



PLANNING & ZONING COMMISSION AGENDA

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

CALL TO ORDER – Chairman Galbraith

ADOPTION OF AGENDA

APPROVAL OF MEETING MINUTES:

1. August 7, 2019 Regular Meeting
2. October 2, 2019 Special Meeting

PUBLIC COMMENTS

OLD BUSINESS

1. Presentation by intern(s)
2. Remote Participation in Meetings

NEW BUSINESS

1. Interview Tony Garibay for alternate member position
3. Interview Steve Stefanovich for alternate member position
4. Overview of new agenda/minute software – Admin Assistant Chase

MEMBER ITEMS

ADJOURNMENT

ELDRIDGE LAW FIRM, P.C.

ATTORNEY AND COUNSELOR AT LAW

201 NORTH FRONT STREET, SUITE 906
WILMINGTON, NC 28401

REPLY TO:
JAMES E. ELDRIDGE
POST OFFICE BOX 1380
WILMINGTON, NC 28402

TELEPHONE: (910) 815-0107
MOBILE: (910) 232-6005
EMAIL: jee@ec.rr.com

MEMORANDUM

TO: PLANNING AND ZONING COMMISSION
HISTORIC PRESERVATION COMMISSION

FROM: JAMES E. ELDRIDGE

RE: REMOTE PARTICIPATION IN MEETINGS

DATE: AUGUST 30, 2019

QUESTIONS PRESENTED

1. Can a board/commission member remotely participating in a meeting be considered present for the purpose of establishing a quorum?
2. Does a municipality have statutory authority to permit remote participation through the adoption of a local policy providing for the same?

DISCUSSION

Neither the North Carolina General Assembly nor the North Carolina courts have expressly addressed these issues and local governments may be at risk, under the State's Open Meetings Law, for legal challenges to actions taken when the remotely participating member is necessary for establishing a quorum or casts a deciding vote in a matter. These risks can be mitigated under a policy allowing remote participation only when: the remote board member's presence is not necessary for establishing a quorum; the remote member's vote is not the deciding vote; and where the matter under consideration is advisory or only involves discussion.

It should be noted that adopting a remote participation policy is a matter for a governing board to act on and not an automatic right of the remote member to exercise. Under N.C. Gen. Stat. § 160A-71(c), a municipality's governing board has broad authority to adopt local rules "not inconsistent with [its] charter, general law, or generally accepted principles of parliamentary procedure." Thus, it may be argued that Town Council has the authority to adopt a remote participation policy setting forth the conditions and procedures governing such participation.

Notwithstanding this broad authority, it bears repeating that these matters have not been addressed under the North Carolina statutes or by North Carolina courts and that it may therefore be argued that a member must be physically present to establish a quorum or to vote on a matter. The risk of such arguments is amplified for boards which function as quasi-judicial decision-makers as is the case with the HPC. Notwithstanding such arguments, these risks can be mitigated under a policy carefully delineating the circumstances and procedures under which remote participation will be allowed and specifically addressing the quorum and voting issues.

RECOMMENDATIONS

1. Instruct HPC/PZC Attorney to draft a local policy permitting remote participation in the commissions' meetings, said policy including, but not being limited to, the following provisions:
 - A. Allow remote participation only when enough members are physically present to constitute a quorum.
 - B. Do not allow remote participation in closed sessions due to the difficulty of ensuring no one else is present at the remote location.
 - C. Permit voting only when a remote member is participating by telephone or video.
 - D. Permit voting on all matters coming before either commission excepting quasi-judicial matters coming before the HPC.
2. HPC/PZC to review the proposed local rule and report to Council with recommendations regarding the same.

REMOTE PARTICIPATION POLICY FOR PZC AND HPC

(Proposed amendment to Chapter 2 Administration)

ARTICLE VIII. REMOTE PARTICIPATION POLICY FOR THE PLANNING AND ZONING AND HISTORIC PRESERVATION COMMISSIONS

Sec. 2-191. Preamble.

