



KURE BEACH TOWN COUNCIL
REGULAR MEETING
July 17, 2007
7:30pm

MINUTES

The regular meeting of the Kure Beach Town Council was held on Tuesday, July 17, 2007 at 7:30pm.

CALL TO ORDER	Mayor Fuller
WELCOME	Mayor Fuller
INVOCATION	Mayor Fuller
PLEDGE OF ALLEGIANCE	All

COUNCIL MEMBERS PRESENT:

Mayor	Tim Fuller
Mayor Pro Tem	Mac Montgomery
Commissioner	Jim Dugan
Commissioner	Bill Ufferman
Commissioner	Dean Lambeth

COUNCIL MEMBERS ABSENT:

None

STAFF PRESENT:

Town Clerk	Nancy Avery
Building Inspector	John Batson
Finance	Susan Suggs
Fire Chief	Harold Heglar
Police	Dennis Cooper
Public Works	Sonny Beeker

Town Attorney A.A. Canoutas was in attendance

Mayor Fuller called the meeting to order at 7:32pm. Mayor Fuller delivered the invocation and led the audience in the pledge of allegiance.

RECOGNITION AND AWARDS:

None

PERSONS TO ADDRESS COUNCIL:

None

APPROVAL OF CONSENT AGENDA

1. Council Minutes: 6/19/07 regular meeting, public hearing and closed session
2. Police Report: June 2007
3. Building Inspector Report: June 2007
4. Fire Report: June 2007
5. Financial Report: June 2007
6. P & Z draft minutes: July 10, 2007



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ACTION - Commissioner Dugan MADE A MOTION to approve the consent agenda with no changes. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ADOPTION OF THE AGENDA

Commissioner Dugan added one item under the EOC committee.
Mayor Fuller added a closed session for a personnel matter.

ACTION - Commissioner Ufferman MADE THE MOTION to approve the agenda with the two additions referenced above. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

DEPARTMENT HEADS' ITEMS TO PRESENT TO COUNCIL

1. Building Inspection Department: none

2. Finance Department

- Financing of vehicle and software purchase

Finance Officer Suggs presented proposed interest rates, down payments and annual payment amounts for financing the purchase of Town vehicles and software using Branch Banking and Trust as listed below, noted all financing has been budgeted for in FY07-08 and requested authorization to proceed.

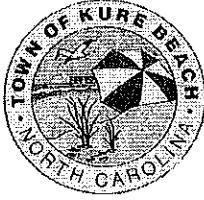
Item	Dept	Amount	Down Pay	Annual Pay	Rate
Service truck	PW	\$31,537.09	\$8,356	3	4.02
Dump truck	PW	\$49,846.46	\$13,207	3	4.02
Loader backhoe	PW	\$70,000	\$15,152	4	4.12
Police Pak software	Police	\$28,465.95	\$9,864	2	4.02

ACTION – Commissioner Ufferman MADE THE MOTION to authorize the Finance Officer to pursue financing as presented. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

- Funding requests

Finance Officer Suggs stated she received three requests for funding and requested approval:

Island of Lights	\$1500
Federal Point Historic Preservation	\$1500
NC Aquarium	\$ 150



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ACTION – Commissioner Ufferman MADE THE MOTION to approve the funding requests as presented. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

3. Fire Department:

- job descriptions

Fire Chief Heglar requested approval of a job description for the new position of Fire Fighter/Driver and of a revised job description for the existing position of Fire Chief referencing the addition of paid members in the department in addition to volunteers.

