

KURE BEACH TOWN COUNCIL  
REGULAR MEETING  
JULY 15, 2008  
6:30 pm

***MINUTES***

The Kure Beach Town Council held its regular meeting on Tuesday, July 15, 2008 at 6:30 pm.

**COUNCIL MEMBERS PRESENT:**

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

**COUNCIL MEMBERS ABSENT:**

None

**STAFF PRESENT:**

Town Administrator	Michelle James
Building Inspector	John Batson
Finance Officer	Susan Suggs
Fire Department	Harold Heglar
Police Department	Andy Everhart
Public Works	Sonny Beeker
Town Clerk	Nancy Avery

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

Mayor Montgomery called the meeting to order at 6:37 pm, delivered the invocation and led the audience in the pledge of allegiance.

**PERSONS TO ADDRESS COUNCIL**

1. Candace Clark, resident of 229 Atlantic Avenue, made the following comments on the proposed Atlantic Avenue Boardwalk plan:

- There is a new dismissive attitude in Town Hall and a new dark and angry mood among residents from all sections of the Town.
- I am representing the residents of Atlantic Avenue that are about to have a boardwalk forced on them that is inappropriate and wasteful.
- There are design flaws that will create safety problems in the boardwalk plans that will have to be remedied at great expense.
- We that live on Atlantic Avenue have no reservations about the sharing the street and oceanfront with residents and visitors.

- We object to the current walkway design and the undemocratic manner in which the Town has pushed this fourth version of the plan through despite recommendations and years of work of three Town committees and objections of abutting homeowners..
- Despite the fact that the Land Use Plan states no more accesses are to be built, Council made plans to build a boardwalk connecting the existing boardwalk in the business district to a long established residential neighborhood.
- The last time the public was invited to discuss and debate the boardwalk was in September of 2007. Since then, the staff and architect have altered the plans significantly but no public meeting has been held.
- Many in the community may assume that an eight foot boardwalk is to be built.
- Council has decreed staff will be the driving force behind the plan and residents won't have meaningful input.
- The plans have gone from a 'hatteras' style walkway to an elevated one that implies an extension of the business district into a long established residential neighborhood.
- It is troubling that our Town government is getting inaccurate and incomplete information and voting on the same day as proposed plans are presented, that plans are changed in non public meetings as the whim strikes, without documenting their research and reasoning. It seems Council is more interested in bragging about how much grant money has been received than in the integrity of the projects that utilize public money.
- Council is ignoring issues of environment, usefulness of project, principal of sound design and safeguarding a long standing neighborhood that has been called the "jewel of Kure Beach".
- Council has ignored the opinions of the 23 property owners on Atlantic Avenue between L and M Avenues that pay \$123,496 of the tax bill – the highest per acre rate in the Town.
- It is time for the citizens to take back the Town.

2. Commissioner Lambeth read an email from resident Helen Wilson who couldn't be present at the meeting. Said email is herein included in these minutes as attachment A.

3. Judy Larrick, resident of 645 Settlers Lane, made the following comments about the Dow Road corridor study:

- I thank Council for the quick resolution opposing the extension of Dow Road.
- I'm thankful that the Fort Fisher Air Force Recreation Area also quickly gave a resounding no to the proposal.
- Everyone seems to support the bike/multi use path, however I want to highlight the fact that this bike/multi-use path is proposed to be in the existing fire lane of the Sunny Point buffer zone. This bike path is literally in my and others back yards and a selling point for purchasing the property was that the 'buffer zone' could not be developed.
- Putting a bike path makes a safe area open to crime/drug activity and gives access to the back of many homes with no fences or trees along that buffer zone.

- Other potential serious issues are fire hazards, risks from cigarettes, and loss of wildlife.
- It is time to stand up and say no more whittling away of the buffer zone.
- I am asking residents to contact Council to state their opposition to the bike path and extension of Dow Road.

3. Duke Hagestrom, chairman of the Pleasure Island Chamber of Commerce, stated the Chamber:

- Is requesting a contribution of \$12,000 from the Town's Room Occupancy Tax funds to be utilized as follows: \$6,000 for advertising and \$6,000 to host other events at the Ocean Front Park.
- Is developing an annual musical event to take place at the Town's new Ocean Front Park, such as a "Battle of the Bands".
- Is establishing a more comprehensive marketing and public relations campaign to promote the two existing events held in Kure Beach, the Seafood Blues and Jazz Festival and the Free Summer Concert series. This request was brought to the Kure Beach Marketing Committee and received a favorable response and support from the committee.

