



**VILLAGE COUNCIL
MINUTES FOR WORK SESSION OF APRIL 13, 2021
ASSEMBLY HALL
395 MAGNOLIA ROAD
PINEHURST, NORTH CAROLINA**

IMMEDIATELY FOLLOWING THE REGULAR MEETING

The Pinehurst Village Council held a work session at 6:40 p.m., Tuesday, April 13, 2021, in the Assembly Hall of Pinehurst Village Hall, 395 Magnolia Road, Pinehurst, North Carolina and via the electronic meeting platform ZOOM. The meeting was streamed in real time on the Village's website.

The following were in remote attendance:

Ms. Judy Davis, Mayor Pro Tem
Ms. Lydia Boesch, Councilmember
Mr. Kevin Drum, Councilmember
Ms. Jane Hogeman, Councilmember
Mr. Jeffrey Sanborn, Village Manager
Mr. Mike Newman, Village Attorney

The following were in attendance in Assembly Hall:

Mr. John C. Strickland, Mayor
Ms. Kelly Chance, Village Clerk

And approximately 1 attendees, including 1 staff and 0 press.

1. Call to Order.

Mayor John Strickland, called the Council work session to order.

2. Other Work Session Business.

Mayor Strickland stated there are several agenda items to hear tonight and will be followed by a closed session.

- Councilmember Boesch stated a group of Pinehurst residents spoke to her about USGA and resort parking, as well as the Lodge status in the planning process. Darryn Burich, Planning & Inspections Director stated it is going to the Planning & Zoning public hearing on the 21st at 4:00 p.m. He stated that as of now they have not completed their construction drawing, but as changes get made they would likely have to go back to HPC. Councilmember Drum asked why all those things they didn't have for HPC, would they not have to have those for Planning & Zoning. Mr. Burich stated they would have to present those items to Planning & Zone as well as some additional materials. Councilmember Hogeman asked if planning and zoning would receive the site plan with elevations. Village Manager Sanborn said the elevations have not been seen, but those items that are critical, including building height would be included. Alex Cameron said there is more detail included on the plan which were required. Village Manager Sanborn said there is no requirement in our PDO that a case like this goes through HPC first. It can go to Planning & Zoning first and then back to HPC. Mayor Strickland asked if we have some disconnect on procedure or timing or some clarification we need for the public about this process requiring an update to our PDO.
- Mayor stated with respect to the House and Senate bills on residential zoning, we have a letter from the Mayor of foxfire, and if council agrees he will ask Village Attorney Mike Newman to draft a letter to send out to Council and circulate among our legislators. Council agreed this was appropriate. Secondly, we have a presentation training on conditional zoning by Darryn and Alex Cameron, so if it is okay with Council we will forgo item 5. On the agenda since a few of the council members have

not yet responded on the poll. Council agreed to defer that discussion until the next.

3. Potential Future Agenda Items.

- No Potential future Agenda Items

4. Discuss Public Comment Procedure.

Mayor Strickland stated Judy had circulated a couple of comments earlier today suggesting the 2nd bullet point should just say 3 minutes. Councilmember Hogeman stated that the wording is the way the county does it as well. Mayor Strickland and Councilmember Drum agreed with Mayor Pro Tem Davis's suggestion. The wording will end after the word "remarks". Mayor Strickland said he will work with the wording with Village Clerk Kelly Chance and he suggested adding the wording "At the Mayor's discretion, the thirty minute total time and the three-minute speaker time may be extended" at the end. Councilmember Drum agreed with the extension of thirty minutes and changes at the Mayor's discretion, but not giving more than 3 minutes. Councilmember Boesch and Councilmember Hogeman agreed that the Mayor should have the flexibility to extend either of those. Mayor Pro Tem Davis and Councilmember Drum agreed that the wording not be included and that it is not needed. Village Manager Sanborn suggested that Council consider simply adding a blanket statement that all of the bullet points may be altered at the Mayor's discretion.

Mayor Strickland stated the other change was related to bullet point 4 referencing public comments submitted by email. Council discussed and agreed that comments submitted via email will be circulated to the Council members by the Village Clerk since the comments' intended audience is Village Council. Mayor Strickland said he will work with the Village Clerk and get back to Council this week with the changes. Councilmember Drum stated he thought the public should be in-person if they have a comment, but all agreed they would not be read aloud. Village Manager Sanborn stated he agreed the audience is the Council and so we can distribute them to Council and not read them. Mayor Strickland stated his intent is to put the policy up for vote at the next Regular Council meeting.

Councilmember Boesch stated she has given a lot thought lately about public comments. She stated that as Council members we are aware of Village issues and our authorities and jurisdictions, and she understands that a lot of the public may not know and thus, want to come to the meetings and ask questions. She stated we have had some really unfortunate things happen lately, but she feels the public should have the ability to use the three minutes they have to say whatever is on their mind and she has a hard time limiting their free speech. Councilmember Drum asks what we were limiting and Councilmember Boesch said she does not feel we should limit the public member's first amendment rights. They may want to speak on the Easter bunny, the borders, or just want to express themselves. Councilmember Drum stated he agreed that the public should have time to address issues, but an example of out of our jurisdiction would be, for example, an issue dealing with a state highway concern. Councilmember Boesch said then we should let them speak and then direct them to the appropriate legal authorities or resources. Mayor Strickland said Village Attorney Newman is pretty comfortable with the way the policy reads is the way it should read.

