

# Minutes



## REGULAR MEETING

JULY 19, 2012 @ 6:30PM

The Kure Beach Town Council held their regular Council meeting on Thursday, July 19, 2012, 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	Emilie Swearingen
Commissioner	David Heglar
Commissioner	Steve Pagley

### STAFF PRESENT

Building Inspector – John Batson  
Police Chief – Dennis Cooper  
Fire Chief – Harold Heglar  
Finance Officer – Arlen Copenhaver  
Town Clerk – Nancy Avery  
Deputy Town Clerk – Nancy Hewitt

### CALL TO ORDER AND WELCOME

Mayor Lambeth called the meeting to order at 6:30 pm. The invocation was delivered by retired pastor and Kure Beach resident, Eric Blahut. Mayor Lambeth led everyone in the Pledge of Allegiance.

### OPENING OF PUBLIC HEARING

Mayor Lambeth called the public hearing to order at 6:32 pm stating the purpose of the hearing was to receive public comments regarding a proposed amendment to Chapter 19 Zoning, Article IV Supplemental District Regulations, Section 321.5. Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.

Notice of this hearing was posted at Town Hall on 7/3/12 and advertised in the Island Gazette newspaper on 7/4 and 7/11/12.

### Public Comments

1. Tyler Newman, Business Alliance for a Sound Economy (BASE)  
Mr. Newman stated that the draft amendment to the ordinance doesn't address pervious pavement and pavers. It should be consistent with the definition that is in the Town's Storm Water ordinance for "Built-upon area."

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### 2. Eric Vann, 733 Sailor Court

Mr. Vann said that the proposed ordinance doesn't allow for permeable pavers to be included. According to the NC Department of Natural Resources (DENR), gravel driveways are considered impervious. The proposed amendment which says gravel driveways are permissible and are considered pervious is inconsistent with the Town's Storm Water ordinance.

After being called to the podium by Mayor Lambeth, Inspector Batson explained that the current ordinance doesn't cover permissible materials to be used for driveways. So, he asked the Planning and Zoning (P&Z) Commission to clarify the ordinance.

As no one else indicated their intent to speak, the Mayor asked for a motion to close the public hearing.

## ADJOURNMENT OF PUBLIC HEARING

MOTION – Commissioner Heglar made the motion at 6:40 pm to close the public hearing.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

## RECOGNITION AND AWARDS

Fire Chief Harold Heglar recognized Councilman David Heglar for winning three gold medals at the lifeguard competition held last week in Jacksonville, FL, as well as the Town's lifeguard staff for representing Kure Beach well at the competition.

## APPROVAL OF CONSENT AGENDA

1. Appoint Michael Bledsoe to Shoreline Access & Parking Committee
2. Finance Report – 7/1/11 to 6/30/12
3. Fire Department Report – June 2012
4. Meeting Minutes:
  - June 19, 2012 Regular
  - June 27, 2012 continued to July 2, 2012 Emergency Renourishment

MOTION – Commissioner Swearingen made the motion to approve the Consent Agenda.

SECOND – Commissioner Heglar

VOTE – Unanimous

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### ADOPTION OF THE AGENDA

Mayor Lambeth asked the other Council members to give him any issues they'd like to have discussed if they are not planning on attending the joint breakfast meeting to be held next week with the County and Carolina Beach Councils.

MOTION – Commissioner Heglar made the motion to adopt the agenda, as presented.

SECOND – Commissioner Swearingen

VOTE – Unanimous

### DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. Beverly Veals, 908 Carolina Beach Avenue N., Carolina Beach

She said that her son who is a Kure Beach lifeguard has asthma and is greatly affected when sitting down wind from someone smoking on the beach while he is on duty and urged Council to approve a smoking ban on the beach.

2. Gabby Kraus, 815 Largo Way, Chairperson of Parks & Recreation Advisory Board  
He thanked Council, Town staff and his committee for helping to get the tennis court's practice backboard pushed through and thanked tennis instructor Billie Fitzsimons for bringing the idea and purchase information to the Board.

3. Ethan Crouch, 932 Searidge Lane, Carolina Beach

He explained the hazards of second hand smoke and the toxic properties of cigarette butts. He asked Council to take steps to ban smoking on the beach and reduce litter on the beach.

