



TOWN COUNCIL MINUTES

REGULAR MEETING

DECEMBER 14, 2010 at 6:30 pm

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT

None

STAFF PRESENT

Town Clerk	Nancy Avery
Finance Officer	Arlen Copenhaver
Police Dept	Officer Paul Hubbard

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

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

RECOGNITION AND AWARDS

Mayor Lambeth and the Town Council presented a plaque to Ronnie Pernell for appreciation of service on the Tourism Development Authority.

APPROVAL OF CONSENT AGENDA

1. Approve payment of change order in amount of \$13,700 for Lisle Architecture & Design for the Ocean Front Park
2. Approval of Tourism Development Authority request for total reimbursement of \$46,038.07. \$33,797.50 - lifeguard expenditures from 8/26/10 through September, 2010 and \$12,240.48 - 2010 Street Festival expenses
3. Adoption of three budget amendments:
 - 11-21
 - 11-22
 - 11-23
4. Approval of contract with American coach charter for \$985.00 for Parks & Recreation trip to 'Hooray for Hollywood'

5. Building Department report - November 2010
6. Finance Department report – November 2010
7. Fire Department report – November 2010
8. Police Department report – November 2010
9. Meeting Minutes:
 - 11/16/10 – closed
 - 11/16/10 - regular
 - 11/16/10 – public hearing OFF

MOTION – Commissioner Dugan made the motion to approve the consent agenda with no changes.

SECOND - Commissioner Swearingen

VOTE - Unanimous

ADOPTION OF THE AGENDA

Mayor Lambeth requested a change to item # 1 adding ‘consideration and adoption of joint resolution’.

MOTION – Commissioner Dugan made the motion to adopt the agenda with one change to item # 1 as referenced above.

SECOND - Commissioner Nelder

VOTE - Unanimous

PRESENTATIONS TO COUNCIL

1. Brandt Barnwell, Marketing committee chairman

Mr. Barnwell stated the purpose of the committee is to work with the convention bureau to put heads on beds. The committee feels that Kure Beach and the other beach towns are not getting their fair share of advertising. Beach towns are lumped in as Cape Fear Coast. They have been promoting this way for 24 years and it isn't working. The beach town mayors and members of the committee met and put together a joint resolution in respect to branding, marketing and public relations efforts of the Wilmington/Cape Fear Coast Convention and Visitors Bureau. I am presenting this resolution for your consideration.

Discussion:

Mayor Lambeth stated this is long overdue. Wrightsville Beach adopted the resolution at the last meeting and he is sure Carolina Beach will adopt it at their meeting tonight.

MOTION - Commissioner Dugan made the motion to adopt the joint resolution as presented.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

Said joint resolution is herein included as part of these minutes.

2. Lisle Architecture & Design and Withers and Ravenel – presentation of final plans for Ocean Front Park

a) David Lisle of Lisle Architecture & Design stated:

We have worked on the cost estimate and materials since Council selected final design at the last meeting. We are limited on building materials since it is an open structure. We will use a metal roof, trim and different cedar materials that are sustainable.

We recommend gray cedar siding which is PVC 100% recyclable and looks more real. It is 10% more expensive than real cedar, but you never have to paint.

The inside will be white board and batten and we recommend cedar on inside. It requires no painting and can be power washed to clean.

The footprint is 3500 square feet and the main roof structure covers 2700 square feet.

We had two contractors price construction and they brought an-estimate of \$405,000 to build the pavilion and restroom building. We think when we get in competitive bids in this market, this amount will be high.

We project a 90 day construction period on both structures.

Audience comments and questions to Mr. Lisle:

Ted Gragg – is there a wind rating for the material for siding?

Lisle – It has the same ratings as natural cedar and meets the 150 mile per hour wind requirements.

Ken Withrow – how will the material hold up to graffiti since it has a stain?

