

KURE BEACH PLANNING & ZONING COMMISSION
REGULAR MEETING ♦ September 6, 2011

A regular meeting of the Kure Beach Planning and Zoning (P&Z) Commission was held on Tuesday, September 6, 2011. A quorum of the commission was present.

MEMBERS IN ATTENDANCE

Chairman Craig Galbraith
Member Timothy Bullard
Member Alan Votta

MEMBERS ABSENT

Member Anne Brodsky

1 Member Vacancy

STAFF PRESENT

John Batson, Building Inspector
Emilie Swearingen, Liaison Commissioner
Josie Fitzgerald, Administrative Assistant

Attorney Holt Moore was not in attendance

CALL TO ORDER:

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

APPROVAL OF AGENDA:

MOTION: Member Bullard moved to adopt the agenda
SECOND: Member Votta
VOTE: Unanimous

APPROVAL OF MINUTES:

MOTION: Member Votta moved to approve the minutes of August 2, 2011
SECOND: Member Bullard
VOTE: Unanimous

PERSONS TO ADDRESS COMMISSION:

Scout Dylan Wishard, Boy Scout Troop 210, Carolina Beach was recognized as an observer. Dylan resides in Wilmington and attended and observed the meeting as a requisite for working toward a Communication and Citizenship Merit Badge. Dylan was given a copy of the Agenda to follow along. Dylan explained that part of the criteria to earn the badge, he was required to give a five minute speech, visit a national landmark and talk about it among other requirements.

OLD BUSINESS:

A. Update relating to research regarding form-based planning: UNCW, possible practicum by MBA students.

There was some interest by a couple of students, but it doesn't look like it will come through, they decided to work on another project. Unfortunately, we will not have assistance with this project, but hope next year we may have more interest.

Chairman Galbraith suggested the issue of form-based planning be tabled until the next meeting since there are only three out of the five members of the commission present and the council representative is not present.

Motion: Chairman Galbraith moved to table discussion on form-based planning until the October meeting.

Second: Member Tim Bullard

Vote: Unanimous

B. Update on action by Town Council to fill the open position on the P&Z Commission

Chairman Galbraith attended the Council meeting but was not there for the interview, but understood there were two people who applied and one person was present and was interviewed. The Council felt they wanted to interview the second person before making any decision.

It was confirmed by Inspector John Batson that there was no action taken by the Council at the time.

C. Request by Member Anne Brodsky to be placed in an alternate member position.

Chairman Galbraith stated that at the last meeting, this issue was discussed and it was felt that it was the Town Council's decision to deal with this issue. It has been sent back to us to deal with it. The Council is looking for a formal motion from this commission to establish and adopt an alternate position.

It was open to discussion.

Liaison Emilie Swearingen arrived and it was stated that the discussion at hand was the request for an alternate position. It was discussed that there had never been an alternate position in the past; complex issues like form-based planning, alternative sources of energy, sign ordinances and zoning changes area discussed and attendance by all members is important; having an alternate would not work for the P&Z. The requirement for attendance is once a month for about a half hour or an hour and only longer occasionally once a quarter.

It was suggested that although Member Brodsky has been a great contributor on the P&Z Commission an alternate member or inactive status would not work. Considering her personal situation it is recommended that since this is a legally bound Commission, Council fill two openings.

Motion: Chairman Galbraith moved that P&Z does not recommend an inactive or alternate position to the P&Z Commission

Second: Member Alan Votta

Vote: Unanimous

D. New liaison is Emilie Swearingen

No discussion

E. Update on presentation of Alternative Energy to Council

At the last meeting, it was discussed that because of the increasing interest in solar panels and many municipalities are creating ordinances to address alternative energy sources, Chairman Galbraith would make a presentation to Council at the August meeting to let them know the issues and get their feedback. Most of the Council thought it should be looked at.

