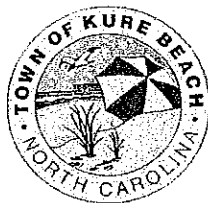


MINUTES



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 - MAY 19, 2009 at 6:30 P.M.

RECESSED MEETING HELD MAY 28, 2009 at 11:00 P.M.

COUNCIL MEMBERS PRESENT:	COUNCIL MEMBERS ABSENT:
Mayor	Mac Montgomery
Mayor Pro Tem	None
Commissioner	
Commissioner	
Commissioner	

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 Andrew Pasedag of Carolina Beach Missionary Alliance Church delivered the invocation. Mayor Montgomery led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

Mayor Pro Tem Dugan stated that Pat Smith passed away over the weekend. Officer Dave Cooley was there for about half of the day where he made phone calls and assisted the family. He wanted to recognize Officer Cooley and the Kure Beach Police and Fire Departments for their efforts.

CONSENSUS - Flag to be flown at half mast on Memorial Day.

PRESENTATIONS TO COUNCIL

- ~ James Golden, Carolina Beach Shuttle
Not present
- ~ Emilie Swearingen, Hall of Fame Committee

Emilie reviewed the highlights from the Hall of Fame Committee's minutes from their April 28, 2009 meeting.

Mayor Montgomery explained that the Council would need a preliminary budget for this project before moving forward.

The Town Administrator recommended having the Town Clerk attend the next Hall of Fame Committee meeting to assist the committee in the biographical history aspect of this project.

- ~ Ken Withrow, Beautification Committee - Atlantic Ave. landscaping recommendation
Ken was not present. Council deferred this topic and any plans for Atlantic Ave. will be tabled until June meeting.

PERSONS TO ADDRESS COUNCIL

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

- ~ Mo Linquist, resident - Recycling
Mo explained that the Recycle America Transfer Station offered the Town eight roll out carts for recycling to be kept at Public Works to be used at Town events. They would empty the carts after the event at a total cost of \$25.00.

ACTION - Commissioner Nelder MADE THE MOTION that the Town accept the offer from Recycle America Transfer Station for eight recycle carts to be kept at Public Works. In the event the carts are used, there will be a cost of \$25.00 for Recycle America to empty them. THE VOTE OF APPROVAL WAS UNANIMOUS.

- ~ Mike Harrison, resident - Golf cart
Mike has talked with Julia Boseman, Danny McComas and Mayor Montgomery about the environmental and economic benefit of having a golf cart ordinance similar to what Carolina Beach has done.
Mayor Montgomery stated that this issue came to Council recently. There were issues with this Ordinance. Dennis has been appointed to a committee with the NCLM. He will find out if the liability rests with the owner of the golf cart or if it rests with the Town.
Commissioner Lambeth would like the issue of mopeds to be discussed at the meeting in Raleigh that Chief Cooper will attend regarding Golf Cart use.

- ~ Gabby Kraus, Parks & Recreation - Bocce Ball
Gave an update on the progress of the bocce ball courts

APPROVAL OF CONSENT AGENDA

1. Building Department report: April 2009
2. Finance report: April 2009
3. Fire Department report: April 2009
4. Police Department report: April 2009
5. Accept resignation of Vinny Doran from Stormwater Committee
6. Accept resignation of Karen Vatrtr from Stormwater Committee

7. Accept resignation of Gilbert Alphin from Marketing Committee
8. Accept appointment of Michelle Hackman to Marketing Committee
9. Accept appointment of Priscilla Smith to SLAP Committee
10. Council minutes:
 - ~ 04/21/2009 Regular
 - ~ 04/21/096 Closed
 - ~ 05/05/09 Workshop

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

ADOPTION OF THE AGENDA

Commissioner Vatrtr pointed out that the part of Kure Beach that was formerly Hanby Beach, when annexed, may have been incorrectly coded. The Town's finance department will handle this internally before handing this project over to Bob Segal.

The following changes were made to the agenda:

- ⊗ Remove Item #2 under New Business, Discussion and Consideration of Limiting Commercial Traffic on Atlantic Avenue. This item is to be added to the June agenda.
- ⊗ Remove Item #5 under Old Business, Discussion and Consideration of Revenue Enhancement Program. This item is to be added to the June agenda.
- ⊗ Add as Item #6 under New Business the scheduling of workshops and public hearings for the FY2009-10 Budget and ordinance recommendations.
- ⊗ Continue tonight's meeting until Thursday, May 28 at 11:00 am for the purpose of awarding a bid contract for the sewer rehab project.

