

## 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  
Emilie Swearingen, Commissioner

### REGULAR MEETING

May 17, 2011 at 6:30 pm

The Kure Beach Town Council held its regularly scheduled meeting on Tuesday, May 17, 2011 at 6:30 pm. Attorney Canoutas was in attendance and there was a quorum of the Council present.

#### COUNCIL MEMBERS PRESENT:

Mayor	Dean Lambeth
Mayor Pro Tem	Chuck Keener
Commissioner	Barry Nelder
Commissioner	Emilie Swearingen
Commissioner	Jim Dugan

#### COUNCIL MEMBERS ABSENT

None

#### STAFF PRESENT

Fire Chief Harold Heglar  
Building Inspector John Batson  
Police Department – Paul Hubbard  
Finance Officer – Arlen Copenhaver  
Town Clerk – Nancy Avery

#### STAFF ABSENT

Public Works

#### CALL TO ORDER AND WELCOME

Mayor Dean Lambeth called the meeting to order at 6:30 pm. Dr. Lynn Bullock, Kure Beach Baptist Church, delivered the invocation. Mayor Lambeth lead in the Pledge of Allegiance

#### RECOGNITION AND AWARDS

1. Mayor Lambeth presented Janice Truelove of the Help Center of Federal Point, with a proclamation (P11-03) declaring May 22, 2011 as "Help Center of Federal Point Recognition Day."

Ms. Truelove thanked the Town for the proclamation and invited everyone to a ceremony this Sunday at the Carolina Beach Lake Park.

2. Mayor Lambeth presented Doug Murray of the Cape Fear Sail & Power Squadron with a proclamation (P11-04) declaring May 21- 27, 2011 as "National Safe Boating Week."

Mr. Murray stated in addition to the proclamation, the Cape Fear Power Squadron will be at the mall this weekend demonstrating new life jackets. He said that 70,000,000 people

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in North America participate in boating, and nine out of ten people that drown in boating accidents are not wearing a life jacket.

### APPROVAL OF CONSENT AGENDA

1. Proclamation P11-06, Appreciation to 'Got-Em-On Live Bait' sponsorship of the annual Cape Fear Disabled Sportsmen Fishing Tournament
2. Proclamation P11-04, In recognition of May 21 – 27, 2011 as National Safe Boating Week
3. Proclamation P11-05, Appreciation to Jim Schutta
4. Advertise for replacement for Jim Schutta on P&Z
5. Accept resignation of Sandy Cox from Beach Protection Committee
6. Accept resignation of Jackie Wiebe from Street Festival Committee
7. ~~Appoint Tony Perniciaro to the Emergency Operations Committee~~
8. Settlement compromise of personnel matter
9. Finance report – April 2011
10. Building Department report – April 2011
11. Fire Department report – April 2011
12. Police Department reports – March and April 2011
13. Meeting Minutes:
  - April 14, 2011 budget work session # 1
  - April 19, 2011 regular and closed session legal
  - April 27, 2011 budget work session # 2
  - May 5, 2011 budget work session # 3

### ADOPTION OF THE CONSENT AGENDA

Commissioner Nelder stated the Cape Fear Disabled Sportsmen Fishing Tournament held at the Kure Beach Fishing Pier, free of charge by the owner, is nationally recognized.

Commissioner Dugan stated he would like a 'whereas' statement added to the proclamation thanking Mike Robertson, pier owner, for his donation and use of his pier.

MOTION - Commissioner Swearingen made a motion to remove item seven, appointment of Tony Perniciaro to the Emergency Operations Committee, from the consent agenda until David Heglar can speak with him.

SECOND – Commissioner Dugan

VOTE - Unanimous

MOTION - Commissioner Nelder made the motion to approve the consent agenda as amended by Commissioner Swearingen's motion above.

