Kure Beach supports bicycle facility improvements on the Snows Cut Bridge and requests that the North Carolina Department of Transportation Division 3, North Carolina Department of Transportation Division of Bicycle and Pedestrian Transportation, and the Wilmington Metropolitan Planning Organization Staff work cooperatively to identify bicycle facility improvements on the bridge and potential funding sources for these improvements.

Adopted this the seventeenth day of March, 2009.

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Mac Montgomery  
Mayor

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Kaysie Pralle  
Town Clerk

NORTH CAROLINA

INSPECTION AGREEMENT

NEW HANOVER COUNTY

THIS INSPECTION AGREEMENT, entered into this \_\_\_ day of \_\_\_\_\_, 2009 by and between NEW HANOVER COUNTY, a political subdivision of the State of North Carolina, hereinafter referred to as "County", and the TOWN OF KURE BEACH, a municipal corporation of the State of North Carolina and County of New Hanover, hereinafter referred to as "Town";

WITNESSETH:

WHEREAS, the Town wishes to discontinue the duties and services now rendered by its Inspections Section for all Town initiated construction projects and has requested the County, through its Inspections Department, to perform those inspection duties and responsibilities within the Town limits as mandated by N.C.G.S. 160-A412; and

WHEREAS, the County has agreed to perform such inspection duties and responsibilities, effective upon execution of the agreement, all pursuant to N.C.G.S. 160A-411 and 160A-461;

NOW, THEREFORE, in consideration of the mutual benefits inuring to the parties hereto, it is understood and agreed as follows:

1. Purpose of Agreement. The purpose of this agreement is to designate responsibilities between the Town and County in the County's provision of inspection services within the corporate limits of the Town pursuant to Part 5 of Article 19 of Chapter 160A of the North Carolina General Statutes. This agreement shall pertain only to Town initiated construction projects, and shall not be applicable to any other construction to be retained in a function of the Town.
2. Responsibilities of the County. For all Town initiated construction projects, the County will assume the responsibilities and perform the

NEW HANOVER COUNTY CONTRACT # 07-0465  
duties mandated by N.C.G.S. 160-A-412 within the Town limits, inclusive of  
the following:

- A. The receipt of applications for building permits, together with plans and specifications for such work, in accordance with N.C.G. S. 160-A-417.
- B. The receipt of certification of approval of compliance with Town ordinances from the Town prior to the issuance of a building permit for property located within the Town's jurisdiction
- C. The issuance or denial of said permits and furnishing to the Town of such notification, when available.
- D. The making of field inspections required in servicing those permits, pursuant to N.C.G.S. and pursuant to the Town's certification of approval, as applicable.
- E. The issuance or denial of Certificates of Compliance with the State Building Code, pursuant to N.C.G.S. 160A-423.
- F. The issuance of orders to correct violations, pursuant to N.C.G.S. 160A-425.
- G. The issuance of stop orders or the revocation of permits pursuant to N.C.G.S. 160A-421 and 422. When appropriate and after confirmation of the existence of a violation by the Town's Administration, such actions may be taken for violations of Town ordinances upon written request of Town.
- H. Cooperating with the Town in the prosecution of criminal or civil actions for violations of the North Carolina State Building Code and Town ordinances. It is the intent of the parties that the County, in its sole discretion, shall prosecute all actions relating to violations of the State Building Code, and the Town, in its sole discretion, shall prosecute all actions relating to violations of Town ordinances. The Town reserves the right to prosecute State Building Code violations in its own name should the County decline to prosecute.
- I. The notification to the Town, if changes in work authorized pursuant to N.C.G.S. 160A-419 may result in violation of any Town ordinances for which a certificate of approval has previously been given.
- J. The maintenance of records required under N.C.G.S. 160A-433.

K. Any other lawful action attendant to enforcement of the North Carolina State Building Code, including Volume I (Building) pertaining to all Town initiated construction project conditions.

3. Responsibilities of the Town. The town will assume the responsibilities and perform the duties necessary to assist the County in the performance of the above specified inspection services described above, inclusive of the following:

A. The review of plans submitted in support of an application for a County building permit for structures within the Town in order to determine compliance with applicable Town ordinances.

B. The issuance or denial of a certificate of approval for compliance with Town ordinances.

In addition to these responsibilities, the Town will endeavor to assist the County in enforcement of the State Building Code by notifying the County Inspections Department of any practices, facilities, or circumstances that, in the opinion of the Town Enforcement Officer, may constitute a violation of State Building Code.

4. Financing; Fees and Charges. Each party shall pay all necessary personnel, administrative, legal or other cost associated with the duties and responsibilities assumed and performed by such party under this agreement. All permit fees and charges collected by the County in performance of these inspection duties and responsibilities shall be retained by the County. The fees and charges within the Town limits shall be the same as those charged to persons in the County, outside the Town limits, and shall be based upon County approved fee schedules currently in effect or as hereafter amended.

5. Term of Agreement. This agreement shall become effective upon execution and shall remain in effect indefinitely, unless and until terminated as provided in Paragraph 7 herein.

6. Personnel. County inspectors exercising the inspections responsibilities set forth in Paragraph 2 of this agreement within the Town limits shall have all

the powers, duties and obligations that an inspector appointed by the Town, pursuant to N.C.G.S. 160A-411 would have.

7. Termination. This agreement may be terminated by either party upon one (1) year's written notice to the other party; provided that such termination of this agreement shall be effective on the last day of the fiscal year of the parties as established by N.C.G.S. 159-8, and the notice of termination must be given at least one (1) year prior to the effective date of termination.
8. Notice. All notices hereunder shall be in writing and shall be deemed to have been duly given if delivered, or mailed first class, postage prepaid, addressed as follows:  

IF TO TOWN:  
Mac Montgomery, Mayor  
Town of Kure Beach  
117 Settlers Lane  
Kure Beach, NC 28449

IF TO COUNTY:  
Bruce Shell, County Manager  
New Hanover County  
230 Government Center Drive – Suite # 195  
Wilmington, NC 28403
9. Amendment of Agreement. This agreement may be amended or modified upon mutual agreement of the Board of County Commissioners of New Hanover County and the Town Council of the Town of Kure Beach, provided that any such amendment shall be reduced to writing and signed by the parties to this agreement.
10. Entire Agreement. This agreement constitutes the entire understanding of the parties.
11. Binding Effect. This lease shall be binding upon and inure to the benefits of all parties, their successors and assigns.
12. Continuing Obligation. The parties will make and execute all further instruments and documents required to carry out the purpose and intent of this agreement.
13. Reference. Use of the masculine herein includes the feminine and neuter; singular includes plural; and captions and headings are inserted for

convenience of reference and do not define, describe, extend or limit the scope of intent of the agreement.

