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BOARD OF COMMISSIONERS MEETING AGENDA

Town of Swansboro

Monday, February 14, 2022

Board Members

John Davis, Mayor | Frank Tursi, Mayor Pro Tem | Pat Turner, Commissioner
Harry PJ Pugliese, Commissioner | Larry Philpott, Commissioner | Jeffrey Conaway, Commissioner

*Zoom Link: First Meeting of the month: <https://us02web.zoom.us/j/82680161743>

Second Meeting of the month: <https://us02web.zoom.us/j/86147603054>

I. Call to Order/Opening Prayer/Pledge

Mayor John Davis

II. Public Comment

Citizens have an opportunity to address the Board for no more than three minutes per speaker regarding items listed on the agenda.

There is a second opportunity at the end of the agenda for the public to address the Board on items not listed on the agenda.

III. Adoption of Agenda and Consent Items

Board of Commissioners

The Town Clerk respectfully submits to the Board, the Regular Agenda and the below consent items, which are considered to be of general agreement and little or no controversy. These items may be voted on as a single group without Board discussion "or" if so desired, the Board may request to remove any item(s) from the consent agenda and placed for consideration separately.

Consent Items:

a. Tax Refunds

The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$244.55.

Howard, Joshua Franklin	\$62.34	Military
Kaster, Jessica Merrill	\$158.90	Military
Torbush, Fred Gene	\$23.31	Tag Surrender

IV. Appointments/Recognitions/Presentations

V. Public Hearing - *none*

VI. Business Non-Consent

a. Discussion on Schedule of Fees Amendment Related to Demolition in the Historic District

Jennifer Ansell
Planner

The Board of Commissioners reviewed the proposed changes at their January 24, 2022, regular meeting, and asked that Staff arrange for the Chairs of the Historic Commission to attend the February meeting to further discuss the demolition fee proposed.

Recommended Action: Amend the Schedule of Fees as proposed

b. Update on Items Discussed at September 2021 Joint Meeting

Jennifer Ansell
Planner

The Board of Commissioners has asked staff to provide an update on where the Historic Preservation Commission stands on the items discussed at the September 21, 2021, joint meeting.

c. Visitor's Center Improvements

Paula Webb
Town Manager

Staff seeks guidance on how to proceed with Visitor's Center Improvements.

Recommended Action: *Provide guidance on how to proceed with the project*

d. Future Agenda Items

Alissa Fender
Town Clerk

Future agenda items are shared for visibility and comment. In addition, an opportunity is provided for the Board to introduce items of interest and subsequent direction for placement on future agendas.

Recommended Action: *Discuss and provide any guidance*

VII. Items Moved from Consent

VIII. Public Comment

Citizens have an opportunity to address the Board for no more than five minutes regarding items not listed on the Agenda.

IX. Manager's Report/Comments

Paula Webb

X. Board Comments

Board of Commissioners

XI. Closed Session

Board of Commissioners

XII. Adjournment

Board of Commissioners



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Tax Refund Request**

Board Meeting Date: **February 14, 2022**

Prepared By: **Sonia Johnson, Finance Director**

Overview:

The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$244.55.

Vehicle Tax

Howard, Joshua Franklin	\$62.34	Military
Kaster, Jessica Merrill	\$158.90	Military
Torbush, Fred Gene	\$23.31	Tag Surrender

Recommended Action:

Motion to approve refunds as recommended by Onslow County.

Action: _____



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Schedule of Fees Amendment Related to Demolition in the Historic District**

Board Meeting Date: **February 14, 2022**

Prepared By: **Jennifer Ansell, Planner**

Overview: At their January 18, 2022, regular meeting, the Historic Preservation Commission reviewed several example fee structures from other communities around the State and made a recommendation to amend the Schedule of Fees.

The Board of Commissioners reviewed the proposed changes at their January 24, 2022, regular meeting, and asked that Staff arrange for the Chairs of the Historic Commission to attend the February meeting to further discuss the demolition fee proposed. We have asked Patrick Larkin, Chair, and Kim Kingrey, Vice-Chair to attend.

