

**Town of Swansboro
Board of Commissioners
May 10, 2021 Regular Meeting Minutes**

In attendance: Mayor John Davis, Mayor Pro Tem Frank Tursi, Commissioner Pat Turner, Commissioner Harry PJ Pugliese, Commissioner Larry Philpott, and Commissioner Laurent Meilleur. It was noted that the Board had returned to remote meetings through the ZOOM platform as allowed by NCGS 166A-19. Governor Cooper had declared a state of emergency due to the COVID-19 Pandemic in March 2020 and it remained in effect.

Call to Order/Opening Prayer

The meeting was called to order at 5:32 pm. Mayor Davis gave the invocation and acknowledged the Police Department for their outstanding performance during a recent traffic stop that became troublesome.

Public Comment

Rich Wells of 248 River Reach Drive and Seaside Arts Council President addressed the upcoming May 30th date for SwanFest Concert Series. He received information from the Governor's Office and Onslow County Public Health Department that guidelines from the NCHHS for spring related events and travel should be considered based on document 2394 to manage crowd control. That document stated that for street festivals, road races, and other non-seated events, limits groups to no more than outdoor mass gather limits and ensure sufficient social distancing. Additionally, it had been indicated that all limit restrictions were possibly going to be lifted by June 1st. He urged the Board to permit the SwanFest Concert Series to begin on May 30th.

Pat Provost of 202 Wild Oak Drive, Owner of Jersey Mikes, and acting President of the Swansboro Area Chamber of Commerce supported the SwanFest Concert Series to be allowed to begin on May 30th.

Nicole Samuels of 216 Knightheads Drive and owner of Squid Sicles spoke on behalf of her mobile ice cream truck and thanked the Board in advance for the consideration on her Certificate of Convenience. She shared that her family settled in the area and were excited to offer their mobile popsicle services to the area neighborhoods and the nostalgic traditions that many remember as children.

Adoption of Agenda

On a motion by Commissioner Philpott, seconded by Commissioner Turner, the Agenda, and Consent Items below was unanimously approved.

- Certificate of Convenience/Five Bucks Coffeeteria
- Certificate of Convenience/Squid Sicles
- Resolutions in Opposition of House Bill 401/Senate Bill 349 and House Bill 496

The Increase Housing Opportunities bill, House Bill 401, and Senate Bill 349, (if approved) would require local governments to allow all “Middle Housing” types: duplexes, triplexes, quadplexes, and townhomes, in areas zoned for residential use. Additionally, it would require local governments to allow the development of at least one accessory dwelling unit for each detached single-family dwelling in areas zoned for residential use, and prohibits the regulation of occupancy, parking, setbacks, and method of approval of such units.

The Property Owners' Rights/Tree Ordinances bill, House Bill 496, (if approved) would require all local governments to obtain special authorization from the General Assembly prior to enacting a tree protection ordinance and voids all existing ordinances protecting trees that were established without special authority.

Presentations

Strategic Operating Plan and Economic Development Committee Discussion (EDC)

JOED Executive Director Mark Sutherland gave a brief presentation on the Town's Strategic Operating Plan and reviewed the following Strategic Goals:

- I. Develop as a connected community in order to maximize local economic and social interaction.*
- II. Improve and protect the town's natural environment in order to attract new residents and maximize the town's economic development potential.*
- III. Foster and improve the town's sense of place in order to attract residents, visitors, and business investment.*
- IV. Actively recruit new businesses; support the expansion of existing businesses; and expand the physical accommodation of growth.*

Board members shared their concern that they should have provided input and direction on development of this committee, especially since the Town did not have an agency or department to handle the specifics outline under item IV above.

Mayor Pro Tem Tursi felt that an independent group could move at odds with the Town elected officials and could potentially be unproductive.

Roy Herrick, Chair of the EDC shared that the committee had begun with elected officials included, Mayor Davis and Commissioner Philpott but for various reasons both had not been involved recently. The committee's desire was to work with the Town.