ACTION - Commissioner Dugan MADE THE MOTION to approve both job descriptions as presented. Mayor Pro Tem Montgomery seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said job descriptions are herein incorporated as part of these minutes as attachments A and B

- surplus vehicles

Chief Heglar requested authorization to declare surplus and sell two vans

- 1981 Chevy Truck – Step van vin #0129
- 1989 Chevy Van vin #7524

ACTION - Commissioner Dugan MADE THE MOTION to declare the two vans referenced above surplus and authorize the Fire Chief to sell. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

4. Police Department:

- software

Chief Cooper presented a contract with Southern Software for the purchase of Police Pak software in the amount of \$28, 465.95 stating the Town Attorney had approved and requested council approval

ACTION – Commissioner Dugan MADE THE MOTION to approve the Southern Software contract to purchase police software. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

- Special Events

Chief Cooper stated that he recommends department heads make the decisions on the approval or denial of Special Events and requested council's approval.



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ACTION – Commissioner Dugan MADE THE MOTION to approve special events permit application process as referenced by Chief Cooper. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

5. Public Works Department:

- oil and grease ordinance

Director Beeker presented a proposed oil and grease ordinance stating it is a requirement for the Town to pass this type of ordinance and requested council vote at the August meeting. He stated he and the Town Attorney are working on the enforcement section.

- surplus vehicles

Director Beeker requested authorization to declare surplus and sell two vehicles:

- 1998 GMC Sonoma vin# 6381
- 1988 John Deere Backhoe (minimum bid \$2,500.00)

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to authorize the Public Works department to advertise for sale the old back hoe (\$2500 minimum bid) and the small service truck in conjunction with the Fire Department sale of surplus equipment. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

- Storm Water mapping software

Director Beeker previewed the new mapping system for storm water inventory that shows location and detail information regarding size and interconnectivity .

- Storm water mini grant

Mayor Pro Tem Montgomery stated:

- the storm water mini grant (#2006S-005) was approved in the amount of \$15,975 with a cash match from the Town of \$1,775 for a total project cost of \$17,750
- project costs exceeded initial expectations with an actual cost of \$34,606.02.
- he is requesting council approval to amend the grant to increase to \$25,000 with an increase in the Town's matching cash amount from \$1,775 to \$9,500
- \$9,500 was budgeted in the FY07-08 storm water fund

ACTION – Commissioner Lambeth MADE THE MOTION to amend the storm water mini grant as stated by Mayor Pro Tem Montgomery. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS



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- change order new water tower

Director Beeker stated that he was informed additional clearing was required in the location of the new water tower in the amount of \$18,882 and requested council approval of this change order

ACTION - Mayor Pro Tem Montgomery MADE THE MOTION to approve the change order not to exceed the amount of \$18,882 for Caldwell Tanks and transfer the funds from the water/sewer reserve fund to the project fund for the water tower. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Mayor Pro Tem Montgomery requested the Finance Officer present the budget amendment at the August council meeting.

6. Town Clerk

- revision of the position classification plan in Personnel Policy

Town Clerk Avery stated that the position classification plan in the Personnel Policy required revision to add a new pay grade classification number 3 for the new position of Fire Fighter/Driver in the Fire Department with a salary range of \$11,193 to \$18,000.

ACTION - Commissioner Dugan MADE THE MOTION to amend the personnel policy section on pay grade classification to add a new pay grade classification number 3 for the new position in the Fire Department. Mayor Pro Tem seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

COMMITTEE REPORTS OR ITEMS TO PRESENT TO COUNCIL

1) Town Administrator:

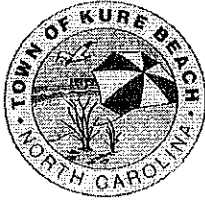
Chairman Jim Vatr stated his committee:

- completed the profile for the candidate
- is moving forward to prepare a job description and contract
- is getting assistance from Cape Fear Council of Government
- will meet again July 23 at 3pm
- recommends council approve description, contract and advertisement at August council meeting to stay on time table for January hire

2) EOC:

Commissioner Dugan stated:

- there is a meeting on August 1 at 6:30pm at Town Hall for the Emergency Operations Committee
- new potential members are taking training classes
- this committee represents the Town at the County Emergency Operations Center in Wilmington



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3) ADA Committee:

- Approval of hold harmless for use of electric beach wheelchair (Lambeth)

Commissioner Lambeth stated:

- Fire Chief Heglar will have an electric beach wheelchair for use
- the lifeguards or Fire Department may be contacted to use the chair
- users will be required to leave a driver's license while using the chair and sign a hold harmless agreement absolving the Town of liability
- requested Council approve the hold harmless agreement included in their agenda packet

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to approve the proposed hold harmless. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said hold harmless is herein incorporated as part of these minutes as attachment C.