Lisle - It should handle the same as painted material. If someone spray painted it you might have to repaint. The color is easy to match.

b) Greg Lambert and Kurt Pfeifer of Withers and Ravenel Landscape Architects stated:

Significant changes to the travel aisle on Atlantic Avenue were made at the last Council meeting removing only 6 parking spaces instead of all. Per grant requirements, the parking areas must be pervious and the street asphalt.

We have incorporated planting beds for native plants for educational purposes.

The tot lot will have a toy pirate ship and a couple of ground animal climbing structures. That is all that can fit in that area.

There will be 3 Southport type swings in the site. The green lawn has a berm in back that filters everything towards the stage.

At the front of the site, there was a request for four spaces at the last Council meeting: two for town maintenance, not delineated by stripes or color, and two on the other side for loading/unloading for events only.

Audience comments and questions:

Are there any handicapped parking spaces?

W&R - Yes, two spaces.

What is the loading zone substructure and do they look like parking spaces?

W&R - No all parking is out of pervious pavers and won't look like parking spaces.

Does any grass grow in between pavers on the walking path or is it a solid surface?

W&R - The pavers are notched and filled with pea gravel and there is a heavier gravel base underneath.

Our cost estimates are (without utilities at this point):

\$95,000 for paving, concrete, pervious pavers, safety surface in playground area and shade structure for tot lot, striping for handicap parking spaces.

\$140,000 for site amenities to include flag poles, trash cans, benches, swings, bollards.

\$250,000 total estimate without storm water and utilities.

Discussion and consideration of acceptance of final plans and authorization to Engineering Services to proceed with Request for Proposal for contractor and any other items related to the Ocean Front Park.

Commissioner Swearingen - can we sell the pavers as memorial pavers? Could we have a turtle inbedded?

W&R - we don't have a cost but we can do that and get the cost.

Commissioner Dugan - I've checked and there are companies that will sand blast if it is something that can be molded. The bigger the design the more permanent.

Commissioner Swearingen - will the boardwalk remain like it is or be completely rebuilt?

W&R - the boardwalk will be the same elevation. We don't think CAMA will let you change the elevation. The Town will replace what is there now.

Commissioner Dugan - we are replacing the boardwalk because it needs it and to match the newer walkway.

MOTION - Commissioner Dugan made the motion to accept both proposals as presented and authorize Engineering Service to proceed with the Request for Proposal for a contractor.

SECOND - Mayor Pro Tem Keener

VOTE – Unanimous

Clarification of Council member in charge of the park

Mayor Lambeth stated he will not have the time necessary due to family medical problems to oversee the park construction and with Commissioner Dugan's qualifications he recommends Commissioner Dugan be in charge of park construction.

MOTION – Mayor Lambeth made the motion for Commissioner Dugan to be the designated commissioner to oversee the park construction.

SECOND – Commissioner Swearingen

VOTE – Unanimous

PERSONS TO ADDRESS COUNCIL

1. Dan Bell – if prices come out as quoted today for the park, does the Town have enough money on hand to pay for this?

Finance Officer Copenhaver replied that it may involve some financing, at least for the short term, but is dependent on all the numbers. It is hard to say at this point.

2. Tony Gonsalves, SLAP committee chairman stated:

a) My committee is asking Council to look into the owner of property on Fort Fisher Boulevard west for future parking. We are asking for Council approval for the committee to pursue this and also possibly use of land further south where a motel was for parking. The property is wide open. We could do grass with signage.

Discussion:

Mayor Lambeth stated it can't be used for a parking lot like it is now. There would be some cost involved with possibly stoning it but not paving.

Commissioner Swearingen asked if the committee has money in their budget to pave it after the cost for the park and requested they work with the Finance Officer to make sure there is enough in the budget to do this.

Chair Gonsalves replied that the committee has \$10,000 in their budget and they will work with Arlen (Finance Officer), but wants Council permission to talk with the owner first.