SECOND – Commissioner Dugan

VOTE - Unanimous

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### ADOPTION OF THE AGENDA

MOTION – Commissioner Nelder made the motion to adopt the agenda with the following changes:

- a) Under Old Business, add two items:
  2. Status on improvements to Dow Road
  3. New numbers from Tourism Development Authority
  
- b) Under New Business, add three items:
  3. Resurfacing basketball court
  4. Ribbon cutting for Disc Golf Course
  5. Strickland law suit approval of settlement offer

SECOND – Commissioner Dugan

VOTE - Unanimous

### PRESENTATIONS TO COUNCIL

None

### PERSONS TO ADDRESS COUNCIL

1. Victor Del Pizzo, owner of Seven Seas Motel, stated:
  - The Seven Seas Motel closes each November and reopens in March.
  - When I received the water bill in January the bill was \$2,000.
  - We have four meters at the motel. One meter was 163,100 gallons which is the highest usage we had in three years.
  - I asked Sonny (Public Works Director Beeker) to check out the meter. He sent someone down and the meter was okay.
  - I checked the recording on the security cameras and found when we shut down we left one meter open. The water hose was running in the parking lot.
  - The other three meters during the same period had no usage.
  - I paid for the water because it is my responsibility. The water was \$608.00 and I paid.
  - My question is: do I have to pay for the sewer? I didn't use the sewer. The sewer is \$630.00 also and I haven't paid it.
  - This hasn't happened in three years. The closest we ever came to the number was in July and August when we had 90,000 gallons during high occupancy.
  - I want Council to consider eliminating the sewer charge for that month.

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- I want to know what I need to do to get a separate meter for the sewer for the pool, so I don't have to pay sewer charges, too.

### Discussion:

Commissioner Dugan stated it is illegal for an owner to shut off the meter. We did some research when you first gave me this information. You came to the Town in 2007, 2008, and 2009 asking to have the water bill negotiated and the Town complied.

Mayor Pro Tem Keener asked, what is Town policy and how has this been handled in the past? I want to make sure we treat every one the same.

Commissioner Dugan replied that everyone is treated the same. Public Works will check it out and if they think an adjustment is needed, we will do it.

Commissioner Nelder said usually the standard is the meter to the house, the pipe and maintenance is the responsibility of the owner. Seven Seas seems to have a regular occurrence every year. I'm not inclined to move forward with any sort of a refund.

Candace Clark, resident, stated I have been in this position and the issue is there is no sewer meter.

MOTION - Mayor Lambeth called for a motion to grant Mr. Del Pizzo a credit of any kind.

SECOND – None

Motion did not carry.

2. Sandy Cox, former Beach Protection Committee chairman, stated:

- I want to thank the employees of the Town for all the help in the past years.
- The employees have been great to work with; Public Works and the Building Department especially.
- I hope Council will support the committees with their efforts to keep the beach clean and remember they are doing the job you asked them to do.

Commissioner Swearingen asked if the Beach Protection Committee was formed for beach nourishment.

Ms. Cox replied no, there was a beach nourishment coordinator. Building Inspector Batson has taken over those duties.



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3. Greg Stier stated:
- There is a situation in Sea Watch with the homeowners on the ocean side. Their swimming pools are in violation.
  - I want Council to consider moving the beach re-nourishment easement so these homes will be in compliance.
  - This issue was brought up with the Sea Watch Home Owners Association (HOA) last week and they are in support of this idea.
  - There will be costs involved for surveys, etc. Two members of the Sea Watch HOA have offered to pay for this.

Discussion:

Building Inspector Batson stated:

- The beach re-nourishment easement line does a little swoop and affects fifteen to twenty houses there. The property owners can't build decks or anything within the easement other than a crossover.
- Mr. Stier is asking for Council's blessing to contact the Corps of Engineers to move this line eastward to bring in compliance and allow some properties to build swimming pools. This easement is the Town's easement for beach re-nourishment.

Mayor Lambeth stated he recused himself because he has been contacted by residents in that area to build a pool.