4) Beautification:

Chairman Barry Nelder stated that verbal approval was received for the Atlantic Avenue boardwalk and work should begin the first of the year.

5) Citizen Protection/Beach re-nourishment:

Chairman Tom Barber said that:

- \$24.7 million was appropriated by the Senate for beach re-nourishment
- a lot of residue from fire work packaging has been left on the beach this year
- he hasn't received any response from Council on items submitted and asked for response before the committee's August meeting
- Beach Sweep will be September 29, 2007

6) Community Center:

Chair Frances Regan asked residents to please support the bar-b-que fund raiser on August 18th.

7) KB Marketing Advisory:

Chair Helen Wilson requested in writing that the Council appoint Dick Clark to the committee

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to appoint Dick Clark to the Marketing committee. Committee Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



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8) Shoreline Access and Parking:

Chairman Chuck Keener stated he needs one more volunteer for his committee.

9) Parks & Recreation Advisory:

Member Richard Himmelstein said the committee prepared a survey that residents will be receiving shortly to be returned by August 10th. The committee will use the results to determine where to spend funds.

10) Storm water:

Eric Vann, chair, stated that:

- a \$4,000 impact fee currently exists
- if the storm water ordinance is approved, he recommends waiving that fee for anyone meeting the requirements of the ordinance since compliance is costly

Mayor Fuller called a recess at 9pm.

Mayor Fuller resumed the meeting at 9:10pm

Mayor Fuller requested council to address an item from old business now as Ms. Youngbluth needed to leave.

- Appointment to NH County Human Relation Committee

ACTION - Mayor Pro Tem Montgomery MADE THE MOTION to appoint Marilyn Youngbluth to the NH County Human Relations Committee. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

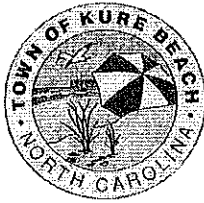
OLD BUSINESS

1) Presentation of B1 master plan – Sawyer Architects

John Sawyer introduced Philip Humphrey of his office, John Sawyer Architects, and Dexter and Peggy Hayes of Hayes Planning stating they were commissioned by the Town Council to study the B1 district and make recommendations for preserving and boosting the B1 district.

Mr. Sawyer presented an overview of the study:

- CAMA restrictions and flood elevation were looked at and the Town has one of the highest elevations in the state in the business district, which means development can occur at ocean level
- suggest utilizing the street right of ways to improve the area by redeveloping K Avenue corridor to generate large sidewalks and create a larger space for commerce on the street