Mayor Lambeth stated he would be opposed to having an opening off of Fort Fisher Boulevard because it would lose spaces.

Jim Votta, resident, stated that if the Town creates a parking lot, doesn't it have to follow guidelines such as for lighting? I believe you are going to have to look at zoning. This may be a special use requirement.

MOTION – Commissioner Dugan made the motion to allow SLAP to research the possibilities of interim parking on vacant land as referenced.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

b) Chair Gonsalves stated that the SLAP committee also wants to look at a better layout for parking at Joe Eakes park, the corral and six beach entrances. According to the MPO, we need to revisit spaces in the beach entrances. I'm not professionally allocated to layout parking lots. Drawings need to be to scale so that Public Works can lay out spaces. We want Council permission to get a quote from a company to lay out these spaces.

Discussion:

Commissioner Swearingen – are you asking for an engineer drawing?

Gonsalves – I'm not sure.

Mayor Lambeth – do they have companies that do this or does it fall under an architect?

Greg Lambert of Withers and Ravenel Landscape Architects commented that their firm would handle this type of request. It would probably cost a couple of hundred dollars for a pen and ink layout. If you wanted computer generated layout, it would cost much more. We could for about \$110 an hour or on a 'not to exceed' basis.

Jim Smith, SLAP committee member, stated we are really looking for someone to supervise the Town staff to put this in.

MOTION – Commissioner Swearingen made the motion to have the SLAP committee work with Withers & Ravenel to develop a parking layout plan for Joe Eakes Park, the corral and six beach accesses and include the Finance Officer to make sure it is within budget.

SECOND – Commissioner Nelder

VOTE - Unanimous

c) Findings on paid parking east of Fort Fisher from N Avenue to Davis Road and other items

Chair Gonsalves stated the committee was asked to look at the feasibility of paid parking east of Fort Fisher from N Avenue to Davis Road. We invited the business community to attend and comment. They asserted that they are not in favor of paid parking in the business district or anywhere in town. They were quite emphatic. They stated they feel it will compromise their businesses and they will lose revenue. The committee finding is that putting paid parking east of Fort Fisher won't generate enough revenue to make it feasible. We are in the process of adding 200 parking spaces as a result of two previous surveys. Our goal is to meet the MPO recommendation of 800 parking spaces. The SLAP committee says paid parking is not warranted at this time.

3. Craig Galbraith, Planning and Zoning (P&Z) chairman, stated:
P&Z has requests for Council guidance.

a. Zoning – the business and residential districts have many categories of allowable uses. There are major holes that need to be fixed. The SIC codes in the business district have a lot of inconsistencies that need to be fixed.

The Special Use Permit is typically for uses that need additional examination and conditions. We don't have a lot of uses designated as special use. A good example would be amusements. Do we want to have a Special Use Permit for that? P&Z wants to embark on a serious look at zoning and SIC codes and we want direction from Council. Do you want strict or lax interpretation? Strict definition would take out more uses.

Discussion:

Mayor Lambeth – Can you give us an example of an existing business allowed in a residential district?

Galbraith – No example of existing business, but it is allowable.

Commissioner Dugan – Do you see giving us any recommendation to change zoning in certain areas?

Galbraith – No, just to look at different uses and apply the Special Use Permit more aggressively.

Commissioner Dugan – I choose a moderate approach if we go forward and we can tweak whichever areas we recommend.

Mayor Lambeth – we need to proceed cautiously so it won't bite us. The only businesses in residential areas I can think of are the Lutheran retreat area and Peter Doran's photography business. It has been there a long time. I don't want to tell him he can't have his business.

Attorney Canoutas – the Code says if use not specifically mentioned in each district it is forbidden. What happened to that language?

Galbraith – The language is still there, but with using SIC codes, they are set up to allow the zoning officer to make an interpretation. We don't have specific language that says if that can't be done, then it is not permitted. We need to have some interpretation of some uses to fit SIC codes.