An “official meeting” under the State’s Open Meetings Law includes the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting public business provided the public has access to such official meetings. In addition, municipalities have broad authority to manage the conduct of their meetings and thereby “grow in reasonable stride with technological advancements.” Accordingly, and to promote greater participation in the Town’s governmental activities, this article sets forth the procedures and restrictions for members participating remotely in the meetings of the Planning and Zoning and Historic Preservation Commissions. It is strongly recommended that the members of those commissions physically attend meetings whenever possible and that remote participation is not used in ways defeating the purposes of the State’s Open Meetings Law.

Sec. 2-192. Minimum Requirements for Remote Participation.

(a) A member shall be permitted to participate remotely in the commission’s meeting only if physical attendance at the meeting would be unreasonably difficult.

(b) Members participating remotely and all persons present at the meeting location shall be clearly audible to each other.

(c) A quorum of the commission, including the person chairing the meeting, shall be physically present at the meeting location. Members participating remotely in the meeting shall not be counted for the purpose of establishing a quorum.

(d) Members shall not be permitted to participate remotely in closed sessions due to the difficulty of verifying that no other person is present at the remote location.

(e) Members participating remotely may vote on all matters coming before the commission excepting quasi-judicial matters coming before the Historic Preservation Commission.

(f) All votes taken during any meeting in which a commission member participates remotely shall be by roll call vote.

Sec. 2-193. Technology.

(a) The following media shall constitute the acceptable methods for remote participation:

(1) Telephone, internet, or satellite-enabled audio or video conferencing.

REMOTE PARTICIPATION POLICY FOR PZC AND HPC

(Proposed amendment to Chapter 2 Administration)

(2) Any other technology enabling the remote participant and all persons present at the meeting location to be clearly audible to one another.

(3) When video technology is being used, the remote participant shall be clearly visible to all persons present at the meeting location.

(4) The commission shall determine which of the acceptable methods may be used for remote participation.

(5) The person chairing the meeting may decide how to address technical difficulties which may arise as a result of the remote participation provided that, whenever possible, discussion of an item is suspended pending reasonable efforts to resolve any such technical issues. In the event a remote participant is disconnected from the meeting, that fact and the time at which it occurred, shall be noted in the meeting minutes.

Sec. 2-194. Procedures for Remote Participation.

(a) A commission member wanting to participate remotely shall, as soon as reasonably possible prior to the subject meeting, notify the commission's chair of his/her request to participate remotely and the facts supporting the request.

(b) At the start of the meeting, the person chairing the meeting shall announce the name of the member participating remotely and the technological means of that participation and this information shall be recorded in the meeting minutes.

(c) When feasible, the commission's clerk shall distribute to remote participants, in advance of the meeting, copies of any documents the clerk reasonably anticipates will be used during the meeting.

Sec. 2-195. Adoption and Revocation of Policy.

Remote participation in commission meetings shall not be permitted until town council adopts this policy. Council may revoke any such adoption in like manner.



TOWN OF KURE BEACH
REQUEST FOR APPOINTMENT

Board/Commission/Committees

MUST BE A FULL-TIME RESIDENT TO SERVE

Request for Appointment to: Planning & Zoning
Name: Tony Garibay
KB Property Address: 1717 Pinfish Lane Kure Beach NC
Mailing Address: 1717 Pinfish Lane, Carolina Beach NC 28428
Contact PH#: 336-263-6350 Email: rgaribay@trane.com

(You will receive the majority of correspondence via email)

Length of full-time residency in Kure Beach: 10 years
Employment: Trane / Ingersoll Rand
Job Title: Contracting Operations Leader
Professional Activities: Licensed General Contractor, Master HVAC License NC & SC, License Refrigeration
Volunteer Activities: Kure Beach Board of Adjustments - 3 terms, CB Inlet Association
Other committee work, past or present: KB Stormwater, KB BOA.