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- utilize 3rd , L, K and J Avenue areas for additional parking
- remove some of the parking in the center of K Avenue near the pier and make one way, plant trees, improve lighting and signage in Town's right of way thus creating a street front for businesses on K Avenue with business activity on the sidewalk, benches and possible commerce.
- make the retail core more inviting for visitors passing through to go to the aquarium, etc. to encourage them to stop
- change the traffic pattern by having traffic enter at K Avenue, exit at J Avenue with no U turn or exit at K Avenue -- also reverse traffic pattern from L to J Avenues by making it south bound rather than north bound
- Surveys indicated that the business district is important, so to help businesses, Town must invest in improving the core and cleaning up the traffic signal and power lines. The report has sketches for improvements to building fronts
- A test case was done for hotels regarding the 35 foot height limit and interviews were conducted with a hotel manager/property analyst for Hilton Hotels who determines economic feasibility studies for locations. Results are included in the study. The test case was conducted because interviews with business owners in the B1 district indicated that the loss of hotel rooms in town was hurting business because hotel users frequent local businesses more. Hotel owners in B1 said it was difficult to redevelop their hotels
- The test case looked at the property on the east side of Ft Fisher Blvd, south of K Avenue where three motels are located using the assumption a developer buys and builds a new hotel to maximize rooms. Findings: constraint on oceanfront was in parking due to CAMA setbacks which controls the number of rooms. Doesn't help to have additional height – not enough room for parking spaces. The property is so narrow, a parking structure can't be built. Maximum number of rooms was 76. Could improve the amenities. Used construction cost verified by Hilton Inn. Return on investment after 5 years using 2007 property values was 14%. Conclusion – for hotel development on oceanfront, height is not the issue - parking is the issue. Because of the CAMA setback line, any building will tend to be long, wall like buildings that separate Ft. Fisher Blvd from the ocean
- Any new ocean front hotels are likely to be “boutique” type, smaller hotels. Larger chains won't be interested due to risk with hurricanes, etc.
- Also looked at the second row from Ft. Fisher to 3rd Avenue where no CAMA restrictions exist. Parking could be on grade and hotel could be built over parking. End up with a total height under 35 ft. Maximum of 64 rooms, mgr apartment, pool, etc. Return on investment after 5 years was 24.2.%. Conclusion – height increase would help investment potential on 2nd row – properties are large enough that parking structure could be built. Larger hotels could be built and parking provided



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- need to start thinking of business district as group of businesses that support each other
- ocean front hotel wouldn't have to have restaurant for breakfast – could have separate business within walking distance
- report has suggestions on K Avenue changes

Mayor Fuller asked Mr. Sawyer for his recommendation for next step.

Mr. Sawyer responded that:

- the report talks about funding sources
- next step is to work on developing and funding design and construction project to work on K Avenue between Ft. Fisher and the ocean
- current zoning ordinance needs to be refined and cleaned up to remove non-applicable items. The ordinances are written as regional, needs to be narrowed to more neighborhood business district.

Comments/questions from those in attendance:

a) Atlantic Avenue from N to J Avenues – the design shows change in traffic pattern from north to south. Would alleviate truck routes. Wouldn't that slow down traffic?

Response: yes, it is being suggested that the traffic pattern be altered

b) the stoplight is the only one in Kure Beach. How will the traffic get out onto Ft. Fisher from L Avenue? With traffic input from K Avenue, won't that double traffic?

Response: the goal is to create a town center at end of K Avenue. The current traffic flow is congested. DOT would be asked to do a traffic study. Proposal may possibly require another traffic light.

c) Have you given any study to making limitations on parking that would be left on K Avenue?

Response: not at this time, but maybe in the future. Must provide parking for employees away from the front of the businesses.

d) On the ocean front hotel model – why not build a parking structure on the other side of Ft. Fisher?

Response: the current zoning ordinance doesn't allow for off-site parking. It would require changing the current ordinance. Even with doing that, the CAMA setback on the ocean front has a big impact.

e) I can't see a Hilton in Kure Beach, but what about a Red Roof or smaller chain?

Response: the test case is modeled after a low rise Hilton proposed for Greenville, NC – not a full service hotel. The test case used room rates for the Marriot Courtyard and one of the existing hotels on Kure Beach oceanfront. Assumptions made were conservative.



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Mayor Pro Tem Montgomery asked if this proposal fosters keeping the business district accessible to the general public, since development usually boxes out the general public – can't afford, no parking, no pass, etc. We don't want to create something that restricts the current access. Does this make it more friendly?

Response: it does make it more friendly, particularly for day visitors which is what the business district needs. Increasing parking on other streets within walking distance is encouraged in this report. Not proposing anything that gentrifies to the point that access is not available to the general public. Our report encourages diversity.

e) On the test case for the property across the street from the ocean that had more units in comparison to ocean side - what was the amount of land?