Upon reviewing the recording for the meeting, it became apparent that the intent of the Commission was to establish a \$2,000.00 penalty fee for demolition, not an application fee. Staff has corrected the proposed Schedule of Fees to reflect that recommendation.

Additionally, it was the intent of the Commission that the application and penalty fees be collected and earmarked for maintenance of properties in the district to establish a sort of “historic maintenance fund”. We have corresponded with the State Historic Preservation Office and the School of Government and learned that pursuant to State law, permitting and inspection fees cannot be used for that purpose

Recommended Action: Amend the Schedule of Fees as proposed.

Background Attachment(s):

1. Schedule of Fees-Planning and Development Fees
2. School of Government Correspondence
3. State Historic Preservation Office Correspondence
4. Certificate of Appropriateness List

Action: _____

PLANNING AND DEVELOPMENT FEES

Historic District COA Application Fee	\$200.00 (approved 1/24/22)
Historic District Minor Work Application Fee	\$50.00 (approved 1/24/22)
COA Extension or Amendment Request	\$50.00
After the Fact Penalty (Historic District)	\$500.00 Major (approved 1/24/22)
	\$100.00 Minor (approved 1/24/22)
	<u>\$2,000.00 Demolition</u>

Jennifer Ansell

From: Lovelady, Adam <adamlovelady@sog.unc.edu>
Sent: Thursday, February 3, 2022 10:32 AM
To: Jennifer Ansell; Millonzi, Kara Anne
Subject: RE: Historic Maintenance Fund?

Permitting and inspections fees must be used for fund the permitting and inspections functions. They could not be shifted to broader public purposes such as a preservation maintenance fund. The town could explore other options for using general revenues to support historic preservation, but the permitting fees will not be available to support that.

Here is a blog that walks through some of the considerations for development permitting fees. It is from pre-160D, but it still reflect the rules and regulations.

<https://canons.sog.unc.edu/2018/09/administering-development-regulations-and-accounting-for-permitting-fees/>

Adam

From: Jennifer Ansell <jansell@ci.swansboro.nc.us>
Sent: Thursday, February 3, 2022 10:00 AM
To: Millonzi, Kara Anne <Millonzi@sog.unc.edu>; Lovelady, Adam <adamlovelady@sog.unc.edu>
Subject: Historic Maintenance Fund?

Hi Kara and Adam,

Our Historic Preservation Commission has inquired about increasing our application, enforcement, and demolition fees to establish a sort of "Historic Maintenance Fund". Fees collected would be earmarked for maintenance of properties in the district.

Are you aware of any communities that do this? Is that even a function of the Commission?

I did reach out to Kristi Brantley, CLG/Local Government Coordinator with the State Historic Preservation Office. She was not aware of any communities that allocated funds this way.

Thank you for your consideration,

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

<https://canons.sog.unc.edu/2018/09/administering-development-regulations-and-accounting-for-permitting-fees/>



Coates' Canons NC Local Government Law

Administering Development Regulations and Accounting for Permitting Fees

Published: 09/04/18

Author Name: Adam Lovelady

A 2015 North Carolina law requires that fees collected by the local “inspections department” must stay with that department. A 2018 law requires local finance officers to report to the Local Government Commission the revenues and expenditures “from building inspections.” The basic statutory language of each rule is straightforward, but in practice the meaning and scope is less clear. The lack of clarity around permitting fees arises from the complicated authority for local governments to administer development regulations. This area of law has overlapping terminology, convoluted statutory structure, and varied local government organization and practices. This blog attempts to shed some light on the topic, but questions remain.

Authority for Administering Development Regulations

The broad term “development regulation” encompasses many different categories: zoning and land subdivision, the North Carolina Building Code, local housing codes and unsafe building ordinances, historic preservation, rules for telecommunications towers, land disturbance permitting, and more. In the North Carolina General Statutes, these regulatory activities are authorized under Article 18 of Chapter 153A for counties and Article 19 of Chapter 160A for municipalities. Additionally, some regulations are integrally related to land development even if they also can stand alone. These include regulations for driveway permits, stormwater management, wetland protections, and others.

