



PLANNING & ZONING COMMISSION AGENDA

REGULAR MEETING

Monday, November 6, 2019 @ 7:00 pm

CALL TO ORDER – Chairman Galbraith

ADOPTION OF AGENDA

APPROVAL OF MEETING MINUTES:

- October 7, 2019 Special Meeting

PUBLIC COMMENTS

OLD BUSINESS

1. Presentation by intern(s)
2. Rules of Procedure including provisions for remote participation

NEW BUSINESS

1. Oath of Office for Tony Garibay as alternate member
2. Discussion on Chapter 160D of the North Carolina General Statutes

MEMBER ITEMS

ADJOURNMENT



**RULES OF PROCEDURE
PLANNING and ZONING COMMISSION
TOWN OF KURE BEACH, NORTH CAROLINA**

Adopted by the Planning and Zoning Commission on _____, 2019.

ARTICLE I. LEGAL AUTHORITIES

1.01. The Town of Kure Beach Planning and Zoning Commission (“PZC”) shall be governed by the applicable provisions of the General Statutes of North Carolina, the applicable provisions of the Code of the Town of Kure Beach, and these Rules of Procedure (“Rules”). PZC members shall thoroughly familiarize themselves with these authorities.

ARTICLE II. OFFICERS AND DUTIES

2.01. Chairman. A Chairman shall be elected from the members by a majority vote of the PZC. The term of office shall be for one (1) year beginning on the date the Chairman is elected and until a successor is elected at the next annual organizational meeting. Previous and serving Chairmen shall be eligible for re-election. Subject to these rules, the Chairman shall decide all points of order and procedure, unless directed otherwise by a majority vote of the PZC.

2.02. Vice-Chairman. A Vice-Chairman shall be elected from the members by a majority vote of the PZC and for the same term as the Chairman. The Vice-Chairman shall serve as Acting Chairman in the Chairman’s absence and shall, at such times, have the powers and duties of the Chairman. Previous and serving Vice-Chairmen shall be eligible for re-election.

2.03. Clerk. The Town Clerk or his/her designee shall serve as Clerk to the PZC. The Clerk shall keep all records of the PZC, and shall produce minutes of each meeting, including a separate production of the minutes for any closed sessions, wherein he/she shall record the identities of attending and absent members, important facts pertaining to the meeting, a description of every action taken by the PZC, and the votes of all members upon any matter considered and acted upon. All minutes shall be filed in the Office of the Town Clerk and, with the exception of closed session minutes, are public records.

ARTICLE III. ALTERNATE MEMBERS

3.01. Alternate members of the PZC appointed by Town Council shall be seated as a regular PZC member in the event a member resigns or becomes incapacitated and unable to serve. Alternate members are encouraged to attend all meetings and familiarize themselves with PZC deliberations and actions.

3.02. At no time shall more than five (5) members officially participate in any meeting.

DRAFT FOR 11/06/2019 DISCUSSION
ARTICLE IV. RULES OF CONDUCT FOR MEMBERS

4.01. Members of the PZC may be removed by the Town Council for cause including any violations of these rules.

4.02. Faithful attendance at all PZC meetings and conscientious performance of the duties required of its members shall be a prerequisite for continuing membership on the PZC.

4.03. No member shall take part in any deliberations or action upon any matter in which they, their relatives, or their business associates may stand to gain financially or in which they are or perceived to be financially interested. Members shall endeavor to avoid a conflict of interest, including a perception thereof, in any matter brought before the PZC.

4.04. No PZC member shall discuss any case with any parties thereto before the hearing on that matter, provided that, however, members may receive information pertaining to the case from the Clerk or from another member of the PZC.

4.05. Members shall recuse themselves from deliberating or voting on any matter in which they may have a real or perceived conflict of interest. In the event a member objects to another member's deliberation or voting on a matter and that member does not recuse his or herself, then the remaining members shall, by majority vote, rule on the objection. An objection sustained by a majority vote shall have the effect of recusing and excusing the member's vote on that matter.

ARTICLE V. MEETINGS

5.01. Annual Organizational Meetings. Annual organizational meetings of the PZC shall be held each January. An organizational meeting shall consist of electing officers, approving the annual report, reviewing the Rules, and considering other administrative matters.