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

OLD BUSINESS

1. Discussion and Consideration of retroactive electricity payment for Seawatch HOA (Bill Hannah)

Mayor Montgomery clarified the issue is whether the Town Council will approve reimbursement for street light electricity payments to the Seawatch HOA retroactive from to January to September 2008 totaling \$1400.00.

Former Building Inspector Bill Hannah - He, Sonny and contractor Jim Busby met regarding the Seawatch community wanting special, decorative light poles. The understanding would be they would pay the difference. He states that paying the utility was ever brought up.

Commissioner Nelder - Electricity was never brought up?

Bill - Not to his recollection. He questioned under normal circumstances, once the developer finishes the subdivision, does he continue paying the utility? This has never been done before in Kure Beach.

Commissioner Lambeth - Was the deal done in front of Council?

Bill - It was done in the conference room.

Alan Votta - This was Jim Busby's first subdivision.

Mayor Montgomery - When Beachwalk was being built, did the Council vote specifically to approve paying the electricity for Beachwalk?

Hannah - No

(1:18:51)

Mayor Montgomery - Do we get billed for the poles and the electricity in the same bill or are they billed separately?

Administrator James - They are billed on the same bill, but listed separately.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to recuse Commissioner Vatr from voting on this topic. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION - Mayor Montgomery MADE THE MOTION to reconsider the payment of Seawatch community's street lighting electricity bill retroactive from January - September 2008 in the amount of \$1,400.00. Commissioner Nelder seconded the motion with the amendment of payment is to be made after July 1, 2009. THE MOTION PASSED WITH A VOTE OF THREE TO ONE. Commissioner Lambeth voted no.

CONSENSUS - The Town Administrator is to draft a letter to the Seawatch HOA notifying them of the Council's decision and action.

ACTION - Commissioner Nelder MADE THE MOTION for Commissioner Vatr to rejoin the meeting as a voting member. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Discussion and Consideration of scheduling Public Hearings

- A. Recommendation from Planning & Zoning Commission for Political Signs - Chapter 19 ZONING, ARTICLE VI. SIGNS., Sec. 19-373. Exceptions.
- B. Recommendation from Planning & Zoning Commission for Prohibitive Signs - Chapter 19 ZONING, ARTICLE VI. SIGNS., Sec. 19-375. Prohibited Signs.

ACTION - Commissioner Nelder MADE THE MOTION to schedule a Public Hearing on June 16 at 5:30 pm or soon thereafter to take public comment on recommendations from Planning & Zoning Commission. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Ocean Front Park Update (Dugan and Montgomery)

- ~ Discussion and Consideration of Approving Conceptual Plan of Ocean Front Park
- ~ Discussion and Consideration of Next Steps with Park to Include Marketing and Grants

Mayor Pro Tem Dugan - This is not the finished product. This is something to have sufficient information to apply for further grants. There is still a lot of tweaking to be done. He presented information about windmills for alternate energy supply.

Commissioner Vatrt - Supports the idea as an energy source and a possible revenue source.

Commissioner Lambeth - This is a start up company, and he would like information supporting their product.

Mayor Pro Tem Dugan - He will do due diligence and look for competitors.

Tony Gonsalves - Is concerned about the parking issues the Ocean Front Park.

Mayor Montgomery requested parking issues in Kure Beach be on the June agenda.

ACTION - Mayor Pro Tem Dugan MADE THE MOTION to approve the Ocean Front Park Conceptual Plan as a concept, not as the final plans for the Park. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.
(1:43)

CONSENSUS - Mayor Pro Tem Dugan to look into windmills as an alternate energy source for the Park. Council has no intention of completing the second phase at this time.
1:45

Mayor Montgomery pointed out the Town has 2.45 million dollars committed to the Park for development. \$204,000 is frozen and will be released in June from the Clean Water Management Trust Fund. 1:46

The Town has applied for \$750,000 in appropriation funds which will go towards acquisition costs. Council needs to start approaching private partners and individuals to partner with the Town on the Park. He pointed out BB&T has a foundation that is in place for this type of request. They have not pledged any money. If we want money from BB&T to put their name on the building, we need to know how much money to ask for. We need a marketing plan to pay for the Park.

