



PLANNING & ZONING COMMISSION AGENDA

REGULAR MEETING

Tuesday, July 9, 2019 @ 7:00 pm

CALL TO ORDER

ADOPTION OF AGENDA

APPROVAL OF MEETING MINUTES:

- June 5th, 2019 Regular Meeting

PUBLIC COMMENTS

OLD BUSINESS

NEW BUSINESS

1. Accept Retha Deaton's resignation from the P&Z Commission
2. School of Government training opportunity (Whitley)
3. *Graffiti mitigation (Galbraith)

MEMBER ITEMS

NEXT MEETING

ADJOURNMENT

Beth Chase

From: Galbraith, Craig <galbraithc@uncw.edu>
Sent: Tuesday, July 2, 2019 1:07 PM
To: Nancy Avery; 'Bill Moore'; David P. Garceau; imagine5943@msn.com
Cc: Beth Chase; James Eldridge; Joseph Whitley; John Batson
Subject: RE: thinking about graffiti

All – I mentioned the problem of graffiti (like to put on a P&Z agenda) – this has become a real problem in many beach communities, from tourist kids as well as some local inland gangs have started to hang out at beach parks. All of the beach communities have implemented very strong ordinances as well as a reward system. I am a big fan of anticipating problems before they happen (Kure Beach hasn't had a problem yet, but it can happen overnight – my personal experience as a council member/P&Z commissioner in Mission Viejo, CA back in 1989 – literally overnight it exploded (over 200 taggings in one night).

Here is the announcement by Solana Beach (most like Kure Beach in the San Diego beach communities, 1.7 miles of coastline, although somewhat larger now – about 10,000)





Graffiti Abatement – Announcement on webpage

With assistance from the Encinitas Sheriffs specialized deputies, the City of Solana Beach maintains a tough anti graffiti program. Solana Beach enjoys one of the lowest crime rates in Southern California and a zero tolerance toward gangs and graffiti is part of that crime prevention effort.

Anyone who witnesses an act of graffiti or sees graffiti in the City is asked to report it. If possible, the Encinitas Sheriffs graffiti specialists recommend that you document the incident with a photograph and report the location so it can be removed as quickly as possible. The Solana Beach Graffiti Hotline number is 858 720-4457 - [email address](#).

The Sheriff's non-emergency number is 858 565-5200. All information provided to the Graffiti Hotline is confidential. If we all work together by reporting, documenting, and removing graffiti quickly, Solana Beach can keep sidewalks spotless, signs, buildings, walls, and other areas Graffiti Free.

Here is the actual ordinance for Solana Beach (I ran some of the sections together so not too long) – it covers a lot of good issues (I looked at several graffiti ordinances for beach communities, and this is one of the best). You will notice that this has become such as serious problem that the beach towns now will use public funds to clear graffiti from private property (and give high rewards)

GRAFFITI Sections: 11.14.010 Findings, purpose and intent. 11.14.020 Definitions. 11.14.030 Prohibition of graffiti-related activities. 11.14.040 Detection provisions. 11.14.050 Removal provisions. 11.14.060 Penalties for violation.

11.14.010 Findings, purpose and intent. The city council declares graffiti on public and private property to be a public nuisance that encourages criminal activity, causes blight in city neighborhoods and depreciates the value of surrounding property. This chapter is intended to protect against such nuisance by prohibiting activities that facilitate graffiti, establishing a system to detect graffiti, and providing for the prompt removal of graffiti as it arises. (Ord. 401 § 1, 2008; Ord. 168, 1992)

11.14.020 Definitions. In carrying out the purposes and intent of this chapter, the following words and terms shall have the following meanings ascribed to them: A. "Graffiti" means and includes any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, painted, pasted or otherwise affixed to any surface regardless of the nature of the material of that surface. B. "Graffiti implement" means an aerosol paint container, a felt-tip marker, a paint stick, etching product, paintball marker, or implement. C. "Aerosol paint container" means any aerosol container,

regardless of the material from which it was made, which is adapted or made for the purpose of spraying paint or other substance capable of defacing property. D. "Felt-tip marker" means any indelible marker or similar implement with a tip which, at its broadest width, is greater than one-eighth inch, containing an ink that is not water soluble. E. "Paint stick" means a device containing a solid form of paint, chalk, wax, epoxy or other similar substance, by pressure and upon application leaving a mark at least one-eighth of an inch in width, visible from a distance of 20 feet, and not water soluble. F. "Etching product or implement" means any caustic cream, gel, liquid, solution, or implement capable of defacing hard surfaces by means of a chemical action or physical pressure. G. A "paintball marker," also known as a "paintball gun," makes use of an expanding gas such as carbon dioxide, compressed air or nitrogen dioxide to propel paintballs through the barrel. (Ord. 401 § 1, 2008; Ord. 384 § 1(A), 2008; Ord. 314 §§ 1, 2, 2003; Ord. 168, 1992)