5.02. Regular Meetings. Regular meetings of the PZC shall be held on the 4th Tuesday of every month beginning at 7:00 p.m..

5.03. Special Meetings. The Chairman may call special meetings of the PZC at any time provided that at least forty-eight (48) hours' written notice of the date, time, place and purpose of the special meeting is given by the Clerk to each member of the PZC, the public, and the media.

5.04. Agendas. The Clerk shall prepare a proposed agenda for each meeting which shall be considered and adopted by a majority vote of the members at that meeting. Items may be added to or deleted from the proposed agenda of a regular meeting by a majority vote. The PZC shall not add or delete items from the proposed agenda or purpose stated in the notice of a special meeting.

5.05. Cancellation of Meetings. In the event there is not any business for the PZC to conduct, or if so many members notify the Clerk in advance that they cannot attend the meeting such that a quorum will not be available, then the Chairman may dispense with a meeting by providing written notice of the cancellation to all PZC members and the Clerk not less than twenty-four (24) hours before the time set for the meeting.

DRAFT FOR 11/06/2019 DISCUSSION

5.06. Quorum. A quorum shall consist of three (3) members of the PZC physically present at the meeting.

5.07. Meetings Recessed and Adjourned to a Time and Place Certain. Any duly noticed and assembled meeting may be recessed and adjourned to a date, time, and place certain upon the majority vote of a quorum of the PZC. No further notice need be given of a meeting so recessed and adjourned provided that the date, time, and place of the reconvened meeting is announced at the meeting that is being recessed and adjourned.

5.08. Voting. All members of the PZC may vote on any issue unless they are disqualified from voting for one or more of the reasons listed in Article IV *Rules of Conduct for Members*. A majority vote shall decide issues before the PZC.

5.09. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

1. Roll Call;
2. Adoption of the agenda;
3. Approval of minutes from the previous meeting;
4. Old business;
5. New business;
6. Member comments; and
7. Adjournment.

ARTICLE VI. REMOTE PARTICIPATION IN MEETINGS

6.01. Purpose. To promote greater participation in the Town's governmental activities, this article sets forth the procedures and restrictions for PZC members participating remotely in meetings. While providing for remote participation, it is strongly recommended that PZC members physically attend meetings whenever possible and that remotely participating in meetings is not used to defeat the purposes of the State's Open Meetings Law.

6.02. Minimum Requirements for Remote Participation.

1. A member shall be permitted to participate remotely only if physical attendance at the meeting would be unreasonably difficult.
2. Members participating remotely and all persons present at the meeting location shall be clearly audible to each other.
3. A quorum of the PZC, 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.
4. 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.
5. Members participating remotely may vote on all matters coming before the commission.

DRAFT FOR 11/06/2019 DISCUSSION

6. All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

6.03. Technology. The following media shall constitute acceptable methods for remote participation:

1. Telephone, internet, or satellite-enabled audio or video conferencing.
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. PZC, by majority vote, 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 arising as a result of remote participation provided that, whenever possible, discussion of an agenda 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.

6.04. Procedures for Remote Participation.

1. A PZC member intending to participate remotely shall, as soon as reasonably possible prior to the subject meeting, notify the Chairman and the Clerk of his/her request to participate remotely and the facts supporting the request.
2. The Clerk shall distribute to remote participants, in advance of the meeting, copies of any documents reasonably anticipated to be used during the meeting.
3. 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 minutes of the meeting.

ARTICLE VII. AMENDMENTS

7.01. Amendments to Rules. These rules may be amended at any time by a majority vote of the PZC, provided that the amendment(s) be presented in writing at a regular or special meeting duly noticed and assembled prior to the meeting during which a vote will be taken on the amendment(s).

These Rules of Procedure have been approved and adopted by the PZC on this date.

This the ____ day of _____, 2019.

CHAIRMAN



*O*ATH OF OFFICE
Planning and Zoning Commission

I, Tony Garibay, swear that I will support and maintain the Constitution and laws of the United States and the Constitution and laws of the State of North Carolina not inconsistent therewith, and that I will faithfully discharge my duties as an alternate Member of the Planning and Zoning Commission for the Town of Kure Beach, so help me God.