- 14. Interpretation. All of the terms and conditions contained herein shall be interpreted in accordance with the laws of the State of North Carolina, In the event of a conflict between the various terms and conditions contained herein or between these terms and other applicable provisions, then the more particular shall prevail over the general and the more stringent or higher standard shall prevail over the less stringent or lower standard.
  
- 15. Immunity Not Waived. This agreement is governmental in nature, for the benefit of the public, and is not intended to be for private profit or gain. Any fees charged in connection with the services hereunder are intended to reflect as closely as possible the County's actual cost, and neither party intends to waive its sovereign immunity by reason of this agreement.
  
- 16. Saving Clause. If any section, subsection, paragraph, sentence, clause, phrase or portion of this agreement is for any reason held invalid, unlawful, or unconstitutional by any court of competent jurisdiction, such portion shall be deemed servable and such holding shall not affect the validity of the remaining portions hereof.

IN WITNESS WHEREOF, the parties have executed this lease in duplicate as of the day and year first above written.

[SEAL]

**NEW HANOVER COUNTY**

\_\_\_\_\_  
William A. Caster, Chairman  
Board of Commissioners

ATTEST:

\_\_\_\_\_  
Clerk to the Board

This instrument has been  
Pre-audited in the manner  
Required by the Local  
Government Budget and  
Fiscal Control Act.

Approved as to Form



\_\_\_\_\_  
County Finance Director

\_\_\_\_\_  
County Attorney

**TOWN OF KURE BEACH**

[SEAL]

By: \_\_\_\_\_  
Mac Montgomery, Mayor

This instrument has been  
Pre-audited in the manner  
Required by the Local  
Government Budget and  
Fiscal Control Act.

Approved as to Form

\_\_\_\_\_  
Town Budget Officer

\_\_\_\_\_  
Town Attorney

I, \_\_\_\_\_, a Notary Public of the State and  
County aforesaid, certify that \_\_\_\_\_ personally came before me this day and  
acknowledged that she is Clerk to the District Board of Commissioners of New Hanover  
County, and that by authority duly given and as the act of the District, the foregoing  
instrument was signed in its name by its Chairman, sealed with its corporate seal and  
attested by herself as its Clerk.

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

I, \_\_\_\_\_, a Notary Public in and for the State and County aforesaid, certify that \_\_\_\_\_, personally came before me this day and acknowledged that (s)he is \_\_\_\_\_ Kure Beach a North Carolina and that by authority duly given and as the act of the town, the foregoing instrument was signed in its name by its \_\_\_\_\_, \_\_\_\_\_, sealed with its corporate seal and attested by him/herself as its \_\_\_\_\_..

WITNESS my hand and official seal, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

# 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

### WORKSHOP

FEBRUARY 3, 2009 at 3:00 P.M.

The purpose of the workshop is for Council and committee chairs to discuss 2009-2010 initiatives.

#### 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

#### COMMITTEE MEMBERS PRESENT:

Gabby Kraus	Parks & Recreation Committee
Sandy Cox	Citizens Beach Protection Committee
Tony Gonsalves	Shoreline Access and Parking Committee
Candace Clark	Beautification Committee
Chuck Keener	Economic Development Study Committee

Mayor Montgomery called the meeting to order at 3:15 p.m. and asked Commissioner Vatr to lead the discussion of initiatives with the committee chairs present. Sandy Cox, with the Citizens Beach Protection Committee, was called first. Sandy reviewed her committee's initiatives:

#### CITIZEN BEACH PROTECTION COMMITTEE

- Sea Oats plantings and fertilization
  - Is there a need to concentrate on sand fencing as suggested by Spencer Rogers, with the Sea Grant Consortium, who made the Dune Report? He said fertilization was not needed for this year. Recommendation is to contact the owners of the property that they are in violation of the town ordinance for crossing over the dunes. Can committee members identify the location where there are code violations? Sandy agreed to identify these areas. It was suggested

that the code enforcement officer become involved after the areas in question are identified.

- **Educating public about beach guidelines**
  - Provide an educational forum with rental agencies.
  - Re-design a magnet which lists the beach rules on it. Magnet can be used on refrigerators in rental units.
  - Educational articles on beach etiquette
  - Distribute beach guidelines brochures at the Street Festival
  - May need to increase the funds currently proposed for education and awareness. Need to continue to work through these initiatives.
- **Sponsoring and conducting beach clean up projects**
- **Advising Council on safety issues or any issues concerning the protection of the dunes & beach**
- **Making recommendations for replacement of signs for dunes and other informational protection signs.**

When Beach Protection and SLAP overlap on initiatives, which committee budget is used? Sandy asked the Council for guidance as this is a concern. These items should be coordinated with other committees prior to and during the budget process, according to Council.

Tony Gonsalves suggested that committee chairs are emailed the minutes of other committees in order to stay up-to-date on overall initiatives. It was suggested that committees review all minutes of the public meetings on the website.

The Citizen Beach Protection Committee's initiatives, by consensus, were agreed to by the commissioners.

Sandy asked how her committee should be involved in enforcing fireworks law. Council determined that the Citizens Beach Protection Committee should educate citizens that fireworks are illegal in the Town. How aggressive should the committee's education efforts be? Council asked for her make a recommendation from the committee as to their efforts. Council emphasized that the committee job is education and not enforcement.

## **SHORELINE ACCESS AND PARKING COMMITTEE**

Tony Gonsalves presented the initiatives for the Shoreline Access and Parking Committee:

- The mayor asked why the committee was concerned about solar lighting?
- A concern is that the proposed projects are very broad.
- Commissioner Vatr suggested that each initiative be reviewed by Council and then place a short-term or long-term goal for each.
- Mayor is in favor of the crossover initiatives. Define fencing - what are you trying to do? Is it install walkways, crossovers, or sand fencing?

