



# PLANNING & ZONING COMMISSION MINUTES

**REGULAR MEETING**

**Wednesday, November 5, 2020 @ 6:30 pm**

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday, November 18, 2020. A quorum of members was present and Attorney Jim Eldridge attended.

## **P&Z MEMBERS PRESENT**

Chairman Craig Galbraith  
Vice-Chair Kenneth Richardson  
Member David Garceau  
Member Tony Garibay (Via Conference Phone)  
Member Kathleen Zielinski  
Alternate Member James Dugan

## **P&Z MEMBERS ABSENT**

None.

## **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 6:55 p.m.

## **ADOPTION OF AGENDA**

MOTION- Member Richardson made a motion to adopt the agenda  
SECOND- Member Garceau  
VOTE- Unanimous

## **APPROVAL OF MEETING MINUTES:**

- October 7, 2020 Regular Meeting

MOTION- Member Richardson made a motion amend the minutes to add the removal of Member Bill Moore from the attendance and adopt as amended  
SECOND- Member Zielinski  
VOTE- Unanimous

## **PUBLIC COMMENTS**

None.



# PLANNING & ZONING COMMISSION MINUTES

**REGULAR MEETING**

**Wednesday, November 5, 2020 @ 6:30 pm**

## **OLD BUSINESS**

### 1. Update on Utility Conversion with Duke Energy Progress

Member Richardson stated Member Garibay and himself will meet in January with Duke Energy in person. He has told the representative the Town is looking at the cost of doing a section of the Town vs. doing the whole Town.

### 2. Prohibited Uses

Chairman Galbraith stated he did research regarding this topic and was unable to find any other Towns had done a prohibited Uses list to include in the Code of Ordinances.

Attorney Eldridge stated he is certain the catch all provision included currently in the Kure Beach ordinance that if it is not on the table of uses it is prohibited. That provision is no longer void based on a 2016 Supreme court case. Also based on the language of the 2016 case what a Town prohibits must be expressly provided. He has seen bigger jurisdictions that have not corrected their zoning regulations yet and still rely on the catch all phrase that is no longer void. Kure Beach has always been very proactive. The consensus of PZC was the list would be developed and that legal would then review. He has not had an opportunity to conduct a thorough review, but did take a few minutes to research some major points and came up with the following examples of where prohibiting some of the uses on the list may very well substantially conflict with the US Constitution. It is because of the impermissible abridgment of constitutional rights that many so-called "red light" uses are so often regulated by prohibiting the use in certain districts in lieu of banning the use outright. PZC should take a few items off the list and consider prohibiting where the uses can be allowed such as Vaping stores are prohibited in the following districts. Under Police power the Town can regulate location just cannot ban the use outright.

Member Garceau stated there is an issue that the Commission needs to address. He agrees with Attorney Eldridge take the most important 6 uses and work on restricting.

Chairman Galbraith stated each member needs to pick 5 items for the December meeting to discuss and bring forth a recommendation.

## **NEW BUSINESS**

### 1. "Land Use Plan Revision"

Chairman Galbraith stated when the Land Use Plan was completed in 2006 the Planning & Zoning Commission was very involved and held the Public Hearings. The Land Use Plan Committee asked PZC to identify issues that the Land Use Plan Committee should look at when advising the plan. PZC will need to continue discussion in the future.

## **MEMBER ITEMS**

None.



# PLANNING & ZONING COMMISSION MINUTES

REGULAR MEETING

Wednesday, November 5, 2020 @ 6:30 pm

## ADJOURNMENT

MOTION- Member Garceau made a motion to adjourn the meeting at 7:40 p.m.

SECOND- Member Zielinski

VOTE- Unanimous

ATTEST: Mandy Sanders  
Mandy Sanders, Town Clerk

Craig Galbraith  
Craig Galbraith, Chairman

NOTE: These are action minutes reflecting items considered and actions taken by Planning & 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.