

MINUTES

TOWN OF KURE BEACH TOWN COUNCIL

117 Settlers Lane ■ Kure Beach, NC 28449



Dean Lambeth, Mayor
Chuck Keener, Mayor Pro Tem
Jim Dugan, Commissioner
Barry Nelder, Commissioner
Tim Fuller, Commissioner
Kaysie Pralle, Town Clerk

REGULAR MEETING
APRIL 20, 2010 at 6:30 PM

COUNCIL MEMBERS PRESENT:

Mayor	Dean Lambeth
Mayor Pro Tem	Chuck Keener
Commissioner	Barry Nelder
Commissioner	Tim Fuller

COUNCIL MEMBERS ABSENT:

Commissioner	Jim Dugan
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STAFF PRESENT:

Building Inspector	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 AND WELCOME

Mayor Lambeth called the meeting to order at 6:30 pm. Rabbi Robert Waxman of B'nai Israel Synagogue delivered the invocation. Mayor Lambeth led in the Pledge of Allegiance.

PRESENTATIONS TO COUNCIL

▪ Bill McDow and Paul Martinez, Wilmington MPO

Slides of the presentation presented to Council are incorporated by reference and made a part of these minutes.

Bill McDow - Currently there are approximately 100,000 vehicles that cross the Memorial and Isabel Holmes Bridges a day. They were only meant to handle approximately 60,000 vehicles per day. The Skyway Bridge will assist with that. We expect the county to grow approximately two percent per year. Over the next 25 years that would be a 50% increase in traffic. The reason for the Skyway Resolution is to protect the footprint of where the bridge will go when the funding becomes available.
Commissioner Nelder - Has there been any consideration of a bike path on Dow Road?
Bill - There will be improvements but only leading up to the turn at K Avenue. The funds are there to make improvements on Dow Road.

▪ Bob Fitzsimons, Parks & Recreation Chair - Parks and recreation expansion

This item is tabled until the May meeting.

PERSONS TO ADDRESS COUNCIL

(3 Minutes – Please sign in with the Clerk before the meeting)

- **Doris Eakes – Eakes Parking**

Doris – I know that parking is a problem in the Town, but she hopes this will help relieve some of the parking issues in the Town.

Mayor Lambeth – Will the road be paved?

Doris – It can be, but I was considering going with heavy gravel to begin with.

Building Inspector Batson – I did get the proposal. The zoning for this area is RA2.

Parking lots are not permitted in that area. The only zones that allow this are B1 and B2. This should go before the Planning & Zoning Commission for consideration. The area in discussion is between 4th Avenue and H Avenue. He feels this may be allowed through a special use permit.

- **Greg Reynolds – Parking**

Greg – He requests a parking waiver for Big Daddy’s restaurant. They would like to add outdoor seating. This would add 60 seats to the outdoor area.

Building Inspector Batson – He would like to address this issue later in the agenda. One month ago Mrs. Eakes approached him about this parking amendment. He was later given a set of plans. They have applied for a CAMA permit. With the additional seats they would need an “additional” 15 parking spaces. This same issue occurred several years ago with Jack Mackerel’s. We do have a parking exception that would allow for this. Ordinance section 19-334 addresses this issue.

- **Gilbert Alphin – Room Occupancy Tax (ROT) discussion**

Gilbert – There has been a drastic decline in business. He feels that it is because of the ROT tax. He would like to work with the Marketing Committee on this.

Clerk to contact Gilbert regarding the next Marketing Committee meeting.

CONSENSUS – Town Attorney to see if the Town can back out of this tax collection and report back to Council.

- Gabby Kraus – Conservative candidates meet and greet at Jack Mackerels Tuesday, April 27, 2010 from 6-8 pm.

ACTION – Mayor Pro Tem Keener MADE THE MOTION to excuse Commissioner Dugan from the meeting. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

APPROVAL OF CONSENT AGENDA

1. Building Department report – March 2010
2. Finance Department report – March 2010
3. Fire Department report – March 2010
4. Police Department report – March 2010
5. Meeting Minutes

- 2/24/2010 Administrative Workshop
- 3/16/2010 Regular
- 3/16/2010 Closed
- 3/25/2010 Clerk/Finance Officer Job Descriptions and N. Hewitt Finding-of-fact
- 3/25/2010 Closed
- 3/29/2010 Joint meeting with SLAP, P&Z, Marketing and Beautification
Committees – Economic Development Studies
- 3/29/2010 Closed