Chair Galbraith stated that what I'm hearing is allowing us to look at SIC code clean up and come back to Council with a recommendation and take a moderate approach.

CONSENSUS OF COUNCIL - Take a moderate approach when looking at zoning and SIC code clean up and come back to Council with a recommendation.

b) Chair Galbraith stated the second item is the sign ordinance. There are three elements to the ordinance: prohibited, new chart size and structure, and non conforming signs. There is nothing wrong with non conforming signs. The issue is how you deal with it.

P&Z is recommending a long amortization. Twelve years with a three year extension based on two public hearings. The longest in the Carolinas is 10 years. We propose a one time automatic extension of three years if the owner is the same. We are recommending historical signs be exempt and to give control to Council to deny or allow extensions. We don't recommend grandfathering.

We are asking for direction from Council on dealing with non conforming signs.

Discussion:

Tony Gonsalves, resident, asked how many non conforming will there be? We should keep things simple. Grandfather with restrictions about hurricanes or signs in dis-repair that have to be replaced. If the town is modernizing, we are giving owners so many months to bring in conformance. I can't see doing this to our business owners.

Galbraith – There will be twelve non conforming signs, some based on height.

Chair Galbraith stated the amortization does help business owners. Bad signage doesn't attract tourism and that hurts businesses. Grandfathering presents a problem. The general feeling of P&Z is to recommend a long amortization process with renewable appeals. We need guidance.

Commissioner Nelder stated we should do like Chair Galbraith recommends – do everything except grandfathering. If we grandfather and add a lot of restrictions, we are not grandfathering. A long amortization is the best option. This gives them fifteen years and gives our Council the right to decide if it wants to leave the sign in place or not. I like a long amortization (12 years) with option to appeal to Council.

Commissioner Swearingen stated that six non conforming signs didn't seem much, then it became twelve. I'm surprised at the number. I started looking at the signs. One small sign is very high. There is no way to know the business is there unless the sign is above the roof top and there is no place else to put it. Any lower and it is behind the building. If we have the option to continue allowing something like that as a special circumstance, if it takes away advertising for a particular business, then I want the option to say they can keep that sign.

Mayor Pro Tem Keener commented that it puts Council in the position of being sign ordinance detectives. Council can pick and choose. I like not grandfathering and a long term amortization. How will the appeal process be done?

Galbraith – The appeal will probably be to P&Z first and then to Council. There would have to be criteria to determine.

CONSENSUS OF COUNCIL – Use a twelve year amortization process with an option to appeal to Council.

4. Gabby Kraus, Parks and Recreation committee member stated:

a) The eighteen holes for the disc golf course have been roughed out and is ready to be finished up, possibly in the next two weeks depending on the weather. We are planning a grand opening for February 14th. Kudos to Public Works Director Beeker and his staff for cutting brush and laying out the holes.

b) The ribbon cutting for the tennis courts and the tennis mixer were postponed because of rain. We will reschedule for January. We had twenty people signed up for tournaments and seventeen were from Kure Beach.

c) Paula Withrow has done an excellent job putting together the first two trips bus trips. They both were full and brought rave reviews. The next trip is to Myrtle Beach to see “Hurray for Hollywood”.

DEPARTMENT HEAD ITEMS

None

Mayor Lambeth called for a 10 minute break at 8:00 pm.

Mayor Lambeth resumed the meeting at 8:10 pm.

OLD BUSINESS

1. Discussion and consideration of plotting of Sandman Property

Mayor Lambeth stated Council approved having an engineer plot the Sandman Property and the results are in your packets.

Public Works Director Beeker recommends no less than a twenty foot easement because there is a major infiltration pipe on the property for many communities.

Since there are more than four lots, according to our ordinance, this has to go to P&Z.

Discussion:

Alan Votta, P&Z member – Shouldn't it come to P&Z before recording?