Mr. Southerland shared that the EDC was tasked with developing a "white paper" that recommended Board actions for the creation of an economic development committee,

but that process was never finalized. The Board agreed that the “white paper” needed to be priority and finalized.

After discussion and on a motion by Commissioner Turner, seconded by Commissioner Pugliese, Commissioner Philpott was appointed to represent the Board of Commissioners on the Economic Development Committee. The vote was unanimous.

Public Hearing

Residential Cluster Development Regulations

The Public Hearing was held open at the April 26, 2021, Regular Meeting to allow for written public comments to be for up to 24 hours. Mayor Davis asked that those written comments (emails) be entered into the minutes as Attachment A.

Mayor Pro Tem Tursi suggested that the following revision be made to paragraph (D) 9 and if the Board accepted, then paragraph (E) would not be needed.

Areas designated by the federal government as 404 wetlands or by the state government as isolated wetlands shall not be used to meet the open-space requirements of the ordinance unless those wetlands are protected through deed restrictions or conservation easements that prohibit all filling, alterations, or development in the wetlands or by donating or selling the wetlands to the Town or to a legally incorporated non-profit group or wetlands bank that agrees not to fill, alter or develop them. State-designated coastal wetlands or the 30-foot buffer required by the Coastal Area Management Act cannot be used to meet the open-space requirements of the ordinance;

Attorney Parson agreed that deleting paragraph (E) would be acceptable if the edits were accepted to paragraph (D) 9.

On motion by Mayor Pro Tem Tursi, seconded by Commissioner Meilleur, Ordinance 2021-01 was unanimously approved with the recommended revisions offered by Mayor Pro Tem Tursi above including the statement that the approval was consistent with the comprehensive plan.

Text Amendments - Chapter 160D Amendments

Chapter 160D of the North Carolina General Statutes consolidated current statutes for local development regulations (now in Chapter 160A) into a single, unified chapter, and placed these statutes into a more logical, coherent organization. It refined procedures, aligned terminology, and confirmed authority that was presumed under old statutes.

Chapter 160D became effective on June 19, 2020, however, local governments had until July 1, 2021, to update local ordinances and policies to comply. All city and county

zoning, subdivision, and other development regulations, including unified development ordinances, had to be updated by that date.

At their April 6, 2021, regular meeting, the Planning Board recommended approval of the proposed changes to the Town Code of Ordinances, Unified Development Ordinance, and Fee Schedule. The vote was 4 to 1.

Planner, Jennifer Ansell reviewed and highlighted the following items in the amendment.

- Hearing procedures notifying abutting property owners
- Removal of Wireless Telecommunication facilities in the B2HDO district
- Family Care Home notes to table of permitted/special uses
- Temporary Family health care structures added to the table of permitted/special uses
- Criteria added for Wireless Telecommunications facilities in permitted areas

The public hearing was opened at 6:52 pm. There were no comments at this time, the hearing would need to remain open for 24-hours and the vote would take place at the next meeting.

The Board as well as Attorney Parson commended Planner Ansell on the amendment, it was a major undertaking and a very large amendment.

Business Non-Consent

Purchase of Comprehensive Operating Software

The Budget Ordinance for FY 20/21 included \$60,000 for the purchase of new comprehensive software. Town staff reviewed the proposals; conducted an onsite demonstration at Emerald Isle and contacted the references that were provided by the software vendor. They recommended a hosted Incode 10 application offered by Tyler Technologies. Incode 10 was web-based and would include the core financial system including general ledger, purchasing; capital assets; project accounting; and cashiering. In addition, it would include the transparency module and a personnel management suite including an employee self-service portal and online timesheets.

The annual maintenance/support cost of the new comprehensive operating software was \$38,392 per year, beginning in year one with a one-time cost of \$60,800 for project management, implementation, onsite and remote training, and some Asyst data conversion.