- Commissioner Vatrtr suggested instead of talking about grants, let's discuss the projects and the merit of the project
- Tony conveyed that the committee is frustrated. Just tell me which projects will be approved for SLAP to work on next year.
- Sandy suggested SLAP and Beach Protection work together to define what is needed in the way of sand fencing, crossovers, etc.
- Parking is the most important project, according to Tony and adding permanent bathrooms at Joe Eakes Park, Ocean Park, I Avenue, J Avenue and E Avenue.
- Commissioner Nelder suggested using permeable pavers wherever possible.
- We are jumping around here and we haven't agreed to any projects yet.
- Do you have a scope of the work for the parking project? The Town Administrator said "There are too many ideas circulating about the scope of parking. Nothing has been approved by Council. There is no way for staff to define a scope of work until Council approves the direction of this project."
- Council needs to figure out what we can say "yes" to for the committee, said Commissioner Vatrtr.
- Commissioner Nelder concerned about metered parking.
- Is this a committee project? Or is it a Staff or Council project?
- Staff isn't qualified to do the project, according to Commissioner Lambeth.
- Parking should be a committee project, according to Commissioners Lambeth and Nelder.
- It was suggested that 1-4 could be the scope of the project.
- Commissioner Vatrtr suggested that it could be a staff project.
- Committee should tell the Council what type of scope they want to complete.
- By majority, Council agreed that the only bathrooms would be considered are: Ocean Front Park and Joe Eakes Park.
- Solar lighting should be a project the committee works on.
- Budgets on each project were recommended by Council.
- Council will consider: new walkway and lifeguard relief station at J. Avenue; walkways at beach crossovers could be extended; repair of existing boardwalk at Atlantic Avenue is needed; walkways at beach crossovers could be considered for extension. The Park Utilization Committee for the Ocean Front Park will be in charge of projects having to do with the Park such as the crossover, gazebo and Atlantic Avenue pavers, bathrooms, etc. All the committee chairs sit on the Utilization Committee and will have input in how the park is developed.
- We do not know how we will develop the Park until Council approves the plan with Withers & Ravenel.
- Maintenance issues on crossovers should be completed by Public Works – other commissioners felt maintenance issues should at least be identified by the SLAP committee.
- Prioritizing repairs to one crossover a year – extension plan – for sand fencing and maintenance of crossovers & access points is a good idea.
- Flag pole at the entrance of police and fire departments. Kure Beach is the only fire department in the state that does not have an American flag flying on its grounds.

- Commissioner Lambeth suggested that the flag pole should come under Phase II of the Town Hall expansion.
- Purchase a portable sign to advertise special events and “no fireworks.”
- Portable signs should be a budgeted project by the Police and/or fire departments. Tony was asked to return with a budget and recommendation for this project.
- Tony requested that monies should be spent on Kure Beach projects, not for out-of-town projects like the Katie B. Hines Center in Carolina Beach.

By consensus, Council agreed on the following: Parking Project items 1-4 – need a proposal from committee; After OFP bathrooms are completed, committee can begin coordination of Joe Eakes Park in latter part of 2010; need recommendation on solar lighting; need recommendation on walkways and crossovers; make recommendation on flag pole and portable sign projects.

## PARKS & RECREATION COMMITTEE

Gabby Kraus reviewed the Parks and Recreation initiatives.

- **5k Walk/Run in connection with Street Festival** – committee has cost-estimates, entry fees should cover the costs of police and other departments needed to operate the run. Sandy Cox, who organized the first event, agreed it was a worthwhile event. This initiative was agreed to by Council as a project of Parks & Recreation.
- **Sandman Property** – committee has requested to irrigate and seed the property. Estimates have been received and reviewed by Council. This is a capital improvement for one of the parks. Funds can be used from the New Hanover County (NHC) Parks & Recreation Bond. Barry is concerned about property control if NHC funds are used. Does this obligate the Town for the park to always be a park? Attorney responded “no.” The question is what is the future use of the park? Council needs to decide if Parks & Recreation should continue to work on this project? Or should Council intervene and decide how the property should be used first? Majority of Council feels the project should be on hold (4-1). Council will need to figure out how to move forward with this property. Commissioner Lambeth asked why we wasted the time of the committee to obtain cost-estimates if Council did not think this was a committee project. According to other Council members, Council did not authorize obtaining bids. The committee was requested to obtain quotes. Commissioner Vatrut said, “There have been a lot of good intention here – we are trying to end the confusion between Council and committees by having these meetings.”
- **Pump Track for Joe Eakes Park**  
Mayor concerned about safety and liability issues, control, what authority does the police have in the park – a control plan is needed. The mayor compared it to the Carolina Beach Skate Park. Lambeth agreed that there is a lot of maintenance that would fall on the Public Works Department. Majority of Council agrees that the committee should continue to explore the project (3-2) Commissioner Vatrut summarized that the committee research and come back to the Council with a plan to include liability, security, supervision and enforcement.

- **Bocce Ball**  
Based on model at City of Wilmington, price is estimated at \$2500. This could also be a part of the Ocean Front Park. Project is approved by Council.
- **Educational Programs and Activities**
  - Hire intern from UNC-W – budget needs to be discussed
  - Spring/Summer Programs
  - Bus trips to Myrtle Beach – day trips in fall and winter – pay for itself by fees/tickets
  - Bingo at the Community Center – completed four years ago. Merchants would donate gifts.
  - Continue seminars

All the educational items are approved by Council.

Fishing/Kayaking Event was introduced by Commissioner Nelder for the committee's consideration. The Town Administrator said the information has been forwarded to Bob Fitzsimons, Chair.

#### **BEAUTIFICATION COMMITTEE**

Committee has proposed a directional uniform sign plan to Council. The committee is seeking funds to design one sign which is a uniform sign to be used at the crossovers and beach access points.

Who has oversight and supervision of signs?

Beautification has been charged with this project for over two years.

Council agrees for committee to introduce standard sign plan. They asked for a proposal and for this initiative to go through the budget process. Candace said there are 82 information signs on Atlantic Avenue. Everyone agreed that these signs needed to be consolidated.

According to Candace, the committee just needs funds to design the signs. Council agreed for the committee to identify how many types of sign/designs that need a standard, uniform design.

#### **Other remarks about committees**

Mayor suggested that the responsibility of the maintenance of the grounds is a Public Works function. Committee should not be involved. Candace suggested that maintaining the plantings was a job for those who have special expertise in pruning, etc. Public Works Director should hire contractually for this expertise, not the committee.

