



TOWN COUNCIL MINUTES

REGULAR MEETING MINUTES

AUGUST 21, 2012

The Kure Beach Town Council held their regular Council meeting on Tuesday, August 21, 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
Finance Officer – Arlen Copenhaver
Police Chief – Dennis Cooper
Fire Chief – Harold Heglar
Head Lifeguard – Ed Kennedy
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. Pastor Brian Langley from Kure Beach Baptist Church delivered the invocation. Mayor Lambeth led in the Pledge of Allegiance.

RECOGNITION AND AWARDS

1. The Mayor read Proclamation 12-03, recognizing September 17-23, 2012 as Constitution Week.

Said proclamation is herein incorporated as part of these minutes.

APPROVAL OF CONSENT AGENDA

1. Accept resignation of Nancy Brigham from the Parks & Recreation Advisory Board
2. Proclamation P12-03 declaring September 17-23, 2012 as Constitution Week
3. Approve \$564 for 47 tickets to NC Art Museum exhibit: 10/30/12 bus trip
4. Change Order #6 for \$29,267.40 – Ocean Front Park
5. Finance Report: 7/1/12-8/9/12
6. Building Inspections Report – July 2012
7. Fire Department Report – July 2012
8. Meeting Minutes:
 - July 19, 2012 regular meeting



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

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

ADOPTION OF THE AGENDA

- Commissioner Swearingen asked that MPO Greenway Plan Update be added as Item 1 under Old Business.
- Commissioner Heglar asked that Item 1 under New Business be moved to Item 2 and that Item 1 would become Set Up Events Triathlon Fees.

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

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. Eric Vann, 733 Sailor Court

He stated that at last month's Council meeting he heard Mr. Scott's complaints about the fees the Town charged him for the 2012 Triathlon. He then read an email that Mr. Scott sent out to Triathlon participants that stated the Town "trumped up charges" which Mr. Vann said he took exception to. After expressing his disgruntlement with Mr. Scott's accusations in said email, Mr. Vann urged Council to not approve Mr. Scott's application to have a Triathlon next year until he retracts his statement and apologizes to the Town.

DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

1. Planning & Zoning (P&Z) Commission

- Interview Thomas Theisen to fill vacancy on Commission.

Council asked Mr. Theisen to explain why he would like to be on the Commission, what his qualifications are and what knowledge he can bring to the Commission.

Mr. Theisen said he has been in the construction business for 20 years and has lived in Kure Beach for seven years. He will be able to attend the meetings on a regular basis but hasn't attended any past Commission meetings. His biggest concern is the vacant land in the business district and he would like to see mixed use development used. He is a quick study and will come to the meetings with an open mind and to learn. He said he would use the Town's Land Use Plan as a planning tool.

MOTION – Commissioner Pagley made the motion to approve Thomas Theisen as a member of the P&Z Commission.

SECOND – Mayor Pro Tem Keener



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VOTE – Motion PASSED FOUR TO ONE, as follows: Mayor Pro Tem Keener and Commissioners Swearingen, Heglar and Pagley FOR; Mayor Lambeth AGAINST.

- Request for joint work session to discuss the K Avenue Extension project.

MOTION – Commissioner Heglar made the motion to hold a joint work session with the P&Z Commission on Tuesday, October 2, 2012 at 6:30 pm for the purpose of discussing the K Avenue Extension Project.

SECOND – Commissioner Pagley

VOTE – Unanimous

- DRAFT AMENDMENTS

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

Commissioner Heglar asked Building Inspector Batson if he checked with the people who had concerns with the draft amendment at last month's Public Hearing to make sure they agreed with the revision.

Inspector Batson said that the P&Z Commission completely removed the language from the draft ordinance amendment that caused concern.

2. Draft amendment to Chapter 19 Zoning, Article IV Supplemental District. Regulations. Section 19-332.5 Roof pitch.

Inspector Batson gave an explanation of the draft amendment to allow a flatter roof for ocean front homes. He stated that there is no concern with the stability of the proposed roof pitch anymore than the roofs that are already on the ocean front properties. He said the amendment of the roof pitch would help the ocean front property owners.