Response: the lot across the street had less land, but more flexibility. A hotel combined with a parking structure might help for shoulder season visitors – a parking deck could be used by other patrons besides those staying in the hotel.

f) If someone utilized the second row for a hotel, what do you suggest for the land on the ocean side?

Response: A hotel will work on the ocean side, but not a large hotel. Assumption is that return would be better on the second row. There has been a huge decline in number of hotel rooms in Kure Beach. We think the town could support more hotels.

g) Could the hotels be upscale enough to command higher rates to justify bigger RTI?

Response: yes – if you assumed \$150 a night for an average room rate. It is important to look at competition-comparable properties in Carolina Beach.

h) The proposal has attraction – does it make sense to delay action on Land Use Plan amendment for duration of this proposal?

Mayor Fuller responded that no, this doesn't have anything to do with the Land Use Plan amendment.

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to refer the proposal to Planning and Zoning (P&Z) to report a plan of action at the September council meeting. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Mayor Pro Tem Montgomery stated Council needs to contract with a professional to give P&Z help with revamping the ordinances, and he has asked Hayes Planning for a proposal to provide this service.



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2) Consideration of adoption of Storm Water Ordinance and appointment of Storm Water Administrator

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to adopt the universal storm water ordinance with an effective date of September 1, 2007. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS. Said ordinance is herein incorporated in these minutes as attachment D.

ACTION - Mayor Pro Tem Montgomery MADE THE MOTION to designate Sonny Beeker, Public Works Director, as administrator for the storm Water Ordinance. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ACTION – Mayor Pro Tem Montgomery MADE THE MOTION to waive the \$4,000 impact fee for future storm water construction in compliance with the universal storm water ordinance on an interim basis of 90 days until a revised fee schedule is presented to council at the September meeting. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Commissioners Ufferman and Lambeth both stated they think new development should help pay for the required infrastructure.

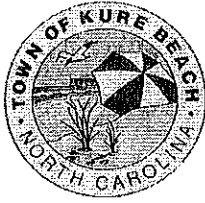
Mayor Pro Tem Montgomery said that compliance will cost a new homeowner approximately \$6,000. Kure Beach has the lowest new building fees in the county, but has some of the lowest fees in other areas. The whole fee structure needs to be reviewed and revised. We want to encourage smart growth and to do that, we need to give builders an incentive.

3) Schedule public hearing regarding proposed amendments to Land Use Plan (LUP) and recommendation from P&Z regarding revised language

Mayor Fuller explained that there was a change in language to the proposed amendments to the Land Use Plan as a result of the Planning and Zoning meeting held in July. The language has been reviewed by CAMA and suggested language needs to be more specific to say:

“Property owner must demonstrate to the Kure Beach Board Of Adjustment and be granted a variance from the zoning ordinance.”

Commissioner Dugan stated that since the Town is in the middle of a court case, would this be the best time to consider changing the language.



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Mayor Pro Tem Montgomery asked the Town Attorney if the amendment, as stated, passed and went to the Coastal Resource Commission (CRC) and CRC adopted, what happens? Does the existing Sanco case have to automatically be issued a CAMA permit? Will the Town be obligated to issue a building permit?

The Town Attorney responded that yes, the Town's CAMA officer will be obligated to issue the CAMA permits. Attorney Canoutas also stated that there is another case in superior court that isn't resolved.

Commissioner Dugan asked if the LUP amendments are approved, will houses get built? Attorney Canoutas responded not until the superior court issues a finding on the other suit.

Commissioner Dugan asked if the Town is past the time line to sue the BOA on their decision? Attorney Canoutas replied that it is past time line of 30 days from the decision.