The administration of these development regulations includes processing permit applications, ensuring construction standards through inspections, and maintaining compliance through enforcement actions.

State law provides authority—some general, some specific, and some implied—for local governments to

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handle those administrative duties.

The principal authorities for administering development regulations are outlined under the statutory Part titled “Building Inspection” (Gen. Stat. Ch. 153A, Art. 18, Part 4 and Ch. 160A, Art. 19, Part 5). The core of this statutory Part is permitting for the State Building Code, but the grant of authority is much broader.

As outlined at G.S. 153A-352 and 160A-412, the local inspections department is authorized to enforce State *and local laws* relating to:

- The construction of buildings and other structures;
- The installation of such facilities as plumbing systems, electrical systems, heating systems, refrigeration systems, and air-conditioning systems;
- The maintenance of buildings and other structures in a safe, sanitary, and healthful condition;
- Other matters that may be specified by the [governing board].

These statutes are where cities and counties get authority for processing the variety of development permit applications; making inspections for the building code, zoning ordinance, and housing code compliance; issuing orders to correct violations; bringing judicial action for enforcement; and other administrative duties related to land development regulations. Local governments are explicitly authorized to “enact reasonable and appropriate provisions governing the enforcement of the laws and ordinances and regulations” (G.S. 153A-352 and 160A-412). The permits authorized under G.S. 153A-357 and 160A-417 are those “required by the State Building Code *and any other State or local law or local ordinance or regulation* applicable to the work.” And, state law provides that the inspection department may include inspectors with the titles “housing inspector, zoning inspector, . . . or any other title that is generally descriptive of the duties assigned” (G.S. 153A-351 and 160A-411).

In addition to the general authority for administering development regulations, there are some specific authorizations for certain development regulations. For example, local governments have specific authority for subdivision permitting (G.S. 153A-332 and 160A-373), periodic inspections for hazardous and unsafe conditions (G.S. 153A-364 and 160A-424), and zoning and subdivision enforcement (G.S. 153A-324 & -123 and 160A-365 & -175).

Beyond these explicit authorizations, local government authority for administering development regulations may be fairly implied from the general regulatory powers. As outlined in the General Statutes, “grants of power [to local governments] shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect” (G.S. 160A-4; similar language for counties at G.S. 153A-4; see also, *Homebuilders Ass’n of Charlotte, Inc. v. City of Charlotte*, 336 N.C. 37, 442 S.E.2d 45 (1994)). In other words, if state law grants cities the power to regulate land development and the authority is ambiguous or silent about administration, North Carolina courts may construe the authority broadly to include the power to administer the regulatory scheme

<https://canons.sog.unc.edu/2018/09/administering-development-regulations-and-accounting-for-permitting-fees/>

through things like permitting, inspections, and enforcement. Those implied powers are not boundless, however (see, *Lanvale Properties, LLC v. Cty. of Cabarrus*, 366 N.C. 142, 731 S.E.2d 800 (2012)). As discussed more below, each of the cases cited addressed the authority for charging fees, but the legal reasoning and the statutory rule for broad construction may be extended to other administrative tasks.

Challenge of Categorizing Administration Tasks

Thinking about the administrative duties in practice, they might be categorized broadly into phases related to construction timing: **pre-construction, at construction, and post-construction (or ongoing compliance).**

Pre-Construction. Before the builder applies for any building permits, the owner or developer may need several pre-construction development permits. A rezoning, a special use permit, and a subdivision plat are each examples of approvals that come in advance of building construction.

At Construction. At the time of construction, the contractor must get the appropriate building permits for the various trades of the building code (building, electrical, plumbing, etc.) as well as the inspections and re-inspections associated with those building code permits. There may also be construction permits beyond the building code such as site plan approval, a land disturbance permit, or a driveway permit.

Post-Construction. After construction, the local government must monitor ongoing compliance of existing development, including zoning compliance, unsafe buildings enforcement, stormwater maintenance, and more. These duties are not typically tied to a particular permit, but rather are enforcement of generally applicable rules.