MOTION – Commissioner Heglar made the motion to hold Public Hearings for the following draft amendments to the ordinance as the first items of business at the September 18, 2012 Council meeting:

- Revised draft amendment to Chapter 19 Zoning, Article IV Supplemental District Regulations, Section 321.5. Prerequisite to construction, demolition, remodeling and impervious surfaces, etc.
- Draft amendment to Chapter 19 Zoning, Article IV Supplemental District. Regulations. Section 19-332.5 Roof pitch.

SECOND – Commissioner Pagley

VOTE – Unanimous



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DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

1. Admin and Finance

- Ocean Front Park entrance sign at new ADA crossover: permission to request contractor to install two pylons and a crossbeam at ADA access for future park sign. Approximate cost \$1,500 - \$2,000. This will be a change order.

Town Clerk Avery explained that it would be nice to do signage at the ADA crossover to the beach from the boardwalk to tie in the Ocean Front Park with the boardwalk and the ocean. She spoke to Ruth Arnold Graphics (R.A.G.S.) and the structure would look similar to the support frames for the swings. She stated that this would tie in with the Parks and Recreation State Trust Fund's and the Heritage Trust Fund's desire to have the park site, boardwalk and beach all be considered part of the park site.

Finance Officer Copenhaver said it would be paid for through the contingency fund that was set up in the current budget for the Ocean Front Park.

MOTION – Commissioner Swearingen made the motion to approve the request to contact Engineering Services to talk to the Ocean Front Park contractor about installing two pylons and a crossbeam for an entrance sign for the Ocean Front Park to be placed at the new ADA crossover on the boardwalk

SECOND – Commissioner Heglar

VOTE – Unanimous

Town Clerk Avery showed Council a model of the Corian Fish that will be installed along the boardwalk as commemorative opportunities for the public. She said that the Town had already received orders for 25 fish and she hopes to have R.A.G.S. install them by Labor Day. There will be four swings on the boardwalk and three of those have sold. There will be four swings in the park and there will be a total of ten benches between the park and the boardwalk.

2. Building Department

- Contract with R.A.G.S. to build swings and benches for the Ocean Front Park

Inspector Batson presented an estimate from R.A.G.S. to construct the park benches and swings for the Ocean Front Park and boardwalk for \$17,526, and he requested approval from Council to contract with the company.

Commissioner Swearingen said she had talked with R.A.G.S. over a year ago about benches and swings and they quoted her a cheaper price, but staff opposed her idea of contracting with the company so she didn't pursue it any further.

Inspector Batson said that he was at the meeting with R.A.G.S. when they gave the quote last year, and the benches were only half as long as the benches that R.A.G.S. would build now. He



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said eight swings would be 5'feet-3" inches wide at a cost of \$935 each, and R.A.G.S. also offered to do the installation. The ten swing-back benches would be 8' feet long for a cost of \$890 each. There would be six benches on the boardwalk and four benches in the park. The total quote for all of the benches and swings to be constructed is \$17,526. He explained that the Town received a change order from Landmark giving the Town back almost \$13,000 which would cover the majority of the cost for the swings, benches, trash receptacles and ash urns.

Finance Officer Copenhaver said the expense still fits into the budget, especially with the commemorative funds and the grants.

MOTION – Commissioner Heglar made the motion to contract with R.A.G.S. to build the swings and benches for the Ocean Front Park and boardwalk for an estimated cost of \$17,526.20.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

3. Fire Department

- Fire Chief request for confirmation Town will pay 100% of his health insurance upon retirement

Commissioner Heglar asked to be recused from the discussion and decision because Chief Heglar is his father.

MOTION – Mayor Pro Tem Keener made the motion to recuse Commissioner Heglar from being part of the discussion and decision for this agenda item.

SECOND – Commissioner Pagley

VOTE - Unanimous

Mayor Lambeth explained that Fire Chief Heglar has been the Town's Fire Chief for about 37 years and that he only received a stipend up until 2002. Past Councils had promised Fire Chief Heglar that his retirement would be covered 100%.

MOTION – Mayor Pro Tem Keener made the motion to make an exception to the Personnel Policy to pay 100% of Fire Chief Harold Heglar's health insurance upon retirement.

SECOND – Commissioner Pagley

VOTE – Unanimous

Commissioner Swearingen asked if this would set a precedent to open up others in the future to expect this, using the volunteer firemen as an example.



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Town Attorney Canoutas answered that this is just for someone in Fire Chief Heglar's position and circumstance. If Council sees fit to make another exception in the future that would be their decision.