It was estimated that there would be a 12-to-15-month transition before going live with the software and once fully utilized it was expected that Town staff would see significant efficiencies in streamlined processing and online self-services.

Finance Director Sonia Johnson shared that along with her department, the Permitting department was forced to complete their work in several different systems and specific functions related to necessary/needed processes did not function as they should which was extremely inefficient.

Finance Technician, Angela Stewart and Planner Jennifer Ansell shared the inefficiencies with the current software and its limitations. Both spend more time than they should accomplishing tasks and ensuring accuracy. The new system would streamline and integrate many functions.

In response to an inquiry from the Board, Planner Ansell shared that the current permitting system was used by several employees on a regular/daily basis but wasn't available in the field for her nor the Building Inspector, which was needed.

Commissioner Meilleur inquired what additional services/packages/upgrade would be available down the road that were not part of the current proposal and what price increases were expected in the future. Director Johnson gave details on the software modules and shared that there was a Parks & Rec interface available for a onetime fee of \$1,200, other than that she felt confident that there should not be a need for anything additional. The annual cost of \$38,392 was locked in for 4 years with a 5% increase thereafter.

Mayor Pro Tem Tursi inquired about the location where the data would reside. Director Johnson indicated that the program was on Tyler Technologies cloud which was always available. Manager Seaberg added that cloud-based services offered ransomware protections. In a hosted environment such as this, all the backup and security of the data was the software companies' responsibility, and they would be responsible to restore any lost data.

On a motion by Mayor Pro Tem Tursi, seconded by Commissioner Meilleur Manager Seaberg was authorized to execute the contract with Tyler Technologies by unanimous vote.

SwanFest Concert Series

Seaside Arts Council was requesting that the concert series be allowed to begin on May 30th. It was anticipated that the North Carolina Governor's office would be releasing or lessening many of the COVID restrictions on June 1st.

Rich Well shared that the original proposal was for 12 people/1,000 square feet based on the June 19th guidelines from the state. Additional research offered that street festivals and springtime events allowed groups of 200 with social distancing abilities. He believed dividing the downtown area into three zones would help with social distancing.

In response to Commissioner Meilleur's inquiry on how crowd control would be handled, Mr. Wells assured that SAC would be diligent and address crowds that began getting too large with assistance from the Police Department. Manager Seaberg had spoken with Police Chief Jackson, who believed the proposal was enforceable but did not feel that road closures were necessary but if required could be managed.

Commissioner Philpott's asked how other municipalities were handling such events. Manager Seaberg stated that only Emerald Isle had responded, and their concert series would not begin until after June 1st.

Both Commissioners Turner and Pugliese indicated support to allow the concert series on May 30 believing it was a step toward some normalcy.

Mayor Pro Tem Tursi and Commissioner Meilleur shared safety concerns and believed the series should be delayed until after June 1 if the Governor lifted restrictions.

On a motion by Commissioner Pugliese, seconded by Commissioner Turner, approval for the SwanFest Summer Concert Series as proposed with three zones to begin on May 30th was granted if the COVID restrictions guidelines in place were followed. The motion passed 3:2.

Ayes: Turner, Pugliese, Philpott

Noes: Tursi, Meilleur

Future Agenda Items – A memo detailing proposed upcoming agenda items was reviewed and an opportunity for the Board to introduce any new items was given. Manager Seaberg added that a Budget Workshop was scheduled for May 13th.

Mayor Davis added that school sports recognitions were to be done when meetings returned to in-person in June.

Mayor Pro Tem Tursi urged that the Planning Board and Planner to continue to look at how open space and wetland could be preserved in other districts, especially the business district.

Public Comments

Citizens were offered an opportunity to address the Board regarding items not listed on the agenda. No comments were offered.

Adjournment

On a motion by Commissioner Turner, seconded by Commissioner Philpott, the meeting adjourned at 8:20pm.