ACTION – Commissioner Nelder MADE THE MOTION to adopt the Consent Agenda. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

ADOPTION OF THE AGENDA

AMENDMENTS:

Old Business

- Item 11 Seymour Johnson Air Force Base agreement
- Item 12 Tennis Courts Estimate
- Item 13 Debt Setoff Program

New Business

- Item 9 Intern Corey Mullen
- Item 10 Moratorium for video poker machines in Kure Beach
- Item 11 Indecent Attire on beach

ACTION – Commissioner Nelder MADE THE MOTION to adopt the agenda as amended. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

OLD BUSINESS

1. Closed Session – Personnel in accordance with GS §143-318.11(6)

ACTION – Commissioner Nelder MADE THE MOTION to go into Closed Session to discuss personnel issues in accordance with GS §143-318.11(6). Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Council returned to open at 7:58 pm.

Mayor Pro Tem Keener – The Council has reached an agreement in regards to Nancy Hewitt’s personnel hearing. Once the Compromise Settlement has been signed by Council, it will be forwarded to Nancy for her approval and signature.

ACTION - Mayor Pro Tem Keener MADE THE MOTION to approve the Compromise Settlement Agreement. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Board/Commission/Committee Vacancy Appointments and Resignations

A. Resignation of John Gordon – Board of Adjustments

ACTION - Mayor Lambeth MADE THE MOTION to accept the resignation of John Gordon from the Board of Adjustment. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

B. Resignation of Larry Aultman – Citizens Finance & Budget Advisory Committee

ACTION - Commissioner Fuller MADE THE MOTION to accept the resignation of Larry Aultman from the Citizens Finance & Budget Advisory Committee. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

**C. Resignation of Anne Brodsky – Board of Adjustments
(Effective 04/28/2010)**

ACTION - Mayor Lambeth MADE THE MOTION to accept the resignation of Anne Brodsky from the Board of Adjustment effective April 28, 2010. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

**D. Appointment of Anne Brodsky – Planning & Zoning Commission
(Effective 04/28/2010)**

ACTION - Commissioner Nelder MADE THE MOTION to appoint Anne Brodsky to the Planning & Zoning Commission effective April 28, 2010. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

**E. Appoint new member of the Citizens Finance & Budget Advisory Committee from applicants interviewed by Council
Commissioner Fuller – We were impressed with all the applicants. He recommends Mark Ferrer.**

ACTION - Commissioner Fuller MADE THE MOTION to appoint Mark Ferrer to the Citizens Finance & Budget Advisory Committee. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

3. Discussion and consideration of becoming a Tree City (Keener)

Mayor Pro Tem Keener - This item was discussed in the later part of 2009 by the Town Council and the former Town Administrator.

Commissioner Fuller - He does not think we need to reconsider this.

Mayor Lambeth - I think we should consult Public Works Director Beeker before moving forward this tonight. The committee has come to us and recommended this.

Mayor Pro Tem Keener - Only one person on the committee has been working on this.

Commissioner Fuller - I don't know why we couldn't call our Beautification Committee our tree board. We only need to adopt an Arbor Day proclamation.

Mayor Lambeth - We need to come up with a cost for this first.

Commissioner Fuller - The cost would be \$2.00 per capita.

Mayor Pro Tem Keener - The application is where we got held up the first time.

Commissioner Fuller - I would be happy to work with them on this.

Mayor Lambeth - Would you like to approve this tonight?

ACTION - Mayor Pro Tem Keener **MADE THE MOTION** to postpone this item until it is reviewed by the Beautification Committee. Motion was withdrawn.

Mayor Lambeth - I do not want to approve anything that might impede on the disc golf course and the possible removal of trees.

ACTION - Commissioner Fuller **MADE THE MOTION** to complete the application and proceed with submitting the application unless it is determined that the commitment for the Town would be more than \$4,500.00 per year. Commissioner Nelder seconded the motion. **THE VOTE PASSED THREE TO ONE.** Mayor Lambeth was opposed.

4. Economic Development Studies update from the Planning & Zoning Commission, Shoreline Access & Parking, Beautification and KB Marketing Advisory Committees

Commissioner Fuller - We met with these committees earlier this month. The Beautification Committee submitted a memo with recommendations.

Commissioner Fuller distributed a handout which is incorporated by reference and made a part of these minutes.

Commissioner Fuller - He would like the Beautification Committee to address the key areas that are in need of immediate attention, such as the Town entrances. If we had this we could better reach a cost estimate.

