

# TOWN COUNCIL MINUTES

REGULAR MEETING MINUTES

November 19, 2013

The Kure Beach Town Council held their regular Council meeting on Tuesday, November 19, 2013. Town Attorney Canoutas was in attendance and quorum of Council present.

## COUNCIL MEMBERS PRESENT

Mayor	Dean Lambeth
Mayor Pro Tem	Chuck Keener
Commissioner	Emilie Swearingen
Commissioner	Steve Pagley

## COUNCIL MEMBERS ABSENT

Commissioner David Heglar

## STAFF PRESENT

Building Inspector – John Batson  
Public Works Director – Sonny Beeker  
Finance Officer – Arlen Copenhaver  
Town Clerk – Nancy Avery  
Deputy Town Clerk – Nancy Hewitt

## CALL TO ORDER AND WELCOME

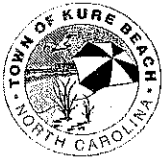
Mayor Lambeth called the meeting to order at 6:30 p.m. Pastor Brian Langley from Kure Beach Baptist Church delivered the invocation. Mayor Lambeth led everyone in the Pledge of Allegiance.

## RECOGNITION AND AWARDS

Mayor Lambeth congratulated Commissioner Swearingen for being elected to the New Hanover County Library Advisory Committee.

## APPROVAL OF CONSENT AGENDA ITEMS

1. Accept Phyllis Mojzis' resignation from the Beach Protection Committee.
2. Accept Gabby Kraus' resignation from the Parks and Recreation Advisory Board.
3. Accept Craig Bloszinsky's resignation from the Parks and Recreation Advisory Board.
4. Approve Tony Gonsalves to move from being an alternate member on the Parks and Recreation Advisory Board to being a regular member.
5. Approve the Parks and Recreation Advisory Board's request to add an eighth regular member position to the board, making the count eight regular members and two alternate members.
6. Appoint Terri Chabot as regular member on the Parks and Recreation Advisory Board.
7. Appoint Sara Smith as a regular member on the Parks and Recreation Advisory Board.
8. Approve the Shoreline Access and Parking Committee's request to add a seventh regular member position to the committee, making the count seven regular members and one alternate member.



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9. Appoint Beth Yaccarino as a regular member on the Shoreline Access and Parking Committee.
10. Appoint Dick Graham as the representative on the Cape Fear Disability Commission, replacing Chuck Keener.
11. Approve Budget Amendment 14-02 for \$3,166 to recognize funds received from the Volunteer Fire Department for expenses incurred for a competition that Kure Beach Ocean Rescue lifeguards attended in Nags Head, NC.
12. Adopt Resolution 13-16 to approve financing terms with BB&T for police vehicle.
13. YTD Finance Report
14. Building Permits Report – October 2013
15. Police Department Report – October 2013
16. Fire Department Report – October 2013
17. Approval of Meeting Minutes:
  - October 15, 2013 regular meeting
  - October 15, 2013 closed session

MOTION – Mayor Pro Tem Keener made a motion to adopt the Consent Agenda items, as presented.

SECOND – Commissioner Pagley

VOTE – Unanimous

Said Budget Amendment and Resolution are herein incorporated as part of these minutes.

## ADOPTION OF THE AGENDA

Commissioner Swearingen asked to add to the agenda an update on the Ports, Waterway and Beach Commission meeting, under Committee Business.

MOTION – Commissioner Pagley made a motion to approve the agenda, as amended.

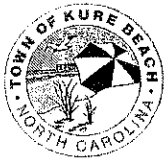
SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

## DISCUSSION AND CONSIDERATION OF PERSONS TO ADDRESS COUNCIL

1. John Ellen, 181 Seawatch Way, Kure Beach

Mr. Ellen stated that, as the Kure Beach representative on the Wilmington Metropolitan Planning Organization's Citizens Advisory Committee (CAC), he has copies of a 16-page survey that the CAC would like New Hanover County residents to complete and submit, to help the CAC with planning. He offered a copy to anyone interested in completing the survey.



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## DISCUSSION AND CONSIDERATION OF COMMITTEE BUSINESS

### 1. Update on the Ports, Waterway and Beach Commission meeting

Commissioner Swearingen said she talked with Layton Bedsole about the amount of funding being requested from Kure Beach for inlet maintenance, and the subject was discussed in the commission's last meeting. It was decided that the commission would look at the tax base of each town, the town's proximity to Carolina Beach and the number of boat registrations in each town to determine an equitable amount for each town to fund for inlet dredging. Most of the commission's December meeting will be devoted to further discussion on the subject. The commission is hoping to make a decision by January so the towns will have the information to lay aside the funding in their budgets for the next fiscal year.

### 2. Planning & Zoning Commission

- a. Draft proposal to add Section 19-84 K Avenue Mixed-Use Overlay District, to provide for development consistent with the Kure Beach Land Use Plan.

