



Joann M. McDermon, Mayor  
Mike Benson, Mayor Pro Tem

Alice Derian, ICMA-CM  
Town Manager

Aldermen:  
Fred Fontana  
Richard Grant  
Tom Leonard  
Connie Pletl

Nancy Avery  
Interim Town Clerk

Joint Board of Aldermen and Planning Board Work Session  
November 30, 2023  
**DRAFT MINUTES**

The Town of North Topsail Beach Board of Aldermen and the Planning Board held a joint work session on November 30, 2023. A quorum of both boards was present. Town Attorney Edes was in attendance.

Board of Aldermen members present: Mayor Joann McDermon, Mayor Pro Tem Benson, Aldermen Connie Pletl, Fred Fontana, Richard Grant and Tom Leonard.

Board members absent: None

Planning Board members present: Chair Hannah McCloud, Scott Morse, Susan Meyer, Lisa Brown, Teri Ward and Stu Harness (alternate).

Planning Board members absent: None

Staff present: Town Manager Derian, IT Director Ricky Schwisow, Planning Director Deb Hill, Permit Specialist Kate Winsler, and Interim Town Clerk Nancy Avery.

Call to order

*Board of Aldermen*

Mayor McDermon called the Board of Aldermen to order at 10:00 am, welcomed the Planning Board members and requested a motion to adopt the agenda.

Mayor Pro Tem Benson requested the addition of a new topic under agenda item # 3 'Planning for the future'.

**Motion** – Alderman Grant made a motion to adopt the agenda as amended with the addition of a new item 'Planning for the future' under # 3; seconded by Alderman Leonard; unanimously approved.

*Planning Board*

Chair McCloud called the Planning Board to order at 10:04 am and requested a motion to approve the agenda.

Motion – Member Brown motioned to adopt the agenda as amended; seconded by Member Harness; unanimously approved.

### Introductions

Mayor McDermon asked all members on both boards to go around the room and introduce themselves.

### Discussion topics

1. Roles and Duties - Town Attorney Edes reviewed North Carolina General Statute (NCGS) 160D-301 regarding composition and duties of a planning board as follows:

*Composition - a local government may by ordinance provide for the appointment and compensation of a planning board or may designate one or more boards or commissions to perform the duties of a planning board. A planning board established pursuant to this section may include, but shall not be limited to, one or more of the following: (1) A planning board of any size or composition deemed appropriate, organized in any manner deemed appropriate; provided, however, the board shall have at least three members.*

*Duties. – A planning board may be assigned the following powers and duties:*

*(1) To prepare, review, maintain, monitor, and periodically update and recommend to the governing board a comprehensive plan, and such other plans as deemed appropriate, and conduct ongoing related research, data collection, mapping, and analysis.*

*(2) To facilitate and coordinate citizen engagement and participation in the planning process.*

*(3) To develop and recommend policies, ordinances, development regulations, administrative procedures, and other means for carrying out plans in a coordinated and efficient manner.*

*(4) To advise the governing board concerning the implementation of plans, including, but not limited to, review and comment on all zoning text and map amendments as required by G.S.160D-604.*

*(5) To exercise any functions in the administration and enforcement of various means for carrying out plans that the governing board may direct.*

*(6) To provide a preliminary forum for review of quasi-judicial decisions, provided that no part of the forum or recommendation may be used as a basis for the deciding board.*

*(7) To perform any other related duties that the governing board may direct.*

Attorney Edes stated:

- The Planning Board is a valuable tool for the Board of Aldermen and most of the duties pertain to developing land use plans. By statute, the Planning Board is required to review and advise on zoning map amendments and zoning ordinances. The Aldermen may, and

it is not mandatory, but may have the Planning Board look at things such as development regulation text amendments.

- The Town of North Topsail Beach adopted the above Statute 160D-301 in its Unified Development Ordinance (UDO) as Section 2.01.
- There appears to be some confusion about the role of the boards.
- Essentially the Board of Aldermen creates and directs the Planning Board and the Planning provides advisory opinions to the Board of Aldermen.

Attorney Edes reviewed the current membership and terms of the Planning Board as follows:

<u>Regular Member Name</u>	<u>Term Expiration</u>
Hannah McCloud	May 15, 2024
Scott Morse	May 15, 2025
Teri Ward	May 15, 2026
Lisa Brown	May 15, 2025
Susan Meyer	May 15, 2026
Vacancy	May 15, 2024
Vacancy	May 15, 2026

<u>Alternate Member Name</u>	
Stu Harness	No terms for alternates
Vacancy	No terms for alternates

Alderman Grant said he was confused as to why alternates do not have terms.

Chair McCloud stated that by tradition alternates automatically move into a vacancy and take the term for that vacancy.

Mayor McDermon summarized the Planning Board current membership as five (5) regular members, two (2) alternate members and alternate members have no term.

Alderman Fontana said when he was on the Planning Board as an alternate, he automatically stepped up as a regular member when there was a vacancy. He asked if the Planning Board should have done that or the Board of Aldermen.