Commissioner Fuller - For the SLAP committee I picked ten items that seemed to be easy to address.

Mayor Pro Tem Keener - The MPO did not like the idea of having an entrance to the corral on K Avenue.

Commissioner Fuller - He pulled items from the recommendations from the SLAP committee that he felt we could accomplish within the next year and will not have a significant budget impact.

Tony Gonsalves - This abbreviated list does not address any additional parking.

Alan Votta, P&Z - We can do this, but we need a plan otherwise we are spinning our wheels. We have three studies but we have no actual plan, which provide a direction and vision for the Town.

Commissioner Fuller - When do you feel that you will have a form base ordinance for the Town?

Commissioner Nelder - There is a workshop coming up soon for this.

Mayor Lambeth - He would like to see the burial of power lines as a priority.

Jim Varrt, resident - When you set up a plan, you start with a goal then you set up tactics and strategies.

Frances Regan, resident - This is a start, but you need to get a cost first.

ACTION – Commissioner Fuller MADE THE MOTION Commissioner Fuller for purposes of planning and discussion it is the intent of the Kure Beach Town Council that we use the Sawyer Study as the basis for planning, and that we ask the committees who submitted recommendations from the studies to pursue these items listed in this memo as their first order of business consistent with the Sawyer Study. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

5. Citizens Finance & Budget Advisory Committee (Fuller)

A. Approval of committee mission statement

The mission of the Kure Beach Citizens Budget and Finance Advisory Committee is to provide an independent review of the Town’s budget and financial data and advise the Kure Beach Town Council and the citizens of Kure Beach on the overall financial health of Kure Beach.

ACTION – Commissioner Fuller MADE THE MOTION to approve the mission statement of the Citizens Finance & Budget Advisory Committee. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Mayor/Council Form of Government – Continuation of discussion from previous months (Fuller)

Commissioner Fuller – We have been talking about we do not have a Town Administrator. At the last meeting we adopted a job description for Town Clerk and Finance Officer. We accepted applications for both positions. We need to decide how to proceed with this.

ACTION – Mayor Pro Tem Keener MADE THE MOTION that the Council received 55 applications. All of Council has reviewed them. For the Finance Officer position, Commissioner Fuller and Mayor Pro Tem Keener will review the applications. For the Town Clerk position, Mayor Lambeth and Mayor Pro Tem Keener will review the applications. The entire Council will interview the final applicants. We have it down to 20 out of the 55 now. The Council will interview the final eight. The Council will interview for final selection. Commissioner Fuller seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. Ocean Front Park engineering and construction budget and construction schedule (Fuller)

8. Discussion and consideration of the Engineering Services Ocean Front Park Construction Development Administration contract (Dugan/Lambeth)

9. Discussion and consideration of the Withers & Ravenel Ocean Front Park Architectural Design and Engineering Services contract (Dugan/Lambeth)

Commissioner Fuller – We have an October deadline to start construction for the Ocean Front Park. I do not feel that we can move forward with the project unless there is a schedule.

Mayor Lambeth – Withers & Ravenel have submitted a contract for the architectural design. I am currently working with another architectural firm on a building four times the size and it was \$75,000 cheaper than what they have presented.

W&R reps – Last year the estimated cost to build was \$79,500 to design the building. The remaining \$59,000 would be for sight design, Atlantic Avenue, surveying and CAMA permits. If Council wishes to go with another architect firm, we have no problems with that. There is a significant amount of work that needs to be done before Engineering Services can begin the process.

The design and footprint must be finalized before the Stormwater process can begin.

ACTION – Commissioner Fuller MADE THE MOTION to table items 7, 8, and 9 and continue the meeting until Thursday, April 22 at 12:30 pm for the purpose of considering those three items. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

10. Discussion and consideration of a Workplace Violence Policy (Dugan/Fuller)

Commissioner Fuller – Commissioner Dugan presented this at the last meeting and it was postponed until the Town Attorney could look at this and the language. He came back with a revised draft and the language is agreeable to me. Pages four and five will need to be addressed at some point.

ACTION – Commissioner Fuller MADE THE MOTION that we adopt this policy and request Mayor Pro Tem Keener and Commissioner Dugan to follow up on these items. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

11. Seymour Johnson Air Force Base agreement

Mayor Lambeth – They have agreed to the original user fee of \$184,062.50. They would like this back as soon as possible.

Commissioner Fuller – We would approve this agreement with the up front expense of \$30,000 for the tap.