Attorney Canoutas responded that the easement can be recorded first. It won't impact anything.

MOTION - Mayor Lambeth made the motion to accept the plot plan with the twenty foot easement, register it with the county and send to P&Z to research.

SECOND – Commissioner Nelder

Mayor Lambeth rescinded his motion.

MOTION - Mayor Lambeth made the motion for Building Inspector Batson, Public

Works Director Beeker, and Commissioners Nelder and Dugan to discuss the easement placement with the surveyor before recording and authorized them to proceed with recording with the expenditure paid out of the General Fund not to exceed \$1,000.00 to begin finalization of plotting of Sandman property.

SECOND – Commissioner Swearingen

VOTE - Unanimous

2. Dare County insurance suit update

Mayor Lambeth stated the town received a request for money to continue the fight for the Dare County insurance suite. Our representatives say this should be done by the General Assembly and more money won't do any good.

3. Discussion and consideration of Community Center committee request to allow vendors to serve alcohol at the Community Center - if approved requires repealing of ordinances 3-1(a) and 12-55

Mayor Pro Tem Keener stated the Community Center asked Council to rescind the ordinance not allowing alcohol in the Community Center. The purpose to have alcohol vendors is to be able to rent the center more. I have found out there are brown baggers bringing alcohol into the center now and that has to be addressed. Another problem is how do you control it? If a vendor brings in alcohol, he has to have a license and liability insurance. Is it worth all the problems involved? Will we get that many new bookings if we can't use for our own dances.

Discussion:

Lori Eccleston, committee member, said there would need to be a form to tell the vendor what they need to do. Wouldn't homeowners insurance cover?

Attorney Canoutas – Yes, but how would we know the insurance is valid?

Mayor Lambeth – What number are we looking at? How much extra revenue?

Ms. Eccleston - I don't know. I have been approached by a few people. A caterer said he was approached by people wanting to have alcohol and they couldn't use the Community Center for that. We have three to four weddings a year now. This could probably increase the number of weddings. Could we cover the Community Center and festivals in one policy?

Mayor Lambeth – I don't think it is financially feasible for the town to carry insurance year round.

Commissioner Dugan – It boils down to what profit we are looking at to see if it is worth it.

Commissioner Swearingen – is this limited to weddings or catered events?

Mayor Pro Tem Keener – catered events.

Commissioner Swearingen – if we change the ordinance for this would it cover events at the pavilion at the park?

Attorney Canoutas – we would want to give that some thought. There would be an open building at the park where alcohol would be served.

Mayor Lambeth –it can be done, but it has to be roped off.

Commissioner Nelder – wouldn't this be in competition with people putting on weddings at the beach?

Attorney Canoutas – yes.

CONSENSUS OF COUNCIL –Community Center committee to make a contingency plan and determine how many more weddings they think they can have if alcohol allowed and possible revenue and bring back to Council at the January meeting.

NEW BUSINESS

1. Discussion and consideration of chairmanship of Parks & Recreation committee

Mayor Lambeth stated that Bob Fitzsimons turned in his resignation from the Parks and Recreation committee. Our guidelines says a committee member must be a resident or property owner and Mr. Fitzsimons no longer owns property in town. I recommend we waive the guideline until the finishing touches are put on the disc golf course because Bob has been working with the subcontractors.

Discussion points included how long the requirement would be waived, whether Mr. Fitzsimons could stay on as an emeritus member, how much the Council is willing to bend it's own rules, and whether the regulation could be waived or would need to be repealed.

MOTION – Commissioner Dugan made the motion to table accepting the resignation of Bob Fitzsimons from the Parks and Recreation committee until the January Council meeting.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

2. Discussion and consideration of request to be recognized publicly as contributor to Ocean Front Park (OFP) by photographer Peter Doran regarding photos provided for OFP marketing

Mayor Pro Tem Keener stated Mr. Doran provided all the photographs for the marketing books the town made for the Ocean Front Park and he wants to be recognized on the big board in the park and any permanent plaques or wherever other major contributors names are posted.