4. Francis Regan, Chairman of the Community Center, stated the annual fundraiser barbeque dinner will be held on August 16, 2008 between 4 pm and 8 pm.

#### **PRESENTATIONS TO COUNCIL**

1. Citizens Beach Protection Committee Chairperson Sandy Cox introduced Spencer Rogers, Coastal Construction and Erosion Specialist, with the North Carolina Sea Grant program in Wilmington.

Mr. Rogers stated:

- The beaches and dunes are in great shape. They are in much better shape than other beaches around the state.
- There are some minor problems around the drain pipes, but that can't really be helped because the higher elevation of the Town means everything runs down hill until it gets to the beach.
- The demonstration project has done relatively well and Council should think about extending it.
- The lowest dune elevation is at the ramp located at N Avenue and Council may want to look at elevating that.
- Some areas have vegetation that have been trampled and a couple of places could use sand fences.
- Fertilization isn't needed because there is good crop of vegetation. It's best not to make life too easy for sea grass because it prefers tougher conditions.
- The bigger and farther landward the dune, the more protection in a hurricane.
- Dunes won't manage a chronic erosion problem.
- My experience with using Christmas trees to build dunes functioned well initially, but there aren't that many good places to put trees and once dune grass is established, you don't need the Christmas trees anymore.

- The preference for dune crossovers depends on local conditions:
  - In an area where the ground elevation doesn't change much, you can get away with something on grade for a dune crossover.
  - If an area is growing faster in dune elevation, it is a good idea to allow some room underneath the crossover for the dune to grow.
- Kure Beach dunes aren't growing that fast in elevation and where you want them to grow is farther back, not on the edge.

**APPROVAL OF CONSENT AGENDA**

1. Building Department report: June 2008
2. Fire Department report: June 2008
3. Police Department report: June 2008
4. Finance report: June 2008
5. Accept resignation of Dick Graham from Citizens Beach Protection Committee
6. Accept resignation of Anne Lyons from the Beautification Committee
7. Appoint Arnette Clark to Parks and Recreation Committee
8. Adopt revised Town Clerk job description
9. Accept audit process to include review of financial statements by CPA
10. Council minutes:
  - June 17, 2008 regular meeting
  - July 10, 2008 special meeting

ACTION- Mayor Pro Tem Dugan MADE THE MOTION to approve the consent agenda with one change: add lifeguard report to consent agenda as item # 11. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

**ADOPTION OF THE AGENDA**

ACTION – Commissioner Lambeth MADE THE MOTION to add three items to the agenda under new business as follows:

- discussion of Atlantic Avenue Boardwalk
- Council to go back to Raleigh to delete section 333b of the zoning ordinance on height limit exceptions
- start paperwork to move historic monument in front of Big Daddy's Restaurant to the Ocean Front Park location

Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to remove item # 1 under old business (update on Ocean Front Park) since there was no meeting this month. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

ACTION – Commissioner Vatr MADE THE MOTION to table the discussion on item # 1 under new business (proposed personnel policies) to allow more research time. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANANIMOUS VOTE.

ACTION – Commissioner Vatrtr MADE THE MOTION to table item # 8 under new business (review and approval of staff-council work plan). Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

ACTION – Commissioner Lambeth MADE THE MOTION to adopt the amended agenda. Mayor Pro Tem Dugan seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

Mayor Montgomery called for a ten minute recess at 7:40 pm.  
Mayor Montgomery resumed the meeting at 7:50 pm.

### **OLD BUSINESS**

There was no old business.

### **NEW BUSINESS**

#### 1. Review of recommendations from Planning and Zoning

- Recommend Town Council establish a moratorium on issuing new signs until the new sign ordinance is adopted.
- Recommend Town Council adopt an amendment to subsection C in Chapter 19 (Zoning), Article IV (Supplemental District Regulations), Section 333 (Height limit exceptions) of the Code of Ordinances to add to existing language “assure compliance with applicable ordinances

Planning & Zoning member Alan Votta stated:

- Planning & Zoning has been working on a sign ordinance and recommended a moratorium so that once the sign ordinance is passed there won't be a proliferation of non conforming signs.

Discussion:

Town Attorney Canoutas stated:

- Council would need to hold a public hearing to impose a moratorium on the sign ordinance with a fixed date to end the moratorium.
- Signs in the process of being approved would not be stopped by a moratorium.
- The time process to apply for signs is a few minutes.

ACTION – Commissioner Lambeth MADE THE MOTION to not establish a moratorium for the sign ordinance. Mayor Pro Tem Dugan seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

Member Votta also stated that Planning and Zoning recommended Town Council adopt an amendment to subsection C in Chapter 19 (Zoning), Article IV (Supplemental District Regulations), Section 333 (Height limit exceptions) of the Code of Ordinances to add to existing language “assure compliance with applicable ordinances”.