While these conceptual categories are distinct, the practical application of permitting and inspections do not always fit neatly into categories. Suppose a special use permit includes a specific condition for landscaped buffers. That would be permitted in pre-construction, confirmed through inspections during building construction, and monitored over time for ongoing compliance. Or, what about environmental health permits for well and septic for a new residential subdivision? That also may fit into each category: general approval at the time of preliminary plat approval, permitting and inspection at the time of construction compliance, and ongoing monitoring for public health and safety.

These topics of development regulation are further complicated by the fact that local governments handle these responsibilities differently. **The local departments that handle inspection duties have many different names (Permitting, Planning, Inspections, Code Enforcement, Development Services, and others).** While a small town may have a single staff person to administer all development regulations and more, in many cities and counties the broad duties that fall under the statutory Part on “Building Inspections” are spread across multiple departments with technical staff. Moreover, duties may be split across jurisdictions where the municipality handles zoning permits but the county handles building permits.

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With that framework for administering development regulations in mind, let's consider the authority for charging fees and the new requirements for accounting.

Permitting Fees Related to Development Regulations

Development regulations are related to many different types of fees. This blog is focused on what I will call *permitting fees*—the charges to an applicant to cover the administrative costs of processing a permit and/or inspection.

Other categories of fees are conceptually different and separately authorized. *Impact fees*, for example, are charges to new development to offset some of the broader public infrastructure and service impacts of the development. *Service fees* are charges to a user related to a specific public service for that user (such as a utility hook-up fee). *Fees-in-lieu* are fees paid by a developer in the place of some other obligation for the development (fees in lieu of road construction, for example). The authorizations and limits on those other types of fees are discussed in other blogs such as David Owens' "[School Impact Fees and Development Regulations: Another Round](#)," Kara Millonzi's "[System Development Fees are the New Impact Fees](#)," and my own blogs, "[Exactions and Subdivision Approval](#)" and "[The Koontz Decision and Implications for Development Exactions](#)." These other fee categories are separate topics subject to separate authority. This blog only addresses permitting fees.

Permitting fees are allowed as reasonably necessary to the execution of development regulations

(*Homebuilders Ass'n of Charlotte, Inc. v. City of Charlotte*, 336 N.C. 37, 442 S.E.2d 45 (1994)). That case of the North Carolina Supreme Court recognized the implied authority to charge fees for processing permits, including rezoning applications, subdivision plat review, driveway permits, grading permits, and others. **The court made clear, though, that such fees still must be reasonably related to the cost of**

administering the permit or inspection. In contrast to the implied authority for permitting fees, North

Carolina courts have refused to interpret general regulatory powers as authorizing broad school impact fees (see, *Lanvale Properties, LLC v. Cty. of Cabarrus*, 366 N.C. 142, 731 S.E.2d 800 (2012)).

Additionally, North Carolina law includes explicit authority for cities and counties to "fix reasonable fees for issuance of permits, inspections, and other services of the inspection department" (G.S. 153A-353 and 160A-414). **As outlined above, because of the structure and language of the statutes, the "permits,**

inspections, and other services of the inspection department" is a broad category that may include zoning, housing code, and other permitting, in addition to building code permits.

Accounting for Fees for "The Inspection Department" and "Building Inspections"

Two recent changes to state law affect the accounting for and reporting of permitting fees. **In 2015 the**

General Assembly amended the statutes concerning permitting fees to specifically state: "All fees

collected under the authority set forth in this section shall be used for support of the administration and

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activities of the inspection department and for no other purpose” (G.S. 153A-354 and 160A-414; S.L. 2015-145). The general notion of this law was straightforward and in line with prior caselaw. It codified the rule that permitting fees should be reasonably related to the cost of administering the permit, and those funds should actually pay for those administrative costs. The precise scope of this law, though, is not perfectly clear.

What are the fees that must be accounted for? The legislative intent and context of the Session Law 2015-145 emphasized building code enforcement. The title of the session law begins “An Act to Reform Building Code Enforcement to Promote Economic Growth . . .” and then listed the various changes the law made to building code administration. Moreover, the law was among the several laws monitored by the House Select Committee on Implementation of Building Code Regulatory Reform. Considering those factors, arguably this new accounting requirement relates only to building code permitting and inspections.

