



TOWN COUNCIL MINUTES

REGULAR MEETING MINUTES

TUESDAY, NOVEMBER 15, 2011

The Kure Beach Town Council held a regular Council meeting on Tuesday, November 15, 2011, at 6:30 pm. Attorney Canoutas was in attendance and there was a quorum of Council present.

COUNCIL MEMBERS PRESENT:

Mayor Dean Lambeth
Mayor Pro Tem Chuck Keener
Commissioner Jim Dugan

COUNCIL MEMBERS ABSENT

Commissioner Emilie Swearingen
Commissioner vacancy

STAFF PRESENT

Building Inspector -John Batson
Finance Officer – Arlen Copenhaver
Town Clerk – Nancy Avery

CALL TO ORDER AND WELCOME

Mayor Lambeth called the meeting to order at 6:30 pm. Mayor Pro Tem Keener delivered the invocation. Mayor Lambeth led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

None

Mayor Lambeth asked County Commissioner Rick Catlin to speak regarding a proposed Inter Local Agreement with the County and the three beach towns on beach nourishment.

Commissioner Catlin stated:

- The Federal government is not going to participate in beach nourishment unless something drastically changes.
- He recognizes how important that is to everyone.
- This has important historical national significance because we are finding a way to help ourselves when our Federal partner let us down.
- This agreement allows us to make up the rest if we do receive Federal funding and if we don't. This is a worst case scenario if there is no Federal or State money.
- In projections on Room Tax, with no Federal funding but State funding, the beach nourishment fund is sustainable, even with this bad economy.
- If the State government doesn't participate to their normal level, the fund crashes and burns. If there is no State funding, local governments may have to contribute up to a maximum of 17 ½ % to make up the difference.
- Without this Inter Local Agreement he doesn't know how we will get through the next cycle. It allows automatic renewal, and the Town won't have to come to the County Commissioners and beg for the 82 ½ % because it establishes that.



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- He is asking for a vote to approve the Inter Local Agreement and then he will go to both Carolina Beach and Wrightsville Beach for their approval.
- The Town doesn't have to sign, but if you need money in the future, you may have a different make up of County Commissioners and it may be rough to get funding.
- He predicts there won't be any cost impact to beach communities on this next cycle. We need to get this going because Carolina Beach is running out of time on their next beach nourishment.

APPROVAL OF CONSENT AGENDA

1. Accept resignation of Bill McGee from Citizens Budget and Finance Advisory Committee
2. Fire Department reports for September and October, 2011
3. Building Department report for October, 2011
4. Finance Report July – November 2011
5. Minutes:
 - October 11, 2011 Community Center & Parks & Recreation
 - October 18, 2011 public hearing sidewalk on north K Avenue
 - October 18, 2011 regular
 - October 25, 2011 OFP and closed
 - November 1, 2011 joint with P&Z

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

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

ADOPTION OF THE AGENDA

MOTION – Commissioner Dugan made the motion to remove item # 2 'OFP update' from Old Business due to possible contract issues.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

MOTION - Commissioner Dugan made the motion to table item # 4 'Appointment to NHC Commission on Women' under Old Business to the January 2012 meeting

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

MOTION – Mayor Pro Tem Keener made the motion to adopt the revised agenda.

SECOND – Commissioner Dugan

VOTE - Unanimous



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PRESENTATIONS TO COUNCIL

Victor Blackburn of Bernard Robinson & Company, presented the FY2010- 2011 audit stating:

- He won't get into a lot detail but will hit the highlights.
- Page one of Financial Statement gives our unqualified opinion, which is the cleanest opinion you can receive.
- There was nothing that came up that we had problems with.
- We had some issues when we started the audit with this being our first year. There were some prior year numbers that needed to be adjusted. This is referenced in note 3 on page 38 of the Financial Statement.
- The largest item adjusted was in fixed assets, related to the Capital Projects Fund with amounts listed as construction projects. Several were projects that had been closed out in previous years but were never removed from the Capital Improvement Projects and ended up being booked twice. We had to readjust the net assets in the Governmental Funds by approximately \$2.4 million.
- Also, in the Water/Sewer Fund, a Federal loan had been received in a past year and recorded as revenue instead of as a loan. We had to reduce the net assets by \$270,000 to correct this.
- There is a strong Fund Balance and the Town increased net assets by approximately \$600,000 from last year. Even with the economic issues we face, and dealing with other municipalities, this is very good.
- The general rule with LGC (Local Government Commission) is to have 8% of General Fund expenditures in reserves. The Town's General Fund has about \$1,200,000. That represents about 38% and blows the 8% requirement out of the water.
- Some of the things we cleaned up this year were other capital project funds. The biggest one had a \$800,000 deficit, meaning expenditures exceeded revenue for several years. We transferred monies from the General Fund to close out those projects. The Town took a hit in the General Fund but wiped out the deficit in the Capital Project Fund and set it back to zero.
- There were budget transfers that needed to be done in previous years that were never done, so we did them this year to get it cleaned up.
- If you combine the General Fund and the Project Fund, the overall Fund Balance didn't change much. You still had some slight increase even with a negative balance in the Capital Project Fund over the past two or three years.



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PERSONS TO ADDRESS COUNCIL

1. Ray Worrell, 903 Fort Fisher Boulevard, stated:
 - He has lived here year round for 5 years and has 3 businesses in Wilmington.
 - He just noticed in the past couple of years that the summer brings a different element.
 - There are many weekly rentals around us, especially duplexes. We deal with noise and trash and a recent concern this year is weddings that are happening. Ceremonies on the beach are no problem. People that own property that have receptions are no problem. The problem is the weekly renters with a wedding on the beach and a reception with 50 or so people. They have to find places to park. My neighbor next to me has found a place where 50 people can park and have a reception across the street on the beach. The problem is when the reception is at a private residence afterwards. There is a caterer and a wedding planner. People owning these places are renting out these houses as a business, and this is in a residential district. We discussed this with the mayor a few Saturdays ago.
 - A recent concern has been when fireworks were set off at a reception and set my neighbors yard on fire.

2. Beverly Brewer, 902 North Fort Fisher Boulevard, stated:
 - Her first night in her new home was Saturday when there was a fire from the fireworks Ray referenced.
 - She has owned at Ocean Dunes for 5 years, so she understands parties.
 - There were 30 + people at this duplex. Caterers were set up, there was an open bar on the deck. There was a lot of noise, music was blaring, there was a microphone, and a disco ball. It was set up for a wedding reception. They set off fireworks. Large ones that went sideways and set the sea oats on fire. It was scary. This was as the police approached.
 - She doesn't mind a wedding, but there should be some restrictions. You need to prevent this from happening or she will have to sell her house.

3. Phyllis Mojzis, chairman of the Beach Committee, stated:
 - The committee wants to work with John Batson (Code Enforcement Officer) to develop a form letter for all future weddings for people that rent their homes for weddings and receptions.
 - The committee is asking Council to enforce the ordinances and wrote a letter to Council regarding this.

Ms. Mojzis read the letter her committee sent to Council. The letter is herein incorporated as part of these minutes.



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4. Jay Johnson, 503 Seahorse Place, stated:
- He represents Sea Watch community.
 - We are hopeful we can participate in some of the shortfalls we have with public agencies.
 - We wrote a letter to Council proposing an infiltration system at our beach access like the units at the pier.
 - The current outfall is an eyesore and is a health hazard because of bacteria.
 - We are offering to help offset some of the costs. This has not been ratified or agreed to with our all our community members yet. We want to know if this is a viable project or not first.

Mr. Johnson read the letter to Council. The letter is herein incorporated as part of these minutes.

Discussion

Mayor Lambeth:

- You are referring to one of the worst and nastiest storm water outfalls we have on the beach.
- He will discuss this with State representatives.
- He is happy the community is stepping up. The letter mentions \$8,000 from Sea Watch.