Candace suggested that the Public Works crews are destroying plants and azalea bushes, etc. Expertise is needed to oversee pruning and landscaping issues.

Sandy believes that Sonny could be approached by a volunteer with that expertise. Council disagrees.

Sandy voiced her opinion about rules and procedures for the committees. We need to work together so that each committee has a product that is beneficial to everyone.

#### **STORMWATER COMMITTEE**

All of the initiatives presented by committee chair Eric Vann were agreed to by Council.

#### **ADJOURNMENT**

**ACTION - Mayor Pro Tem Dugan MADE THE MOTION to adjourn the meeting at 5:05 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.**

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Mac Montgomery, Mayor

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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.



To: Michelle James  
Cc: Town Council

Re: Committee meeting, February 3, 2009

I have summarized the council's review of committee requested initiatives and ask that you audit my summary with the minutes of the meeting. Upon completion, please return the edited copy to me and I will forward to all committee chairmen.

**Beach Protection, Sandy Cox:**

The council approved the following primary initiatives as well as a preliminary budget of \$7500 plus.

1. 2010 spring Sea Oat planting and dune fertilization study.
2. On-going pro-active beach/dune education.
  - a. Real estate/rental agents and hotel/motel agents
  - b. Town sponsored events.
  - c. Public event/ holiday schedule TBD.
3. Sponsor and conduct beach clean up.
4. Advise council regarding beach, dune and public signage

The committee will now begin to define the tactical elements of their goals and prepare a specific budget request by April 1, 2009. This request will cover July 1, 2009 thru June 30, 2010.

**SLAP, Tony Gonsalves:**

The council approved the following primary initiatives.

1. The committee will outline a scope of work, i.e. project objective, for a "no town cost" parking study to be conducted by the MPO. The scope of work document will be submitted to the Town Adm. for circulation and council review. It was recommended that the council liaison work with the committee in developing this document.
2. The committee will present a solar lighting and portable signage recommendations, including maintenance plans. The committee will include consent/input from appropriate staff department heads and concerned agencies/committees, e.g. Turtle Committee, Beautification, etc.
3. The committee will work with Beach Protection regarding recommendations to council on walkways and beach crossovers. The committee will review all recommendation with ADA prior to council review.
4. Committee will review and offer a recommendation for additional flag poles.

The committee will now begin to define the tactical elements of their goals and prepare a specific budget request by April 1, 2009. This request will cover July 1, 2009 thru June 30, 2010.

**Parks and Recreation, Robert Fitzsimons ... reviewed by Gabby**

The council approved the following primary initiatives.

1. 5K walk/run.
2. Pump track for Joe Eakes Park. NOTE: This project had a split council vote and will require detailed review by full Council. Main issues included; safety, maintenance and demographics of user groups.
3. Bocce ball court at Joe Eakes Park.
4. Continued recreation programs and activities.

The committee will now begin to define the tactical elements of their goals and prepare a specific budget request by April 1, 2009. This request will cover July 1, 2009 thru June 30, 2010.

**Beautification committee, Ken Withrow ... reviewed by Candace**

The council approved the following primary initiatives.

1. The committee will finalize a proposal for the design of a generic town informational sign. The committee will seek the input from P&Z, and appropriate town staff.
2. The committee will remain involved with the completion of the Atlantic Avenue walkway.
3. The committee will recommend a maintenance company for care and treatment of Town Hall grounds. The committee will work with Public Works in determining the scope and terms of this project.

The committee will now begin to define the tactical elements of their goals and prepare a specific budget request by April 1, 2009. This request will cover July 1, 2009 thru June 30, 2010.

**Storm Water Committee, Eric Van .... review was unattended**

The council approved all initiatives.

1. Public education
2. Public involvement projects
3. Assist storm water administrator regarding illicit discharge and runoff controls.
  - a. Note: Committee will define responsibilities with Administrator prior to council review.

4. The committee will continue in its capacity to advise and support all town efforts in obtaining prioritized project funding, e.g. grants, etc.

The committee will now begin to define the tactical elements of their goals and prepare a specific budget request by April 1, 2009. This request will cover July 1, 2009 thru June 30, 2010.

**Those committees that are required under specific town/state mandate will be managed as normal via the budget process.**

Regards,  
Jim

# 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 Vatrt, Commissioner

Michelle James, Town Administrator ▪ Kaysie Pralle, Town Clerk

### REGULAR MEETING

FEBRUARY 17, 2009 6:30 P.M.

#### COUNCIL MEMBERS PRESENT:

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

#### COUNCIL MEMBERS ABSENT:

None

#### STAFF PRESENT:

Town Administrator	Michelle James
Fire Department	Harold Heglar
Police Department	Dennis Cooper
Building Department	John Batson
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

- \* Recognition of Janet Foster for 18 years of service on the Planning & Zoning Commission.
  - ~ "A person that always tried to do what was best for her community." - Mayor Montgomery
  - ~ Mayor Montgomery presented Janet Foster with a certificate for her time and service on the Planning & Zoning Commission.

- \* US Marine Corps Reserve Commanders Award for Outstanding Support of 2008 Toys for Tots - Thomas Russel
  - ~ Thomas Russel presented the Town with the Commanders Award for the 2008 Toys for Tots Program.
  - ~ Mr. Russel mentioned the Disabled Fishing Tournament coming up this June on the Kure Beach Pier.

**PERSONS TO ADDRESS COUNCIL**

(3 minutes- please sign in with the clerk before the meeting)

- \* New Hanover County Human Relations Commission - Proclaiming February 2009 Human Relation's Month
  - ~ Mary Youngbluth, Kure Beach Representative, and Carl Byrd, Director, New Hanover Human Relations Commission
  - ~ Mr. Byrd introduced Mary's husband Terry. He acknowledged Mary's hard work and dedication for the Human Relations Committee.
  
- \* Revenue Enhancement - Bob Segal, CPA
  - ~ President of Segal CPA's in Highpoint, NC. They can help the Town save money or make more money. He mentioned electric franchise tax. They found that 80% of the time there are errors in who lives where. They noticed the Town was very low in this area. They can review this for the Town and check for errors. They can go back and collect on the past three years of underpaid franchise taxes.

CONSENSUS - Bob Segal will work with Commissioner Vatr and the Town Administrator on this issue.