Tony Garibay, Commissioner

Date: _____

Nancy Avery, Town Clerk

Coates' Canons Blog: Chapter 160D and Other Zoning Legislation

By Adam Lovelady

Article: <https://canons.sog.unc.edu/chapter-160d-and-other-zoning-legislation/>

This entry was posted on September 19, 2019 and is filed under Administration & Enforcement, Board Structure & Procedures, Community & Economic Development, Constitutional & Statutory Limitations, Development Fees, Downtown Revitalization, Land Subdivision, Land Use & Code Enforcement, Legislative Decisions, Miscellaneous, Planning, Police Power Regulations, Quasi-Judicial Decisions, Zoning

The General Assembly has enacted significant legislation affecting planning and development regulations in North Carolina. A newly released legislative bulletin summarizes the changes already enacted. The most significant land use legislation is the adoption of Chapter 160D, a new chapter of the General Statutes that consolidates the prior city- and county-enabling authority and implements a range of consensus clarifications and reforms. These changes will require updates to all local government development regulations by 2021. Chapter 160D legislation will be summarized in a forthcoming book and other resources, as well as covered in upcoming trainings.

2019 Legislative Bulletin

The newly released bulletin, *2019 North Carolina Legislation Relating to Planning and Development Regulation*, outlines the legislation adopted thus far. The legislature enacted bills revising the law on third-party requests to downzone property, permit choice, vested rights, and judicial review of zoning decisions. Significant legislation was also enacted affecting regulation of short-term rentals and performance guarantees for subdivision improvements. Chapter 160D is briefly summarized in this bulletin, but due to its length and complexity, it is the subject of a separate book and training discussed more below.

You can find the general legislative bulletin here: <https://www.sog.unc.edu/publications/bulletins/2019-north-carolina-legislation-related-planning-and-development-regulation>.

The timing on this is a bit tricky. Many of the 2019 legislative changes are already effective so local governments need to incorporate those into their ordinances and policies. But the General Assembly is still in session, so additional legislation could be forthcoming. This 2019 legislative bulletin summarizes the legislation thus far, and we will provide updates or addenda if there is additional legislation affecting planning and zoning.

Chapter 160D

The new Chapter 160D of the North Carolina General Statutes consolidates current city- and county-enabling statutes now in Chapters 153A and 160A into a single, unified chapter, and places these statutes into a more logical, coherent organization. Provisions that affect all development regulations (such as definitions and provisions on moratoria, vested rights, and conflicts of interest) are placed together in one article, followed by articles that address geographic jurisdiction, creation and duties of boards, administration of regulations, the process for adoption and amendment of regulations, and judicial review of regulations. There are also detailed articles for major functions, including planning, zoning, subdivision, building and housing codes, environmental regulation, historic preservation, and community development.

While the new law does not make major policy changes or shifts in the scope of authority granted to local governments, it does provide many clarifying amendments and consensus reforms that will need to be incorporated into local development regulations.

In order to provide time for the development, consideration, and adoption of necessary amendments to conform local ordinances to this new law, Chapter 160D is not effective until January 1, 2021. All city and county zoning, subdivision, and other development regulations, including unified development ordinances, will need to be updated by that date to conform to the new law. This delayed effective date also allows time for other legislation enacted in 2019 to be



incorporated into the new Chapter 160D framework during the 2020 legislative session.

There is one extension to the effective date. G.S. 160D-5-1(a) requires adoption of a comprehensive plan in order to exercise the authority to adopt development regulations. Cities and counties that currently have zoning regulations but that have not adopted a comprehensive plan are required to adopt a plan by July 1, 2022, to retain their authority to have a zoning ordinance.

Forthcoming Chapter 160D Resources and Training

Given the length and complexity of Chapter 160D—as well as the need for local governments to update their ordinances accordingly—the School of Government will be providing a book, resources, and training on the new law. The current plan includes the following:

- Informational Website: nc160D.sog.unc.edu
- On-Demand Training (November 2019)
- Explanatory Book (Winter 2020)
- Regional Workshops (Winter 2020)
- Conference Sessions (Fall 2019-Winter 2020)
- Annotated Bill (prior version available; update with concurrent changes available by November 2019)
- Checklist for Ordinance Update (November 2019)
- Cross-Over Chart (November 2019)

Check the website (nc160D.sog.unc.edu) for available and forthcoming resources.