MOTION – Commissioner Pagley made the motion to allow Commissioner Heglar back into the meeting.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

DISCUSSION AND CONSIDERATION OF OLD BUSINESS

1. MPO Greenway Plan Update

Commissioner Swearingen gave an overview of the Greenway Committee's meeting she attended earlier today. She said that the draft plan gives Kure Beach everything it has asked for. She asked staff to put the link to the MPO Greenway Plan website on the Town's website on September 1, 2012. That is when the draft Greenway Plan will be available for view by the public, including a survey for public feedback. She asked that the topic be placed on the September 18, 2012, Council agenda for review and discussion.

DISCUSSION AND CONSIDERATION OF NEW BUSINESS

1. Set Up Events Triathlon Fees

Commissioner Heglar handed out the summary of charges to Set Up Events from the Town for 2010 to 2012 Triathlons, including 2013 charges. He said his position is that there are four ways for the Town to go. Option 1 is to work through the issue and have the Triathlon through Set Up Events as in the past, which is the option he liked best. He said Option 2 would be to not approve the Triathlon; Option 3 would be for the Town and Set Up Events to go their separate ways and the Town may consider working with a charity to hold a similar event; and Option 4 would be to work with one of Set Up Events' competitors to hold a similar event. He feels that this past year's confusion was a result of combining the Triathlon with the KB Sportsfest. This year, he would like Mr. Scott to apply for the Triathlon permit and Parks & Recreation can apply for a Sportsfest permit separately, if they decide to have one. He concluded that the staff's responsibility is to determine manpower needs and the Council's responsibility is to determine fees for the manpower.

2. Set Up Events Application for 2013 Triathlon

Mr. Bill Scott from Set Up Events addressed Council saying he had stated a desire to not have to pay for vehicle hours. He said he has problems with the number of police man hours being charged in comparison to the number of police vehicle hours being charged for the 2013 Triathlon.



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Finance Officer Copenhaver pointed out that the fees included five lifeguard vehicles, not just police vehicles.

Mr. Scott proceeded to review other items that he was still concerned about, particularly the charge for police man hours and vehicle hours being lumped together. He asked Council to consider giving him a break on that. He also thought the fee for a tent permit was too high.

Mayor Pro Tem Keener said the Town should stick with the specifications set by Town staff.

Commissioner Swearingen asked to be recused from the discussion and decision because her son works for Set Up Events.

Commissioner Heglar said he thought Council was discussing the fees for the Town and didn't think she needed to recuse herself. He then asked Mr. Scott if he was just asking Council to change the fees just for him or if he was asking Council to change the Town's fees for vehicles.

Mr. Scott said he wasn't trying to change the policy, he was just asking for a lower rate for his event.

Attorney Canoutas stated that, in that case, there would need to be a motion for Commissioner Swearingen to not be involved in the discussion and decision making process.

Commissioner Swearingen suggested that any discussion about changing Town fees should be discussed at another time, not at this meeting. She said that it doesn't sound like Mr. Scott is asking Council to change the Town's fees; just lower his fees.

MOTION Commissioner Heglar made the motion to recuse Commissioner Swearingen from being part of the discussion and decision for this agenda item.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

Commissioner Pagley stated that Council should keep the fees the way they are for the 2013 Triathlon. He said Council could discuss the Town's fees next year or at another time, but he thinks the fees to Set Up Events 2013 Triathlon are fair.

Commissioner Heglar asked Council if they wanted to put changing the Town's fee schedule on the agenda and then Mr. Scott could make his decision based off the current fee structure. He asked if Council should review the fees for vehicles since Mr. Scott brought up the point that he feels our fees are high.



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Commissioner Pagley said that there are fees for police vehicles and there are different fees for 4-wheel drive vehicles and he thinks they're still fair.

The Chairman and Vice Chairman of the Parks & Recreation Advisory Board asked Council questions regarding the Sportsfest that was held this year in conjunction with the Triathlon.

A resident who participates in the Triathlon stood up and expressed her support of the event.

Commissioner Heglar told the resident that Council raised taxes this year for its residents but that the fees for Set Up Events haven't gone up since 2006. He said this year's fees were \$500 less than previous years.

Mr. Scott asked why that was that he was charged less this year than last year for the same exact services. He said the cost is actually \$800 less than last year taking the \$240 fire department charge out because he had never been charged that before. He said he was told the original bill for the 2012 Triathlon was high because of a simple accounting mistake.