The plain language of the statutes, however, is broader than that. The statutes apply to “[a]ll fees collected under the authority set forth in this section,” and concern “the administration and activities of the inspection department.” That plainly includes fees for conventional building code permitting, but “this section” authorizes permitting fees for development regulations broadly. As discussed those duties and responsibilities are broader than mere building code enforcement and may be handled by multiple departments under different names. Arguably, a local government must account for all permitting fees collected for all activities authorized under Article 18 for counties and Article 19 for municipalities (planning, zoning, subdivision, historic preservation, housing code, and more).

Either way, it is prudent under this law for a local government to account for the fees and expenditures related to development regulation permitting. Under the caselaw and statutory requirement, permitting fees must be based on a reasonable estimate of the cost of administering the permit and/or inspections. Those costs may include staffing, printing, outside expert review (when required), vehicles and fuel, administrative and facility costs (office, technology, support staff), and other reasonable costs attributable to the permit or inspection. To be clear, a local government need not charge for all estimated costs; permitting and inspections costs commonly are supplemented by the local government’s general fund.

While the law does not necessarily require a separate bank account for permitting activities, the local government should take steps to track those revenues and expenses. The local government budget should include a line item for such funds, and the financial accounting should separately track the revenues and expenses related to the duties of the inspections department. As discussed more below, under another new law some of those revenues and expenses must be tracked and reported by type.

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In 2018, the General Assembly used the state budget bill, Session Law 2018-5 (Senate Bill 99), to add new requirements for reporting permitting fees and expenses. Under G.S. 159-33.1, each local government must report financial information to the Local Government Commission twice annually, on January 1 and July 1. Session Law 2018-5, section 21.1 added that “the finance officer of each city and county shall include in the statement *the total revenues received from building inspections, by type, and the total expenditures paid from all revenues received, by type.*” Under Session Law 2018-29 (House Bill 948), the reporting requirements become effective June 30, 2019.

In addition to the new statutory language, Section 21.1(b) of Session Law 2018-5 called upon the Local Government Commission to adjust online reporting forms to address the new requirements. The session law provided that “[t]he Local Government Commission shall incorporate in information technology projects to assist local governments in accounting and financial management one or more line items on which each city and county shall provide the total revenue received from building inspections and the total expenditures paid from the revenue received.”

Moreover, Session Law 2018-29 added additional policy guidance. Section 4.(a) states:

“In addition to, and in conjunction with, Section 21.1 of Senate Bill 99, 2018 Regular Session, the Secretary of the Local Government Commission, upon consultation with the Department of Insurance, shall revise the reporting requirements for units of local government under G.S. 159-33.1 to include information sufficient to track whether the fees collected by local inspection departments under G.S. 153A-354 and G.S. 160A-414 are used in accordance with those statutes, if the general fund of the local government supplements the inspection department and if the local inspection department is supplementing the general fund of the local government.”

The Local Government Commission posted guidance for local governments noting that the reporting requirement applies to fees charged under G.S. 153A-354 and 160A-414. Still, the question remains: What are the permitting fees to be reported? Is it the narrow category of permits under the North Carolina Building Code, or the broader category of activities authorized under the statutory Part on Building Inspections?

There is a good argument that this financial reporting requirement is limited to permitting fees and expenditures related to building code permits. First, the plain language of G.S. 159-33.1 (“received from building inspections”) can be contrasted with the broader fee authority under G.S. 153A-354 and 160A-414 that refers to “fees for issuance of permits, inspections, and other services of the inspection department.” Second, the language of G.S. 159-33.1 for the new financial reporting states that revenues and expenditures shall be reported “by type.” That reasonably may be interpreted to refer to the different trades of the North Carolina Building Code (building, plumbing, electrical, and others). The guidance

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added by Session Law 2018-29 calls upon the Local Government Commission to consult with the Department of Insurance, and it is the Department of Insurance that oversees the North Carolina Building Code and certification of building code inspectors. The Department of Insurance is not involved in local zoning permits or housing code enforcement. All of that supports a narrow interpretation that the new reporting requirement applies only to revenues and expenditures from building inspections under the North Carolina Building Code.