11.14.030 Prohibition of graffiti-related activities. No person shall apply graffiti to any surface, illegally possess graffiti implements in designated areas, illegally furnish graffiti implements to any minors or allow the improper sale or storage of graffiti implements. A. Applying Graffiti. 1. Applying Graffiti. It is unlawful to apply graffiti on any surface of any public or privately owned structures located on public or privately owned real property within the city. Violations of this subsection shall be subject to civil and administrative enforcement in accordance with Chapter 1.16 SBMC. 2. Any person who applies graffiti as described in the above subsection shall have the duty to remove the graffiti within 24 hours of notice by the city or the private property owner involved. Parents or legal guardians of minors guilty of applying graffiti under this section shall be personally responsible for removal of the graffiti or for payment of costs of removal thereof. Failure to remove graffiti under this section shall be punishable to the full extent of the law. B. Possession of Graffiti Implements in Designated Areas. 1. Possession of Graffiti Implement by Minors. It is unlawful for any person under the age of 18 years to have in his or her possession any graffiti implement while upon public property or upon private property without the consent of the owner of such private property, whose consent is given in advance, and whose consent shall be given as to the person's presence while in the possession of a graffiti implement a. School Exception for Felt-Tip Marker. The foregoing provision shall not apply while the person is attending, or traveling to or from a school at which the person is enrolled, if the person is participating in a class at school which has the need to use a felt-tip marker. 2. Possession in Designated Public Places. It is unlawful for any person to have in his or her possession any graffiti implement while doing any activity in any public park, playground, swim pool, recreational facility, or near an underpass, bridge abutment, storm drain or other similar types of infrastructure not normally used by the public except as may be authorized by the city. C. Display for Sale. 1. No person shall sell, give or otherwise furnish any minor with any graffiti implement. 2. It is unlawful to display glass etching products except in a completely enclosed cabinet or other storage device that is permanently affixed to a building or building structure and remains securely locked at all times, except when accessed by seller's employees or other authorized persons. 3. It is unlawful to display all other graffiti implements for sale except for the following: a. In a completely enclosed cabinet or other storage device that is permanently affixed to a building or building structure and remains securely locked at all times, except when accessed by seller's employees or other authorized persons. b. In an enclosed area behind a sales or service counter from which the public is precluded from entry. (Ord. 401 § 1, 2008; Ord. 384 § 1(B), 2008; Ord. 314 § 3, 2003; Ord. 168, 1992)

11.14.040 Detection provisions. The city encourages residents to help detect and identify graffiti within the city and authorizes a reward for help in enforcing this chapter. A. Reward Offer. The city offers a reward of up to \$1,000 per incident for information leading to the recommendation to the district attorney for the prosecution, pursuit of criminal prosecution and/or conviction, a sustained petition within the meaning of Welfare and Institutions Code Section 602, or confession of any person for applying graffiti to any surface on property within the city. Such information that leads to a recommendation for prosecution shall result in up to a \$250.00 reward; if said information results in the pressing of charges and criminal prosecution another \$250.00 in reward is available; and if the suspect(s) is/are convicted or confesses another \$500.00 in reward is available, for a potential total \$1,000. For the purposes of this chapter, diversion of the offending violator to a community service program, or a plea bargain to a lesser offense, shall constitute a conviction. B. Claims for Rewards. 1. Claims for rewards under this chapter shall be filed with the city. Each claim shall specifically identify the date, location and kind of property damaged or destroyed, and the name(s) of the person(s) who is/are suspected of engaging in graffiti activities. 2. The city manager may exercise his or her discretion, within the limits described in subsection A of this section, to determine whether an award should be given and how much money should be paid based on the circumstances of each claim. C. Liability for Payment of Reward. The person committing the graffiti, or the custodial parent or legal guardian if the person committing the graffiti is an unemancipated minor, shall be liable

for the reward paid pursuant to this section. D. Mandatory Community Service by Minor as Punishment. Any minor determined to be a ward of the court under Welfare and Institutions Code Section 602, as a result of committing an offense in the city, including violation of this graffiti chapter, shall be required, at the city's option, to perform community service, including graffiti removal service, of not less than six hours and not more than 80 hours. (Ord. 401 § 1, 2008; Ord. 384 § 1(C), 2008; Ord. 232 § 1, 1997; Ord. 168, 1992)