Discussion points were it is okay if Council recognizes other contributors also.

MOTION – Commissioner Dugan made the motion to include recognition of photographer Peter Doran as a contributor to the park if other contributors are also recognized.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

3. Discussion and consideration of Town support of possible petition to General Assembly for term limits for County Commissioners requested by County Commissioner Jason Thompson

Commissioner Nelder stated that County Commissioner Vice Chairman Jason Thompson is considering requesting the state legislature to modify the rules or whatever is necessary for county commissioners to have term limits on service. Thompson wants beach municipalities to draft a letter of support for this resolution.

Mayor Lambeth – I have talked to our representatives in Raleigh and think we are putting the cart in front of the horse. First, the County Commissioners need to vote, then it will have to go to Raleigh. This means an amendment to the State Constitution. I suggest tabling it until they get it together.

Commissioner Nelder stated this is informational only at this point.

4. Discussion and consideration of letter from Dan Bell

Mayor Lambeth read letter from Attorney Dan Bell to Mayor Pro Tem Keener about moving one van accessible parking space from the north end of Atlantic Avenue to the vicinity of the ocean front park. Mayor Lambeth stated I don't believe we can approve this until it is voted on by Council. Van accessible handicap spaces are the most needed and they require ninety-six inches. We built a handicap ramp at a cost of \$39,000 at the north end of Atlantic and we shouldn't remove anymore handicap spaces than necessary. The town has 191 ADA violations on Atlantic Avenue for ratio of slopes, width and Accessibility and we have done nothing to fix them. Excuse me, I mean Fort Fisher Boulevard, not Atlantic Avenue.

Discussion:

Commissioner Dugan – I have a correction to your statement. The handicap ramp cost was \$18,000 not \$39,000.

Mayor Lambeth – we also voted in council to put a handicap space at Big Daddy's and that wasn't done.

Mayor Pro Tem Keener – there are 48 parking spaces from K Avenue to L Avenue and only three of those have been handicap spaces in the last few years. Now we are proposing four handicap. We are increasing by one and are still able to put in extra parking spaces. The one that is left is twenty feet wide. The other two are twenty-five feet wide and the requirement is 16 feet. We are getting four spaces for one. One at L Avenue, one at the pier, and two at the park. We only have to vote on removing one. We added two tonight with the approval of the last plan for the Ocean Front Park.

Mayor Lambeth – that's a great tradeoff unless you are in a wheelchair. I hope you are

never in a wheelchair. I want five handicap spaces.

Mayor Pro Tem Keener – there is a van accessible space at L Avenue, a van accessible at The ocean front park and at the pier and one will be added at Big Daddy's. We are removing one and adding two.

Dan Bell, attorney from Mike Robertson (pier owner) – what's in the letter is a compromise that was brought about with honest negotiations. This park has been fraught with special interest by one person after another. I think Chuck (Keener) has done a wonderful job in working on behalf of the town to try and reach a compromise. That's what that letter is. If you go back, there were no parking spaces there. Part of bringing the compromise was to bring handicap places to the park entrance where it crosses over. I'm asking you as a Council to put this to rest. Approve it. If it turns out in the future there is a problem, it can be fixed. If it's handicapped parking, that can be fixed. Don't tear this apart

Mayor Lambeth – the recommendation of the ocean front park committee was two handicap parking spaces in front of the park. I don't see any reasonable explanation to take it away. I have retained attorney Gary Shipman and will sue the town.

Commissioner Swearingen – if this doesn't work out and we get complaints that more people want more handicap parking, can this be changed?

Commissioner Dugan to Dan Bell – do you see as part of the original agreement, that any changes in parking on Atlantic Avenue have to come back to you for ok?