Commissioner Nelder stated I support this. I think the HOA should move forward with this with the Corps of Engineers. I think we should be prudent.

Attorney Canoutas said when we met with the Corps of Engineers they made it clear that once it was agreed to, they would not be in favor of moving any line. I think it best if Sea Watch HOA contacts the Corps first. The easement is in our name for the benefit of the Corps.

CONSENSUS – Council has no objection to Sea Watch HOA contacting the Corps of Engineers regarding this matter.

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Candace Clark, co-chairman of the Beautification committee, stated:
- The committee's projects are updating, revamping and enhancing two existing entry signs at the intersection of State Road 421, Alabama Avenue and on Dow Road.
  - We estimate the cost to be \$5,000.

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- Before the project can begin, the issue of the sign posts must be resolved.
- Public Works made a sample 4 x 4 post that matches the sample provided by R.A.G.S. The cost of the wood was \$10.00, and I'm not sure what the cost of the stain and seal will be. The committee unanimously approved the sign post that Public Works did.
- I need to know if this is what Council wants.
- SLAP will need eighteen posts for parking sign posts. The Ocean Front Park will need sign posts.
- The Committee recommends revamping the sign at Alabama per Ken Withrow's design, and authorizing the set up cost for decals.

### Discussion:

Commissioner Nelder asked if we will use the seal with the words or without the words, like the example.

Tony Gonsalves, SLAP Committee chairman, replied it will be the seal without the words.

MOTION - Mayor Lambeth made the motion to follow the Beautification Committee recommendation to adopt the stained post with recessed seal for any future sign post replacements in the Town.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

Ms. Clark asked about the entrance sign on State Road 421 at Alabama Avenue. The committee wants to lower the sign and add some trees.

MOTION - Commissioner Swearingen made the motion to go ahead with the sign and the committee needs to meet with Sonny (Public Works Director Beeker) to be sure everything is sized as it needs to be; not only on the sign but on the post and landscaping so that the committee and Sonny (Public Works Director Beeker) can come to an agreement.

Commissioner Swearingen rescinded the motion before it was seconded.

MOTION –Mayor Lambeth made the motion to adopt the artist rendering with the seal and move forward with this sign.

Mayor Lambeth rescinded his motion.

CONSENSUS – Beautification Committee to bring a more detailed rendering of the signs to be replaced to the June Council meeting.

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2. Commissioner Dugan stated on behalf of the SLAP committee:
  - Streetlights at Joe Eakes Park for parking will cost \$6.64 per month, per fixture. No new poles are needed, but another arm extending on the park side will be added.
  - The Corral will need poles put in for streetlights. The monthly charge will be either \$1.48 or \$2.50, depending on the material. There is no installation cost per Progress Energy.

### Discussion:

Mayor Lambeth asked how many lights are we talking about.

Tony Gonsalves, chairman of the SLAP committee, stated two lights added to the two existing poles are needed for Joe Eakes Park.

MOTION - Commissioner Nelder made the motion to add two lights to the existing poles in Joe Eakes Park at an approximate cost of \$80.00 per year.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

### DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Administration and Finance
  - a) Finance Officer Copenhaver reviewed the proposed budget for Fiscal Year 2011-2012, stating:
    - The budget must be adopted by July 1, 2011.
    - A public hearing must be held prior to adoption.
    - Copies will be available in the Town Clerk's office and on the website beginning tomorrow.
    - Council held three budget work sessions.
    - There are three components to the budget: the message, the budget ordinance and the fee schedule.
    - The proposed budget is 4.9% higher than the current budget that includes a contingency fund.
    - The Town has gone a decade without any property tax rate increase. At the same time the quality and quantity of service and materials and cost of services have increased bringing us to a point where some type of tax rate increase is needed. This calls for 2 ¾ tax increase.
    - In the past, the Town has used 'savings' in the fund balance to balance the budget. I want to discourage this practice and so does the Citizens Finance and Budget Advisory Committee.