4. Bill Scott, 641 Sloop Point Lane, Owner of Set Up Events

Mr. Scott said he originally received an invoice from the Town for \$3,900 to hold the event. He felt the charges were exorbitant and felt some of them were unnecessary. After protesting the invoice to Town staff on Tuesday of race week the invoice was reduced by almost half. His objection is against the \$240 charge to pay two firemen to be at the Fire Station for three hours each. It is his understanding that the reason for this charge was because they had originally planned on putting the transition area in the corral area near the Fire Station. So, he moved the transition area to the baseball field so there would no longer be an issue of crossing the driveway. He said he never had to pay for the firemen in all of their previous Triathlon events in Kure Beach and he doesn't know why he has to pay for them now since nothing changed from previous years.

Commission Heglar said he told a Set Up Events representative they should have come a lot earlier in the year to request the event rather than waiting as long as they did. He felt that had

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a lot to do with the confusion. He said it is up to the Police and Fire Chiefs to say what is needed from their departments for the safety of the Town and its inhabitants; it is not Set Up Event's decision to make.

Mr. Scott explained that the event has always been held on the final weekend in June. But, his organization was asked by Council to move the date up so the hotel owners could take advantage of participants coming earlier in the year rather than coming during peak season.

Commissioner Heglar stated that Council was led to believe that it would be good for Kure Beach businesses to hold the event. But, when he looked at Set Up Events' website he didn't see any Kure Beach hotels advertised on their website.

Mary Toffolon from Set Up Events said they have a lodging section on their website where the hotels were listed and the participants also received that information in their registration packets.

Commissioner Heglar said that Set Up Events should have disputed the invoice before the fact rather than waiting until right before the event.

Mr. Scott said he would like to submit his application for next year's Triathlon immediately so that Council can give him a ruling by September 1<sup>st</sup> whether or not the Town wants them to come back.

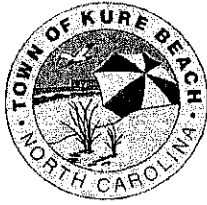
Fire Chief Heglar explained the reason for the necessity of the charge from the Fire Department.

Mr. Scott said that the reason he was given for the extra charge was because of the location of the transition area which was changed back to where it was in previous years and feels the charge should be removed.

Mayor Pro Tem Keener asked why the invoice amount was dropped by almost half.

Inspector Batson explained that he made a mistake on the first invoice and other changes were made by Mr. Scott to the schedule after some events were canceled. The original invoice was submitted to Set Up Events on May 9<sup>th</sup> and the objection from Mr. Scott came on May 29<sup>th</sup>.

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Mr. Scott handed Council a copy of his original invoice and the revised invoice. Mr. Scott explained what other towns charged for their services and said he felt Kure Beach far exceeded any other town's charges, proportionately.

Commissioner Heglar said that, overall, the Town only charged him \$2,100 to hold an event that grossed his event company over \$30,000.

Gabby Kraus, Chairperson of the Parks & Recreation Advisory Board said that Set Up Events representatives were helpful and professional and worked well with the Board. He felt that Commissioner Heglar was "bullying" Mr. Scott.

Commissioner Heglar said he wasn't trying to bully Mr. Scott. He said when any committee or commissioner comes up with a great idea they must understand that the public safety in the Town is the responsibility of the department heads.

Chairman Kraus said that if the department heads need to be involved, then Council should tell them they need to come to the committee's meetings.

Commissioner Heglar said that they don't have to come to the committee meetings. The committees should bring their information to the department heads.

MOTION – Commissioner Heglar made the motion to re-invoice Set Up Events for the unpaid balance of \$240 from this year's Triathlon and Sportsfest Events.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

Mayor Lambeth called for a 5 minute recess at 7:42 pm.

Mayor Lambeth resumed the meeting at 7:47 pm

## DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

### 1. Shoreline Access & Parking (SLAP) Committee

- Authorize purchase of beach wheelchair from committee budget.

SLAP Chairman Tony Gonsalves explained the reason behind the purchase of another beach wheelchair. He asked Council to approve the invoice and for the funds to be taken out of the Committee budget.