Bell – no, I don't see that. The plan approved at the last Council meeting has been changed to accommodate handicap spaces for the purpose of moving the park plan forward. If two or three years from now changes are to be made, that is a separate issue. I thought with that letter we were done. I have mailed letters based on that. This is better for the town. My client lost one more space if they were his spaces.

Mayor Pro Tem Keener – be aware the ocean front parking committee wanted only to remove parking in front of the pavilion.

Alan Votta, resident, stated the committee also wanted the curve in the road. If you had brought it to the committee we could have come up with suggestions. You did it on your own. The spots could be used as dual purpose for town maintenance and loading and unloading. To me you destroyed the whole concept of the park.

Nancy Brigham, resident, stated I agree with Alan Votta. Nobody came to us, you just went ahead and made the decision. The loading/unloading was a good idea, but I'm upset about losing the curve in the road and the aesthetics. Now you have one business owner who is happy and a lot of residents who aren't. The design is butchered and after two years of work.

Mike Robertson, business owner, stated those are not my parking spaces but my customer spaces and my fight was for them. I agree 100 % it is butchered. I got the committee their two handicap spaces with this compromise.

Committee Swearingen stated that for two years I have sat down there and fed the birds. I never see people parking in any of the handicap spaces. Disability is serious subject for me that I've been involved with for many years.

MOTION – Mayor Pro Tem Keener made the motion to accept the plan of one handicap space at L Avenue, two handicap at the park and one handicap at the pier.

SECOND – Commissioner Nelder

VOTE – motion did not carry

Keener, Nelder in favor

Dugan, Lambeth, Swearingen against

5. Discussion and consideration of letters sent by mayor under FOIA to NCLM, DENR AND CAMA

Commissioner Dugan stated that on December 2, the Mayor sent letters to NCLM, DENR and CAMA and in those letters he used the FOIA act to request number of Employees receiving benefits, retirement medical liability, registered as lobbyists, etc under town letterhead. The policy in town voted on in June 15, 2004 states 'the Town Council may commit the town's resources to a project, cause or issue. Individual members of the Town Council are free to express their personal opinions on their own stationery on any subject matter but may not speak for or obligate the Town except as previously agreed to by the Council as a whole.'

I feel the Mayor's action was in violation of this. There was no reason for this. My personal opinion is that these were political letters that were sent. I want to authorize the Mayor Pro Tem to send a letter to the three agencies saying this was not from the town but from a single individual.

Mayor Lambeth stated that he received responses from all three agencies and this is what we will be dealing with next month. We are going to have a retreat for finances of the town. In talking to Arlen (Finance Officer) we are obligated to a minimum \$645,000 and maximum of \$1.1 million dollars in retiree medical cost. I need as much information as I can get on this. Our first obligation as elected officials is to those people out there. The town must start reporting this. The State pension fund has a \$33 billion dollar short fall. Funds like these are used as slush funds. If we start putting monies aside I want consensus of Council that the money won't be touched, we need this information. I don't like surprises. I needed that information for intelligent discussion. This has to be addressed in the town's finances and can't be put off any more.

Commissioner Swearingen – you said small towns. DENR is not a small town. Why didn't you gather information from other small towns that are struggling with this rather than the largest department of our state government. Why didn't you go to the state personnel office rather than to DENR?

Commissioner Dugan - it doesn't change the fact that none of us on Council can decide for the others without consulting the others first.

Mayor Lambeth – well then Jim, let me address the letter (Mr. Bell) that we just discussed, because someone up here did speak for the other, so you can't have it both ways.

Commissioner Nelder – Mr. Bell is a private citizen and you are addressing all these different government entities as the town, as I see it, and I certainly don't understand why anyone would ask what % of the League of CAMA's operations come from taxpayer money. It's all taxpayer money.

Mayor Lambeth – no it is not. 38% of the operating capital for CAMA comes from different sources. That was another surprise.

Commissioner Dugan – since the agreement with Mike Robertson came up, Chuck when did you call for that meeting? Who contacted who for the original meeting?