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- A 2 ¾ tax increase generates approximately \$300,000 annually. Impact on a \$500,000 home annually is \$137.50 or \$11.46.
- General Fund expenditures include two additional full time employees: a police officer and a fire fighter. It includes an average 2% merit increase for Town employees based on performance. Council has elected to forgo compensation of \$13,500 and cell phone reimbursement of \$3,600.
- Funding for the Pleasure Island Concert Series if funded at \$8,000 and the Christmas Show at \$3,300. Both of these generate tourism and qualify for TDA reimbursement, if funds are available.
- There is budgeted a General Fund capital outlay of \$180,000 for a new garbage truck. There is also a contingency fund of \$75,000 for unanticipated increases in budget needs or emergencies. Use of that fund requires a resolution adopted by Council.
- The Water/Sewer Fund operating expenses are higher by 3.4 %. I am recommending a rate increase of \$1.50 per month for the residential minimum water, \$1.50 per month for the residential sewer and \$2.00 per month each for commercial, ETJ and out of town water and sewer rates. These increases generate \$60,000 additional annual revenue. The reason for the increases is for future infrastructure projects. The current rates are covering operating expenses only.
- The Storm Water Fund budget is 68% higher than the current budget. I am proposing a \$4 per month increase for residential and commercial rates to generate revenue for future infrastructure projects. The current rates barely cover debt and administration costs. The increase will generate approximately \$92,000 for future projects
- This proposed budget reflects Council's priorities.

### Discussion:

Commissioner Nelder stated he wanted to move back to Council giving up their stipend and cell phone reimbursement. He asked if that doesn't make Council volunteers and not eligible for participation in the State Health Plan.

Attorney Canoutas stated that Council members were the governing body for the Town and were not considered volunteers, whether paid or not.

Mayor Lambeth stated he is not happy with the budget but this is the most professionally presented budget he has sat through, and he thanked Finance Officer Copenhagen.



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MOTION – Commissioner Swearingen made the motion to schedule the public hearing for the Fiscal Year 11-12 budget for Wednesday June 8th at 6:30 pm, or soon thereafter.

SECOND – Commissioner Nelder

VOTE – Unanimous

Proposed draft budget for Fiscal Year 11-12 is herein included as part of these minutes.

b) Request from Gloria Clark, 824 Settlers Lane, for reimbursement of half of her water bill in the amount of \$343.38. Refund would be \$171.69.

Commissioner Dugan stated he spoke with the water billing person to get the details. Ms. Clark states in her letter that she is aware she is responsible for the water bill. My personal opinion is that the owner is responsible for the bill.

Mayor Lambeth stated his understanding is that Ms. Clark has had several tenants in this house and he doesn't think we should credit.

MOTION – Mayor Lambeth made the motion to charge the full water bill as metered, not issue a refund, and send the bill only to the owner.

SECOND – Commissioner Nelder

VOTE - Unanimous

### 2. Building Department

Building Inspector Batson stated he wants Council approval to seek bids from a contractor to mow yards for problem yards. This would be fee based on problem yards only. He said there is funding in his budget and he usually contacts two different contractors.

Discussion:

Commissioner Swearingen said the company needs a privilege license.

Mayor Lambeth said they need liability insurance

There was no Council action or consensus.

### 3. Fire Department

No items

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### 4. Police Department

No items

### 5. Public Works Department

No items

Mayor Lambeth called for a five minute recess at 8:15 pm.

Mayor Lambeth resumed the meeting at 8:20 pm.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Cost to Town of Ocean Front Park

Commissioner Nelder stated he wants to make sure we know where we stand. He said, as he understands it, the \$600,000 we committed to for the Ocean Front Park has been lowered to \$300,000.

Finance Officer Copenhaver stated we most likely won't need the entire \$600,000.

### 2 Award contract for construction of the Ocean Front Park to Integrity Builders LLC in the amount of \$994,908 contingent upon receiving final approvals from the Local Government Commission and permitting agencies.