- \* Lore Eccleston, Kure Beach Community Center
  - ~ On March 21, 2009 beginning at 5:30 pm, the Community Center will host the Annual Spirit Awards Banquet. The cost is \$16.00 per person and will be catered by Bon Appetite. They are also looking for nominations for the awards. Tickets are available at the Community Center and at Town Hall.
  
- \* Jerry Hammill, Kure Beach business owner
  - ~ He is speaking on behalf of the majority of B-1 district business owners. He is looking for a loop hole in the 35' height bill passed by the legislation. Council can pass a resolution, including a referendum to increase the height limit in the B1 district. Senator Boseman can use this resolution to change this legislation.
  - ~ Commissioner Lambeth stated that he would consider the issue if 51% of the Town were in support of this.
  - ~ Mayor Montgomery questioned if there was a Motion to add this to the Agenda tonight. The issue died for lack of a Motion.

- ~ Commissioner Vatrt mentioned that he will be discussing finances of the Town later in the meeting. He will be looking to recommend Council consider forming a new committee to look into the economic development committee for the Town.
- \* Commissioner Dugan read a letter from Kure Beach Police Officer, Jason Cummings
  - ~ On Saturday, February 14, 2009 K9 Chess passed away. He joined the force in February 2003 as the first Kure Beach K9 Patrol.
- \* Continued from Jerry Hammil's statements to Council - Commissioner Nelder mentioned that at the previous Council meeting he recommended that business owners attend P&Z meetings if they have concerns about the 35' height restriction. There has been a P&Z meeting since then and there were no business owners in attendance.

### **PRESENTATIONS TO COUNCIL**

- \* Pleasure Island Chamber of Commerce to present to Council annual request for funding Kure Beach events - Duke Hagestrom, Chair Emeritus
  - ~ Duke went through the requests and ideas in the letter submitted for this meeting.
  - ~ He is requesting getting the funding for these requests from the Room Occupancy Tax that was put in place by state legislation. They are requesting a total of \$15,000 from Kure Beach for these requests.
  - ~ Commissioner Nelder asked if the ROT funds specify what they can be used for?
  - ~ Commissioner Vatrt pointed out that this park will not be finished this summer and we may have a problem getting events scheduled.
  - ~ Mayor Montgomery recommended Council meet with the Marketing Committee in a joint work session to discuss these issues.
  - ~ Commissioner Lambeth stated we are not in a position to offer the OFP for summer concerts at this time. However, he will fully support these events in the future.

### **APPROVAL OF CONSENT AGENDA**

1. Building Department report: January 2009
2. Finance report: January 2009
3. Fire Department report: January 2009
4. Police Department report: January 2009
5. Email to join Dare County lawsuit.
6. Letter of termination for New Hanover County Inspection Agreement
7. Council minutes:
  - o 1/2/09 Special Meeting
  - o 1/20/09 Emergency Meeting
  - o 1/15/09 Workshop
  - o 2/2/09 Public Hearing
  - o 2/2/09 Public Hearing

- o 2/2/09 Regular Meeting

ACTION - Commissioner Vattr MADE THE MOTION to amend the Consent Agenda to include the appointment of Peter Boulter as a regular member of the Board of Adjustments. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

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

### **ADOPTION OF THE AGENDA**

ACTION - Commissioner Vattr MADE THE MOTION to add to Old Business Item #5, the discussion of Closed Session Minutes and Item #6, Update on Atlantic Avenue. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

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

Mayor Montgomery called for recess at 7:45 pm.  
Mayor Montgomery returned to open session at 8:00 pm.

### **OLD BUSINESS**

1. Discussion and consideration of Public Hearing date for the following:
  1. Recommended Definitions
  2. Supplemental Regulation

ACTION - Commissioner Vattr MADE THE MOTION to schedule a Public Hearing on Tuesday, March 17, 2009 at 5:30 pm, or soon thereafter, to hear public discussion and comment on the recommended definitions to the Kure Beach Ordinances and a supplemental regulation that deals with ocean front decking recommendations from the Planning & Zoning Commission. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Update on Insurance Lawsuit - James

Administrator James stated that per Council's direction last month, Kure Beach has requested to join the Dare County lawsuit which asks for a stay of implementation of insurance rates and reform of the insurance system. Mr. Outten said once he receives our request he then will pass it along to the lawyer. The lawyer will look for any

conflicts of interest. We have no word as of yet, but he will keep us updated. As of yet, the Town has made no monetary contribution to join this lawsuit.

Administrator James referred to a letter from Mr. Outten stating they have motioned for a review with the Insurance Commission and it was denied by an administrative law judge. They have appealed that ruling with the Superior Court. No date for the appeal has been set. Also right now there are two Bills in both Houses to stay rate increases on certain residential structures. This is still in progress.

Commissioner Lambeth gave an update on NC 20. He read from a handout that he put together for this meeting.

Mayor Montgomery read from letters received from two NC legislators in regards to the insurance issue. These letters will be available from the Town Clerk as they are received.

3. Update on Ocean Front Park - Dugan

Mayor Pro Tem Dugan announced Withers & Ravenel as the architectural firm chosen for the development of Ocean Front Park.

**ACTION - Mayor Pro Tem Dugan MADE THE MOTION to schedule a Workshop on Monday, March 2, 2009 from 6:00-9:00 pm. The Workshop will gather the Town Council, the Ocean Front Park design firm, Withers & Ravenel, and the Ocean Front Park Committee for the purpose and goal of gathering public input to reach an agreement on Park concepts & placement of Park features. THE VOTE OF APPROVAL WAS UNANIMOUS.**

Mayor Pro Tem Dugan addressed the issue of holding public events on the Ocean Front Park property before the Park's completion. These will be considered on a case by case basis.

**CONSENSUS - Council would like the recommendations of Attorney Canoutas by the Workshop on March 2, 2009, for holding events in the Park in its current condition.**

4. Discussion and consideration of funding requests.

**ACTION - Commissioner Vatrtr MADE THE MOTION to award \$500.00 to each of the following funding requests: Katie B. Hines Center, The Help Center of Federal Point, and the Federal Point History Center. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.**

5. Update on release of Closed Session minutes - Dugan



Commissioner Dugan stated that recently he had gone through the Closed Session minutes with the Town Clerk. The minutes were submitted to the Town Attorney for review. Attorney Canoutas will submit to Council his recommendations of minutes to be made public. The Council will discuss and consider his recommendations and vote to release minutes by Consent Agenda.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to consider the Town Attorney's recommendations regarding Closed Session Minutes. Once minutes are agreed to be made public, they will be added to that month's Consent Agenda for Council's vote. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Update on Atlantic Avenue - Batson

CAMA gave verbal approval of permit's. John asked if there were any modifications needed. They stated there were not at this time. He still requested written approval from CAMA, but has still not received it.