What is your understanding of the purpose of this committee?

HAVING SERVED ON BOA, I HAVE A GOOD UNDERSTANDING OF P&Z

Why are you interested in serving on this committee?

I FEEL I HAVE EXPERIENCE AND KNOWLEDGE TO BRING TO P&Z

In what specific concerns or areas are you interested?

NOTHING SPECIFIC - JUST WANT TO BRING VALUE TO THE COMMITTEE

What days and/or times between 8am-8pm, Monday through Friday, are you unable to attend meetings?

IM FAIRLY OPEN BUT DO TRAVEL FOR WORK ON BUSINESS TRIPS

Signature: Tony G. Date: Dec 9, 2018

Thank you for your interest in serving the Town of Kure Beach

Please submit your application to:

Town Clerk, Kure Beach Town Hall, 117 Settlers Lane, Kure Beach, NC 28449

NOTE: All financial obligations to the town must be satisfied to be a Kure Beach committee member.

Town Use Only

Date Received: Initials: Financial Obligations Satisfied [] YES [] NO
Interview Date: (If applicable) Appointment Date:
Term Length: Term Expiration:

Beth Chase

From: noreply@townofkurebeach.org
Sent: Tuesday, August 6, 2019 12:16 PM
To: Beth Chase
Subject: Form Submission Received

From Url: <https://www.townofkurebeach.org/committees.aspx>
From IP Address: 174.81.116.135

Request for Appointment to:
Alternate planning

First and Last Name
Steve Stefanovich

Kure Beach Property Address
328 Kure dunes ln

Mailing Address
6401 Carolina Beach Rd. Ilm 28412

Contact Phone Number
910 990 0914

Email Address
Steve@goautomotive.com

Length of full-time residency in Kure Beach
3yrs

Employment
Go Automotive

Job Title
Partner

Professional Activities?
Business owner of multiple auto dealerships Partner with our daughter at GO Automotive in ILM Cilinton City Council 4terms

Volunteer Activities?
Long leaf Pine award recipient Governors statewide volunteer award Former President of Sampson Community College Foundation Currently on SCC executive board Mentor at UNCW Entrepreneur school

Other committee work, past or present?
Elder at Graves Memorial Presbyterian Church Board member of transportation Sampson Co Former committee member of long range planning of Clinton

What is your understanding of the purpose of this committee?

Recieve input from community Assist in current and future planning guidelines for the town Review proposed structural plans Be an advocate for our town and community At the pleasure of the coucil review or research other municipalities guidelines in order to get ahead of the curve

Why are you interested in serving on this committee?

Having a bit of experience on another city council I believe I would potentially bring a different perspective

In what specific concerns or areas are you interested?

Helping to build and sustain our community

What days and/or times between 8am-8pm, Monday through Friday, are you unable to attend meetings?

Flexible

Sign your Name

Steve Stefanovich

A form has been submitted, click the link below to view the submission:

<https://www.townofkurebeach.org/FormWizard/ViewSubmission.aspx?mid=709&pageid=157&rid=1e9ef6b3-0d72-4fe5-a33d-ff4f8f2e4dfc>



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, August 7, 2019 @ 7:00 pm

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Wednesday, August 7, 2019. A quorum of members was present and Attorney Jim Eldridge attended.