Chairperson Craig Galbraith explained to Council what an overlay district is and said the Planning and Zoning Commission wanted to do this as a Special Use Permit. He said the commission's attorney has reviewed the draft several times to make sure it is detailed enough to meet the needs of a Special Use Permits in New Hanover County. The commission added light-use retail and light food service to the approved uses within the mixed-use district. He stated that the commission reviewed over 100 mixed-use overlay districts throughout the U.S., especially beach areas, and came up with the plan being presented.

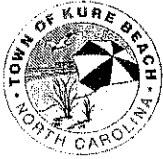
Mayor Lambeth wondered why it was necessary to make a separate ordinance amendment for the lighting, since there was already a lighting section in the draft proposal.

Chairperson Galbraith explained that the lighting ordinance was a separate issue that would affect the entire business district, not just the mixed-use district currently being discussed.

Town Clerk Avery stated that, because the commission is presenting two separate draft ordinances, two separate Public Hearings will need to be held.

- b. Draft proposal to revise Section 19-378 Illumination, to prohibit bare light sources visible from the outside of a building, except for holiday lighting permitted from Thanksgiving through the 15<sup>th</sup> of January of the next year.

Chairperson Galbraith stated that the draft revision to the Code of Ordinances was prompted by a trend for business owners to outline their buildings in lights, making their establishments a veritable billboard. He said that the commission took the draft ordinance from Wrightsville Beach's existing ordinance on the subject.



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MOTION – Commissioner Swearingen made a motion to hold a Public Hearing at Town Hall beginning at 6:00 p.m. on Tuesday, December 17, 2013, to receive public comments regarding the draft proposal to add Section 19-84 to the Code of Ordinances for a Mixed-Use Overlay District on K Avenue.

SECOND – Mayor Lambeth

VOTE – Unanimous

MOTION – Commissioner Swearingen made a motion to hold a Public Hearing at Town Hall immediately following the 6:00 p.m. Public Hearing on Tuesday, December 17, 2013, to receive public comments regarding the draft proposal to revise the Code of Ordinances in Section 19-378 Illumination, to prohibit bare light sources visible from the outside of a building, except for holiday lighting permitted from Thanksgiving through the 15<sup>th</sup> of January of the next year.

SECOND – Mayor Lambeth

VOTE – Unanimous

### 3. Shoreline Access & Parking Committee

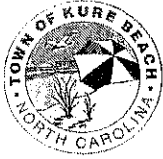
Chairperson Tony Gonsalves explained that the committee has been working on maps for the Town that show all of the beach entrances and their amenities such as bike racks, handicapped parking, etc. The committee worked with Police Chief Cooper who paid for the maps out of his budget at a cost of about \$338.00. He told Council that the 911 Center made themselves a copy of the map, so they will know where everything is. Copies were also given to Town Department Heads, for their use.

Chairperson Gonsalves stated he thought the NC Department of Transportation (DOT) gave September as the date they were going to start working on the sidewalks, curbs and gutters on the north side of K Avenue, and it is now November. He would like the affected homeowners notified immediately before the DOT comes, so they can be prepared for the work.

Mayor Pro Tem Keener said that, although September was the date the DOT was going to start gathering information to do the work, they weren't going to start the actual construction until January 2014.

Town Clerk Avery explained that a letter was sent to affected homeowners about six weeks ago to notify them that the work would begin in January 2014.

Public Works Director Beeker said he would like to know the actual start date of the DOT construction work in January, before it begins.



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## DISCUSSION AND CONSIDERATION OF DEPARTMENT HEAD BUSINESS

### 1. Administration, Finance and Recreation

#### a. Schedule December 2013 Organization Meeting.

Town Clerk Avery asked Council if they wanted to have the December organizational meeting at an earlier date in December, to which Mayor Lambeth said December 17, 2013 would suffice since only Commissioner-elect Craig Bloszinsky is being sworn in.

#### b. Schedule Council Retreat for January 7, 2014, and set time.

Town Clerk Avery stated that she polled Council and the Department Heads for a date to hold a retreat, and January 7, 2014 will work for everyone. She asked Council to set a time to begin the meeting.

MOTION – Commissioner Pagley made a motion to hold a Council Retreat at the Fort Fisher Air Force Recreation Area on Tuesday, January 7, 2014, beginning at 8:00 a.m.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

#### c. Authorization to close Town Hall for the day at 11:45 a.m. on November 27, 2013 for Employee Appreciation Luncheon.

Town Clerk Avery stated that the annual Employee Appreciation Lunch would be held at Jack Mackerel's on November 27, 2013. She asked Council to approve the closing of Town Hall for the day, beginning at 11:45 a.m.