Commissioner Lambeth recommended cleaning up the plans and removing unwanted items from the plans.

ACTION - Commissioner Nelder MADE THE MOTION directing Building Inspector Batson to clean up the plans, prepare a final bid packet and advertise for bids. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

**NEW BUSINESS**

1. Financial Overview - Vatr

Commissioner Vatr presented to Council slides outlining a financial overview of the Town in comparison with previous years and the surrounding area.

The slides presented by Commissioner Vatr are incorporated by reference and made a part of these minutes. (Four pages attached at the end of the minutes)

ACTION - Commissioner Vatr MADE THE MOTION to move forward with the contract with the NC School of Design. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Commissioner Vatr MADE THE MOTION to direct the Town Clerk to place a notice in the local paper for the Economic Development Committee. The notice is to encourage residents and business owners to volunteer on this committee. Names should be submitted no later than March 16, 2009. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Discussion of condos and duplexes

Administrator James is asking Council to refer this issue to the Planning & Zoning Commission.

ACTION - Commissioner Nelder MADE THE MOTION to refer Mr. Yoder's request to the Planning & Zoning Commission for resolution. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Personnel Handbook Amendments - James

- \* Hardship Leave Pool
- \* Travel Policy

ACTION - Commissioner Vattr MADE THE MOTION to accept the suggested changes to the Town's Personnel Policy. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Discussion of Town Administrator's new role with the Finance Department - Vattr

ACTION - Commissioner Vattr MADE THE MOTION to increase the Town Administrator's annual salary by \$1,650.99 to account for the added responsibilities in the Finance Department. This increase effective January 1, 2009. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS 4 TO 1, with Commissioner Lambeth voting against.

**EXECUTIVE SESSION** (If necessary)

**ADJOURNMENT**

ACTION - Commissioner Nelder MADE THE MOTION to adjourn the meeting at 9:50 pm. Commissioner Vattr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

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Mac Montgomery, Mayor

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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.

# 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

### WORKSHOP

MARCH 2, 2009 at 6:00 P.M.

The purpose of the meeting is to have a Charrette (intense period of design activity) with design firm Withers & Ravenel, the Council and the Ocean Front Park Utilization Committee.

#### 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  
Public Works Sonny Beeker  
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 6:03 pm.

Representing Withers & Ravenel:

- ✓ Bob Harned, Withers & Ravenel  
*Landscape Architect (Project Manager)*
- ✓ Eric Lindstrom, AIA SFL+A  
*Architect*
- ✓ Cindee Wolf, RLA Withers & Ravenel  
*Principal in Charge*

The Agenda for tonight's meeting is as follows:

6:00-6:10 Introductions of Project Team and Participants  
6:10-6:25 Brief overview of meeting itinerary/Goals and expectations  
6:25-6:45 Project status and requirements  
6:45-7:15 Review of Park Programming and previous concept plans  
7:15-7:30 Intermission  
7:30-7:45 Design Approach and concept planning  
7:45-8:45 Charrette with Stakeholders  
8:45-9:00 Closing

The Goal of tonight's meeting is to have a firm direction in regards to the overall design and concept for the Park.

Administrator James presented the financial and grant portion of tonight's discussion.

- ✓ The Town has applied for 2.4 million in grants.
  - 1.3 million has been granted and went toward the loan for the park.
  - 1.1 million has been approved, but we have not received as of yet.
- ✓ The Town recently received \$95,000 from the Federal Government. The Town applied for \$500,000.
- ✓ The Town has applied for over 1.2 million for Park development funds.

Bob Harned presented some of the Proposed Park Elements

- Open space feel for overall park design
- Pavilion
- Public restrooms
- Stormwater infiltration system
- Games area
- Playground area (to age 6)
- Fort Fisher Battle Monument
- Multi use area
- Porch type swings
- Bike racks/Site furnishings/signage
- Permeable Pavers
- Recycled Products in furnishings
- Turtle friendly lighting
- Cistern for water conservation
- Indigenous plants
- Shade trees and shade structures
- Flagpole (Yardarm)

- Place for stage/bleachers
- Movie screen (Indoor/Outdoor?)

Charrette (Design) portion of the meeting

The room was divided into three groups. Eric Lindstrom asked that during this time the groups pick the top three things they would like to see in the Park.

After the group discussion session ended, Bob Harned started a voting session to determine the items that were majority favored for the Park.

**VOTE 1**

One structure, stage, enclosed restrooms, and potential of a two-story structure  
Two structures (Pavilion and restrooms)

Majority vote of a single structure

**VOTE 2**

Center the building within the Park  
To move the building to the SW portion of the Park

Majority vote of moving the building to the SW portion of the Park

**AGREEMENT**

Overall majority agreed to have the structure facing the park and ocean as much as possible. This would allow for greater viewing access to the stage.

- ✓ Eric Lindstrom stated having a two-story building would double the budget for the Park.
- ✓ There was a discussion of having a private restroom for the stage area. Bob pointed out that this is a public park making the restrooms public as well.

**RE-VOTE of VOTE 1**

Single structure, with restrooms, storage, stage (9 votes)  
Two structures (Pavilion and restrooms) (9 votes)

Tied vote for single vs. two structures

- ✓ Sonny Beeker pointed out that the Public Works department's biggest issue is public restroom maintenance.

**RE-VOTE of VOTE 1**

Single structure (11 votes)

Two structures (11 votes)

Tied vote for single vs. two structures

**VOTE 3**

Single-story structure Pavilion (8 votes)

Two-story structure (majority)

Majority vote for a two-story structure

**VOTE 4**

Atlantic Avenue continue as a full access road (9 votes)

Limiting access onto Atlantic Avenue (6 votes)

Majority vote to keep Atlantic Avenue operating as a full access road.

**VOTE 5**

Majority vote to utilize a chicane to slow traffic on Atlantic Avenue.