P&Z MEMBERS PRESENT

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

P&Z MEMBERS ABSENT

STAFF PRESENT

Nancy Avery, Town Clerk
John Batson, Building Inspector
Mandy Sanders, Deputy Town Clerk

1. CALL TO ORDER

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

2. APPROVAL OF AGENDA

MOTION – Member Moore made a motion to approve the agenda as presented
SECOND – Member Young
VOTE - Unanimous

3. APPROVAL OF MEETING MINUTES:

- July 9, 2019 Regular Meeting

MOTION – Member Moore made a motion to approve the minutes from the July 9, 2019 regular meeting
SECOND – Member Richardson
VOTE – Unanimous

OLD BUSINESS

MOTION- Member Moore made a motion to table the Commission having the authority to call in to meetings for the Planning & Zoning Commission to the September meeting
SECOND- Member Richardson
VOTE- Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, August 7, 2019 @ 7:00 pm

NEW BUSINESS

1. Consideration of text amendment Chapter 19, Section 61 Amendment and Changes and new Section 62 on Rezoning

Chairman Galbraith stated this text amendment was motivated by a conversation after the last Town Council Meeting regarding an issue in Carolina Beach where one person applied for rezoning on 25 different parcels. This request has gone before the Carolina Beach Planning & Zoning Commission who have requested to deny it and is now currently before the Carolina Beach Town Council. Therefore, he asked Attorney Eldridge to look at what the rules are in Kure Beach.

Attorney Eldridge stated:

- When the Chairman raised the issue he conducted a preliminary review of the applicable statutes and other materials and there did not appear to be any limitation against what the Chairman described in Carolina Beach
- That under the Town Code, any person can petition to amend the zoning ordinances
- He went ahead and drafted an appropriate text amendment, included in the agenda packets, limiting the authority to apply for a rezoning to Town boards and the owner and prospective vendee(s) of the subject property.
- The proposed amendment was ready to be reviewed and reported on by PZC

MOTION – Member Richardson made a motion to recommend the text amendment Chapter 19, Section 61 Amendment and Changes and new Section 62 on Rezoning to the Town Council

SECOND – Member Young

VOTE - Unanimous

MOTION- Member Moore made a motion to approve the Consistency Statement as presented

SECOND- Member Richardson

VOTE- Unanimous

2. Review of renumbered, reorganized Code of Ordinances

Town Clerk Avery stated:

- **MAINTENANCE OF CODE OF ORDINANCES**
 - The Office of the Town Clerk has always maintained and kept current the Code of Ordinances
 - A Code of Ordinances is the combination of individual ordinances or laws passed by the Town Council into one document, organized by broad subject matters, to make finding and cross-referencing multiple ordinances on the same subject matter easier.
 - We currently have both a hard copy printed version in a black binder and a link on the Town's website to an electronic version.
- **CURRENT CODE UPDATE PROCESS**
 - The Town uses the third party vendor MuniCode to manage the formatting.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, August 7, 2019 @ 7:00 pm

- Amendments to the Code originate as a word document. Once approved, the amendment is emailed to MuniCode to add to the Code format.
- This is a cumbersome process which can get confusing as amendments circulate from Planning & Zoning to the Town Council.
- Amendments go into a separate section of the Code on the website titled 'view what's changed' until we request the printed version called a Supplement. At that time, the amendments are incorporated into the formatted Code. This creates confusion if someone is searching the Code online and does not notice the 'view what's changed' section. Under this method it is possible to access the old Code by mistake, rather the amended one.
- SELF PUBLISHING VERSION
 - We are changing to what's called 'self publishing' software
 - This means amendments will originate in the software itself, then once approved, staff will upload the change to the Code with no delay
 - We will no longer use the small black book printed copies of the Code
 - Hardcopies will be provided upon request and will be 8 1/2 x 11 inches in size
- REORGANIZATION AND RENUMBERING
 - As part of this change in software and publishing, we looked at the organization and numbering system of the current format.
 - Our current Code format has Chapters, Articles, Divisions, Sections and Subsections, etc. to identify ordinances. An amendment may be referenced as 19-76, but translates to Chapter 19, Article III, Division 1, Section 76. This format is also labor intensive during the amendment process.
- The renumbered version will use 'KBC' reference for 'Kure Beach Code' to maintain a structure using a decimal numbering system which identifies the chapter and section (for example: 1.01.010).
 - The *first* number in the sequence (1.01.010) designates the **Chapter** level
 - The *second* series of numbers (1.01.010) designates the **Article** level
 - The *last* series (1.01.010) designates the **Section** level
 - If a *fourth* series exists comprising letters or numbers beyond a section level, it designates a **Subsection** level
- NEW NUMBERING SYSTEM
 - Chapter 19 (Zoning), Article III (District Regulations), Division 1 (Generally) Section 76 District becomes Chapter 15.08 or KBC 15.08 which is Chapter 15, Section .08
 - Why Chapter 15 and not Chapter 19?
 - Another change is that with reorganization of certain ordinances, the Code will no longer have 20 chapters, but 15
 - Example – Chapter 6 on Fire Protection and Chapter 13 on Police have been moved into Chapter 2 on Administration, where other departments are established
- ADOPTION
 - I will ask Council to adopt this renumbered/reorganized version of the Code at its August meeting.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, August 7, 2019 @ 7:00 pm