MOTION – Mayor Pro Tem Keener made a motion to close Town Hall for the day at 11:45 a.m. on November 27, 2013 for employees to attend the Employee Appreciation Lunch being held at Jack Mackerel's in Kure Beach.

SECOND – Commissioner Pagley

VOTE – Unanimous

Town Clerk Avery stated that employees and Council are invited, and that appetizers will be on hand at the beginning of lunch. All participants will be able to order their meal off of the menu.

Commissioner Pagley asked if the Town's committee volunteers were invited, to which Town Clerk Avery stated that this annual event has always been for employees and Council, only. She stated that, back in 2006, a Volunteer Appreciation Dinner was held, after which the Mayor at that time said he wanted it to be an annual event. She explained that the next Council didn't do anything, and there hasn't been an event like it, since. She said money was budgeted this year, at the request of Mayor Pro Tem Keener, to be used for a Volunteer Appreciation event. She said she has been waiting for direction from Council on what they wanted to do for the volunteers.



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Committee volunteer, Tony Gonsalves, asked if Council would consider giving all of the volunteers a hooded sweatshirt with the Town's logo on it, instead of having a dinner.

Town Clerk Avery stated that only \$2,000 was budgeted for the event, the hooded sweatshirts with logo would cost about \$30 each, and there are approximately 80 volunteers.

Council tabled further discussion of this matter until the January Council Retreat.

d. Beach Towns Breakfast Meeting with Representative Ted Davis

Town Clerk Avery asked Council if they would like to have the breakfast with the other beach towns on January 10 or 17, 2014. She said that she spoke with Representative Davis' office, and they have him penciled in to attend the breakfast on either of those dates.

Mayor Lambeth said he would like the breakfast to be held at the Community Center, but asked that discussion about the date of the breakfast be tabled until the December Council meeting. He requested that the State representatives also be invited to attend the meeting, once the details have been determined.

2. Public Works Department

a. Update on Hanby Beach area ditch cleanup

Director Beeker stated that, after obtaining further information, Public Works will be able to clean up the ditch. He said he still needs written permission from two property owners and legal paperwork for the easements will be necessary before the work can begin. He said he will submit an estimate to Council of the cost to do the cleanup, once he finalizes his plan and gets the information together.

Mayor Lambeth requested that Director Beeker provide him with the names of the two homeowners that need to be contacted.

b. Update on moving the Public Works lay-down area and fencing

Director Beeker gave Council a map of the lay-down area that sits parallel to 7<sup>th</sup> Avenue, behind the Baptist Church, explaining that he would only have 25 feet of right-of-way, instead of 50 feet as first thought. The estimated cost for the stockade fencing to surround the property is \$14,526 and the estimated cost of removing brush, sub-grading, and other preparation work is \$29,500. He stated that, because of the right-of-way being less than expected, it may only accommodate his trucks and may not allow for other uses. He said he doesn't plan on having a wash-down area on the property at this time, but there is sewer access on the property, making it feasible to have one sometime in the future. He stated that Commissioner Heglar was going to contact someone at the Baptist Church about the plan.



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Mayor Lambeth said that he will talk with officials at Sunny Point to see if they will grant the Town the other 25 feet of space on the property.

MOTION – Commissioner Pagley made a motion to approve the area parallel to 7<sup>th</sup> Avenue, behind the Baptist Church, to be used for a lay-down area for Public Works and to approve the fencing.

SECOND – Commissioner Swearingen

VOTE – Unanimous

c. Power Line Burial Project on K Avenue

Director Beeker gave Council a cost estimate for labor and supplies for the concrete, asphalt, irrigation and planting portion of the project. He said that Powell Fund money would pay for most of it, with the rest coming from the General Fund.

Finance Officer Copenhaver stated that Director Beeker's estimate doesn't include the amount of funding needed for Duke Energy, AT&T, and other vendors to do their portion of the work. He reminded Council that they budgeted \$200,000 for the project which was going to come from a \$200,000 loan to the General Fund. He stated that, now that Director Beeker has submitted cost estimates for the rest of the work, he will bring financing information back to Council for further consideration.

## DISCUSSION AND CONSIDERATION OF OLD BUSINESS

### 1. Policy on Native Plantings in Kure Beach

Commissioner Swearingen discussed the issue of planting palm trees versus live oaks in Kure Beach. She said she spoke with a horticulturalist at the Fort Fisher Aquarium who strongly recommended not planting palms because of their high maintenance. The horticulturalist recommended planting live oaks because their root structure is such that they won't tear up sidewalks or streets and the tree won't fall over easily.

Mayor Lambeth stated that he would rather have palms planted instead of live oaks, in keeping with the look at the Ocean Front Park.

Council tabled discussion about native plantings until the next meeting.

## CLOSED SESSION

MOTION – Mayor Lambeth made a motion at 7:35 p.m. to go into Closed Session as per N.C.G.S. 143-318.11(a)(3), to consult with the Attorney to consider and give instructions concerning a judicial action titled Integrity Builders versus Town of Kure Beach.

