



# PLANNING & ZONING COMMISSION MINUTES

## REGULAR MEETING

Wednesday, May 6, 2020 @ 6:30 pm

The Kure Beach Planning and Zoning Commission (P&Z) held its regular meeting on Wednesday, May 6, 2020. 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  
Alternate Member Kathleen Zielinski

### P&Z MEMBERS ABSENT

Member Tony Garibay

### STAFF PRESENT

Mandy Sanders, Town Clerk  
Beth Chase, Deputy Town Clerk  
John Batson, Building Inspector

### CALL TO ORDER

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

### ADOPTION OF AGENDA

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

SECOND- Member Moore

VOTE- Unanimous

### APPROVAL OF MEETING MINUTES:

- March 4, 2020 Regular Meeting

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

SECOND- Member Richardson

VOTE- Unanimous

### PUBLIC COMMENTS

### OLD BUSINESS

1. Review and Report on Proposed Text Amendments to Sign Regulations

Attorney Eldridge stated the proposed text amendments to Sec. 15.40.040 sign regulations are included in the PZC agenda packet. The current provisions regulate political signs and in the memorandum included in the agenda packet, Attorney Eldridge discusses how regulating political signs constitutes regulating content which is an impermissible abridgement on First Amendment rights which the courts generally rule against. The proposed text amendments resolve this issue by replacing "political" with "temporary" and by not tying the posting of temporary signs on private



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property to any particular event. The proposed amendments also extend the durational period for posting temporary signs on private property.

MOTION- Member Richardson made a motion to recommend that Town Council adopt the proposed text amendments to 15.40.040 Exceptions

SECOND- Member Moore

VOTE- Unanimous

MOTION- Member Moore made a motion to adopt the proposed Consistency Statement for the Sec 15.40.040 text amendments and forward it to Town Council for review

SECOND- Member Garceau

VOTE- Unanimous

### 2. Graffiti Ordinance

Attorney Eldridge stated:

- As discussed in the March PZC meeting, criminalizing graffiti at the local level means that any criminal fines collected by the town end up becoming the property of the local school board. This issue is avoided by not criminalizing graffiti and treating it instead as a code enforcement matter.
- Additionally criminalizing graffiti locally is probably pre-empted by N.C.G.S. Sec. 14-127.1 that provides graffiti vandalism is a criminal offense
- For these reasons, the proposed amendments to Secs. 8.02.015; .020; - .030; - .040; - .050; - .060;; and - .070 provide that graffiti constitutes a public nuisance that is regulated under the enforcement provisions set forth in Chapter 8 of the Town Code
- The proposed amendments also strengthen the Town's authority to collect its enforcement costs, including the costs of any abatement it undertakes and, in the event a civil action is commenced to collect an unpaid citation or obtain an abatement order, providing that the Town be awarded its court costs including a reasonable attorney's fee
- The text amendments do not constitute zoning provisions and a consistency statement is therefore not required.

MOTION- Chairman Galbraith made a motion that recommend to Town Council to approve the proposed text amendments to Chapter 8, to Secs. 8.02.015; .020; - .030; - .040; - .050; - .060;; and - .070

SECOND- Member Garceau

VOTE- Unanimous

### 3. Light Pollution ordinance and Dark Sky regulations

Attorney Eldridge stated:

- The policy goals supporting regulation of exterior lighting are laudable and justified for public health, safety, and welfare.
- Has Town Council authorized this initiative?



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- There are multiple considerations to account for when drafting a lighting ordinance including, without limitation, the following:
  - Possible “Red Button” issue.
  - Enforcement. Attorney Eldridge recommends the code enforcement approach that the utilized in the graffiti regulations thereby making violative exterior lighting a public nuisance.
  - Enforcement is a nighttime matter.
  - Because the Commission is dealing with the science of light, compliance with standards must be measured with photometers and the “reasonable person standard” is not applicable.
  - To survive a legal challenge to a cited violation, the use of photometers requires that: the person using the photometer has a reasonable basis to believe that the technology, when properly used, can provide reliable information and that the photometer was used correctly.
  - Considerations also include for example, which meter to purchase and what training is necessary for its proper use and maintenance.
- Commissioner Garceau’s draft is a good starting point and offers guidance on the scope of regulation. This approach needs to be refined, specified, and translated into a legal document. This will not be a routine assignment.
- Once Attorney Eldridge begins drafting, he anticipates additional matters requiring PZC consensus.

Chairman Galbraith commented that at its last meeting Town Council agreed for PZC to review this topic and bring forth a recommendation. He recommends bringing the topic back to Town Council at the May meeting to receive Council’s authorization to proceed forth with drafting an ordinance regulating exterior lighting within the Town.

MOTION- Member Moore made a motion to continue the Light Pollution Ordinance with approval from the Town Council

SECOND- Member Richardson

VOTE- Unanimous

#### 4. ADA ramps on residential homes

Building Inspector Batson stated:

- Over the years received requests to install handicap ramps due to health issues
- The property sometimes does not have enough room for the ramp and needs to be extended into the setback areas
- He would like to include in the code of ordinances a text amendment to accommodate the residents if someone becomes incapacitated
- The Building Department would require a signed agreement for the ramp and would be removed once the ramp is no longer needed or once the house is sold



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MOTION- Member Richardson made a motion to instruct PZC Attorney Eldridge to look into ADA ramps and setbacks

SECOND- Member Moore

VOTE- Unanimous

**NEW BUSINESS**

**MEMBER ITEMS**

Member Richardson commented he requests that Underground Utilities be added to the June agenda.


**ADJOURNMENT**

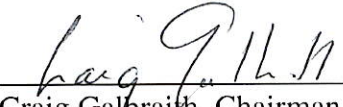
MOTION- Member Moore made a motion to adjourn the meeting at 7:50 p.m

SECOND- Member Garceau

VOTE- Unanimous

ATTEST:

  
Mandy Sanders, 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.