Police Chief Cooper said the other reason was because he had planned for staffing on Sunday because of some Sportsfest events that were listed on the original permit application and later canceled by Set Up Events.

Further discussion ensued about the charges for the 2012 Triathlon.

Commissioner Heglar said Mr. Scott was right for pointing out that the upcoming Triathlon's total fees are less than the 2012 Triathlon's total fees. He said he thinks staff shouldn't have reduced the charges. They should go according to the fees that are set by Council.

Mayor Pro Tem Keener said he had a problem that Mr. Scott admitted that the Town charged him less this year than last year and yet Mr. Scott stated in an email to his participants that Kure Beach more than doubled the amount they normally charge for fees. He said that Mr. Scott had also stated in his email that there were some "trumped up charges" included. He pointed out that this email was sent by Mr. Scott after the race, at which time he knew he was getting charged the lesser amount. He said he'd like to see that corrected. He asked Mr. Scott if he stood by what he said in the email.

Mr. Scott said he stood by every word of the email.

MOTION – Mayor Pro Tem Keener made the motion to not issue a permit to Set Up Events without a correction made to the email.



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Mr. Scott said Council would have never known anything about the error on the \$3,900 invoice if he hadn't come in to dispute it. He said that the Town would have accepted a payment for \$3,900 and he would have never gotten a penny of it back even if the error had been found.

Tony Gonsalves, resident of Kure Beach, said the integrity of the Town means a lot and it doesn't have thieves. He told Mr. Scott that, if the mistake had been caught after the check was received the Town would have been more than happy to refund his money to him.

Mayor Lambeth said the fees for the gators might be disputed but that he stands by the Town's fees.

Commissioner Pagley said he seconded that and the fee schedule didn't need to be changed at this time.

Commissioner Heglar asked Council if they wanted to call for a vote with the motion and second.

Mayor Pro Tem Keener asked if Commissioner Heglar meant his motion to deny the permit.

Commissioner Heglar said that Mayor Pro Tem Keener's motion was still on the floor, but he thought they should get back to the motion that was made about the fees to not change them.

Mayor Lambeth asked for a motion.

Commissioner Heglar said that he thought the Mayor had made the motion initially and Commissioner Pagley seconded it.

Town Clerk Avery said the motion was from Mayor Pro Tem Keener to not issue the permit.

Commissioner Heglar said that Mayor Pro Tem Keener's motion was one that needed to be gotten back to.

Mayor Pro Tem Keener said that no one seconded his motion.

Mayor Lambeth asked for a second to the motion.

Town Attorney Canoutas asked which motion Council was trying to vote on.

Mayor Pro Tem Keener said they were on his motion to not issue the permit.



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Motion died for lack of a second.

Mayor Pro Tem Keener said that Council needed to go to the next motion.

MOTION – Mayor Lambeth made the motion that, other than the gators, the fees for Set Up Events 2013 Triathlon permit request should stay as-is.

SECOND – Commissioner Pagley

VOTE – Unanimous

Commissioner Heglar asked the Mayor what he proposed for the gator.

Mayor Lambeth asked Inspector Batson where he came up with the charges for the lifeguard vehicles.

Inspector Batson said he obtained the number of vehicles needed from the Town's head lifeguard.

Fire Chief Heglar said the charge for the 2012 Triathlon was for three 4-wheelers, one gator and one pickup truck.

The Mayor asked Mr. Scott if he had an objection to those vehicle fees.

Mr. Scott said whether he did or not, he didn't think it mattered at this point.

Commissioner Heglar asked the Town's head lifeguard, Ed Kennedy, how many vehicles the lifeguards needed to do what they do.

Head Lifeguard Kennedy suggested using two 4-wheelers and a pickup truck.

Commissioner Heglar said that takes out two of the ATVs being charged for next year's Triathlon. He then asked Finance Officer Copenhaver to process the permit request, with that revision, and send it to Mr. Scott

MOTION – Commissioner Heglar made the motion to change the ATV requirement for the 2013 Triathlon permit with a reduction from three 4-wheel drive vehicles and one gator to only two 4-wheel drive vehicles, as recommended by the Town's head lifeguard, and to process the Set Up Events permit application and send the invoice to Mr. Scott for next year's event.