SECOND – Mayor Pro Tem Keener

VOTE – Unanimous

BUDGET AMENDMENT

FISCAL YEAR ENDING JUNE 30, 2014

AMENDMENT DATE: 11/05/2013

Budget Amendment No.: 14-02

DESCRIPTION/PURPOSE OF AMENDMENT

Lifeguards from Kure Beach Ocean Rescue attended a competition in Nags Head, NC. The expenses incurred for this competition were reimbursed to the Town by the Kure Beach Volunteer Fire Department. This amendment is to recognize the funds received from the Volunteer Fire Department and to increase the Lifeguard Travel/Training budget accordingly.

ACCOUNTS AFFECTED

<u>Account No.</u>	<u>Account Name</u>	<u>Debit</u>	<u>Credit</u>
10-531-14-00	Lifeguard Travel/Training	\$3,166	
10-335-00-10	Donations - Lifeguards		\$3,166

NOTE: (a) Budget Officer may transfer between line item expenditures without limitation and without a report being required up to \$10,000 at any one time. (b) The Budget Officer may transfer amounts within departments and of the same fund and reported as part of the financial statements. He/She shall make an official report immediately to Council on such transfers. (c) The Budget Officer may not transfer amounts between funds without prior Council action.

Requested By: Harold Heglar, Fire Chief

Date: 11/05/13

Approved By: Arlen Copenhaver, Finance/Budget Officer

Date: 11/05/13

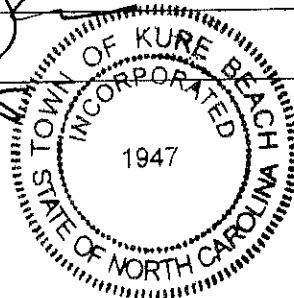
(Copies of actions/directives from Council Meeting to be attached, if required as per NOTE above).

Approved by Council 11/19/13

Dean Lambeth, Mayor

ATTEST:

Nancy Avery, Town Clerk







TOWN COUNCIL  
TOWN OF KURE BEACH, NC

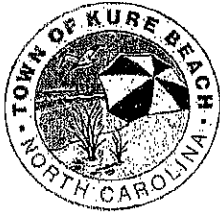
**R**ESOLUTION R13-16

**APPROVING FINANCING TERMS WITH BB&T FOR A POLICE VEHICLE**

**WHEREAS**, The Town of Kure Beach ("Town") has previously determined to undertake a project for a new police vehicle (the "Project"), and the Finance Officer has now presented a proposal for the financing of such Project;

**NOW, THEREFORE, BE IT RESOLVED THAT**

1. The Town hereby determines to finance the Project through Branch Banking and Trust Company ("BB&T"), in accordance with the proposal dated November 14, 2013. The amount financed shall not exceed \$32,000.00, the annual interest rate (in the absence of default or change in tax status) shall not exceed 2.18% and the financing term shall not exceed four (4) years from closing.
2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary, or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.
3. The Finance Officer is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Officer is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Officer shall approve, with the Finance Officer's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.
4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest



TOWN COUNCIL  
TOWN OF KURE BEACH, NC

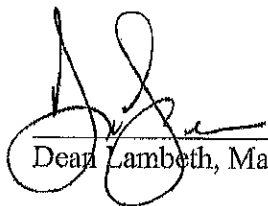
*R*ESOLUTION R13-16

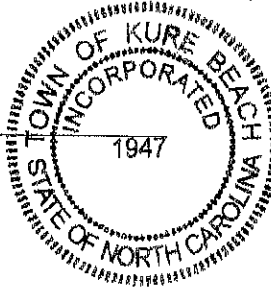
payments under the Financing Documents as "qualified tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the BB&T financing described above. The Town intends that funds that have been advanced, or that may be advanced from the Town's general fund, or any other Town fund related to the project for project costs, may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Adopted by the Kure Beach Town Council this 19<sup>th</sup> day of November, 2013.

  
Dean Lambeth, Mayor



  
Attest: Nancy Hewitt, Deputy Town Clerk



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## OPEN SESSION

MOTION – Mayor Lambeth made a motion at 8:31 p.m. to return to Open Session.

SECOND – Commissioner Pagley

VOTE – Unanimous

Attorney Canoutas stated that, in Closed Session conference, Council determined that the Town representatives who are to attend mediation on December 5, 2013 will be Mayor Lambeth, Commission Heglar, former Commissioner Jim Dugan, Town Attorney Canoutas and Attorney Crouch.

## ADJOURNMENT

MOTION – Commissioner Swearingen made a motion to adjourn the meeting at 8:32 p.m.

SECOND – Commissioner Pagley

VOTE – Unanimous

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.