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1) Inconsistencies regarding term limits, staggered terms and tracking terms among ad hoc committees and term expirations

Town Clerk Avery stated:

- There are some inconsistencies that we have with our ad hoc committees.
- Per the committee policy, the ad hoc committees are:
 - Annual Street Festival
 - Beach Protection
 - Beautification
 - Citizens Finance & Budget
 - Community Center
 - Marketing
 - Parks & Recreation Advisory Board
 - SLAP
- By committee policy, Council fixes the term for each committee. Policy doesn't require or even address staggered terms.



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- We have 3 ad hoc committees that don't have terms set. (Annual Street Festival, Marketing and Beach Protection)
- We have 2 ad hoc committees that have terms set that aren't staggered. (Beautification and SLAP)
- We have 3 ad hoc committees that have terms set that are staggered. (Citizens Finance and Budget, Community Center, P&R)
- We have situations where a committee member resigns 2 years into a 3 year staggered term, another member is appointed to fill that remaining 1 year and then at the end of the year Council has to advertise for that position, the member has to reapply, be interviewed by the committee again and Council has to appoint. The committee policy does not allow for renewal of a term.
- Then we have the situation where a committee has members that don't have terms so they are never required to go off the committee.
- We currently have 8 ad hoc committees with 62 members. There are 10 vacancies. This year we had 8 members resign from ad hoc committees and 9 members appointed to ad hoc committees.

Clerk Avery suggested:

- Council consider doing away with staggered terms for those ad hoc committees that have them. When a member resigns and another is appointed, that member is appointed for a full term, not a partial one. This would cut down on the amount of time staff and committee chairmen spend tracking terms.
- Council be consistent with setting or not setting terms for all ad hoc committees.
- It is possible Council may be making it too cumbersome for someone to serve on a committee, especially utilizing staggered terms and not allowing for any renewal of a term without going through the application process.
- This is food for thought. It might be good to discuss at the next joint meeting of the committee chairmen and get their input.
- Parks & Recreation Advisory Board is listed as an ad hoc committee in the Committee Policy, but shouldn't be because they are a State mandated board. If Council has no objection, she will correct that in the policy.

Clerk Avery stated that the following committee members terms are up and she needs Council authorization to advertise for vacancies.

- Donna Bud and Irene Barber from the Community Center
- Arnette Clark (alternate) from P&R
- Tony Gonsalves and Priscilla Smith from SLAP

CONSENSUS - Town Clerk to provide information about committee term inconsistencies to committee chairmen for discussion at next joint meeting in December and correct the committee policy to reflect Parks & Recreation Advisory Board as a State mandated board.



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CONSENSUS – Don't advertise for vacancies on expiring terms until after December 15th meeting with committee chairmen.

DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

Admin and Finance

1. Town Hall closing early

Town Clerk Avery requested Council authorization to close Town Hall at noon on Wednesday, November 23rd for the day to allow employees to attend appreciation luncheon and have the rest of the afternoon off.

MOTION – Commissioner Dugan made the motion to close Town Hall at noon on Wednesday, November 23, 2011 for the day.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

2. Adoption of Resolution R11-21 Financing terms

Finance Officer Copenhagen requested Council adopt resolution R11-21 approving financing terms with First Bank in an amount not to exceed \$29,547 at a rate of 1.50% for a term not to exceed four years for the purchase of a utility service truck for Public Works. This is a budgeted item.

MOTION – Commissioner Dugan made the motion to adopt resolution R11-21 as presented.

SECOND – Mayor Pro Tem Keener

VOTE - Unanimous

Said resolution R11-21 is herein incorporated as part of these minutes.

There was no other department business.

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. Beach nourishment Inter Local Agreement - update and adoption

Commissioner Dugan stated:

- There are other things coming down the pike that have the potential to be as costly as this (beach nourishment).
- The Inter Local Agreement doesn't force us to do it even if we agree. We can back out at any time and the money is used for the other two towns, if they choose to stay.
- It puts us in a worse position if we have to pay for it ourselves.
- This doesn't address inlets. That's an additional item.