Village Manager Sanborn stated he sympathized to a degree with what Lydia is saying, but the flip side of that is these situations where you have 40 people who want to side on a topic that village government has no say in, and they want to come and disrupt the Council meeting. The purpose of a council meeting is to conduct Village business. Councilmember Drum said he agrees that it is an abuse of the public's time if this occurs, but he does want more people to talk. He said he does not feel we are restricting speech but instead we are expanding it. Village Manager Sanborn said you are elected officials and representatives of the Village of Pinehurst and you have the ability to represent Pinehurst. Councilmember Drum said he wants to hear any issues, even if we don't have the authority to act on the issue

Councilmember Boesch said I think this is in here because we of the unfortunate instances that have occurred lately and I just don't feel comfortable restricting them from speaking. Mayor Strickland said there will be issues that we can indirectly provide some guidance, but we do need a policy that will allow us to deal with issues we can deal with and not get overloaded with subjects that are redundant. Mayor Pro Tem Davis said the school redistricting was a big issue and mothers and fathers came to our meeting to express their views. Former Mayor Nancy shut them down immediately and this made the public feel we were turning a deaf ear to their plight. So this policy will help Council stay in our own lane and solve issues we can.

Councilmember Drum said we did still listen to those issues and yes she did shut them down because they were repetitive. He stated he feels things we have an influence over, even if it is 10%, we need to listen. Councilmember Boesch agreed with Councilmember Drum. Mayor Strickland said we will work on this and get it resolved and put it out for vote the next meeting.

Alex Cameron presented a training on Conditional Zoning for Council members. The training consisted of defining what Conditional zoning is, why it is utilized, and what conditions are appropriate. He stated there are three types of zoning and land development decisions with the most common being administrative decisions, which are not previously defined by statutes. He

stated these are typically made by staff and do not require a hearing. Mr. Cameron provided some examples, including zoning permits, and interpretations. He stated the second type is a Quasi-judicial decision, which requires discretion by the decision maker on whether the proposal meets general and subjective standards. Mr. Cameron noted this does require an evidentiary hearing to gather competent material, and substantial evidence. He further stated the decision maker must make a finding of fact based on the evidence and testimony presented. Mr. Cameron stated the last type of zoning and land development decision is a legislative decision, which requires a Legislative hearing and seeks broad public input, comment and opinion on the change. In this instance he states the Planning & Zoning Board functions as an advisory board to Village Council, but will not be the binding decision maker.

Alex Cameron defined the reasons why municipalities use Conditional Zoning and the conditions that are allowed or restricted. He demonstrated how a site specific plan can be used as a tool as it can help the local government better evaluate the proposal. He stated it usually becomes part of the agreed upon conditional approval and provides greater certainty to everyone about what's been approved. Mr. Cameron stated that Section 6.2 of the Village PDO sets the provisions for conditional districts and informed Council of the steps of the process Planning and Zoning uses to make decisions. He also covered the submittal requirements and used the USGA meeting as an example. He noted that no member of the Planning and Zoning Board or Village Council may participate in a neighborhood meeting in an official capacity.

Alex Cameron reviewed the role Village Staff plays in the review of applications and collection of material for submittal for the Planning and Zoning Board Review. He defined the steps taken during the Planning and Zoning Board review and the review and action that follows by Village Council. Mr. Cameron covered Modification to Approval and defined the requirements of NCGS Chapter 160D-703(b) for what modifications are allowed. Councilmember Hogeman asked how long Council had to make a decision on modifications. Mr. Cameron stated there is no specific time, but it is thought that 30 days would be a good time limit.

Councilmember Boesch asked if all of those steps apply to review of a major subdivision. Alex Cameron replied our local ordinance says we hold a public hearing and we do follow the same process. Councilmember Boesch asked if this includes a decision on traffic. Mr. Cameron said yes they can look at this if it is part of a zoning map amendment. Darryn Burich stated we are obliged to follow our development regulations that are in place. Council thanked Alex for his presentation and training.

5. Discuss Ordinance #21-06 for Proposed Amendment to the Pinehurst Development Ordinance.

Deferred to a later meeting.

6. Motion to Recess the Work Session and Enter Closed Session

Upon a motion by Councilmember Boesch, seconded by Councilmember Hogeman, Council unanimously approved to recess the work session and enter into a closed session pursuant to NCGS §143-318.11(a)(3) to consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged., by a vote of 5-0.

7. Closed Session.

Council held a closed session to discuss how to potentially address concerns around recent HPC decisions.

8. Motion to adjourn the Closed Session and Re-enter the Work Session.

Upon a motion by Councilmember Hogeman, seconded by Councilmember Drum, Council unanimously approved to adjourn the closed session and re-enter the work session, by a vote of 5-0.

9. Motion to Adjourn.

Upon a motion by Mayor Pro Tem Davis, seconded by Councilmember Boesch, Council unanimously approved to adjourn the work session, by a vote 5-0, at 10:00 p.m.

Respectfully Submitted,



Kelly Chance,
Village Clerk

A videotape of this meeting is located on the Village website: www.vopnc.org

Vision: The Village of Pinehurst is a charming, vibrant community which reflects our rich history and traditions.

Mission: Promote, enhance, and sustain the quality of life for residents, businesses, and visitors.

Values: Service, Initiative, Teamwork, and Improvement