CONSENSUS - Town Administrator to contact director of the Masters of Public Administrators program (MPA) to see if there is a student in the Non-Profit Management program that would be willing to assist in developing a marketing plan for the Park.

4. Discussion and Consideration of increased fines in current Dog Ordinance - Chapter 4 ANIMALS, ARTICLE II. Dogs. Sec. 4-19. Penalty. (Canoutas)
Council approved the ordinance provided by Attorney Canoutas.
5. Discussion and Consideration of Revenue Enhancement Program (Vatrt)
This item is to be discussed at the June meeting.
6. Discussion and Consideration of Funding Requests
Mayor Montgomery discussed allocating the remaining \$750.00 in the contributions fund balance to a worthy cause. He recommends giving the money to Federal Point Help Center.

ACTION - Commissioner Nelder MADE THE MOTION to donate the remaining \$750.00 in the contributions fund balance to the Federal Point Help Center. Council directed the Town Administrator to return with recommendations for additional funding, if available, to be distributed to worthy causes within the community. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. Discussion and Consideration of purchase of municipal water supply from Town of Kure Beach for Fort Fisher Recreational Area
Administrator James explained there are contract changes that are on the memo she just distributed to Council.
This memo is incorporated by reference and made a part of these minutes.

ACTION - Commissioner Vatrtr MADE THE MOTION to approve the contract for the purchase of municipal water supply between the FFRA and the Town and authorize the Town Administrator and Public Works Director to negotiate its terms. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. 2:06

The meeting took a recess at 8:40 pm.
The meeting resumed at 8:55 pm.

NEW BUSINESS

1. Discussion and Consideration of adjusted Sewer Authority rates
Mayor Montgomery, Commissioner Vatrtr, Administrator James and Public Works Director Beeker attended a meeting with Carolina Beach to discuss the rates for 2006-2009. The Town's usage has gone down due to improvements to our system. Based on our rates that we have been paying we have overpaid the Town of Carolina Beach \$64,055.35. The Town of Carolina Beach will reimburse Kure Beach by check.

ACTION - Commissioner Vatrtr MADE THE MOTION to approve the proposed rates of Carolina Beach at \$.6319 that will take effect in June. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Commissioner Lambeth - Carolina Beach did not have their numbers right at meeting to compute this difference.

Mayor Montgomery - Reimbursed funds must go back into that respective fund. 2:10

2. Discussion and Consideration of Limiting Commercial Traffic on Atlantic Avenue
This item is to be placed on the June agenda for discussion and consideration.
3. Council Interaction (Dugan)
Mayor Pro Tem Dugan - Nothing can be done by "one" of the Council. It has to be done by Council as a whole and it needs to be done in open session.
Recently there was a situation that occurred with Town employees where Commissioner Lambeth took it upon himself to make decisions as an individual Council member. After speaking with representatives from the League of Municipalities and Council of Governments (COG) they recommended that Council vote to censure Commissioner Lambeth. Mayor Pro Tem Dugan was opposed to this

drastic of a measure. The League and COG gave one other option which was to bring this issue to the "light of day". They suggested discussing this topic in open session to make sure the citizens know what has happened.

Mayor Pro Tem Dugan spoke on his conversations with the Council of Government and the League of Municipalities regarding the actions taken by Commissioner Lambeth towards Town Administrator Michelle James and Town Clerk Kaysie Pralle. Jim referred to the Rules of Procedure for Town Council adopted May 20, 2008, which reads "*The Town Council, as a unit, acts as the governing board for the Town. A single Commissioner does not.*" He stated that the Council took an Oath of Office to uphold these rules.

Commissioner Lambeth stated that he thought this had been "put behind us, but since Mr. Dugan has opened the door I would like to read a letter." He began reading from a letter from a resident regarding recent events surrounding the Street Festival. 2:19 Mayor Montgomery quickly reminded Commissioner Lambeth that personnel issues cannot be discussed in Open Session, they need to be addressed in Closed Session. If he wishes to move forward with disciplinary action it needs to be done in accordance with the General Statutes and the Town's personnel policy.

Commissioner Lambeth stated that if he feels a citizen is being treated unfairly it needs to be dealt with immediately and later tonight we will be discussing an ordinance, which is partly why this came to be. "He will look after those citizens before he looks after anyone else." He plans to publish the letter in the paper tomorrow.

Mayor Pro Tem Dugan questioned where in any of our Policies and Procedures do you get the right to discipline our employees single handedly?