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- At the last meeting about this, the US Corp of Engineers was there and they were asked about funding. A civilian employee stated the Colonel may be the only one there because it is a different funding stream.
- He doesn't see why we can't enter into this and see if it will work. If it doesn't work, we get out before the next beach nourishment.

Mayor Lambeth stated:

- If we didn't receive any matching funds for beach nourishment, our 17.5% would be \$340,000, and we don't have the money. Other mayors are concerned that we can't tap into the \$35 million in the bank (room tax).
- He doesn't have any problem with 17.5 % in the Inter Local Agreement because we can walk away from it.
- He will support the Inter Local Agreement. He wants to bring it to Council's attention, that if we have to come up with the money, we don't have it and we need to plan for the future.
- This puts this in the County's hands. We are finally thinking outside the box.
- We are in a good position with the County starting this fund years ago.
- We need to plan for the worse case scenario in future budgets.

MOTION - Mayor Lambeth made the motion to agree to the Inter Local Agreement for beach nourishment.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

Said Inter Local Agreement is herein incorporated as part of these minutes.

2. Sidewalk on north side of K Avenue

Council held a public hearing on November 15, 2011 at 5:30 pm regarding a proposal to install a sidewalk on the north side of K Avenue

Mayor Pro Tem Keener stated:

- He loves public hearings because he always learns something.
- A few years ago we talked about putting in parking in front of the people's houses that were here tonight. The plans didn't have driveways and when those were incorporated, there was no room for parking.
- We should look into this storm water problem that they talked about.
- Hopefully we can delay this project. We need to work with Public Works, Engineering Services and DOT if we are going to put in a sidewalk.



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Commissioner Dugan stated:

- We voted for a sidewalk.
- We need to work on curbing and guttering and storm water problems.
- If we table and don't go forward, it would be a matter of taking care of these issues. Curbing and guttering are great, but anywhere there is a driveway, there is an opening, and there will still be a problem.

Town Attorney Canoutas stated Council needs to determine how the installation of a sidewalk will impact storm water and flooding.

MOTION – Mayor Pro Tem Keener made a motion to rescind prior approval of a sidewalk 10 feet off the road.

REVISED MOTION - Mayor Pro Tem Keener changed his motion to table the sidewalk plans until they include a storm water plan.

SECOND – Commissioner Dugan

VOTE -Unanimous

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Letter regarding in kind support for storm water detention structure at Sea Watch beach access

Mayor Lambeth:

- There are two vacant lots at the Sea Watch beach access now and egress and ingress is easy.
- With Council's permission he will work with Senator Rabon and other legislators.

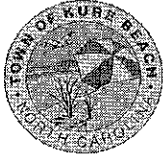
Commissioner Dugan:

- This is not a budgeted item.
- In the past our matching has been in kind and has been work performed by Public Works.
- He thanks Sea Watch for the offer of funds.
- As it stands now, N. C. State is done with the infiltration project. They will have to gear up again. You are not looking at the end of the year to have this done.

Mayor Pro Tem Keener asked how has it been determined that this is the next project?

Eric Vann, member of the Storm Water Committee, stated:

- Previously, the two worse storm water issues we had that needed work were Beach Walk and Davis Road.



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CONSENSUS – The Mayor will enter into discussions with Raleigh, the DOT and any other agencies required. He will start sending letters.

2. Clean up issues regarding weddings on the beach

Discussion

Mayor Lambeth:

- Heard tonight that weddings on the beach have become problematic
- John (Building Inspector) doesn't work weekends.
- We need to address the quality of life for residents regarding these weddings.
- Weddings do bring TDA (Tourism Development Authority) money and we have had one of the best year's this year.
- People moved here for quality of life.
- He has discussed this with Chief Cooper. When the police attend, party goers say they will stroke a check for the fine because they don't care. We need some teeth in our enforcement.
- The situation with the dunes catching on fire is not acceptable.
- He would like the Beach Protection Committee to come up with power points.