ACTION – Commissioner Lambeth MADE THE MOTION to schedule a public hearing on proposed amendments to the Land Use Plan for September 18th at 6:30pm with the language to be determined and the hearing advertised twice in 30 days.

Commissioner Ufferman seconded the motion. **THE MOTION PASSED BY A VOTE of 4 -1 as follows:**

Mayor Fuller – affirmative

Mayor Pro Tem Montgomery – negative

Commissioners Lambeth, Dugan, and Ufferman – affirmative

Mayor Pro Tem Montgomery stated he is not comfortable voting to hold a public hearing without knowing the language.

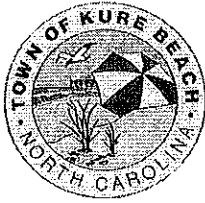
Tabled items:

- Consideration of signage for beach access parking ordinance adopted 1/18/07, plan to be presented at 4/17/07 meeting
- Streetlight assessment for south of K Avenue– needs more input from public, power lines need to be buried, additional cost of \$5k per year

NEW BUSINESS:

1) Change to bi-weekly pay periods and mandatory direct deposit effective October 2007

Commissioner Dugan stated that changing from weekly to bi-weekly pay periods and making direct deposit mandatory for all employees would save the Town approximately \$160 a month and bring the Town more in line with other municipalities.



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ACTION – Commissioner Dugan MADE THE MOTION to change pay periods from weekly to bi-weekly and to change to mandatory direct deposit effective October 1, 2007. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

4) Change order to finish bathrooms in new connector walkway - \$54,163

Mayor Fuller explained that it would be less costly to finish the bathrooms at this stage of construction rather than later and would require a budget amendment to transfer \$54,163 from the general fund.

ACTION – Commissioner Ufferman MADE THE MOTION to approve the change order in the amount of \$54,163 and charge the expense to the general fund balance. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

5) Adoption of amendment to the Code of Ordinances, Chapter 7, Garbage and Trash regarding mandatory recycling fees to add the following language:
“and recycling, which is mandatory throughout the town, the owner or occupant of each premises from which garbage, rubbish and recycling”

ACTION - Mayor Pro Tem Montgomery MADE THE MOTION to amend Chapter 7, section 66 of the Code of Ordinances regarding garbage and trash to add the following language making recycling mandatory. Commissioner Ufferman seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.

PERSONS TO ADDRESS COUNCIL:

None

COMMISSIONERS' ITEMS:

None

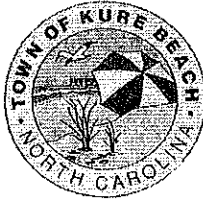
ATTORNEY'S ITEMS:

MAYOR'S ITEMS:

Mayor Fuller presented a new brochure from the NC Aquarium listing businesses in Kure Beach on the back page, stating the cost was \$3,200. The Aquarium printed 40,000 copies.

PERTINENT ITEMS WHICH MAY REQUIRE COUNCIL ATTENTION:

None



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CLOSED SESSION

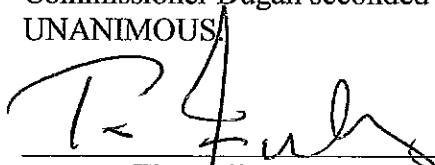
ACTION - Commissioner Ufferman MADE THE MOTION to go into closed session for the consideration of land acquisition and a personnel matter at 10:51pm. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

ACTION - Commissioner Ufferman MADE THE MOTION to return to open session at 12:28am. Commissioner Lambeth seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS

Mayor Fuller stated that discussion in the closed session concerned land acquisition with no action taken. Also discussed was a personnel issue that required no action, only continued enforcement of policy.

ADJOURNMENT

ACTION - Commissioner Ufferman MADE THE MOTION to adjourn at 12:30pm. Commissioner Dugan seconded the motion. THE VOTE OF APPROVAL WAS UNANIMOUS.



Tim Fuller, Mayor

ATTEST:



Nancy Avery, Town Clerk