Commissioner Dugan stated we received bids for the Ocean Front Park and our engineer (Engineering Services) reviewed them, and the lowest bid received was in the amount of \$994,908 from Integrity Builders LLC. The engineer has done his due diligence in checking their resume and references and recommends the Town award the contract to Integrity Builders LLC. Brian Cox (Engineering Services) said he spoke with Integrity Builders about scheduling and agreed real construction won't start until after the July 4<sup>th</sup> weekend, and then the 210 day construction period will begin.

MOTION – Commissioner Dugan made the motion to award the contract for construction of the Ocean Front Park to Integrity Builders LLC in the amount of \$994,908 contingent upon receiving final approvals from the Local Government Commission and permitting agencies.

SECOND – Commissioner Nelder

VOTE - Unanimous

### 3. Status on widening of Dow Road

Mayor Lambeth gave an update on DOT projects, including the widening of Dow Road.

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### 4. New numbers - TDA

Mayor Lambeth stated the Marketing Committee selected a new advertising company, and our TDA revenues are up 11% over last year.

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

### 1. Settlement compromise of personnel matter

Commissioner Nelder said he wanted to say he was glad that the settlement compromise for J. Watson has been handled and we can move on.

### 2. Approve funds to pay for written estimate to remove jetty at the old Dow Chemical location

Mayor Lambeth said before we can make any progress with Water Resources to remove the jetty at the old Dow Chemical location, we have to get an estimate. The State says they have \$400,000 available for this type of project.

#### Discussion:

Commissioner Swearingen said she spoke with someone in Representative McIntyre's office regarding help for removal of hazardous materials detrimental to public safety. They said they will see if we qualify for assistance with Brownfield money that allows up to \$250,000. Coastal Management also said they will see what they can do.

Commissioner Nelder said he thought Brownfield money was for infrastructure and deterioration.

### 3. Resurfacing basketball court

Mayor Lambeth says the Parks & Recreation committee would like to have the basketball court resurfaced and wants Council consensus to move forward.

CONSENSUS – have basketball court resurfaced

### 4. Ribbon cutting –Disc Golf Course

Mayor Lambeth said the Chamber of Commerce is giving money to the Pleasure Island Disc Golf Club to purchase a bench for the Disc Golf Course.

### 5. Strickland Lawsuit – approval of settlement offer

Attorney Canoutas stated the Town spent \$2,475 to clean a property owned by Mr. Strickland. Mr. Strickland was sent notices that he ignored. In speaking with him, he said

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he was having a hard time. I filed a suit in court and he was served. Mr. Strickland met with me today and gave me a letter. Mr. Strickland wants to pay \$100 a month to pay off the \$2,475, plus court fees, and I am asking Council's approval. If Council approves, I will write a consent judgment which will be a lien on his property. If he doesn't pay, I will execute judgment. If he pays, I will release the lien. Interest is 8%.

MOTION – Commissioner Nelder made the motion to proceed with the attorney's recommended course of action.

SECOND – Commissioner Dugan

VOTE - Unanimous

CLOSED SESSION

MOTION – Mayor Lambeth made the motion to go into a closed session at 8:38 pm to discuss a legal matter.

SECOND – Commissioner Dugan

VOTE - Unanimous

MOTION – Commissioner Nelder made the motion to return to open session 8:50 pm.

SECOND – Dugan

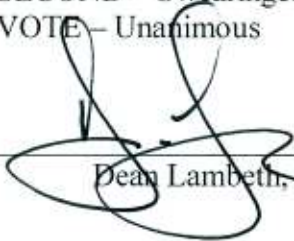
VOTE - Unanimous


ADJOURNMENT

MOTION – Commissioner Nelder made the motion to adjourn at 8:51 pm

SECOND – Swearingen

VOTE – Unanimous

  
Dean Lambeth, Mayor

ATTEST:  
  
1947 Nancy Avery, Town Clerk



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