

# TOWN COUNCIL MINUTES

REGULAR MEETING MINUTES

March 19, 2013

The Kure Beach Town Council held their regular Council meeting on Tuesday, February 19, 2013 at 6:30 pm. Town Attorney Canoutas was in attendance and a quorum of Council present.

## COUNCIL MEMBERS PRESENT

Mayor Dean Lambeth  
Mayor Pro Tem Chuck Keener  
Commissioner David Heglar  
Commissioner Steve Pagley

## COUNCIL MEMBERS ABSENT

Commissioner Emilie Swearingen

## STAFF PRESENT

Finance Officer – Arlen Copenhaver  
Building Inspector “Inspector” – John Batson  
Deputy Town Clerk – Nancy Hewitt

## CALL TO ORDER AND WELCOME

Mayor Lambeth called the meeting to order at 6:30 pm. Pastor Chris Glenn from Carolina Beach Community Church delivered the invocation. Mayor Lambeth led everyone in the Pledge of Allegiance.

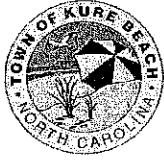
MOTION – Commissioner Heglar made the motion to excuse Commissioner Swearingen from the Council meeting.

SECOND – Commissioner Pagley

VOTE – Unanimous

## APPROVAL OF CONSENT AGENDA ITEMS

1. Accept Candace Clark’s resignation from the Beautification Committee.
2. Accept Linda Mason’s resignation from the Beautification Committee.
3. Accept Lore Eccleston’s resignation from the Community Center and Street Festival Committees.
4. Approve the invoice from No Sleeves Magic (Pirate Magician) for \$445 for the OFP Grand Opening: funds from Bluefish Fundraiser.
5. Approve travel to Raleigh, NC for a total of approximately \$1,104 (\$552 each) for Mayor Lambeth and Commissioner Pagley to attend the NC League of Municipalities’ Town Hall Day on 3/27/13.
6. Approve travel to Nags Head, NC for a total of approximately \$1,000 (\$500 each) for Mayor Lambeth and Commissioner Swearingen to attend the NC Beach, Inlet and Waterway Association’s 2013 NC Coastal Local Governments Annual Meeting on 3/18 & 3/19/13.
7. Approve Budget Amendment 13-06 for \$4,000 for Council travel budget.
8. Adopt addition of ordinance in Chapter 10, Article V, Division 5, Section 10-177 Trucks Prohibited on Atlantic Avenue North.



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9. Finance Report
10. Police Department Report – February 2013
11. Fire Department Report – February 2013
12. Meeting Minutes:
  - February 19, 2013 Regular Meeting
  - February 19, 2013 Closed Session Legal
  - February 19, 2013 Closed Session Personnel & Legal
13. Accept Pam Bramhall's resignation from the Community Center Committee.

Mayor Pro Tem Keener asked to add the resignation of Pam Bramhall from the Community Center Committee as Item 13 on the Consent Agenda.

MOTION – Commissioner Heglar made the motion to adopt the Consent Agenda items, as amended.

SECOND – Mayor Lambeth

VOTE – Unanimous

Said ordinance and budget amendment are herein incorporated as part of these minutes.

## ADOPTION OF THE AGENDA

Commissioner Heglar asked that a Closed Session to discuss a legal matter be added to the end of agenda.

MOTION – Mayor Pro Tem Keener made the motion to adopt the agenda, as amended.

SECOND – Commissioner Heglar

VOTE – Unanimous

## DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. Frances Massey with the Island of Lights Committee thanked the Town's Police & Fire Departments, as well as the Public Works Department and Council, for helping to make the New Year's Eve celebration a success. She asked Council to consider her committee's funding request this year.
2. John Elliott, resident at 290 Seawatch Way, stated that he was a representative of the Seawatch HOA. He asked for Council's permission to engage in talks with the Corps of Engineers to request that they move their beach easement line to coincide with the CAMA easement line.



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Mayor Lambeth said that Council has already given the HOA permission to pursue this objective. He asked Mr. Elliott if he had the correct contact information for the Corps of Engineers, to which Mr. Elliott confirmed he did.