Commissioner Lambeth replied "when they are treating our citizens as rudely as they were treated."

Mayor Pro Tem Dugan asked "what page is that on?"

Commissioner Lambeth repeated "what page is it on? It is on the flow sheet where the citizens come first." Commissioner Lambeth said to Mayor Montgomery, "Can I finish? Thank you for not interrupting for once." Lambeth continued, "The flow sheet plainly says the citizens come first, then the Council, then the department heads. When that flow sheet is interrupted, as an elected official, we should remedy the problem."

Mayor Montgomery referenced the flow sheet saying citizens of the Town come first and directly under them come the Town Council. The Town Council operates as a whole. No member of the Town Council has the authority individually to discipline any individual employee. That is reserved for department heads. Department heads may only be disciplined by a majority of Council acting as a whole.

Commissioner Vatr stated that this is a tough situation. "I had to sit here biting my lip to some degree." We all have to follow the rules and procedures that we have sworn ourselves to. "The point is, not one of us, not two of us, it has to be a majority vote that has to vote as a majority group."

Commissioner Lambeth would like to have a vote to discipline these employees.

Mayor Pro Tem Dugan "Please Dean, I'm begging you, don't."

Commissioner Lambeth "You opened the door Jim."

4. Memorial Recognition Policy (Montgomery)

The Town Administrator provided Council with two different policies from other Town's for providing memorial recognition.

CONSENSUS - Town Administrator directed to modify policy from Chapel Hill and bring to June 11 meeting for Council discussion and consideration.

5. Discussion and Consideration of Ordinance to clarify use of Town Seal (Canoutas)
This issue was first discussed when Tim Fuller was mayor. He contacted several municipalities about how they protected their seal. They made it a part of their code. They treat it as belonging to the Town. The other, rectangular logo can be used by any person for a legitimate purpose.
Administrator James clarified one of the reasons this also came up, was because we had a commercial artist that wanted to use the seal, but the Town instructed him he had to pay the Town for its use.

ACTION - Commissioner Lambeth MADE THE MOTION to adopt the Town Logo Ordinance with an amendment to the second, rectangular logo to include "with the expressed, written consent of the Town." Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Recording of Closed Session Meetings (Lambeth)

ACTION - Commissioner Lambeth MADE THE MOTION to tape record Closed Session meetings. Commissioner Nelder seconded the motion. MOTION FAILED WITH A VOTE OF THREE to TWO. Montgomery, Dugan, and Vatrtr voted no.

If Council would like more information on the minutes they will direct the Town Clerk further.

7. Schedule the following meetings:

- ~ Wednesday, June 10 from 3-5 pm - Budget Workshop with Council and Department Heads
- ~ Wednesday, June 10 at 5:30 pm - Public Hearing to hear public comment on the proposed budget
- ~ Tuesday, June 16 at 5:00 pm - Public Hearing Sign Ordinance
 - Political Signs
Chapter 19 ZONING, ARTICLE VI. SIGNS., Sec. 19-373. Exceptions.
 - Prohibited Signs
Chapter 19 ZONING, ARTICLE VI. SIGNS., Sec. 19-375. Prohibited Signs.
- ~ Tuesday, June 16, 2009 at 5:30 pm or soon thereafter - Second Public Hearing to hear public comment on the proposed budget
- ~ Tuesday, June 16, 2009 at 6:30 pm - Final budget approval at the Regular Council meeting.

ACTION - Commissioner Vatrtr MADE THE MOTION to approve the meeting schedule. Mayor Pro Tem Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2:55 Mayor Montgomery mentioned that in February 2008 the Kure Beach Town Council drafted a resolution to the New Hanover County Commissioners requesting a revaluation be done less than every eight years and for the County Commissioners to schedule the next revaluation for 2011.

CONSENSUS – Council still supports having revaluations continue on a four year rotation.

Mayor Montgomery clarified if there is a fluctuation 92% and 108%, it would automatically trigger a revaluation.

Council directed the Town Administrator to meet with Bruce Shell and gather any information that could be used in a public release for our residents that clarify what the effects of revaluation will be. 2:58

EXECUTIVE SESSION

~ Town Clerk six month review

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to go into Closed Session at 9:50 pm to conduct the six month evaluation for the Town Clerk. Commissioner Vatrtr seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ACTION – Commissioner Vatrtr MADE THE MOTION to return to Open Session at 10:35 pm. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

The Council conducted in Closed Session, the six month evaluation of the Town Clerk. There were some adjustments made to the written evaluation. These changes will be made with a copy given to the Clerk and the personnel officer for the Clerk's permanent record.