- The Town Attorney has reviewed and approved the change and the P&Z Attorney has been given a copy to review.
- No existing content of the Code has been changed or removed.
- Getting used to the new version will take time, but I think it will be a much easier way of providing and amending the multitude of data contained within the Code.
- Once approved, hard copies will be provided to P&Z to give you a chance to familiarize yourselves with the changes in the Code.

3. Discussion on October training session with Council of Government Commissioner Whitley stated

- This training session can take the place of the October meeting or you can reschedule the October regular meeting
- Leaves it up to the commission regarding rescheduling the October meeting
- The training will cover Quais dias Hearing and general P&Z information
- This Commission and Town Council are very proactive but may have bigger issues brought forward in the next year so this training will help gain a better understanding
- Recommends the Town Council attends this training session as well

MOTION-Member Richardson made a motion to reschedule the HPC & P&Z regular meeting to October 7 starting at 6:30 p.m.

SECOND – Member Moore

VOTE- Unanimous

Chairman Galbraith stated the Commission already spoke about the Green study at the HPC meeting. As the Commission discussed Intern Gloria will be working on updating the SIC Codes. Mayor Bloszinsky has also mentioned the Town Council will be looking into parking and this is another project the interns will assist on.

Mayor Bloszinsky commented the Town will be looking at parking at the end of the summer season. The Town will be looking into other Towns who have been successful and evaluating the costs.

MOTION – Member Young made a motion to adjourn the meeting at 7:51 p.m.

SECOND – Member Garceau

VOTE - Unanimous



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, August 7, 2019 @ 7:00 pm

ATTEST: _____
Many Sander, Deputy 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.



PLANNING & ZONING COMMISSION MINUTES

SPECIAL MEETING

Wednesday, October 2, 2019 @ 6:00 pm

P&Z MEMBERS PRESENT

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

P&Z MEMBERS ABSENT

STAFF PRESENT

John Batson, Building Inspector
Mandy Sanders, Deputy Town Clerk

CALL TO ORDER

The Planning and Zoning Chairman Craig Galbraith called the Kure Beach Planning and Zoning Commission together to hold a Special Meeting at Town Hall on October 2, 2019 at 6:00 p.m., or soon thereafter, for the purpose of holding a training session with the Council of Governments.

ADOPTION OF AGENDA

- Training Session with the Council for Governments

MOTION- Member Moore made a motion to adopt the agenda as presented

SECOND- Member Richardson

VOTE-Unanimous

Cape Fear Council of Governments, Wes MacLeod, gave a training session to the Planning and Zoning Commission as referenced in attached presentation, herein incorporated as part of these minutes.

MOTION- Member Moore made a motion to adjourn the meeting at 6:59 p.m.

SECOND- Member Richardson

VOTE-Unanimous



PLANNING & ZONING COMMISSION MINUTES

SPECIAL MEETING

Wednesday, October 2, 2019 @ 6:00 pm

ATTEST: _____
Beth Chase, Admin Assistant

Craig Galbraith, Chairman

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