3. Lacy Ford with the Island Women's Beach Bound Project stated that they raised enough money from their fundraiser to order two stainless steel beach wheelchairs for the Town. They will order these by the second week in April to be delivered to Kure Beach by the start of beach season. She confirmed that the wheelchairs will be the same type the Town uses, ordered from the same vendor the Town uses.
4. Debbie Elliott, President of the Seawatch HOA, stated that the HOA is interested in purchasing the same stormwater infiltration system that the Town installed downtown. She asked if Council would approve the Public Works Department installing the system for them, to save on labor costs, if the HOA was willing to pay for the system. She feels this move by the Seawatch HOA might encourage other Kure Beach communities to follow their example and purchase their own stormwater infiltration system.

Commissioner Heglar asked Ms. Elliott to work with the Building Inspector and Public Works Director to determine if there is enough of a dune line to install it. He said if there is enough dune line, he is in favor of the HOA proceeding.

Ms. Elliott said that the HOA still needs to talk to the homeowners to make a final decision, but she wanted to make sure the Town would be willing to do the labor.

Commissioner Pagley said he would like a set of drawings of the system from Public Works Director Beeker, if everything works out, so he could look into getting them the building materials "at cost."

**COUNCIL CONSENSUS:** Council consented to have Debbie Elliot, President of the Seawatch HOA, work with the Building Inspector and the Public Works Director to determine if there is enough dune line to put in an infiltration system at Seawatch, at the HOA's expense.

## DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Planning & Zoning (P&Z) Commission
  - a. Update regarding Mixed-Use on K Avenue

Chairperson Craig Galbraith explained that Council charged P&Z to look at planning an overlay district along the K Avenue, mixed-use corridor and that the commission has investigated about 50 districts within North Carolina which all have variations in their designs. He said that, based upon discussions with some of the districts, P&Z wrote a possible ordinance which they had Attorney Holt Moore look at. He said that Attorney Moore thought that there needed to be more



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specifications in the ordinance and has agreed to do more research on the subject and bring his findings back to P&Z. Chairperson Galbraith said that, depending on the information Attorney Moore provides, P&Z may be coming to Council to request public hearings on the various specifications.

- b. Interview applicants to fill one vacancy on the commission
  - Karlene Fryxell stated that she lives at 302 S. 6<sup>th</sup> Avenue and has a total of three houses on the island. She now has time on her hands to serve on a committee and has always been interested in planning. She said that she read the entire Land Use Plan and feels she has an understanding of what needs to be done. When asked by Council what she thought the biggest challenge was in Kure Beach, she stated it is a challenge to maintain the character of the Town while keeping up with the times, as conflict can arise when trying to decide between the old and the new.
  - John Ellen stated that he lives at 181 Seawatch Way, has owned his home for eight years and has lived full time in Kure Beach for two months. He said he'd like to see things stay the way they are in Kure Beach. When asked by Council what he thought the biggest challenge was in Kure Beach, he stated that keeping the beach in prime condition was most challenging. When asked how P&Z impacted that issue, Mr. Ellen stated he thought that P&Z impacted the whole Town, including the beach.

Discussion ensued among Council members about the candidates and about Peter Boulter's decision to not attend the Council meeting and be interviewed, although he still wants to be considered to fill the vacancy. Some Council members commented that they were impressed with Mr. Ellen's resume.

MOTION – Mayor Lambeth made the motion to appoint John Ellen to the Planning and Zoning Commission.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

- c. Schedule Public Hearing to consider a request to amend Section 19-339 (5&6) of the Code of Ordinances.

Chairperson Galbraith explained to Council how P&Z came up with the draft ordinance to leave the number of required parking spaces for home businesses to the discretion of the Building Inspector.

Commissioner Heglar wondered if it was good for the Building Inspector to have so much decision-making authority and be able to make those decisions without guidance. He said he feels it could set the Town up for conflicts.



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Inspector Batson said the proposed ordinance is a good idea. He said he has never enforced the code for this before, but the Town has several different kinds of home businesses that, although they don't necessarily have customers coming to their house, the ordinance still applies to them.

Chairperson Galbraith said there might be hundreds of homeowners in Kure Beach who would be required, if the code is enforced as currently worded, to add additional parking spaces in front of their homes if they don't already have the spaces.

Commissioner Heglar said that business owners that don't currently have customers coming to their house for business shouldn't be required to have additional parking.

Chairperson Galbraith said another route could be to identify every possible type of home business and decide the number of parking spaces required that way, but it would be very difficult to do.

MOTION – Mayor Lambeth made the motion to schedule a Public Hearing to amend Section 19-339 (5&6) of the Code of Ordinances as the first item of business at the April 16, 2013, Council meeting to begin at 6:30 pm or soon thereafter, and asked the Deputy Town Clerk to post notice of it, as required.