Links

- www.sog.unc.edu/publications/bulletins/2019-north-carolina-legislation-related-planning-and-development-regulation
- www.sog.unc.edu/resources/microsites/planning-and-development-regulation/ch-160d-2019
- www.sog.unc.edu/courses/chapter-160d-regional-workshops



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

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

P&Z MEMBERS PRESENT

Chairman Craig Galbraith
Member Bill Moore
Member David Garceau
Member Kenneth Richardson (Via Telephone)

P&Z MEMBERS ABSENT

Member Robert Young

STAFF PRESENT

Nancy Avery, Town Clerk
John Batson, Building Inspector
Beth Chase, Admin Assistant

CALL TO ORDER

Chairman Galbraith called the meeting to order at 7:20 pm.

APPROVAL OF AGENDA

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

SECOND – Member Garceau

VOTE - Unanimous

APPROVAL OF MEETING MINUTES:

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

MOTION – Member Moore made a motion to approve the meeting minutes for August 7, 2019

SECOND – Member Garceau

VOTE - Unanimous

MOTION- Member Garceau made a motion to approve the October 2, 2019 meeting minutes

SECOND- Member Moore

VOTE- Unanimous

OLD BUSINESS

1. Presentation by intern(s)
 - Environmental Initiatives Across NC
 - Solar Panel Systems (Durham, Chapel Hill)
 - Fire Station Rainwater Harvesting (Raleigh)
 - City Owned Electric Vehicles (Durham)
 - Community Garden (Lees-McRae)



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

- Adopt a Beach Access (Wrightsville Beach)
- Energy Conservation Programs (Cabarrus County)
- LED Lights (Durham, Raleigh, Chapel Hill)
- Recycling Guidelines (Asheville, Belmont)
- Preserved Lands Sector for Green Infrastructure in Comp Plan (Boone)
- NC Green Power (Gastonia)
- John Richardson - Community Resilience Officer - Sustainability Department
- Top 10 Ways Chapel Hill is working toward Climate Protection:
 - Carbon Reduction
 - Green Building Development
 - Walkable Redevelopment
 - Green Municipal Buildings
 - Alternative Transportation
 - Green Fleets
 - 7. Community Emissions Reduction from Buildings and Vehicles
 - 8. Tree Protection/Open Space
 - 9. Solar Energy
 - 10. Environmental Stewardship Advisory Board
- LEED for Cities and Communities Overview
 - US Green Building Council
 - More than 90 cities worldwide. Cities in NC: Raleigh, Greensboro, Winston-Salem, and formerly Durham
 - The LEED v4.1 for Communities certification program revolutionizes the way cities and communities are planned, developed and operated in order to improve the quality of life of people around the world. The programs provide a framework for planning, designing, measuring and managing the performance of social, economic and environmental conditions on a city-wide or community level.
 - Goal of encouraging green practices at a city scale and encourages the city to adopt policies and regulations to support sustainability.
- LEED for Cities and Communities is the leading global rating system and certification program for evaluating the sustainability and quality of life in a city or community. The program serves as a catalyst and transformative tool toward more sustainable, equitable and resilient communities around the world. The rating system encompasses economic, environmental and social performance measures and provides a clear data-driven approach to benchmark and communicate progress. Designed to be applicable at all phases of a city's or community's lifecycle.
- Shift toward measuring outcomes and evolving beyond buildings
- Arc Performance Score Measures
 - Energy
 - Water
 - Waste
 - Transportation