Discussion:

Commissioner Nelder stated he thinks the recommendation about amending subsection C of Chapter 19, section 333, is putting the cart before the horse since there is a public hearing on this topic later this month.

Attorney Canoutas stated Council would need to hold a public hearing before adopting this amendment.

ACTION – Commissioner Vatrtr MADE THE MOTION to reject the recommendation to amend subsection C of Chapter 19 (Zoning), Article IV (Supplemental District Regulations), Section 333 (Height limit exceptions) of the Code of Ordinances to add to existing language “assure compliance with applicable ordinances”. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

2. Review and consideration of possible amendment to Code of Ordinances, Chapter 12 (Parks & Recreation), Article II (Recreation), Division 2 (Beach), Section 43 (Placement of Beach Equipment).

Mayor Montgomery stated that Council members received an email from three residents opposing the ordinance passed last month on placement of beach equipment. The residents proposed changing the ordinance to allow beach tarps, cabanas, umbrellas, etc to remain overnight on the beach if they have been used that day, so as not to create a burden on people using the beach.

Discussion:

Commissioner Nelder stated he is not in favor of amending the ordinance.

ACTION - Mayor Montgomery called for a motion to amend the ordinance. No motion was forthcoming.

3. Discussion of signage at beach accesses

Mayor Montgomery stated:

- He recommends putting up bilingual signage on the beach around the pier to reinforce restrictions regarding use of the beach at night and for safety reasons.
- The Fire Chief, Police Chief and lifeguards recommend more enforcement without additional signage.

ACTION - consensus - Police, Fire and lifeguards are to report to Council in one week to see if increased enforcement is working and if they need anything additional from Council on this matter. The Town Administrator is to put this on the staff meeting agenda.

4. Discussion of providing ticketing authority to lifeguards, fire chief and assistant fire chief

Mayor Montgomery stated he recommended giving the authority to the Fire Chief and the Assistant Fire Chief. to issue civil citations on the beach.

Discussion:

Police Lieutenant Andy Everhart stated he is in favor of giving the authority to the Fire Chief and the Assistant Fire Chief to issue civil citations on the beach.

Mayor Pro Tem Dugan commented that recently Council stated they didn't want the Fire Chief and assistant Fire Chief to be on the beach. Is this meant to override this?

Resident Gabby Krause stated he thinks Council:

- Is trying to get two extra police officers without hiring them.
- Will cause a problem by putting untrained personnel in a bad situation.
- Needs to check that by adding additional responsibilities they may need to pay more.

Commissioner Nelder asked the Town Administrator to determine if there are going to be costs involved by having the Fire Chief and the Assistant Fire Chief issue civil citations

**ACTION – Commissioner Lambeth MADE THE MOTION to charge the Town Attorney with the authority to proceed with the necessary action to authorize the Fire Chief and Assistant Fire Chief to issue civil citations on the beach only. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE**

5. Discussion of providing bathroom facilities at public accesses during holiday weekends.

Mayor Montgomery stated the Shoreline Access and Parking committee recommends portable bathrooms be placed at beach accesses.

Discussion:

Mayor Montgomery commented he proposes placing port-a -potties at certain accesses for holiday weekends only.

Commissioner Lambeth stated he thinks it is something we need to look at, but he won't support it until the adjacent property owners are contacted.

Tony Gonsalves, member of the Shoreline Access and Parking committee, stated the committee also suggested placing port-a-potties on Town property across the street from the beach accesses. The committee feels the Town has to give people a public facility. Commissioner Vatrtr stated port-a- potties have a negative connotation due to vandalism, noise, odor, etc.

Mayor Pro Tem Dugan asked if port-a-potties are placed across the street from the beach accesses, would adjacent property owners need to be notified? Commissioner Lambeth replied yes.

Police Lieutenant Everhart stated people will use port-a -potties to use drugs.

Commissioner Nelder stated visitors need a place to change their clothes. People are bathing children at the beach access near the pier.

Commissioner Lambeth commented the Land Use Plan states the Town doesn't encourage day trippers, so if we aren't going to use the Land Use Plan, we need to throw it out.

Commissioner Vatrtr stated this is not a funded item, where is the funding to come from? Who is going to monitor for vandalism? Who is to install, clean and collect them?

Commissioner Nelder stated this topic needs a lot of study and suggestions for funding sources.