SECOND – Commissioner Heglar

VOTE – Unanimous

## 2. Stormwater & Environmental Committee

### a. Request to Add a Sixth Member

MOTION – Mayor Lambeth made the motion to add a sixth member to the Stormwater & Environment Committee.

SECOND – Commissioner Heglar

VOTE – Unanimous

### b. Approve Fred Edgecomb and Barry Nelder for membership on committee.

Deputy Town Clerk Hewitt told Council that she was told by the chairperson of the committee that Fred Edgecomb should be appointed as a regular member, since he submitted his application first, and that Barry Nelder should be appointed as an alternate member.

MOTION – Commissioner Heglar made the motion to appoint Fred Edgecomb as a regular member and to appoint Barry Nelder as an alternate member of the Stormwater & Environmental Committee.

SECOND – Commissioner Pagley

VOTE – Unanimous



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3. Board of Adjustment
  - a. Reappoint Dolores Coe to another three year term.
  - b. Reappoint Tony Garibay to another three year term.

MOTION – Commissioner Heglar made the motion to reappoint Dolores Coe and Tony Garibay to another three year term on the Board of Adjustment.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Building Department – Ocean Front Park Update

Building Inspector Batson and Jim Dugan said that the large punch list for the park has been almost completed with only two items remaining: touching up paint and issues with condensation in the lighting along the boardwalk. He said that the contractor will fix the lights without additional cost to the Town. The new fence has been installed and will be finished soon. Inspector Batson said he anticipates the park will be completely finished by Friday, March 22<sup>nd</sup>.

Mayor Lambeth asked about the repair to the pavilion steps to which Inspector Batson responded that the contractor cleaned the cracks out and filled them with an epoxy substance to fix the problem. He said the contractor has agreed to come back and fix future issues that would continue to arise with that issue.

Town Attorney Canoutas asked the Inspector if he had that agreement in writing from the contractor.

Inspector Batson said he asked the Town's engineer to get it in writing, but he hasn't gotten anything yet. He said the crack hasn't grown any more and it isn't as bad looking as it was before the fix.

Jim Dugan offered Council his resignation as Council's Park Liaison stating that he doesn't see a need for the position any longer.

Mayor Lambeth commented that the children's playground is dark and wondered if Inspector Batson could look into having a light installed at the playground.

Jim Dugan commended Inspector Batson for going nose to nose with everyone down at the park while it was being built and stated that he thoroughly enjoyed working with him. At this point, Council and the public offered up a round of applause.



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Building Inspector Batson said he anticipates the punch list for the park to be completed by this Friday and he asked Council if they wanted to accept the park as complete at this time.

MOTION – Commissioner Heglar made the motion to give the Mayor authority to sign off on the park project once the Town receives a letter from the construction contractor agreeing to fix any future issues with cracks in the pavilion steps.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

Commissioner Heglar also commended Inspector Batson on monitoring the work at the park and stated that he has heard a lot of people commenting favorably on how the park looks.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Purchase Sea Oats to plant on beach

Inspector Batson said that he got an accurate count of the sea oats to plant in the new dune that Ocean Dunes has pushed up behind their building and to plant in the new dune that the Army Corps of Engineers has pushed up as part of the renourishment; both measure 1,200 square feet. He suggested planting one plant every square foot, so he feels 8,000 plants would be sufficient at a cost of approximately \$4,000. He said he contacted Spencer Rogers who wrote “The Dune Book” and works for North Carolina Sea Grant. He said Mr. Rogers comes down every year to help him inspect the beach, and he continues to say the Town’s dune system and vegetation is very healthy and strong. He said Mr. Rogers immediate reaction to planting the sea oats on the new dunes was to recommend leaving the dunes bare for a while and moving over to the existing dunes that are available to build those up with sea oats before planting the sea oats on the new dunes. Inspector Batson recommended that he and Mr. Rogers survey the beach prior to purchasing the sea oats.

MOTION – Commissioner Heglar made a motion to let the Building Inspector correspond with the expert and plant when designated. Motion died for lack of second.

Beach Protection Committee Chairperson, Andy Barnard, said that there are buildings at Ocean Dunes that have no dunes at all behind them. He thinks it’s a bad idea to not plant sea oats soon and would like to be able to have them available for planting in May, before it gets too hot.

Mayor Lambeth said that if Mr. Rogers recommends that sea oats be planted, and he knows they won’t be planted until May, then Council should approve that they be ordered now.