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

- Human Experience
- Education
- Equitability
- Prosperity
- Health & Safety
- Measuring city metrics and generating a performance score in the Arc platform will evaluate the results of the best practices and serve as a pathway to LEED for cities certification
- LEED for Cities and Communities Certification
 - Registration
 - Confirm eligibility
 - Fees:
 - \$5000 registration fee for Organization
 - Certification review fee based on population
 - Certification
 - Upload required documentation
 - Master Plan of city or community highlighting LEED boundary for certification
 - Governance structure
 - USGBC Population calculator
 - 110 points available - 40 required for certification
- Integration and access to the new Arc platform: All projects in LEED Online have automatic access to Arc at no additional cost; simply log into Arc and link to your project.
- A dedicated LEED Coach: Newly registered projects are given a dedicated LEED Coach. LEED Coaches have more than a decade of green building and LEED expertise and can assist with questions during your LEED certification process.
- Award-winning customer service: Our customer service team has received 13 awards since 2013, including “Customer Service Team of the Year” from the American Business Awards and the International Business Awards.
- Natural Systems Credit: Resilience Planning
- Vulnerability and capacity assessment (3 points)
- Identify the local environmental context and conduct a vulnerability and capacity assessment for climate change risks, natural and man-made hazards and extreme events as per the table below. Map the impact (affected groups and sectors) of these events against the planned socio economic profile, urban health and urban infrastructure.



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

2. Remote Participation in Meetings

Attorney Eldridge stated:

- As discussed in the previous HPC meeting remote participation for the P&Z Commission has little risk, but need to avoid remote participation in closed sessions
- Allow remote participation only when enough members are physically present to constitute a quorum.
- Do not allow remote participation in closed sessions due to the difficulty of ensuring no one else is present at the remote location.
- Permit voting only when a remote member is participating by telephone or video.
- Permit voting on all matters coming before either commission excepting quasi-judicial matters coming before the HPC.
- Board Of Adjustment has its own rule of procedures and Town Clerk and I agreed we could draft rules of procedure for P&Z using the BOA template to include the remote participation
- Recommends making a motion to adopt a resolution to draft rules of procedure for P&Z to include in those rules of procedure the policy provisions as presented in the agenda packet

MOTION – Chairman Galbraith made a motion to direct Attorney Eldridge to draft rules of procedure for the Planning & Zoning Commission to include the policy provisions on remote participation as presented

SECOND – Member Moore

VOTE - Unanimous

NEW BUSINESS

1. Interview Tony Garibay for alternate member position

Tony Garibay introduced himself stating:

- Lives at 1717 Pinfish Lane as a Kure Beach resident
- Spent 18 years as a remote employer
- Worked 42 years in the HVAC business
- Has his General contractor license
- The past 25 years he has worked for Trane Inc

Interview Questions From the Commission:

- What is your experience here in Kure Beach?
- How long have you been a resident in Kure Beach?
- If everyone on the commission agrees but you disagree, would you feel comfortable standing up?
- Will your schedule allow you to attend the monthly meetings?
- How would you handle a situation if the regulations restrict something you are personally against?



PLANNING & ZONING COMMISSION MINUTES

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Tony Garibay answered that he has been a full time resident in Kure Beach for 12 years. He served on the Stormwater Committee as the chairperson and is currently on his third term for Board of Adjustment. In his career, he has had to stand up for the things he believed in to achieve the end goal when others had given up. There are always challenges when you still work but does not see there being a problem as he would know ahead of time when the monthly meetings would be held. He thinks even if you disagree with the regulations set before the Commission these are the laws and it is required of the Commission to follow them.

MEMBER- Member Richardson made a motion to recommend Tony Garibay to the Town Council as the alternate for the Planning and Zoning Commission

SECOND- Chairman Galbraith

VOTE- Unanimous

3. Overview of new agenda/minute software – Admin Assistant Chase

Admin Assistant Chase stated:

- The Administrative Department is in the process of transitioning to a new software system for our minutes and agendas
- As shown here on the screen the new agenda packet will be available in a split screen version
- This will allow for you to view the agenda on the left hand side of the screen while the agenda packet is displayed on the right
- This system will also come with a new recording system that will be connected to the microphones
- visiting our website they will enter the portal by clicking on a link on our home page
- The portal as shown is mirrored to look very similar to our website design

MOTION – Member Moore made a motion to adjourn the meeting at 8:12 p.m.

SECOND – Member Garceau

VOTE - Unanimous

ATTEST: _____
Beth Chase, Administrative Assistant

Craig Galbraith, Chairman



PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Monday, October 7, 2019 @ 7:00 pm

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.