ACTION – Commissioner Fuller MADE THE MOTION to adopt the contract with Seymour Johnson Air Force Base and authorize the expenditure from the SERF Expansion Reserve Fund. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

12. Tennis Courts Estimate

Mayor Lambeth – We have two estimates from two contactors. This would remove the current courts and put in a new surface. This includes new netting. The Parks & Recreation Committee supports this. We have to get it approved, pay for it up front and then we get reimbursed for it.

ACTION – Mayor Lambeth MADE THE MOTION to adopt the Outerbanks contract with stipulation they can provide their own liability insurance. Commissioner Fuller AMENDED THE MOTION by adding that the condition of getting this approved through the New

Hanover County Parks and Recreation Bond Fund. THE VOTE OF APPROVAL WAS UNANIMOUS.

Town Clerk is to draft a letter to contractor.

13. Debt Setoff Program

ACTION - Commissioner Nelder MADE THE MOTION to move forward with this. Commissioner Fuller seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Town Clerk is to notify Finance Officer of the Council's approval.

NEW BUSINESS

1. Board of Adjustment Interview - Dolores Coe

- A. Discussion and consideration of a temporary appointment as an alternate member**

ACTION - Commissioner Nelder MADE THE MOTION to appoint Dolores Coe to the Board of Adjustment as an alternate member, to be made a regular member following the resignation of Anne Brodsky. THE VOTE OF APPROVAL WAS UNANIMOUS.

2. Discussion and consideration of parking restrictions for Big Daddy's restaurant (Batson)

- A. Discussion and consideration of scheduling a Public Hearing**

ACTION - Mayor Lambeth MADE THE MOTION to schedule a special meeting of the Planning and Zoning Commission on Wednesday, April 28, 2010 at a time to be determined. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

Town Clerk is to email P&Z member, Alan Votta the date of the meeting as to coordinate a meeting time with the commission members.

3. Discussion and consideration of the following resolutions:

- A. Local Government Other Post-Employment Benefits Fund (OPEB Fund)**

CONSENSUS - This item is tabled until further notice.

- B. Workplace Violence**

ACTION - Commissioner Fuller MADE THE MOTION to adopt this resolution. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

- i) Supporting the Preservation of a Future Corridor for the Cape Fear Skyway**

C. Supporting the "Gap" Funding for the Cape Fear Skyway

ACTION - Commissioner Fuller MADE THE MOTION to not adopt resolution C or resolution D. Mayor Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Discussion and consideration of the following budget amendments:

- A. \$6,089.48 from Water/Sewer Reserve Fund
\$6,089.48 to FY08-09 Worker's Comp Audit (1/2 Balance)
- B. \$18,850.78 from General Fund Reserve
\$6,089.48 to FY08-09 Worker's Comp Audit (1/2 Balance)
\$12,761.30 to Unemployment Taxes

ACTION - Commissioner Fuller MADE THE MOTION to approve the budget amendments. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

5. Discussion and consideration of Community Center request for \$500 for new counter tops for Community Center kitchen (Fuller)

ACTION - Commissioner Fuller MADE THE MOTION to transfer \$545.90 from the General Fund to the Community Center budget to authorize that work. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

6. Discussion of Council liaison for Kure Beach Board of Adjustment (Fuller)

Commissioner Fuller - There is no need to have a Council liaison. Commissioner Nelder suggested sending a letter to the board chair if they need anything from the Council, such as additional training, that they contact the Mayor or another council member to voice that need.

ACTION - Commissioner Fuller MADE THE MOTION to do away with the liaison for the Board of Adjustment. Commissioner Nelder seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

7. Discussion and consideration of waiving the \$250.00 permit fee, per Kure Beach Ordinance Sec. 12-45, for Street Festival Tent

Building Inspector Batson informed Council that at this point the permit fee would be \$500.00, instead of \$250.00 due to the lateness of the request.

ACTION - Mayor Lambeth MADE THE MOTION to waive the 500.00 permit fee. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

8. Discussion and consideration of adopting 2010 Emergency Management Plan (David Heglar, Kure Beach Emergency Manager)

CONSENSUS - This item is tabled until the May meeting.

9. Intern Corey Mullen

Commissioner Nelder – He is an East Carolina University student. He needs internship time to complete his degree. He would assist Building Inspector Batson with code enforcement. Building Inspector Batson noted that he would have enough in this year's budget to cover this, but would need an additional \$1,000 in next years budget to cover the additional expense.