- It was originally thought that there was no State law addressing alternative energy.
- Further research disclosed that there are regulations, NC 2010 enacted Gen. Stat. 160A-201, which basically states that municipalities cannot put restrictions on solar panels unless they can be seen from the front of structures.
- Sec. 160A-201 (c) “This section does not prohibit an ordinance that would prohibit the location of solar collectors as described in subsection (a) of this section that are visible by a person on the ground:
 - (1) On the façade of a structure that faces areas open to common or public access;
 - (2) On a roof surface that slopes downward toward the same areas open to common or public access that the façade of the structures faces; or
 - (3) Within the area set off by a line running across the façade of the structure extending to the property boundaries on either side of the façade, and those areas of common or public access faced by the structure.”
- Addresses homeowners and not commercial
- Most municipalities seem to have stronger restrictions for commercial and industrial and less for residential and does not affect HOA’s
- Some states are passing ordinances that are restricting HOA’s from passing restrictions

There was discussion of how seeing the panels from the front would affect beach properties and roofs that can be seen from public access.

This seems to be a poorly written ordinance that was quickly pushed through without thinking twice and leaves some issues open.

This is a guideline of what municipalities can and cannot do.

The statute talks about wind turbines as another alternative energy source. The issues with turbines are visual and noise. There does not appear to be any state regulations for wind turbines like solar panels. Several counties have passed restrictions for noise and height, measuring above decibel levels and exceeding certain height and setback requirements.

Under the current zoning ordinance Inspector John Batson confirmed that there are no restrictions for wind turbines; as long as it is five feet from the property line and does not violate noise ordinance.

It was suggested that the members might drive around and see how to address these particular issues and do more research to see what others have done and talk about it again next month in more detail.

There is also another interesting issue developing which is a “right to the sun” under solar panel law, mostly in the state of California. If municipal laws allow solar panels, trees block the sun, trees can be forced to be cut . Some courts have enforced the right to the sun unless there is a specific statement otherwise.

There was further discussion about solar hot water heaters. They are becoming more popular as in China. The State ordinance puts restrictions on municipalities' restrictions regarding solar radiation, water heating, solar generation systems, etc. A proposed ordinance would have to encompass all these types of alternative energy sources.

It was suggested that this issue be tabled and more thought be given, we drive around and see if we want to prohibit some sort of behavior like houses jumping up 30 feet above the roof line.

There were municipal regulations in NC prior to this statute but were struck off the books because they were too restrictive. The only one found was the City of Chapel Hills which says you can put up as many solar panels as you want.

Motion: Chairman Galbraith moved to table the issue of addressing alternative energy at this time

Second: Member Tim Bullard

Vote: Unanimous

NEW BUSINESS

Liaison Emilie Swearingen stated that it was promised to Council that P&Z would work on the B-1 extension. Council would like work on that because it was thought the Mayor had some interest.

There was a question of whether there was discussion of B-1 extension to K Ave. Chairman Galbraith stated he did not recall P&Z specifically talking about that.

There is a notation on the zoning map, B-1 extending to K Ave.

If the Mayor has an interest in that, the P&Z can put the discussion on the next agenda for October and start moving ahead on that. It will require substantial zoning issues but if it is the desire of Council to move in that direction, it can be put on the agenda for discussion.

Liaison Emilie Swearingen will see if it is a Mayor issue or Council issue. Chairman Galbraith requested that Council put the issue on their agenda

MEMBER ITEMS:

P&Z is pushing back many items because they are very important but is agreed that having only three members, the Commission does not feel comfortable moving forward at the time.

ADJOURNMENT:

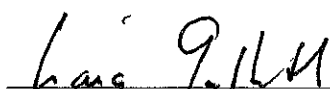
MOTION: Member Tim Bullard moved to adjourn the meeting

SECOND: Member Alan Votta

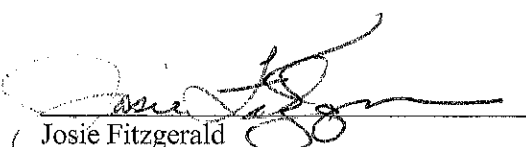
VOTE: Unanimous

Meeting was adjourned at 7:35 p.m.

(Photographs were taken of Scout Dylan Wishard with members of the P&Z Commission)



Craig Galbraith, Chairman



Josie Fitzgerald
Administrative Assistant