Furthermore, this interpretation aligns with the context of legislative history. Session Law 2018-29, which gives guidance for the Local Government Commission, is focused on building code regulatory reform and arose from the House Select Committee on Implementation of Building Code Regulatory Reform Legislation.

Under this narrower interpretation, the “types” to be reported might include permitting and inspections for the following: building code, electrical code, mechanical code, plumbing code, fire code, energy code, and fuel gas code.

There is, however, also an interpretation of the statute that the financial reporting applies to a broader category of activities. As discussed above, the statutory Part on Building Inspections authorizes building code inspections as well as zoning inspections, housing inspections, and other matters. So, what is included in “building inspections” under G.S. 159-33.1? Are housing code inspections included? How about a zoning permit provided by the municipality when the county is handling the building permits? What about site plan and stormwater permitting necessary for the construction of a commercial building? When G.S. 159-33.1 refers to revenues received from building inspections, it could be using this broader notion, and the requirement to report “by type” may refer to inspection types such as zoning, subdivision, minimum housing, and building code.

While the guidance added by Session Law 2018-29 refers to consultation with the Department of Insurance, the phrasing is not limited merely to building code permit fees. The session law refers broadly to the “fees collected by the local inspection departments under G.S. 153A-354 and G.S. 160A-414,” and the express purpose is to determine if the inspection department is supplementing the general fund or vice versa. That might argue for a broader interpretation of the financial reporting requirement.

Under this broader interpretation, the “types” to be reported might include planning and zoning, land subdivision, building code (a general category including all of the trade types listed above), housing code, unsafe buildings enforcement, and others.

Without additional legislative guidance or litigation, the exact scope of this requirement is not clear. That said, there is a good argument under the statutory language and legislative context that the reporting requirement is intended to apply only to the narrow category of building code permitting fees.

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Summary

North Carolina local governments are authorized—generally, specifically, and by implication—to administer development regulations, and that administration stretches from pre-construction approvals, to construction permitting and inspections, to ongoing enforcement after construction is complete. Part of the administrative authority is the power to charge fees for permitting and inspections activities. New laws establish limits on the use of permitting fees as well as requirements to report revenues from and expenditures of permitting fees. The exact meaning and scope of those requirements are not clear because of overlapping terminology, convoluted statutory structure, and varied local departmental organization and practices.

Additional legislation or court interpretation will be needed to truly clarify the precise scope of these new requirements. It is prudent, however, for local governments to base permitting fees for all development regulations on reasonable estimates of the costs of administering the permit and/or inspection, and to account for the revenues and expenditures related to those fees. With regard to the reporting requirement, one can argue that it applies broadly to all development regulation permitting fees, but the statutory language and legislative context allow a fair interpretation that the reporting is limited to building code permitting fees. Additional guidance could shed light on the scope of these requirements.

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Jennifer Ansell

From: Brantley, Kristi <kristi.brantley@ncdcr.gov>
Sent: Thursday, February 3, 2022 8:01 AM
To: Jennifer Ansell
Subject: RE: [External] Historic Maintenance Fund
Attachments: Additional funding for HPC.pdf

Jennifer,

Very interesting question. I am not aware of any of the commissions who earmark funds in that way.

According to last year's CLG report, about 30% of CLGs receive funding beyond the local government's annual appropriation, but not through fees they collected. I've attached a copy of that question and the types of additional funding planners included in their answers.

Have you talked with the finance department and the town attorney? I would be curious as to their thoughts. Let me know what you find out from them.

Thanks!

Kristi



Kristi Brantley
CLG/Local Government Coordinator
NC State Historic Preservation Office
NC Dept. of Natural and Cultural Resources
Phone: (919) 814-6576
kristi.brantley@ncdcr.gov

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#StayStrongNC

Learn more @ nc.gov/covid19

And don't forget your Ws! Wear. Wait. Wash.

WEAR a face covering.

WAIT 6 feet apart from other people.

WASH your hands often.