Building Inspector Batson – He needs 180 hours from March until August. I do not feel this is a bad idea but he will need to be a sworn officer of the Town. I do not know if this is the route we want to take with an intern.

Mayor Pro Tem Keener – Have you been trained in Code Enforcement?

Building Inspector Batson – I was trained by the former building inspector, but there was no formal training.

Mayor Lambeth – The other interns recently utilized were at no cost to the Town.

Building Inspector Batson – I do not want to do this at all, but Commissioner Nelder would like this to continue.

Mayor Lambeth – How much would he be paid per hour?

Building Inspector Batson - \$9.00 per hour

Mayor Lambeth – He would like to set up 12-14 bench marks within the Town limits to monitor the shifting of the sands at the same time every day to see how the sand moves.

Mayor Pro Tem Keener – I have a problem paying this intern.

Commissioner Fuller – Can we wait until the continuation of the meeting on Thursday to decide on this?

Mayor Lambeth – We would still have to pay taxes, social security, unemployment, etc on top of his hourly pay.

Attorney Canoutas – The Town Clerk proposed the option of making the intern a contracted, 1099 employee, so that he would be responsible for his own taxes. The only additional liability to the Town would be workers comp insurance.

ACTION – Commissioner Nelder **MADE THE MOTION** to move forward with the internship and approve 180 hours during the prescribed time bringing up to date the issues with John. Commissioner Fuller **AMENDED THE MOTION** to table this until Thursday until John and Corey have had a chance to talk. Commissioner Fuller seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

10. Moratorium for video poker machines in Kure Beach

ACTION – Commissioner Nelder **MADE THE MOTION** to adopt the ordinance. Mayor Pro Tem Keener seconded the motion. **THE VOTE OF APPROVAL WAS UNANIMOUS.**

Sea Oat Fencing –

Building Inspector Batson – The recommendation he received is not in favor of sand fencing. The report says our beaches are in great condition. Does Council want to see sand fence placed in Ocean Dunes?

CONSENSUS – Council would like to move forward with the sand fence.

The beach vehicle access points are determined to be a weak point in our dunes. They would like to get a load of sand to build up the dunes before the crossovers are built. He will discuss with Public Works Director Beeker and Fire Chief Heglar about this.

CONSENSUS - Building Inspector Batson to discuss this with Public Works Director Beeker and Fire Chief Heglar and use common sense on this.

11. Indecent Attire on beach

Mayor Lambeth - The Town Clerk Googled this persons email address and found that this person takes indecent photographs to post on the internet. He would like Police Chief Cooper to send a letter stating this is unacceptable in accordance with our ordinance.

Commissioner Fuller - We can all say that it is our interpretation that thongs are not permissible under our ordinance.

Attorney Canoutas - The ordinance as it is written is open to interpretation.

Town Clerk - It is currently a \$25.00 violation.

Commissioner Fuller - Do we want to consider raising the fine?

Town Clerk - There are other items attached to this fine. Sleeping on the beach and surfing also fall under this penalty amount.

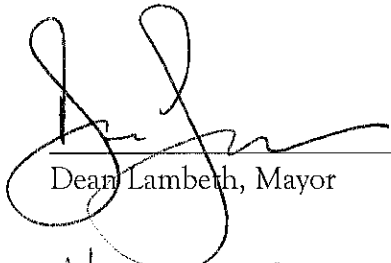
Building Inspector Batson - I would like to review these ordinances before changing the violation amount.

CONSENSUS - It is the consensus of Council that thongs are inappropriate attire in the Town of Kure Beach and are not allowed within Town limits.

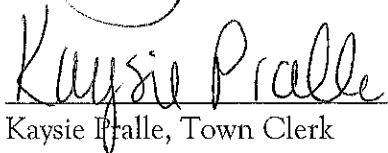
Police Chief Cooper is to relay the consensus of Council to the person making the inquiry. This item will be further addressed at the continued meeting at 12:30 pm on Thursday, April 22, 2010.

ADJOURNMENT

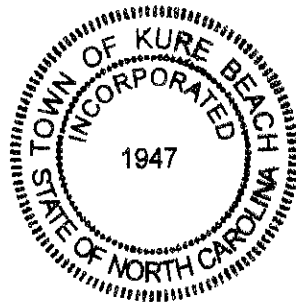
ACTION - Commissioner Fuller MADE THE MOTION to continue the meeting until 12:30 pm on Thursday, April 22, 2010. Mayor Pro Tem Keener seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Dean Lambeth, 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.