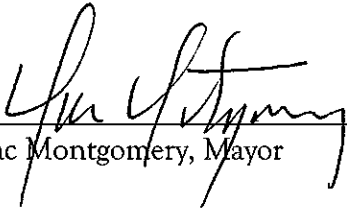
There was a recommended salary adjustment of 3% that needs to be voted on in open session.

ACTION – Commissioner Vatrtr MADE THE MOTION for a three percent salary adjustment to the Town Clerk. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A VOTE OF THREE TO TWO. Mayor Pro Tem Dugan and Commissioner Lambeth voted no.

Council will review the Clerk's progress again in December. Commissioner Nelder to arrange training for the Clerk and other employees on interaction with the public and boards. The Clerk was directed to contact other clerks in the local area to inquire about shadowing them during their daily activities. This could be a type of mentoring effort for the Clerk.

ADJOURNMENT

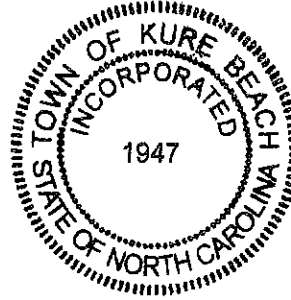
ACTION - Mayor Pro Tem Dugan MADE THE MOTION to continue the meeting at 10:40 pm to Thursday, May 28, 2009 at 11:00am. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Mac Montgomery, Mayor



Kaysie Pralle, Town Clerk

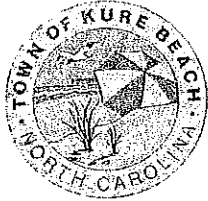


NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. Persons wishing to hear the recording of this meeting may request to do so by contacting the Town Clerk.

ITEMS
INCORPORATED BY REFERENCE
AND MADE A PART OF THESE
MINUTES

OR

SIGNED AND SEALED
ORDINANCE
RESOLUTION
PROCLAMATION
CONTRACT



ORDINANCE

That the Code of the Town of Kure Beach, North Carolina, is hereby amended by adding a section to be numbered 2-3 which section shall read as follows:

Sec. 2-3. Town Logo.

In addition to the Town Seal as set out in Sec. 2-1, the Town of Kure Beach hereby adopts the following as its Logo:

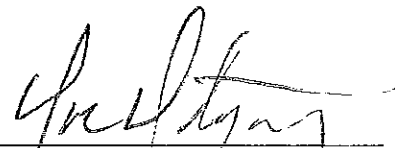


The Town of Kure Beach Logo cannot be used by any individual or organization without the expressed written consent of the Town. The Town Logo may be used in conjunction with events that the Town is sponsoring or co-sponsoring. The Logo may not be used at events that merely are held on Town property or that are produced by outside organizations.

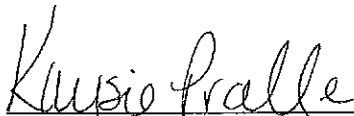
The Logo hereinafter depicted may be used by any person or organization for any legitimate or legal function with the expressed written consent of the Town.

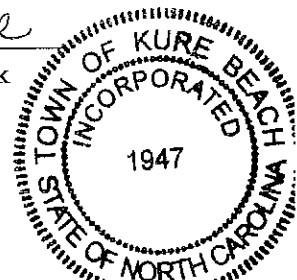


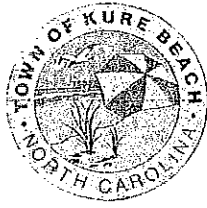
Adopted this the 19th day of May, 2009.


Mac Montgomery, Mayor

ATTEST:


Kaysie Pralle, Town Clerk






That Section 4-19 of the Code of the Town of Kure Beach, North Carolina, is hereby amended to read as follows:

Sec. 4-19 Penalty.

Any person who shall violate these sections in Chapter 4, Article II of this Code shall be subject to a civil citation in the amount of One-Hundred Fifty Dollars (\$150.00) for the first offense; second offense shall subject the offender to a misdemeanor charge as by law prescribed.

Adopted this the 19th day of May, 2009.



MAC MONTGOMERY, MAYOR

ATTEST:



KAYSIE PRALLE, TOWN CLERK