11.14.050 Removal provisions. The city has provided for and requires removal of graffiti by property owners and by the city through use of public funds. A. It shall be unlawful for any owner of private property, or the person responsible for the control or maintenance thereof, that has been defaced by graffiti to permit the graffiti to remain for more than three days after receiving notice from the city to remove the graffiti. Notwithstanding SBMC 11.14.060, violations of this subsection may not be prosecuted criminally. B. The city may remove graffiti from public or private property located within the city; provided, that the owner of the property, or the person responsible for the control or maintenance thereof has given consent and provided the city with a waiver and release of liability and provides the city with materials to accomplish the necessary removal of the graffiti. C. The city is authorized to expend public funds to remove graffiti from private and public property located within the city. Such expenditures shall be limited to the removal of graffiti and not the painting or repair of a more extensive area. Expenditure of city funds to remove graffiti from private property shall be conditioned on the consent of the owner, or the person responsible for control or maintenance of the property, to pay the actual, reasonable cost of removal. (Ord. 401 § 1, 2008; Ord. 384 § 1(D), 2008; Ord. 168, 1992)

11.14.060 Penalties for violation. Any and all violations of this chapter shall be punishable as an infraction or a misdemeanor, at the discretion of the city attorney, to the fullest extent allowed under law. Nothing in this section shall limit or prohibit any other penalty or enforcement provision under state law or this code. (Ord. 401 § 1, 2008; Ord. 384 § 1(E), 2008; Ord. 168,



KURE BEACH PLANNING & ZONING COMMISSION

June 5, 2019

7:00 pm

MINUTES

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Wednesday, May 5, 2019. A quorum of members was present and Liaison Commissioner Whitley and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member Bill Moore
Member Kenneth Richardson
Member Robert Young
Member Rethra Deanon
Member David Garceau

P&Z MEMBERS ABSENT

None

STAFF PRESENT

Nancy Avery, Town Clerk

1. CALL TO ORDER

Chairman Galbraith called the meeting to order at 7:00 pm.

2. APPROVAL OF AGENDA

MOTION – Member Richardson made a motion to approve the agenda as presented

SECOND – Member Moore

VOTE - Unanimous

3. APPROVAL OF MEETING MINUTES:

- May 8, 2019 Regular Meeting

MOTION – Member Young made a motion to approve the minutes from the May 8, 2019 regular meeting

SECOND – Member Deanon

Member Moore recused himself from the vote

VOTE – Unanimous

4. OLD BUSINESS

a. Downtown Mixed-Use Overlay District

i. Feedback from Council on COA process for B-1 District and permitted uses for adjacent districts

Chairman Galbraith stated:

- Presented to Council at the May Town Council meeting the recommendations from P&Z
- In North Carolina, COA is the only method to influence the look of residential units (1 or 2 unit)
- In North Carolina, COA process must be tied to an Local Historic District designation - often called “Character Preservation” Overlay Districts
- Local Historic Districts/COA process need not be complicated (many hundreds of LHDs/COAs in NC, some complicated, others simple)
- COA regulations range from 2 pages to 100 pages
- COA Design Guidelines for commercial properties tend to focus on “Building Exteriors” (can also designate uses)
 - Materials
 - Paint and Paint Color
 - Storefronts
 - Architectural Features
 - Roofs
 - Compatibility
- Feedback from Council is it needs to be restricted for the B-1 district
- Received pushback going beyond the B-1 district
- Historic district would be narrow and other parts of B-1 district the commission would develop an overlay district
- Defined as: “area of special significance in terms of history architecture, and/or culture, and integrity of design, setting, materials, feeling, and association
- Commission would need to create a Historic Preservation Commission (HPC)
- Spoke with people from the state regarding P&Z Commission being designated as the HPC
- HPC powers include acting on proposals for alterations, demolitions, construction in HD
- HPC would issue the Certificate of Appropriateness
- P&Z commission may be designated as the HPC
- Council unanimously voted to continue this effort
- Major two feedback points were to keep this to the B-1 district and to not make it too complicated
- Council did ask a question he didn’t know the answer to, if the historic commission would meet monthly
- Council wants a fast way to receive the approval process
- Reached out to 5 to 6 people and spoke with 2 individuals at the Department of Natural Cultural Resources