From: Jennifer Ansell <jansell@ci.swansboro.nc.us>
Sent: Wednesday, February 2, 2022 4:40 PM
To: Brantley, Kristi <kristi.brantley@ncdcr.gov>
Subject: [External] Historic Maintenance Fund

Kristi,

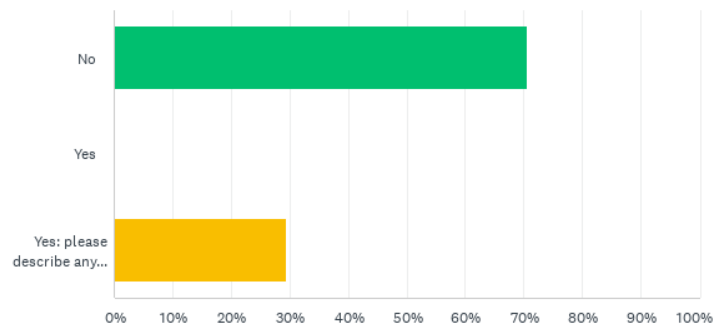
Are you aware of any communities that earmark their application and enforcement fees for maintenance of homes in the district? Our Commission is considering increasing our enforcement and demolition fees to establish such a fund. I was curious if anyone else did it, and if it was handled like a grant program?

Is that even a function of the Commission?

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

Q60 Does the preservation commission have any additional sources of funding?



- Private donor (Oxford)
- The above includes the legal counsel for COA committee. There are occasional small donations. (Raleigh)
- The HPC continues to have the ability to request and use planning funds appropriated to the county's land protection program called the Lands Legacy Program, which works with property owners to obtain or purchase conservation easements on rural property. Because this program includes goals to protect the county's significant archaeological and cultural resources, the HPC has been able to use this source to pay for consultant's fees for one or two NR nominations or landmark reports each year. This has been a major boost to the ability of the HPC to carry out important designation work. (Orange County)
- The Town funds HPC expenses such as training, printing, recording fees, landmark plaques, etc. through a specific appropriation to the HPC; other HPC expenses such as consultant fees for landmark reports, surveys, etc. are line items in an historic preservation operating budget in the Administration Dept. Though not specifically HPC funding, Cary voters approved a bond referendum in spring 2019 that included \$3 million for rehabilitation/interpretation of Town owned historic buildings. (Cary)
- The Planning Department budget includes line items for office supplies and meeting & travel which are used when necessary to support the work of the Historic District Commission. (Kinston)
- Book sales, photo sales (Thomasville)
- Small amount of money is generated from book sales (High Point)
- Council will allocate specific budget items for projects as needed annually. (Concord)
- Pre-Covid the HPC held a historic home tour. We hope to bring it back in 2022. (Wake Forest)
- The Planning Department received a Certified Local Government (CLG) matching grant in 2019 to fund our project to revise our Design Guidelines. Funding for this project was appropriated in the Planning Department's budget to cover the project. In the past, HDC members have provided private funding to cover the costs of special events. (Chapel Hill)

- Partnerships with towns, businesses, or developers. (Wake County)
- Book sales (Eden)
- The CLG grant that was used for updating the standards. (Hillsborough)
- For 2021 the HPC was awarded a grant for \$24,000 with \$6,000 being reallocated from within the Planning Department to conduct an Architectural Survey update. (Burlington)

§ 152.479 CERTIFICATE OF APPROPRIATENESS LIST.

Certificates of appropriateness shall be required for properties identified as contributing (C) and non-contributing (N) in the Historic District according to the chart which follows. In the chart, and “N” entry applies to those homes built after 1938, and a “C” entry applies to those homes built before 1938. An “X” entry applies to both Contributing and Non-contributing structures.

