



TOWN OF SURF CITY

February 8, 2023

WORK SESSION AGENDA

Agenda

8:00 AM / Friday, February 8, 2023

Surf City Municipal Complex, 214 W. Florence Way

Watch Virtually: www.youtube.com/townofsurfcity

Present:

Kyle Breuer, Town Manager

Carla Citarelli, Town Clerk

Councilman Hugh Cannady

Councilman John Koloski

Councilman Jeremy Shugarts

Councilman William "Buddy" Fowler

Mayor Pro Tem Don Helms

Mayor Teresa Batts

Amy Kimes, Planning Director

Special Meeting: Council Training

Open Meetings Law

Public Bodies and Open meetings – There need to be minutes taken for any body that meets, including committees.

Social Meeting or other informal assembly of the public body does not constitute an official meeting.

Roberts Rules of Procedure

Order of meetings was discussed per the agenda. The town clerk asked if we can change the order of our agenda. Council adopted a Rules of Procedure which included the order. Per Wes McLeod, we will need to revise and adopt the preferred order by resolution.

Quorum – necessary to perform business. The mayor is responsible for recognizing quorum or absence of forum.

Voting – All members have a duty to vote. A member seeking to be excused from a vote must do so before the vote and must be excused only for conflict of interest. Conflict of interest is very specific as well. For legislative topics, you are obligated to vote. If you abstain from voting without being excused, it's considered a yes.

Mr. Koloski asked if you're a member of a board and a certain land decision might affect the value of one's house, is that considered a conflict of interest. The answer was generally no. Wes stated it is inevitable that something like that could happen.

The mayor asked if a developer that sold a property sits on a board making a decision about it, can he or she vote? Per Wes, yes, as long as the sale is in the past. He suggested that you will usually know of something coming up and if there's any question of conflict, ask legal counsel prior to the meeting.

Ordinances – 160A-174 establishes ordinance making authority. 2/3 majority is required to adopt on first reading. Simple majority after.

For text amendments, first reading by simple majority because of public hearing requirement.

Mayor Batts asked about ETJ. If a person there complains about neighbor's violation of zoning ordinance, does that fall back to us. The answer is yes. Per Mr. Breuer, nuisance ordinances in ETJ are not our jurisdiction.

Land use decisions

Legislative such as annexation, budget, regulations. Advisory boards do not make final decisions and are less regulated. Quasi-judicial (Special Use Permit) is different.

Mr. Shugarts expressed frustration with some decisions that come to the board where they really don't have a choice but to approve. If they meet the standards, per Wes, yes, you have to approve in administrative circumstances.

NC General Statute 160D-705(c) – set standards in the case of a special use permit. This requires an evidentiary hearing, not a public hearing. It must be posted to the site and notice sent to neighbors. It does not have to be advertised. If a person does not have standing, they have no right to participate in the hearing. Decisions must be made based on the standards of the ordinance. Burden of proof is on the applicant. If standards are proven by evidence to be contradictory, permit must be denied. Board members may not gather evidence outside of the hearing. Competent evidence shall not include the opinion of lay witnesses in regard to property value opinion, increase in vehicular traffic opinion, unless there is an appraisal or certified traffic report.

Mr. Fowler asked who has authority to set a no wake zone. The answer is the Army Corp of Engineers. Legally, we have no control over that.

Conflict of interest revisited in relation to special use permit. If objection is raised and a member refuses to recuse, the rest of the board will vote on a recusal.