Alderman Leonard said he thinks we are not consistent with our Rules of Procedure.

Attorney Edes stated that moving alternates to regular membership is an action for the Board of Aldermen.

Chair McCloud said it was not kept intentionally from the Board of Aldermen. Over the years there have been many clerks, managers and boards and they (Planning Board) have only the ordinance to go by. Staff has responsibility to tell the Planning Board when things expire. She does not think there has been a time when it has not been brought to the Board of Aldermen. The last recommendation from the Planning Board to the Aldermen on appointments was not approved.

Roles and Duties board discussion points:

- Who is responsible for managing Planning Board roster of members and terms and giving notice to the Aldermen that terms are expiring (staff or Planning Board)?
- Who is responsible for advertising vacancies on the Planning Board?
- Who is responsible for getting applications for the Planning Board to the Aldermen?
- Who receives a resignation notice from a Planning Board member?
- No communication on applications received to the Planning Board for consideration when making a recommendation to appoint.
- Problems with attendance with only five (5) out of nine (9) members showing up for meetings.
- Alternates constantly end up sitting in and voting because there is not a quorum of regular members.
- Provisions in both by-laws and UDO that allow removal of a member(s) that does not come to meetings.
- The fact that the Planning Board did not recommend any new people to serve when there was a vacancy.
- Both the Planning Board and the Board of Adjustment should have different members.
- Need for list of names of Planning Board members and terms on the website to be transparent.
- Number of terms Planning Board members serve – maybe there should be a limit.
- Problems with communication with applicants when they apply as to whether the application was received or not.
- What are the attendance expectations?
- Differences in policies and UDO are causing confusion.

**Consensus** - Alderman Grant will draft the process for managing expiring terms and vacancies on the Planning Board to bring to the Board of Aldermen for discussion and approval at the January 2024 meeting.

Attorney Edes stated:

- All direction regarding terms, term limits, filling of regular member positions, filling of alternate member positions, or any movement between an alternate position to a regular position are at the direction of the Board of Aldermen.
- Legally, alternates should only be sitting with the Planning Board when there is a vacancy and only one per vacancy. Do not blur the lines by having alternates sit at the dais with regular members. A visual demarcation is important.

## 2. Rules of Procedure

Town Attorney Edes said he is adapting a suggested Rules of Procedure from the UNC School of Government for the Planning Board for approval by the Board of Aldermen. The composition of the Planning Board should be defined by ordinance, not policy and the Town has done that in the UDO. Appointment procedures for members may be in a policy, rather than ordinance.

Alderman Grant stated he wants the Board of Aldermen to discuss how many members it wants on the Planning Board. We should not be relying on an alternate to get a quorum. There is also disagreement between the UDO and policy.

### 3. Appointment Policy

Mayor McDermon asked both boards for opinions on appointment policy.

#### *Poll of both board members:*

Mayor Pro Tem Benson said he does not like the idea of alternates. Regular members should schedule their time around meetings. Seven (7) regular members with no alternates is okay or five (5) regular and two (2) alternates, but no more than seven (7) total members. Having alternates gives regular members the option to not attend because they know there are alternates.

Alderman Pletl stated she agrees with Mayor Pro tem Benson. She asked if there have been more people applying for boards or less.

Alderman Grant said he does not like alternates for committees. He would rather have five (5) regular members only. The Board of Adjustment could still have two (2) more for a total of seven (7). He did not want to appoint more Planning Board members until the Board of Aldermen decided the number of members.

Chair McCloud stated she was blindsided when the Board of Aldermen did not take the Planning Board's recommendation or follow the UDO by appointment a full board. This is why they wanted a meeting to discuss this with the aldermen.

Planning Board Member Meyer said alternates take their responsibility seriously. As an alternate, she took it as a learning and training time. She thinks alternates are important and necessary, especially in a tourism community. It is not a paid position and it is unrealistic to expect every person to attend every meeting.

Mayor McDermon said it is about the number and having a quorum to move forward because the board is talking about homeowner property rights which is very important. She said she wants a full board of regular members and does not like alternates. The Board of Alderman had discussion about whether to stream or record Planning Board meetings. Some Planning Board members did not want meetings to be streamed. It goes to transparency.

Attorney Edes clarified that the UDO states there shall be seven (7) members. That does not divest the Board of Aldermen of who they appoint. The Board of Aldermen is not derelict in its duty. The distinction is no different from the Board of Aldermen vacancy. The Board is not forced to appoint if the quality of candidates is not good.

Planning Board Member Harness stated he applied for an alternate position because of his job that requires him to travel. He did not apply for a regular member because of this. The alternate position gave him flexibility.

Alderman Leonard asked Planning Board member alternates how they feel about not getting to vote.

Planning Board Member Brown said she and Aldermen Fontana were alternates at the same time and there was probably not a meeting that one of them or both of them were not voting.