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Commissioner Swearingen said the Island Women were raising money for beach wheelchairs and might be able to help with its purchase.

Chairman Gonsalves said that they needed the beach wheelchair now. If they don't have the money now, the Town would gladly accept another wheelchair from the organization.

Finance Officer Copenhaver said that the money received from the organization could be put back into the Committee budget.

There was discussion about the whether money was allocated in the current budget for the wheelchair.

Commissioner Swearingen said she would have Island Women get in touch with Mr. Gonsalves.

MOTION – Commissioner Pagley made the motion to approve the purchase of the beach wheelchair as requested by the Shoreline Access & Parking Committee, to be paid for out of the Committee budget.

SECOND – Commissioner Heglar

VOTE – Unanimous

## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Admin and Finance

- Preview new website

Town Clerk Avery demonstrated the new website to everyone via projector. She showed the different web pages and explained all of the capabilities the new website will have. She hoped the website would be up and running by the beginning of August.

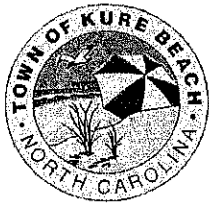
### 2. Building Inspections

- a. Inspector Batson gave a report on the progress of the Ocean Front Park's pavilion and bathrooms. He said the Town will have to put out a new RFP to find someone else to construct the swings and benches. He received RFP's for playground equipment and a wooden pirate ship would cost \$5,163; recycled plastic playground equipment would cost \$14,921.

MOTION – Commissioner Heglar made the motion to accept the proposal for a wooden pirate ship for the Ocean Front Park's Tot Lot at a cost to the Town of \$5,163.

SECOND – Commissioner Pagley

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VOTE – Unanimous

- b. Inspector Batson said he got a request from a film company to shoot a scene on Dow Road and the road would need to be closed from Ocean Boulevard to K Avenue, west of 7<sup>th</sup> Avenue, from 7am to 7pm next Wednesday, July 25<sup>th</sup>.

MOTION – Commissioner Heglar made the motion to allow the closing of Dow Road from Ocean Boulevard to K Avenue, west of 7<sup>th</sup> Avenue, next Wednesday, July 25 from 7:00 am to 7:00 pm, if DOT will advertise the closing 48 hours in advance with their signs posted at both ends of the closed area.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

- c. Commissioner Swearingen asked Council to approve a date for a joint workshop with Planning & Zoning sometime toward the end of September, to discuss the K Avenue Extension project.

CONSENSUS – The Planning and Zoning Commission is to present to Council, at its regular August meeting, a firm date in September when they would like to hold a joint work session with Council to discuss the K Avenue Extension project.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Requiring Fees for Non-Profit Events

Inspector Batson stated that he and the Town Attorney created language regarding fees for non-profit events to be made into a Town policy rather than an ordinance.

MOTION – Commissioner Heglar made the motion to adopt the policy regarding special events for non-profits, as presented, as a new Section 3.02 for the Town's Policy Manual.

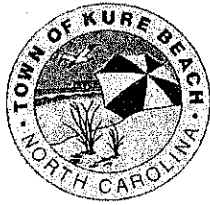
SECOND – Commissioner Pagley

VOTE – Unanimous

(Note that the new policy states that the Got Em On Live Bait Club, Step Up For Soldiers, Carolina Beach Parks & Recreation Children's Fishing Tournament and the Trinity Charity Ride are exempt from having to make application with the Town for approval of its events.)

Said policy is herein incorporated as part of these minutes.

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2. Draft amendment to Chapter 19 Zoning, Article IV Supplemental District Regulations, Section 321.5. Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.

Mayor Lambeth stated that, after hearing from several people during the public hearing, he wanted the draft amendment to be sent back to the Planning & Zoning Commission so they can integrate the State Statute and Storm Water ordinance requirements into it.

MOTION – Commissioner Heglar made the motion to send the draft amendment to Chapter 19 Zoning, Article IV Supplemental District Regulations, Section 321.5. Prerequisite to construction, demolition, remodeling and impervious surfaces, etc. back to the Planning & Zoning Commission to make it consistent with the Storm Water Ordinance and then bring it back to Council for approval.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

3. Beach Renourishment

Mayor Lambeth gave an update on the Town's Beach Renourishment efforts.