- Spoke with Scott Powers who is the Manager of the Eastern office as he reviews the HPC and gives feedback to the central office
- Scott Powers said that it is common for smaller towns to use P&Z for the HP commission
- Left a message with Amber Stimpson who is the coordinator of the preservation commission to receive templates, reports, and application samples
- She may be able to come speak with us on the historic district and hold a workshop
- Tried to get in contact with Dawn Snotherly who is the City of Wilmington Historic Preservation Planner
- Need to recommend makeup of the membership of the commission
- Talked to the planning director of Banner Elk and this Town doesn't have a formal historic district
- Created an overlay heritage district through the Towns ordinance instead of going through this process
- Part of ordinance if you're located in the district if it's a renovation, demolition is conditional and everything has to go through P&Z commission to get approval by commission

Attorney Eldridge stated his concern with Banner Elk is he wonders how they regulate the external design elements on residential properties. The other concern would be assuming down the line there is a dispute between the applicant and the Town if you do it by the book you rely on the authorizing statues and not seeing anything authorizing what Banner Elk is doing.

Chairman Galbraith answered the Town excludes one and two unit residential properties from the process of regulating. Thought it was interesting that the Town accomplished the same thing by creating a heritage district overlay.

Member Retha asked does this heritage overlay district include commercial property as well as residential.

Chairman Galbraith answered yes it includes commercial.

ii. Outline of procedures for qualifying historic district

Attorney Eldridge stated Council's designation of the historic district is nothing more procedure wise than the procedure Council follows for text amendments to Chapter 19. However before you get to that point Council establishes the Historic Preservation Commission. The P&Z commission can be designated to serve as the HPC. The HPC Commission must have at least three members with a term no greater than four years. A majority of the commission must have special interest, experience, or education in history, architectural or a related field. The investigation and report will be completed on the significance of the proposed historic district. The templates would be useful for the investigation, and the report which the Commission will send to the Department of Natural Cultural Resources. The commission will receive recommendations from the department. Once received Council can establish the historic district. The HPC then would need to establish principles and guidelines of the commission. If an application of a COA is denied or an opponent appeals the COA decision, it would go to the Board of Adjustment by statute.

Chairman Galbraith commented Amber Stimpson at the Department of Natural Cultural Resources is the coordinator that all applications go through. Scott Powers the Manager of the Eastern office

said she could travel to Kure Beach and hold a workshop for the Commission on the application process.

Attorney Eldridge stated if the Commission holds a workshop it would require a Special meeting and notice must be given on the purpose of the meeting.

MOTION - Member Moore made a motion for Council to establish a Historic Preservation Commission and recommends to Council for P&Z Commission to be the Historic Preservation Commission

SECOND- Member Young

VOTE- Unanimous

b. Discussion on SIC codes in permitted uses and prohibiting specific things in certain zoning districts

MOTION- Chairman Galbraith made a motion to table the discussion on the topic of SIC codes in permitted uses and prohibiting specific things in certain zoning districts.

SECOND- Member Moore

VOTE- Unanimous

5. MEMBER ITEMS

Chairman Galbraith stated he would like to address Commissioner Whitley regarding Sun Fun Rentals. The company has huge signs in the windows of the golf carts advertising the sale of golf carts. This is a violation of the Town's sign ordinance. The Special Use Permit did not allow for this.

Member Moore commented he noticed the company is also renting scooters, and hummers.

Commissioner Whitley stated he is relaying the information to Council and Building Inspector Batson. The building has not been delivered. Sun Fun Rentals has completed the plants but is still waiting on the gravel.

6. NEXT MEETING

MOTION – Member Richardson made a motion to move the scheduled July 3, 2019 meeting to July 9, 2019 at 7 p.m.

SECOND – Member Moore

VOTE – Unanimous

7. ADJOURNMENT

MOTION – Member Young made a motion to adjourn at 8:21 p.m.

SECOND – Member Richardson

VOTE - Unanimous

ATTEST: _____
Nancy Avery, Town Clerk

Craig Galbraith, Chairman

NOTE: These are action minutes reflecting items considered and actions taken by Planning and Zoning Commission. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>planning and zoning.

DRAFT