Audience comments:

- Little kids need to have a place to go to the bathroom. Not providing public bathrooms is a public health hazard issue.
- People are too lazy to walk to use port-a potties.
- There is a safety issue when strolling on the beach and stepping in human waste.

**ACTION – Mayor Pro Tem Dugan MADE THE MOTION to place one ADA port-a-potty on the west side of the street at I and E Avenues for weekends only with adjacent residents notified. Mayor Montgomery seconded the motion. THE MOTION FAILED WITH A TWO TO THREE VOTE AS FOLLOWS:**

Mayor Montgomery and Mayor Pro Tem Dugan in the affirmative.  
Commissioners Vatrtr, Lambeth, and Nelder in the negative.

**ACTION - consensus – the Shoreline Access and Parking committee is to explore permanent restrooms as a solution for the Town for the next summer season and pursue funding sources and a budget for the next fiscal year budget.**

## 6. Approval of water/sewer rehab grant

Mayor Montgomery stated the Town has received a grant from the Clean Water Management Trust Fund in the amount of \$591,000 for rehabilitating sewer mains on Fort Fisher Boulevard from E to N Avenues. The grant calls for a match of \$609,432 from the Town and the Town is exploring funding options.

Discussion:

Commissioner Lambeth asked about including the administrative costs as part of the grant.



Town Administrator James stated the Town has contracted with Engineering Services to administer this grant and the Town will work with them to recoup any administrative costs that we can.

ACTION – Mayor Pro Tem Dugan MADE THE MOTION to approve the contract for the Clean Water Management Trust Fund Grant in the amount of \$591,000 with a Town matching amount of \$609,432 for rehabilitating sewer mains on Fort Fisher Boulevard from E to N Avenues. Commissioner Vatrt seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

Mayor Montgomery called for a ten minute recess at 9:09 pm.  
Mayor Montgomery resumed the meeting at 9:19 pm.

#### 7. Discussion on Council participation at staff meetings

Mayor Montgomery stated he sent a memo to Council members regarding the frequent attendance of two and more Council members at the weekly staff meetings and requested Council members to refrain from attending staff meetings unless it is their scheduled date to attend and asked for a poll of Council.

#### Poll of Council:

Commissioner Vatrt stated the agreement was that only one Council member would attend and we should follow the rules.

Mayor Pro Tem Dugan stated:

- One Council member in attendance works well to act as an advisor .
- We don't have the ability to control each other as elected officials, but we should not give the appearance that we are conducting Town business when we aren't in an actual Council meeting.
- For any Council member to say to a Department Head don't do it this way or that you don't like the way they are doing something, that isn't the legal right of any member of Council unless Council has taken a official vote on the matter.
- He hopes we use the same judicious use of our 'councilmanship' at committee meetings also. If we have three council members at a committee meeting discussing an item that the committee is charged with making a recommendation to bring to Council, it can be seen as speaking for the Council. Discussions need to be held in open session. We need to watch our input so committees may feel free to give candid opinions.

Commissioner Nelder stated there should never be three Council members present at a meeting that isn't a Council meeting.

Commissioner Lambeth made the following comments on the five points outlined in the Mayor's memo:

- Sometimes there is an important issue that needs to be brought up at the staff meeting, such as a recent risk management issue that happened on a Sunday, and there isn't time to put it on the agenda.
- It is up to staff to say if they do or don't want to be involved in political issues – that is their right. Three members of staff live in the Town and handle political issues very well.
- The statement in this memo that reads “the Council work through the Town Administrator to give the staff issues and items that may require their action or recommendation” looks like we are moving closer and closer to a management type of government rather than an administrative type.

Commissioner Vatrtr stated we can reach the Town Administrator or main Department Heads at any time, even on the weekend, and I believe our Department Heads are quite capable of handling the issues – this conversation is not necessary.

Mayor Montgomery stated that we can't discuss council issues anywhere except in open session, so this is the place to discuss this topic.

ACTION - consensus - the staff meeting is for the staff. A Council member attends as a liason. The Town Administrator coordinates as the chair of the staff meeting based on our working agreement.

#### 8. Discussion of Atlantic Avenue Boardwalk

Commissioner Lambeth stated that the Atlantic Avenue Boardwalk plans are flawed and he wants to hold a public hearing to review the plans for tweaking.

Council discussion :

Mayor Pro Tem Dugan asked what part of the plans do you think are flawed?

Commissioner Lambeth replied that the notification process is flawed which is why CAMA gave an extension to receive comments. The homeowners on Atlantic Avenue feel they are getting two different answers from CAMA. A public hearing will provide the opportunity for the Beautification committee to be heard.

