



**KURE BEACH PLANNING & ZONING COMMISSION  
REGULAR MEETING ♦ Wednesday, March 4, 2015**

**A Special Meeting of the Town of Kure Beach Planning & Zoning Commission was held at 6:30 pm on  
Wednesday, March 4, 2015 and  
A Regular Meeting of the Kure Beach Planning & Zoning Commission was held following thereafter  
A quorum of the Commission was present.**

**P&Z MEMBERS IN ATTENDANCE**

Craig Galbraith, Chair  
Joe Whitley, Vice Chair  
Member Alan Votta  
Member John Ellen

**ABSENT**

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Liaison: Craig Bloszinsky  
Attorney: James E. Eldridge  
Attorney: A. Canoutas

**STAFF PRESENT**

John Batson, Bldg. Insp.  
Josie Fitzgerald, Administrative Assistant  
Tony Gonsalves, Chairman SLAP Committee

WECT (incl. camera )

**I. CALL TO ORDER – Special Meeting**

Chairman Galbraith called the special meeting to order at 6:30: pm

- Chairman Galbraith gave a short summary of why we are here. Council directed P&Z to check into issues regarding complaints regarding parking and taxes
- After some six months of investigation came up with a proposal
- This is an open meeting to hear comments, but ultimate decision will be made by the Town Council. Outlined the process of adopting an ordinance
- P&Z Commissioners' background, qualifications, volunteers and not government bureaucrats and everything will go to council.

**SPEAKERS:**

Donald Lindsey- 311 Atlantic Ave.

- Stated per interview on Channel 6, officials received growing number of complaints. Mr. Galbraith in the interview stated not everyone is involved, just small group

- Pointed out that the Town already has ordinances that address some of the issues complained about.
- Why should everyone be penalized if only involves a small group
- Rentals support economy, fishing pier, Ft. Fisher and they spend money in retail shops
- Channel 3 interview with Mayor Lambeth said parking is a big issue.
- Large homes bring more cars
- Suggested to require permits for large parties, wants the process to be simple

EA Ruth – Owner, Palm Air Realty, 133 Ft. Fisher Blvd. N

- Town authority was questioned – G.S. § 160A-394; G.S. § 160A-424(c)
- Has legal counsel been consulted
- VRO requires owner's consent to enter premises to investigate violation- what is basis to enter, what notice is given before officer enters property; expectation of privacy, unreasonable search and seizure, compliance with Fourth Amendment is questioned

Anne Brodsky – Partner, Palm Air Realty, 133 Ft. Fisher Blvd. N

- Would like to see facts about complaints of noise, overcrowding, disorderly conduct that negatively impact the community.
- How many times has police been called
- How many renters, owners etc. are involved

Bob McKoy – 1029 N. Lake Park Blvd.

- Realtors are not aware of the problems
- Referred to Sec. 8 of proposed ordinance - questioned number of occupants; Sec. 9(c)
- Realtors don't want too many cars, your goal is our goal

Tommy Tucker – 707 Harper Ave.

- Realtor, property management
- 1999 Supreme Court ruling regarding deck collapsed causing injuries. The court ruling and following Vacation Rental Managers legislation which passed outlining terms of agreement, material breach of contract and eviction procedure
- The Vacation Rental Act is powerful and Chapter 42(a) should be emphasized- Anything stronger could kill rental business

Dee Coe – Island Realty - owner

- Understands the parking issue
- Realtors try to ensure properties are safe and not over occupancy
- Sometimes the amount of cars are over
- Cars can only park in white lines for 24 hrs.
- Many properties are old and have 2 cottages on one lot
- This is impacting not only vacation rentals, but long term rentals
- Vacation Rental Act has everything we need in it
- What are the facts: how many times have police been called; how many cars had to be towed, how many noise ordinances were abuses, where are the major issues coming from
- Wants to work together with realtors as a team before we over regulate a small town