SECOND – Commissioner Pagley

VOTE – Unanimous



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Commissioner Heglar asked Mr. Scott to factor in that his permit application included using the Ocean Front Park for which Council hasn't set rates yet because the park isn't finished. He then asked Mr. Scott when he would let the Town know of his decision.

Mr. Scott said he would have his decision by the next Council meeting.

Town Clerk Avery recommended that the permit not be issued until the Town receives payment in full.

Commissioner Heglar asked Mr. Scott if he understood that the 2013 permit would be contingent on him clearing out the 2012 fees still owed, to which Mr. Scott affirmed that he understood.

MOTION – Commissioner Heglar made the motion that the approval of the 2013 Triathlon permit be contingent on Set Up Events paying the \$240 fee still owed to the Town for the 2012 Triathlon.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

MOTION – Commissioner Pagley made the motion to allow Commissioner Swearingen back into the meeting.

SECOND – Commissioner Heglar

VOTE – Unanimous

2. Foot washing station at I Avenue Crossover

Mayor Lambeth said that a resident approached him requesting to have a hose installed at the I Avenue dune crossover because it had a large, ocean front parking area with a lot of foot traffic coming off of the beach.

Town Clerk Avery said that there is no water line available at that location and the Town would need to pay for a water line to be run to the crossover.

Commissioner Heglar said that Public Works Director Beeker would have to tap into the water lines at the meters.

Commissioner Swearingen said she would like Director Beeker to look at what other towns are installing. She said that someone might steal the hose or it might break. Other beach towns are installing other, permanent fixtures that are aesthetically pleasing to the eye.

Mayor Lambeth stated that a short hose is the best way to go because showers and permanent metal fixtures don't hold up.



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Commissioner Heglar said he wants to know how much water the Town would be wasting to put a water supply there.

Public input was that it would be expensive to put the hoses out and if the Town was going to put water at I Avenue, they should put it at all of the crossovers. A suggestion was made to use the type of water spigot that is at foot level and snaps off on its own to conserve water.

CONSENSUS – The subject of having a foot washing station installed at the I Avenue crossover was tabled until Public Works Director Sonny Beeker can provide information to Council on how much water he expects could be used if it was installed.

CLOSED SESSION

MOTION – Commissioner Heglar made the motion to go into Closed Session at 7:55 pm for the purpose of discussing personnel.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

MOTION – Mayor Pro Tem Keener made the motion to return to open session at 8:27 pm.

SECOND – Commissioner Heglar

VOTE – Unanimous

MOTION – Commissioner Heglar made the motion that if the insurance company denies the appeal to the Long Term Disability claim for retiree Dave Meehling, the Town will meet the moral obligation and pay the equivalent of the insurance payment.

SECOND – Commissioner Pagley

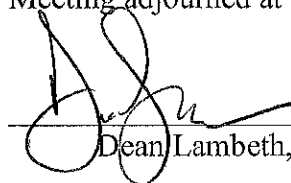
VOTE – Unanimous

MOTION – Commissioner Heglar made the motion to adjourn.

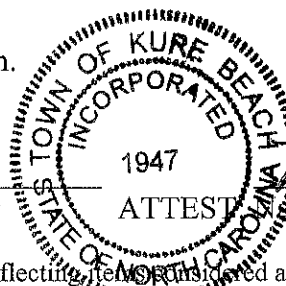
SECOND – Commissioner Pagley

VOTE – Unanimous

Meeting adjourned at 8:28 pm.



Dean Lambeth, Mayor



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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



TOWN COUNCIL
TOWN OF KURE BEACH, NC

P12-03

PROCLAMATION IN SUPPORT OF CONSTITUTION WEEK

WHEREAS, September 17, 2012 marks the two hundred twenty-fifth anniversary of the drafting of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, it is fitting and proper to officially recognize this magnificent document and the anniversary of its creation; and

WHEREAS, it is fitting and proper to officially recognize the patriotic celebrations which will commemorate the occasion; and

WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23rd as Constitution Week,

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Kure Beach hereby proclaims the week of September 17 through 23 to be CONSTITUTION WEEK and asks its citizens to reaffirm the ideals that the Framers of the Constitution had in 1787.

Proclaimed this the 21st day of August in the year 2012.

Signed: _____

Dean Lambeth, Mayor

ATTEST: _____

Nancy Avery, Town Clerk