**VOTE 6**

Majority voted to have no parking in front of the main structure (16 votes)

**VOTE 7**

No parking at all in front of the entire park (5 votes)

**VOTE 8**

Majority vote to add ONLY handicap parking within Park perimeter lines

**VOTE 9**

Majority vote to have nautical theme in the Tot Lot

**VOTE 10**

Rubber mulch for Tot Lot (loose vs. poured in place)

No vote completed, but concerns were voiced regarding the rubber getting too hot. Withers & Ravenel will provide additional information on options for safety surfacing at the tot lot.

**VOTE 11**

Majority vote to have structural shade vs. natural shade over the Tot Lot.

**VOTE 12**

Shade structure at Tot Lot ONLY

No vote completed, but concerns were voiced stating shade should be an option for parents as well.

**VOTE 13**

Majority vote to have permeable pavers throughout the Park

**VOTE 14**

Majority vote to locate the Tot Lot in the NW corner of the Park

**VOTE 15**

Majority vote in favor of property screening (landscaping vs. fencing) on the back side of the Park.

**ADJOURNMENT**

ACTION - Commissioner Nelder MADE THE MOTION to adjourn the meeting at 9:43 pm. Commissioner Vatrt seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

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Mac Montgomery, Mayor

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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.

# Closed Session Minutes

Since the Closed Session Minutes have  
NOT been released by a vote from Council  
they will not be in this packet.

However, if after the meeting on March 17  
you would like to view them, they will be  
available from the Clerk.

Thanks!



Old  
Business

# Memo

To: Kure Beach Town Council  
From: Kure Beach Planning and Zoning Commission  
Date: February 11, 2009  
Re: Recommendations to Council from February 10, 2009 Planning and Zoning meeting

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In accordance with the directive of Town Council following their February 2, 2009 meeting, the Planning and Zoning Commission, from their February 10, 2009 meeting, recommends that the following definitions be added to the Town of Kure Beach Code of Ordinances:

1. Porch – A covered area adjoining an entrance to a building and usually having a separate roof.
2. Deck – An open, unroofed porch or platform extending from or in near proximity from a house or other building.
3. Balcony – An open platform projecting from the wall of a building usually supported by brackets and enclosed by a railing.
4. Loft – A room or storage area within a sloping roof or attic.
5. Widow's Walk – A railed observation platform usually atop a coastal house.
6. Dome – A large hemispherical roof or ceiling.
7. Spire – A steeply pointed roof termination to a tower.
8. Pergola – A structure consisting of parallel collinades supporting an open roof of girders and cross rafters.
9. Gazebo – A free standing, roofed structure open on the sides.



That the Code of the Town of Kure Beach, North Carolina, is hereby amended by adding ARTICLE X to be numbered Section 5-185, which shall read as follows:

**Sec. 5-185 OCEANFRONT DECK ENCROACHMENT**

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 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. Should any encroachment extend into the Perpetual Beach Storm Damage Reduction Easement area granted to the Town of Kure Beach; then and in that event, it shall be subject to the terms of the easement and as such is subject to removal at the owners expense. Such removal shall be at the discretion of the U.S. Army Corps of Engineers for beach renourishment purposes.

Adopted this the 17<sup>th</sup> day of March, 2009.

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Mac Montgomery, Mayor

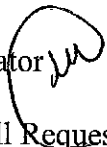
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Kaysie Pralle, Town Clerk

## MEMORANDUM

Date: March 12, 2009

To: Kure Beach Town Council

From: Michelle James, Town Administrator 

Re: Seawatch Community Electric Bill Request

Last fall, you approved a request from the Seawatch Homeowners Association to pay for their electric bills from September, 2008 going forward. You agreed to the request because the Town pays for other HOA's electricity. As you are aware, the roads within the subdivisions are funded by the Powell Fund and are Town streets.

What makes this situation a little different is that Seawatch has decorative lamp poles. These poles are leased by the HOA unlike other poles within the Town limits.

In order for the transaction to go more smoothly in the future, I've tried repeatedly to transfer the HOA's electric bill into the Town's name in order to receive the government electric rate. Unfortunately, I have not been able to transfer the bill as of yet. I am continuing to work with Progress Energy. The HOA will forward their monthly bill to the Town every month for reimbursement. We are paying approximately \$188.55 a month for this area's electricity.

When the HOA approached the Town, they requested payment retroactive from January, 2008. The HOA has asked that you revisit the issue and pay them from January, 2008 - September, 2008. This total amount is approximately \$1,404.00.

This item is on your agenda for your consideration on Tuesday, March 17, 2009. At that time, I will be available to present additional information or answer your questions about this issue.

New  
Business

February 26, 2009

The Pleasure Island Sea Turtle Project  
c/o Jody Smith  
109 N. 5<sup>th</sup> Street  
Carolina Beach, NC 28428  
Cell: (910) 352-1765

John Batson, Beach Renourishment Coordinator  
c/o Kure Beach Town Council  
Kure Beach, NC 28449

Dear Coordinator and Council:

We are submitting a bid for the monitoring and relocation of the sea turtle nests for the 2009 sea turtle nesting and hatching season for Kure Beach. We are a 501c3, non-profit corporation comprised of volunteers. Many volunteers, like myself, have been involved in nesting and hatching activities in Kure Beach and surrounding areas since the volunteer program formed seven years ago. For the past five years I have served as the program's volunteer coordinator for Kure Beach and held the NC Wildlife Resources Commission endangered species permit for Kure Beach. We will be operating as a group under my permit. This permit will enable us to conduct activities involving nesting, hatching and stranded sea turtles anywhere in North Carolina.

Surveying of the beachfront and/or monitoring of nests would begin May 1, 2009 and continue until the end of the hatching season on November 30, 2009.

Our bid of \$900 per month would include all aspects in the Scope of Work (see attached). In years past we have used the Town's Gator as our patrol vehicle. This year we will use our own ATV (a Bobcat) to patrol.

We look forward to working with you, the town officials and the citizens of Kure Beach in the protection of this unique marine animal.

If you have any questions, please feel free to call. Thank you for your consideration.