Chairperson Barnard was asked by Council what the lead time needed to be to order them for May delivery, to which he responded that they are growing right now and he needs to be able to put in the order now so that the Town gets them.



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Commissioner Heglar asked Inspector Batson how long Mr. Rogers recommended waiting to plant the sea oats to which Inspector Batson said Mr. Rogers would probably recommend not planting them at all because he is a firm believer that the ocean winds will push the sand over to the existing dunes and build them up and, in turn, the vegetation will build up towards the water. He stated that Chairperson Barnard's major concern is that Ocean Dunes just spent major money to build up their dune, so they want to plant that vegetation as soon as possible to begin their protection. Inspector Batson said he wouldn't object to ordering 4,000 sea oats right now.

Chairperson Barnard said that Ocean Dunes will hold its annual meeting soon, at which time they can usually get about 20 to 30 volunteer to plant the sea oats. He said he is afraid of missing the window on getting the volunteers to help plant them.

MOTION – Commissioner Pagley made the motion to obtain a purchase order from the Finance Officer to purchase 8,000 sea oats plants, as needed, and to obtain the lead time on the order.

SECOND – Commissioner Heglar

VOTE – Unanimous

2. Request to build a pool at 530 N. Ft. Fisher Boulevard – Encroachment Agreement  
Property owner, Paula Peterson-Roth, told Council about the years she and her family have lived in North Carolina and at Kure Beach; and she said theirs is a family home, not a rental property. She asked Council to seriously consider the request to build a pool.

Attorney Nichols stated that he has worked with Town Attorney Canoutas on the issue and the proposal has gone through many drafts. He said that Mr. McCorkle from the Corps of Engineers has spoken with the project management and real estate management within the Corps, and they don't have an objection to the proposal. He said his clients will move their pool at their own expense, for any reason or for no reason, if Council asks that it be removed and that they want to do nothing but cooperate with the Town and handle the request in an amicable manner.

Town Attorney Canoutas stated that the agreement protects the Town "three ways from Sunday," and said if he was the owner he wouldn't enter into the agreement. He said the wording "Town Manager" in the agreement needs to be fixed.

Building Inspector Batson advised Council to be concerned about permitting this type of encroachment in the beach renourishment area that has already proven to be difficult to maintain. He said it might be prudent to see if the Seawatch HOA is able to get the Corps of Engineers to move its easement line before considering approval.

Mayor Lambeth said that the steps that Seawatch HOA will have to go through to get the easement line moved by the Corps of Engineers might take a while.





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Commissioner Heglar said while he appreciates the Building Inspector's view, the property owners have worked hard with the Town to make this work.

MOTION – Commissioner Heglar made the motion to have the Town Attorney and Attorney Nichols fix the Town Manager wording in the encroachment agreement and, pending that fix, to approve entering into an encroachment agreement with the Roths to allow them to build a pool, subject to any other requirements of the Town.

SECOND – Mayor Lambeth

VOTE – Vote PASSED three to one, as follows: Mayor Lambeth, Mayor Pro Tem Keener and Commissioner Heglar FOR and Commissioner Pagley AGAINST.

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

### 1. Beautification Committee

Commissioner Pagley said with the recent resignations from the Beautification Committee and the difficulties in getting a quorum at the committee meetings, he recommended Council consider disbanding the committee.

MOTION – Commissioner Pagley made the motion to disband the Beautification Committee and give some its responsibilities to the Shoreline Access and Parking Committee.

SECOND – Commission Heglar

VOTE – Unanimous

### 2. Shoreline Access and Parking Committee Update and Request

- a. Chairperson Tony Gonsalves said that he and Andy Everhart from the Police Department, took pictures of the signs on the beach, and all of the paperwork is with Police Chief Cooper who is looking at it to see what wording could be eliminated from the signs.
- b. Chairperson Gonsalves said that it has been brought to his attention that there is a problem at the new park and boardwalk area with people feeding the birds. Public Works crew members are having a hard time keeping up with the bird droppings. Chairperson Gonsalves said he talked with Public Works Director Beeker who suggested Council could create an ordinance to not feed the birds, along with a fine, or they could erect signage prohibiting feeding the birds. He said he could have small, temporary signs made now and placed around the boardwalk area, if Council approves.