Commissioner Nelder commented:

- I thought the main problem is whether there will be a 'hatteras' type boardwalk or not.
- We need to concentrate on the ADA aspect and compliance issues.
- The Beautification committee was very diligent in notifying the residents on Atlantic Avenue

Mayor Montgomery stated:

- The purpose of the CAMA permit review is to ensure the project is in compliance with regulations only, not to give an opinion about whether one project is better than another.

- A CAMA representative is willing to attend any meeting Council requests once the permitting process is completed.

Audience comments:

- Council should reconsider their vote since CAMA may turn it down and we could get the plan changed before CAMA makes their decision.

ACTION - Commissioner Lambeth MADE THE MOTION to hold a public hearing to review the plans for the Atlantic Avenue Boardwalk and receive public input. Commissioner Nelder seconded the motion. THE MOTION FAILED WITH A TWO TO THREE VOTE AS FOLLOWS:

Commissioners Nelder and Lambeth in the affirmative.

Mayor Montgomery, Mayor Pro Tem Dugan and Commissioner Vatrtr in the negative.

Commissioner Lambeth stated there is heartburn with what citizens proposed and what Sawyer Architects came back with – we need to listen to the citizens.

Mayor Pro Tem Dugan asked:

- Is there any issue with meeting timeframes for grants or permitting?
- What has been secret about this project for the last two years?

Building Inspector Batson replied that bid packets are ready to go out this week, so he needs to know whether he should postpone the bid process.

ACTION - Commissioner Lambeth MADE THE MOTION to hold a public hearing to receive public input on the Atlantic Avenue Boardwalk Mayor Pro Tem Dugan seconded the motion. THE MOTION PASSED WITH A THREE TO TWO VOTE as follows: Mayor Pro Tem Dugan and Commissioners Nelder and Lambeth in the affirmative. Mayor Montgomery and Commissioner Vatrtr in the negative.

ACTION - Commissioner Lambeth MADE THE MOTION to hold a public hearing at 6 pm or soon thereafter on August 11, 2008 for the purpose of receiving public comment on the Atlantic Avenue Boardwalk and to direct the clerk to so advertise. Commissioner Nelder seconded the motion. THE MOTION PASSED WITH A UNANANIMOUS VOTE.

ACTION - Commissioner Nelder MADE THE MOTION to stay the bidding process on the Atlantic Avenue Boardwalk until after the public hearing on August 11, 2008. Commissioner Lambeth seconded the motion. THE MOTION FAILED BY A VOTE OF TWO TO THREE as follows: Commissioners Lambeth and Nelder in the affirmative. Commissioner Vatrtr, Mayor Pro Tem Dugan, and Mayor Montgomery in the negative.

9. Discussion on Council going back to Raleigh (General Assembly) to delete section 333b of Chapter 19 (Zoning) regarding height limit exceptions.

Commissioner Lambeth stated that he thinks Council has charged Planning and Zoning with a no win situation by trying to address height limit exceptions and we need to go to Raleigh (General Assembly) to change the law to state there will be no height limit exceptions.

ACTION – discussion tabled until the August Council meeting at Commissioner Lambeth’s request.

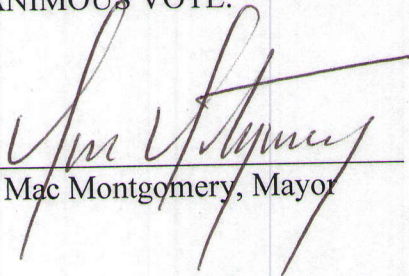
10. Discussion on starting paperwork to move the Civil War historic monument located in front of Big Daddy’s Restaurant to the Ocean Front Park location.

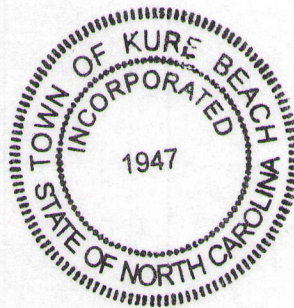
Commissioner Lambeth stated that he would like to begin the process and paperwork to have the Civil War monument currently located in front of Big Daddy’s (current location is a safety hazard) relocated to the Ocean Front Park.

ACTION - consensus - Town Administrator James and Town Attorney Canoutas to research requirements to relocate the monument.

#### ADJOURNMENT

ACTION - Commissioner Nelder MADE THE MOTION to adjourn at 10:26 pm. Commissioner Lambeth seconded the motion. THE MOTION PASSED WITH A UNANIMOUS VOTE.

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



ATTEST:

  
\_\_\_\_\_  
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.