Building Inspector Batson:

- We had a lot of problems before with tents on the beach.
- We turned that around with requiring permits to have tents on the beach.
- When a wedding comes into Town, we could have them come in and post a bond and hold the realtor company responsible for clean up.
- He is aware of most weddings. Most people call and want to know what they can and can't do. Most people are considerate.

Town Attorney Canoutas said they violated State statute with fireworks and setting the dunes on fire. That is the Police Department responsibility. It becomes a misdemeanor with a second violation.

Phyllis Mojzis, Beach Protection Committee:

- Most weddings we have no problems, but this particular location is the main problem. Does this property owner know these things are going on? Maybe if the property owner knows, they can help.
- Fireworks are a public safety issue and they should have been fined.

Building Inspector Batson replied the property owner is in Georgia and he knows and he has contacted the realty company that rents it.



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Audience member comments:

- Obviously this is a business and this property is not in the business district.
- Can you restrict occupancy?
- Can you restrict occupancy on a deck?

Building Inspector Batson replied that some of these areas are zoned business residential, and you can't restrict occupancy.

Commissioner Dugan:

- We need to look at ordinances on the books about noises versus private property.
- We have to live up to our end and make property owners live up to their end.
- It means more work for both the Police Department and the Building Department.

CONSENSUS - Attorney to research, and work with Building Inspector Batson to bring a recommendation to the December meeting regarding issues with houses being rented for weddings and receptions as to noise, nuisance and public safety issues.

3. Resolution R11-20 Request from MPO supporting restoration of rail line between Wallace and Castle Hayne

Discussion

Mayor Lambeth:

- He won't support this resolution.
- The tracks used to belong to NXS rail systems and they had them removed when they sold the property to the State.
- He is against using State funds to put in another rail system.
- Senator Rabon said he didn't know anything about this.
- Representative Hamilton said this was a bi-partisan decision.
- Doing this would save wear and tear on I40.

CONSENSUS OR ACTION - none

4. Scheduling December organizational meeting to seat new Council members

MOTION – Mayor Lambeth made the motion to change the regular council meeting from December 20, 2011 to Monday, Dec 5th at 6:30 pm to hold the organizational meeting.

SECOND – Commissioner Dugan

VOTE - Unanimous



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5. Storm water fees for 1/2 size lots

Discussion

- Mayor Lambeth stated we have 25-30 half size lots.
- They shouldn't have to pay same fees as larger lots.

Commissioner Dugan:

- We have a lot of duplexes, condominiums, Riggins and Ocean Dunes. What about them?
- He is for keeping the fee consistent for everyone because everyone benefits.

Eric Vann, Storm Water Committee:

- If the half lot is built on, there is probably more impervious area on a percentage basis which creates more storm water problems.

Marvin Rouse, property owner:

- When we remodeled, we had to follow the 65% pervious guidelines, so if you have a half lot, why should you have to pay more? We had to meet same setbacks.

CONSENSUS OR ACTION – none

CLOSED SESSION

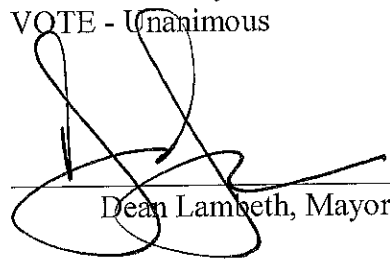
None

ADJOURNMENT

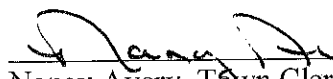
MOTION – Commissioner Dugan made the motion to adjourn at 8:08 pm

SECOND – Mayor Pro Tem Keener

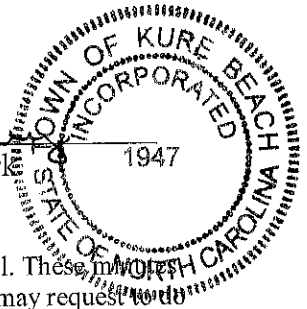
VOTE - Unanimous



 Dean Lambeth, 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 a copy so by contacting the Town Clerk