## CALL TO ORDER OF REGULAR MEETING

Chairman Galbraith call the regular meeting of March 4, 2015 to Order at 7:03p

**MOTION:** Chairman Galbraith moved to recess the regular meeting until the discussion of Vacation Rentals is finished

**SECOND:** Member Ellen

**VOTE:** Unanimous

### Open Discussion continued:

Richard VanHam – Resident of Seawatch

- Actually in agreement with some of the suggestions by the Commission
- We have many part time residents in my area and the issues are the number of people in the home, sometimes 30 people staying in a 5 bedroom home, doesn't agree with limited number of children under 18
- It puts a strain on parking and services
- Does not oppose renting homes
- Would like to see some control
- Seems to be renting homes and parking issues correlate
- Some renters get \$2,500-\$3,500 per week and rent about 10 weeks a year
- Does not see a problem paying a fee;

Bill Moore – 2003 Surfdrider Ct. Ocean Dunes, Pres. of HOA

- We have had isolated incidents where police were called; and if in touch with realtors, they usually handle the issue
- Has concerns how this proposal was written
- Pointed out that in a condominium, the owner does not own the roof, deck, and to hold an owner responsible for something he does not own or control is not right, so the proposal needs to be written differently. The owner only owns the air, the ceiling and the floor.

Michael Becker – 402 K Ave.

- New resident
- What is the analogy, seems far reaching
- Fix the problem area, not all things

Heather Jarman – Base

- Represents building and real estate and development in NC
- Works with local government and has been in contact with Mayor Lambeth and some council members regarding this issue
- Concern with 2011 legislation that clearly states what the authority the Town has; G.S. §160A-424 precludes such rental regulations, specifically section (c). From a legal standpoint, we are concerned with the proposal
- Tourism is vital to the town, wants to work with the Town to find a resolution to find that balance between families and tourism; and not move forward with the proposed regulations

Jen Walz –109 N. 4<sup>th</sup> Ave. 15 yrs., Realtor

- Lives in a duplex and rents out other side; has never had a problem
- HOA have power to enforce the rules, if they are not effective, vote in a new board
- If current ordinance already address these issues of noise and parking, look at them and enforce those instead of creating a new ordinance.
- A new ordinance may create more problems
- Deal with what we have and find ways to enforce

Luke Waddell – Vacation Rentals Manager

- Represents Vacation Rental Managers Assoc.
- Would be willing to organize local stakeholders to come up with an ordinance that would benefit the community as a whole
- Create a policy that is highest rate of compliance, fair, effective and easy to follow
- Will assist in any way

Richard Whitaker - 503 N. FFB

- He rents his property and has not had problems
- He has rules for his renters
- Is the Town collecting taxes
- We need enforcement
- Ordinance is far reaching

Jane McDonald – Represents the Cape Fear Coalition for A Drug Free Tomorrow

- Underage drinking is a risk and serious
- Local beach culture was cited as adding to drinking and conduct
- Spell out language for alcohol consumption, drinking under age 21 for renters and guests

Bill Adams – 450 N. Ft. Fisher Blvd

- Rents property, pays occupancy tax and contract has everything in it
- Transitory nature of issues makes it hard to enforce
- Doesn't think owner should be enforcer; Police should enforce if need be
- Vacation Act doesn't allow taking money for security other than damage
- Trash issue is subjective, parking is Town problem
- Other area town do not an ordinance like this, may be other ways of doing it

**MOTION: Chairman Galbraith moved to close the special meeting discussion and reconvene Regular Meeting**

**SECOND: Member Ellen**

**VOTE: Unanimous**

**Special Meeting discussion closed and Regular Meeting reconvened at 7:30p**

**MOTION: Chairman Galbraith moved to recess Regular Meeting and go into Closed Session per N.C. G.S. § 143-318.11(3) to consult with the Commission attorney**