Commissioner Heglar said that since they were given approval by the State Legislature to allow Carolina Beach to give the funds to Kure Beach, the Town shouldn't need the loan from the County.

Commissioner Swearingen said it depends on how quickly the Corps of Engineers needs the money. They may need it quicker than the State Legislature can get us the funds.

Commissioner Heglar said that the County would also have to front the State money, too. He said the Town would pay the County for what they're making on the interest from the money, but no more than that.

Finance Officer Copenhaver said that the County had planned to front the money to Carolina Beach at no cost, so they should be willing to do the same for Kure Beach.

No action was taken regarding Beach Renourishment.

## DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Smoking on the beach



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Mayor Lambeth asked Town Attorney Canoutas what the legalities of banning smoking at Kure Beach are.

Town Attorney Canoutas informed Council that under State Statute, Article 23 "Smoking Prohibited in Public Places and Places of Employment," Section 130A-491 through 130A-498, it states that local government can pass these ordinances on local government grounds. He then read the definition of "Grounds" in the statute: an unenclosed area owned, leased or occupied by state or local government. He said that the Town of Kure Beach doesn't own any of its public beach area. Historically, when the Kure family started selling beach front properties, they sold them to the high water mark. It is in general trust by case law that the general public is allowed to use the beach and it is his opinion that the Town doesn't have authority to prohibit smoking on the beach. He said that Kure Beach has an easement line for Beach Renourishment and CAMA takes care of our problems out on the beach.

Mayor Lambeth stated that the Town could still site cigarette smokers for littering if they disposed of their cigarette butts on the beach.

Commissioner Heglar said he remembered having to go to the beach front property owners to have them sign away their rights prior to beach renourishment.

Town Attorney Canoutas said that they got the signatures for the Corps of Engineers to have the right to go on the owners' land when doing Beach Renourishment. The owners own the property, but the Town has a perpetual easement to use the beach.

Commissioner Heglar said he remembered that, if the ocean was to recede, the property owners still couldn't build anything on the beach.

Town Attorney Canoutas said that beyond the easement line, it runs to the high water mark. So the property owners still own past the easement line but they can't build on it.

Commissioner Swearingen asked if the State had any authority to put a smoking ban on the beach.

Commissioner Heglar said that the State could change the statute and then the Town could enforce a smoking ban.

Andy Barnhart, chairperson of the Beach Protection Committee said that the Town should get serious about littering on the beach.

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No decision was made regarding a ban on smoking on the beach.

ADJOURNMENT

MOTION – Mayor Pro Tem Keener made the motion to adjourn.

SECOND – Commissioner Heglar

VOTE – Unanimous

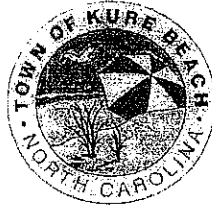
Meeting adjourned at 8:25 pm.

Dean Lambeth, Mayor



ATTEST: Nancy Hewitt, Deputy Town Clerk

NOTE: These are action minutes reflecting items considered and actions taken by Council. These minutes are not a transcript of the meeting. Persons wishing to hear the recording of this meeting may request to do so by contacting the Town Clerk.



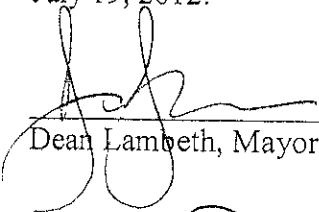
## KURE BEACH TOWN POLICY

### SECTION 3.02 – SPECIAL EVENTS FOR NON-PROFITS

With the exception of the following listed below, all other non-profit organizations shall make applications to the Town of Kure Beach for the use of its facilities and streets and the Town Council shall determine whether or not they shall be exempt from monetary charges imposed by the Town.

1. Got Em On Live Bait Club
2. Step Up For Soldiers
3. Carolina Beach Parks & Recreation children's fishing tournament
4. Trinity Charity Ride

This policy is hereby adopted by unanimous vote of the Kure Beach Town Council on July 19, 2012.

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

ATTEST:

  
\_\_\_\_\_  
Nancy Avery, Town Clerk