Jody Smith  
President, Pleasure Island Sea Turtle Project  
Volunteer Coordinator, Kure Beach

**SCOPE OF WORK**  
for  
Monitoring of Sea Turtle Nesting  
Kure Beach  
New Hanover County, North Carolina  
2009

1. **PURPOSE:** The contractor will monitor sea turtle nesting efforts in Kure Beach, New Hanover County, North Carolina on a daily basis and relocate nests as needed. The area to be monitored is between the Northern and Southern limits of Kure Beach.
  
2. **WORK EFFORTS:** The following work efforts will be undertaken as a part of this contract:
  - a. Patrol of the survey areas will begin at sunrise every morning from May 1, 2009 until October 31, 2009 (or November 30, 2009 if necessary).
  - b. A daily log sheet will be filled out for each day. All nests, false crawls and strandings will be recorded.
  - c. All nests will be located by visual inspection and hand verified. Nest probes will not be used unless the preferred methods prove impractical. A turtle nest data sheet will be completed for all turtle nests found and include a sketched map of approximate nest location and GPS coordinates for exact location.
  - d. Nest relocations will be performed within 6 hours of nest discovery and in conformance with the Guidelines for Sea Turtle Nest Relocation. All nest relocation information, including number of eggs in each nest, date and time of relocation, accidental breakage of eggs and hatching success, etc. must be recorded.
  - e. Should a stranded sea turtle be encountered on the beach a stranding report will be completed. If a stranded Kemp's ridley, hawksbill or leatherback is encountered the North Carolina Sea Turtle Coordinator, Matthew Godfrey (252-728-1528) will be contacted by the Contractor on the day of discovery. Dead loggerhead or green sea turtles should be buried on the beach after all measurements are taken and necessary necropsy performed. The NC Sea Turtle Coordinator will be contacted within 24 hours of the latter circumstance. Other species should not be buried until clearance is obtained from the NC Sea Turtle Coordinator.
  
3. **REPORTING:** In addition to the reporting requirements mentioned above, a report of findings, which incorporates the daily log sheets, stranding reports, turtle nest data sheets, report of hatching success and the names of all personnel involved in the monitoring and nest relocation and their respective duties under this scope of work, and other pertinent field data will be prepared. A copy of the final report will be furnished to the Town of Kure Beach and Matthew Godfrey.

4. **SCHEDULE:** The contractor will be on site at sunrise on May 1, 2009 and will monitor and relocate nests daily until August 31, 2009 (or September 30, 2009 if necessary). Follow-up on nest hatching success will be performed by the Contractor until all nests are accounted for and documentation is complete.
  
5. **ITEMS TO BE FURNISHED BY THE STATE OF NORTH CAROLINA:**
  - a. Wooden Stakes
  - b. Flagging Tape
  - c. Nest Signs
  - d. Plastic Mesh and/or Wire to Cover Nests
  - e. Badges
  - f. Guidelines for Sea Turtle Nest Relocation
  
6. **ITEMS TO BE FURNISHED BY THE CONTRACTOR:**
  - a. Daily log sheets
  - b. Stranding Reports
  - c. Turtle Nest and Hatching Success Data Sheets
  - d. Measuring tape, plastic tub, nest relocation supplies
  
7. **CONTRACTOR QUALIFICATIONS:** Contractor has knowledge of sea turtle biology and is operating under an endangered species permit granted by the Wildlife Resources Commission.





# ENDANGERED SPECIES PERMIT

NC Sea Turtle Project  
North Carolina Wildlife Resources Commission  
Division of Wildlife Management  
MSC 1722  
Raleigh, NC 27699-1722

Tele: (919) 707-0060  
FAX: (919) 707-0067

**AUTHORITY**

STATUTES  
GS 113-129, GS 113-331 & GS 113-333

RULES  
15A NCAG 101.0102

**PERMITTEE/LICENSEE**

**Jody Smith**  
**Kure Beach Sea Turtle Project**  
**109 N. 5th St.**  
**Carolina Beach, NC 28428**

**PERMIT NUMBER**

**09ST08**

**EFFECTIVE**  
**01/29/2009**

**EXPIRES**  
**12/31/2009**

**CONDITIONS AND AUTHORIZATIONS:**

The above named person and those under his(her) authority is(are) hereby authorized to conduct the following activities with the specified Federally listed endangered or threatened species as a designated agent of the North Carolina Wildlife Resources Commission:

Protection and Relocation of Sea Turtle Nests - This permit authorizes the relocation of nests, which are in danger of loss due to erosion or overwash, to a suitable location as close to the original nest site as feasible, adhering to the following:

- a. The Handbook for Sea Turtle Volunteers in North Carolina must be followed in evaluating nests and determining appropriate translocation methods.
- b. Accurate and complete records of nest protection activities must be maintained and an "Annual Sea Turtle Nest Beach Management Report" must be submitted to the North Carolina Wildlife Resources Commission by 1 December.

Possession and Disposition of Stranded Sea Turtles - This permit authorizes the possession and transportation of injured or sick sea turtles for the purpose of rehabilitation and/or release and the possession and transportation of dead stranded sea turtles for the purposes of disposition.

**Other requirements:**

- a. The North Carolina Wildlife Resources Commission's State Sea Turtle Program Biologist, Matthew Godfrey (252-728-1528), or the Assistant Sea Turtle Biologist, Wendy Cluse (252-725-5328) must be notified within 24 hours of each stranding event.
- b. A Sea Turtle Stranding Report form must be completed and submitted to the North Carolina Wildlife Resources Commission within 48 hours of each stranding event.

This license covers the following sea turtle species:

Loggerhead (*Caretta caretta*), Green (*Chelonia mydas*), Kemp's Ridley (*Lepidochelys kempii*), Leatherback (*Dermochelys coriacea*), Hawksbill (*Eretmochelys imbricata*)

**This permit/license is nontransferable and expires at midnight on the above specified expiration date.**

ISSUED BY:

Matthew H Godfrey, PhD

TITLE:

**Sea Turtle Biologist**

DATE:

**01/29/2009**

# SIGN UP SHEET TO ADDRESS TOWN COUNCIL

NAME	ADDRESS	SUBJECT
✓ Dean Lambeth	Kure Beach Resident	
✓ FRANCES REGAN	KURE BEACH "	COMPLIMENT - SOUNX
✓ TOM FEAR	KURE BEACH	
JACK McCALL	Canoling Beach	NC STATE CONTRACT
	Time	
		Break
		Pract
		offer
		offer
		offer

W/M/M