**SECOND: Member Ellen**

**VOTE: Unanimous**

**Chairman Galbraith reconvened and called to order the Regular Meeting at 8:03p**

**APPROVAL OF AGENDA**

**MOTION: Member Ellen moved to approve the Agenda**

**SECOND: Member Votta**

**VOTE: Unanimous**

**V. APPROVAL OF MINUTES**

**MOTION: Member Whitley moved to approve the minutes of February 4, 2014**

**SECOND: Member Ellen**

**VOTE: Unanimous**

**VI. PUBLIC COMMENTS:**

WECT representative: What law allowed you to go into closed session

- Client attorney privilege discussion under G.S. § 143-318.11(3) to consult with attorney
- Discussed legal interpretations

Chairman Galbraith stated that several communications were forwarded to the Commission regarding vacation rentals and instead of reading into the minutes, requested they be attached to the minutes.

**MOTION: Member Votta moved to attach communications to the minutes in lieu of reading**

**SECOND: Member Whitley**

**VOTE: Unanimous**

Bill Moore – President of ocean dunes

- Presented some solutions for parking to be considered
- Permits, daily color stickers
- Raise additional funds for the Town

**VII. OLD BUSINESS:**

**A. Parking on Hwy. 421**

**1. Tony Gonsalves – Chairman, SLAP**

- This year the parking has become a bigger problem than other years
- We do not own or control 421
- Parking is free and more people are coming
- There are many issues, paid parking, meter parking, no one answer to all the issues
- SLAP want Council to give guidance, requests details, the big picture, what does Council want and see for the future.
- We can start with no parking signs and then go from there
- Three other proposals have been done and all were rejected

SLAP - Recommendation to go back to Council and get more specific direction of what they want

Attorney submitted a Memorandum - What authority does Town have. (see attached)

- Town can restrict/regulate parking on public streets
- Clarifies public and private streets
- Town's authority to regulate privately owned streets
- Town has broad authority to regulate, restrict and prohibit parking

## **2. Citizens Advisory Committee**

Charlie Allo not in attendance, submitted information (see attached)

**MOTION: Chairman Galbraith moved to go back to Council to report the information we have**  
**SECOND: Member Whitley**  
**VOTE: Unanimous**

## **B. Vacation Rentals**

**MOTION: Chairman Galbraith moved for attorney to summarize options that the Commission has to address the issues that were discussed in closed session**  
**SECOND: Member Whitley**  
**VOTE: Unanimous**

Attorney summary:

- The draft of the proposed ordinance drafted over past couple of months addressed permitting and establishing application fee
- Discussion of G.S. § 160A-424, judicial application, interpretation
- Local bill for Town Cornelius

Options:

1. Keep draft permit and fee as is
2. Keep draft and drop application fee
3. Delete permit and fee and go with registration program (issue with penalty)
4. Alternative - Develop short term rental rules and regulations - Do you get same accountability, room occupancy tax benefit that a permit process would provide.
5. Vacation Rental Act – Provides eviction procedures and enforce ordinance on the books
6. Research for ROT, accounting, collection of taxes, reporting

**MOTION: Chairman Galbraith moved to table vacation rental ordinance until next month**  
**SECOND: Member Whitley**  
**VOTE: Unanimous**

## **VIII. NEW BUSINESS**

## **IX. MEMBER ITEMS**

Council has not acted on the one application that has been submitted to them

**X. ADJOURNMENT:**

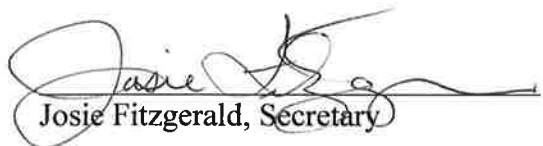
**MOTION:** Member Votta moved to adjourn the meeting

**SECOND:** Member Ellen

**VOTE:** Unanimous

**P&Z Meeting was adjourned at 9:03 p.m.**

  
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Craig Galbraith, P&Z Chairman

  
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Josie Fitzgerald, Secretary