BUDGET AMENDMENT

FISCAL YEAR ENDING JUNE 30, 2013

AMENDMENT DATE: 03/19/2013

Budget Amendment No.: 13-06

DESCRIPTION/PURPOSE OF AMENDMENT

Town Council will exceed their approved Travel & Training budget for FY 2013. The total FY 2013 Council travel budget is \$3,000 (\$1,500 General Fund & \$1,500 W/S Fund). Funds expended to-date total approximately \$2,905 and an additional \$2,656 has been requested for future travel (Town Hall Day in Raleigh and NC Coastal Local Governments Annual Meeting in Nags Head). Therefore, this budget amendment increases the total Council travel budget by \$4,000 (\$2,000 each fund) and is offset by revenue that has been received in excess of the budgeted amounts.

ACCOUNTS AFFECTED

<u>Account No.</u>	<u>Account Name</u>	<u>Debit</u>	<u>Credit</u>
10-410-14-00	Travel and Training (General Fund)	\$2,000	
10-367-00-00	Sales Tax Refund		\$2,000
30-410-14-00	Travel and Training (W/S Fund)	\$2,000	
30-373-00-00	Tap and Connection Fees		\$1,000
30-373-00-01	Sewer Tap and Connection		\$1,000

NOTE: (a) Budget Officer may transfer between line item expenditures without limitation and without a report being required up to \$10,000 at any one time. (b) The Budget Officer may transfer amounts within departments and of the same fund and reported as part of the financial statements. He/She shall make an official report immediately to Council on such transfers. (c) The Budget Officer may not transfer amounts between funds without prior Council action.

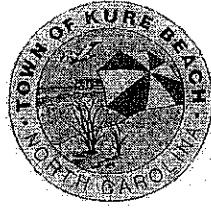
Requested By: Kure Beach Town Council Date: 03/19/13

Approved By: Arlen Copenhaver, Finance/Budget Officer Date: 03/19/13

(Copies of actions/directives from Council Meeting to be attached, if required as per NOTE above).

Approved by Council 03/19/13 \_\_\_\_\_ Dean Lambeth, Mayor

ATTEST: \_\_\_\_\_ Nancy Avery, Town Clerk



ORDINANCE AMENDMENT

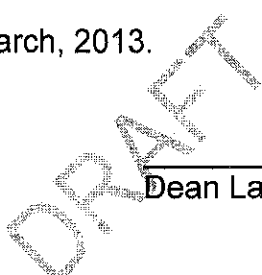
That the Code of the Town of Kure Beach, North Carolina, is hereby amended by adding Chapter 10, Article V, Division 5, Section 10-177, as follows:

Section 10-177 Trucks Prohibited on Atlantic Avenue North

It shall be unlawful for any person to operate a truck weighing more than six (6) tons on Atlantic Avenue North from K Avenue in Kure Beach.

Secs. 10-178-10-200 Reserved.

Adopted this the 19<sup>th</sup> day of March, 2013.

  
\_\_\_\_\_  
Dean Lambeth, Mayor

Attest:

\_\_\_\_\_  
Nancy Hewitt, Deputy Town Clerk



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MOTION – Commissioner Heglar made the motion to direct the Shoreline Access and Parking Committee to work with the Building Inspector to create and post six temporary signs prohibiting bird feeding. Once the price of the signage is obtained, Finance Officer Copenhaver is to poll Council on approval of the cost.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

## CLOSED SESSION

MOTION – Commissioner Heglar made the motion at 7:40 pm to go into Closed Session for the purpose of discussing a legal issue.

SECOND – Commissioner Pagley

VOTE – Unanimous

MOTION – Commissioner Heglar made the motion at 7:57 pm to return to open session.

SECOND – Commissioner Pagley

VOTE – Unanimous

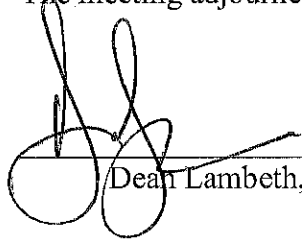
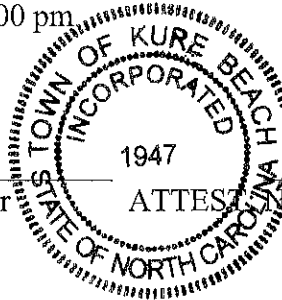
## ADJOURNMENT

MOTION – Commissioner Heglar made the motion to adjourn.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

The meeting adjourned at 8:00 pm.

  
\_\_\_\_\_  
Dean Lambeth, Mayor

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ATTEST

  
\_\_\_\_\_  
Nancy Hewitt, Deputy 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.