Mayor Pro Tem Keener – Mike called me after the meeting with Dean (mayor). Dean called the meeting with Mike. Dean told me he called a meeting with Mike and Dan on Veteran's Day. I went to the meeting and that's how this started. Mike and Dean started arguing about parking and the next morning I received a call from Mike saying he had a plan but he couldn't talk to the mayor. I went and got the plan and talked it over with the board members. After the council meeting and we voted on it, the discussion came up about the handicap parking spaces.

Mayor Lambeth – Jerry (Hammill) I'm glad you are here. Who called that meeting?
(no response)

Commissioner Nelder – what does this have to do with your letters to CAMA and others? Do you (Dean) represent all the town? Mayor Lambeth – no.

Mayor Lambeth – the clerk asked me if I wanted the letter on town letterhead and I said, yeah, I guess.

Commissioner Nelder – so it's the clerk's fault?

Mayor Lambeth – so we have the same deal here with a letter addressed to Mr. Keener that makes reference to the fact that a deal has been consummated and letters sent to various agencies (DENR etc) saying these deal has been done.

Commissioner Dugan – but that had gone before the whole Council.
Mayor Lambeth – no it didn't.

Mayor Pro Tem Keener – I had that letter you referenced on the agenda and you had it

removed.

Mayor Lambeth – it's on the agenda.

Mayor Pro Tem Keener – because you added it after you removed my item.

Attorney Canoutas called for a point of order.

MOTION – Commissioner Dugan made the motion for the Mayor Pro tem to send a letter to three agencies (NCLM, DENR and CAMA) saying the previous letter sent by the Mayor re the FOIA request is not from the town but from a single individual.

SECOND – Commissioner Swearingen

VOTE - Unanimous

6. Discussion and consideration of letter of support to County Commissioners to appoint Anne Brodsky to serve as the Town's representative on the Tourism Development Authority (TDA)

MOTION – Commissioner Swearingen made the motion to send the letter to the County Commissioners supporting Anne Brodsky as the town's representative on the TDA.

SECOND – Commissioner Nelder

VOTE – Unanimous

7. Accept resignation of Eric Vann from the Ocean Front Park (OFP) committee

Mayor Lambeth stated that Eric Vann sent a letter saying he was resigning from the Ocean Front Park committee.

Discussion:

Commissioner Dugan – why wasn't this on the consent agenda like the other resignations?

Mayor Lambeth - Eric Vann was supposed to be here tonight, but he isn't and that is why it was on the regular agenda.

MOTION – Commissioner Dugan made the motion to accept Eric Vann's resignation from the OFP committee.

SECOND – Commissioner Nelder

VOTE – Unanimous

CLOSED SESSION

MOTION – Commissioner Swearingen made the motion to go into closed session for the purpose of discussing legal matters at 9:47 pm

SECOND – Commissioner Nelder

VOTE - Unanimous

MOTION - Commissioner Nelder made the motion to return to open session at 10:01pm.

SECOND – Commissioner Dugan

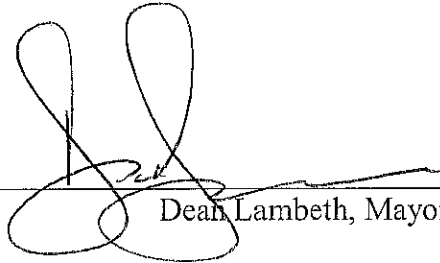
VOTE – Unanimous

ADJOURNMENT

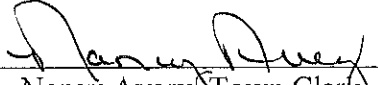
MOTION – Commissioner Dugan made the motion to adjourn at 10:02 pm

SECOND – Commissioner Nelder

VOTE - Unanimous



Dean Lambeth, Mayor

ATTEST: 

Nancy Avery, Town Clerk