Attachment A
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Paula Webb

From: Frank Tursi
Sent: Monday, May 10, 2021 4:39 PM
To: Jennifer Ansell
Cc: Christopher Seaberg; Paula Webb
Subject: RE: BOC meeting tonight - public hearing
Attachments: ordinance 2021-01.docx

I was in the process of writing the attached when you sent Jonathan's email. Though he missed the 24-hour comment period, I tend to agree with him.

I offer the attached revisions that I'll suggest tonight.

Please pass along to the board.

"See you" in a bit.

Frank

From: Jennifer Ansell <jansell@ci.swansboro.nc.us>
Sent: Monday, May 10, 2021 3:48 PM
To: Paula Webb <pwebb@ci.swansboro.nc.us>; boc@ci.swansboro.nc.us
Subject: FW: BOC meeting tonight - public hearing
Importance: High

Please see attached and below.

Thank you,

Jennifer H. Ansell, CFM, CZO
Planner
Town of Swansboro
601 W. Corbett Avenue
Swansboro, NC 28584
(910) 326-4428
(910) 326-3101 Fax

From: Jonathan McDaniel <JMcDaniel@parkerjacksonville.com>
Sent: Monday, May 10, 2021 3:43 PM
To: Jennifer Ansell <jansell@ci.swansboro.nc.us>
Cc: Christopher Seaberg <cseaberg@ci.swansboro.nc.us>; John Davis <jdavis@ci.swansboro.nc.us>
Subject: BOC meeting tonight - public hearing

Hi Jennifer,

I had a minute to consider the proposed amendment to the residential cluster section, and wanted to offer the attached opinion as part of the public comment section. Please let me know any questions and how I can help.

Thanks,

--

Jonathan L. McDaniel, PE
BELL AND PHILLIPS
Engineers*Surveyors*Planners
604E Cedar Point Boulevard
Cedar Point, NC 28584
(252) 393-6101
Firm License Number - F0108
www.BellandPhillips.com

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Suggested edits to the revisions of Ordinance 2021-01, Cluster Development Regulations

D-9: Areas designated by the federal government as 404 wetlands or by the state government as isolated wetlands shall not be used to meet the open-space requirements of the ordinance unless those wetlands are protected through deed restrictions or conservation easements that prohibit all filling, alterations, or development in the wetlands or by donating or selling the wetlands to the Town or to a legally incorporated non-profit group or wetlands bank that agrees not to fill, alter or develop them. State-designated coastal wetlands or the 30-foot buffer required by the Coastal Area Management Act cannot be used to meet the open-space requirements of the ordinance.

Explanation: As I noted in a previous email there is no legal definition for "401 wetlands." They don't exist in either state or federal law. 401 refers to a requirement in the US Clean Water Act that states must determine that any action allowed by a federal permit is consistent with state law or local land-use plans and won't harm water quality. In wetland permitting almost all 401 consistency determinations relate to federally designated 404 permits. "Coastal" and "isolated" wetlands are the two classes of wetlands protected by state laws.

My suggested revisions, I think, meet the Planning Board's intent of protecting wetlands in cluster developments while giving the landowners an incentive to do that – the open space bonus – and offering various options – easements, deed restriction, fee simple sales or donations. I don't we should worry too much about how wetlands are preserved, as long as they are.

Development in coastal wetlands and the 30-foot CAMA buffer are restricted by the state. Residential property owners can build very little in them. Because large-scale residential development is almost impossible in those area, developers shouldn't be allowed to count them as open space – they can't build in them anyway.

E: Strike entirely. Not needed with the suggested changes.

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Paula Webb

From: Jonathan McDaniel
<JMcDaniel@parkerjacksonville.com>
Sent: Monday, May 10, 2021 3:43 PM
To: Jennifer Ansell
Cc: Christopher Seaberg; John Davis
Subject: BOC meeting tonight - public hearing
Attachments: 20210510151634708.pdf

Hi Jennifer,

I had a minute to consider the proposed amendment to the residential cluster section, and wanted to offer the attached opinion as part of the public comment section. Please let me know any questions and how I can help.