Alderman Fontana asked Attorney Edes what other towns do.

Attorney Edes said it varies town to town. Alternates are more prevalent for Board of Adjustment because of the need for a four/fifths (4/5) vote to obtain a variance which is a binding decision. Planning Board decisions are advisory.

Chair McCloud said that Holly Ridge has five regular members with three from town and two from the Extra Territorial Jurisdiction (ETJ) area, two alternates (one town and one ETJ). Surf City has eight (8) regular members with one from an ETJ, and two alternates. Topsail Beach has five regular members and no alternates.

Manager Derian stated in the last year there has been an uptick in volunteer applications for boards.

### **Summary of poll of members**

Mayor McDermon summarized the outcome of the polling of both boards as follows:

- Five (5) regular members with two (2) alternates with a maximum of seven (7) total OR
- Maximum of seven (7) regular members with no alternates OR
- Five regular members with the option to appoint two (2) more regular or alternate members as needed for a maximum of seven (7) total members.

After more discussion, Mayor McDermon polled both boards again on the following suggestion:  
**Minimum of five (5) regular members with the option to add two (2) regular members for a maximum of seven (7) members. No alternates.**

### Poll of both boards

Alderman Pletl – ok

Alderman Leonard - ok

Alderman Fontana – ok

Alderman Grant – ok

Mayor Pro Tem Benson – ok

Planning Board Chair McCloud – seven (7) members maximum but wants alternates

Planning Board Member Ward - there may be issues when a member has to recuse themselves and if there is a lower number of members, it could affect a quorum. She said she thinks an alternate is beneficial as it is a learning curve. We need seven (7) people of varying experiences to bring new people along.

Planning Board Member Harness – he prefers being an alternate because his job requires him to travel. He asked if there is a limit on the number of boards a person can serve on would an alternate be allowed to serve on another board.

Planning Board Member Meyer – no comment

Planning Board Member Morse – no comment  
Planning Board Member Brown – no comment

Alderman Leonard said the Planning Board is telling us they still want alternates to use as a training wheel. We need to listen to the Planning Board members and their opinion changed his vote.

#### 4. Attendance requirement

Both board members discussed what the attendance requirement should be with these highlights:

- It is usually three (3) consecutive meetings
- It could be three (3) consecutive or fifty percent (50%) of meetings missed
- Three (3) consecutive or one-third (1/3) of all meetings
- Maybe it should be a twelve (12) month period instead of a calendar year
- Maybe the term year should be used to determine absence
- If using the term year, make it clear the three (3) consecutive absences do not have to be within the term
- The minutes of the meeting need to reflect members present and absent

Planning Board Member Meyer stated she has been coming to meetings for a while and there are people on the board she has never seen at a meeting.

Alderman Pletl said a member can always resign and reapply if they know they will be away for a long period of time.

#### **Consensus on attendance policy**

Within the term of a member, there cannot be more than one-third (1/3) of meetings missed OR three (3) consecutive meetings (not term related)

#### 5. Code of Ethics

Town Attorney Edes stated he sent a draft Code of Ethics policy for review this morning to the manager and that is applicable for all boards and committees.

Mayor McDermon asked Board of Aldermen to provide feedback to Attorney Edes before the December meeting.

#### 6. Unified Development Ordinance

No discussion

#### 7. Future planning

Mayor Pro Tem Benson said he thought it would be good to include a discussion on future planning to determine what is needed for the Coastal Management Authority Act (CAMA) Land Use Plan update, swimming pool review to define different types, resiliency planning, sea level rise and long term planning for the Planning Board to look at and decide what is needed.

Alderman Grant disagreed stating it is incumbent on the Board of Aldermen to give the Planning Board direction on what they want them to work on.

Mayor McDermon said the direction needs to come from the Board of Aldermen to the Planning Board.

Alderman Leonard asked if sea level rise would be a topic for the BISAC committee and not the Planning Board.

**Summary**

Mayor McDermon stated follow ups from this meeting are:

- Alderman Grant to draft procedures on Roles/Responsibilities to include process for managing expiring terms and vacancies
- Attorney Edes is work with Planning Director Hill and Town Manager Derian on UDO changes after the draft is reviewed at the January meeting
- An update on policies and procedures will follow after the Board of Aldermen makes it decision
- Attorney Edes to decide where the member absence decision will be located – UDO or policy.

Planning Board Chair McCloud stated the Planning Board will wait for the Board of Aldermen to give direction so they are all on the same page.

Attorney Edes asked the Planning Board to develop a roster of members at its next meeting.

Adjournment

**Motion** – Planning Board Member Morse motioned to adjourn at 12:12 pm; seconded by Planning Board Member Ward; unanimously approved.

**Motion** – Alderman Leonard motioned to adjourn at 12:13 pm; seconded by Mayor Pro Tem Benson; unanimously approved.

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Joann McDermon, Mayor

ATTEST: \_\_\_\_\_  
Nancy Avery, Interim Town Clerk