Thanks,

--

Jonathan L. McDaniel, PE
BELL AND PHILLIPS
Engineers*Surveyors*Planners
604E Cedar Point Boulevard
Cedar Point, NC 28584
(252) 393-6101
Firm License Number - F0108
www.BellandPhillips.com

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Paula Webb

From: John Freshwater <johnfh2o@gmail.com>
Sent: Tuesday, April 27, 2021 11:42 AM
To: Jennifer Ansell
Cc: Christopher Seaberg; Paula Webb; John Davis; Scott Chadwick; David Newsom
Subject: Re: Residential Cluster Dev Reg Revision

Hi Jennifer

Paula was copied on my previous email. I don't really know how to be more specific...will try: Cluster development can obviously protect environmentally sensitive areas. It should be encouraged vs. requiring the "taking" (regardless of legality) of land, especially waterfront - per the proposed UDO revision.

Paula - please share this and my prior email, as well as Dave Newsom's, with the Board.

Thank you!
John

On Tue, Apr 27, 2021 at 11:13 AM Jennifer Ansell <jansell@ci.swansboro.nc.us> wrote:

John,

The Residential Cluster agenda item was tabled last night in order to allow written comments to be submitted up to 24 hours after the public hearing pursuant to Session Law 2020-03/Senate Bill 704. If you have specific comments related to the text amendment, please submit those to Paula at pwebb@ci.swansboro.nc.us.

Thank you,

Jennifer H. Ansell, CFM, CZO

Planner

Town of Swansboro

601 W. Corbett Avenue

Swansboro, NC 28584

pg 5 of 5

Paula Webb

From: David Newsom <crystalcoasteng@bizec.rr.com>
Sent: Tuesday, April 27, 2021 11:10 AM
To: 'John Freshwater'; Christopher Seaberg; Paula Webb; Jennifer Ansell
Cc: John Davis; 'Scott Chadwick'
Subject: RE: Residential Cluster Dev Reg Revision

Here's a suggestion.....

Instead of trying to supercede Federal and State wetland protection programs (401, 404 and Coastal Wetland permitting).....why not first exercise Town's rights (responsibilities?) within those very programs?

Seems to me, this entire "control" of wetlands issue is an overreaction to two controversial projects in past years.....1) Walmart.....and 2) Bailey Center. In both cases, the developer applied for a permit to fill USACE protected wetland areas. As part of that permit review process, the Town was notified of those pending permits.....and allowed to comment on those permits. The Town chose NOT to issue any comments in either case, and as a result, the permits were subsequently issued to the Developer and those wetlands destroyed (filled). Had the Town commented, and expressed concern, those permits would likely have been denied by the USACE, especially if Town contended those "fills" not in compliance with the Local Land Use Plan. Now the Town contends the USACE and State do NOT do an adequate job projecting wetlands.....and wish to interject themselves into the "business" of wetland protection. If Town would simply exercise their rights under the current USACE and State permitting processes (i.e. Send in comments) I think the result would be the same (wetland projection) without local action and removal of those wetlands from the Tax Rolls.

Just my 2-1/2 cents worth.....

From: John Freshwater <johnfh2o@gmail.com>
Sent: Tuesday, April 27, 2021 10:58 AM
To: cseaberg@ci.swansboro.nc.us; Paula Webb <pwebb@ci.swansboro.nc.us>; jansell@ci.swansboro.nc.us
Cc: jdavis@ci.swansboro.nc.us; Scott Chadwick <mayorsea@gmail.com>; David Newsom <crystalcoasteng@bizec.rr.com>
Subject: Residential Cluster Dev Reg Revision

To whom it may concern:

I find it very sad when any government entity discourages environmentally beneficial development. It would make more sense to me were it incentivized.

I hope the attached page will provide a beginning point for anyone interested in learning more about cluster development.

Sincerely,