Type of Work		Routine Maintenance	Minor Work (M.C.)	Major Work (SHP)	Staff Approval
Type of Work		Routine Maintenance	Minor Work (M.C.)	Major Work (SHP)	Staff Approval
1	New construction or additions to principal structures or buildings			X	
2	Demolition of any structure or building			X	
3	Demolition of any part of a structure or building			X	
4	Relocation of structures or buildings			X	
5	Removal/alteration of architecturally significant features		N	C	
6	Removal/alteration of contributing historical features			X	
7	Repair/replacement of existing accessory buildings and outbuildings when there is no change in design, materials, or general appearance	X			
8	Alteration/additions to existing accessory buildings and outbuildings		X		
9	New accessory buildings or outbuildings up to 144 sq. ft.		X		
10	New accessory buildings or outbuildings greater than 144 sq. ft.			X	
11	Removal of existing accessory buildings and outbuildings which are not architecturally or historically significant		N	C	
12	Removal of existing accessory buildings and outbuildings which are architecturally or historically significant		N	C	
13	Repair or replacement of architectural details when there is no change in design, materials, or general appearance	X			
14	Alteration/addition of architectural details		X		

15	Removal of architectural details		N	C	
16	Repair/replacement of awnings, canopies, or shutters when there is no change in design, materials, or general appearance	X			
17	Alteration of existing awnings, canopies, or shutters		X		
18	Addition of awnings, canopies, or shutters		X		
19	Removal of awnings, canopies, or shutters		X		
20	Removal of carports with historical or architectural significance			X	
21	Repair/replacement of decks when there is no change in design, materials, or general appearance	X			
22	Alteration/addition to existing decks		N	C	X
23	Construction of new decks		N	C	
24	Removal of existing decks		N	C	
25	Alteration/addition of doors		N	C	
26	Installation of storm doors		X		
27	Removal of doors		N	C	
28	Repair/replacement of existing driveways when there is no change in design, materials, or general appearance	X			
29	Alteration/addition to existing driveways				X
30	Construction of new driveways				X
31	Removal of driveways				X
32	Repair/replacement of existing fences or walls when there is no change in design, materials, or general appearance	X			
33	Addition/alteration of fences or walls				X
34	Construction of new fences and walls				X
35	Removal of existing fences and walls				X
36	Repair/replacement of exposed foundations when there is no change in design, materials, or general appearance	X			
37	Alteration of exposed foundations		N	C	

38	Repair/replacement of gutters and downspouts when there is no change in design, materials, or general appearance	X			
39	Installation of gutters and downspouts				X
40	Removal of gutters and downspouts	X			
41	Installation of house numbers and mailboxes	X			
42	Minor plantings of flowers and shrubbery in existing beds	X			
43	Alteration/addition of gardens, planting beds, or shrubbery	X			
44	Removal of gardens, planting beds, or shrubbery	X			
45	Minor pruning of trees and/or shrubbery	X			
46	Removal of trees less than 8 inches in diameter, measured 4-1/2 feet above ground level		X		
47	Removal of trees 8 inches and greater in diameter, measured 4-1/2 feet above ground level			X	
48	Significant pruning of trees 8 inches and greater in diameter, measured 4-1/2 feet above ground level		X		
49	Addition of trees	X			
50	Removal of dead, diseased, or dangerous trees		X		
51	Repair/replacement of exterior lighting fixtures when there is no change in design, materials, or general appearance	X			
52	Installation/alteration of exterior lighting fixtures		X		
53	Removal of exterior lighting fixtures		X		
54	Repairs/replacement, including repointing, to existing masonry when the color and composition of the mortar match the original, and new brick or stone matches the original	X			
55	Installation of mechanical equipment, such as heating and air conditioning units				X
56	Installation of air conditioners in windows				X

57	Painting when there is no change in color	X			
58	Painting when there is a change in color which conforms to the approved color palette				X
59	Painting when there is a change in color which does not conform to the approved color palette			X	
60	Repair/Replacement of existing parking lots when there is no change in design, materials, or general appearance	X			
61	Alteration/addition to existing parking lots	X			
62	Construction of new parking lots	X			
63	Removal of parking lots	X			
64	Repair/replacement of existing patios when there is no change in design, materials, or general appearance	X			
65	Alteration/addition to existing patios				X
66	Construction of new patios				X
67	Removal of existing patios				X
68	Repair/replacement of sloped roof coverings when there is no change in design, materials, or general appearance (staff approval required when the color changes)	X			X
69	Alteration of sloped roof coverings		N	C	
70	Repair/replacement of flat roof coverings when there is no change in design, materials, or general appearance (staff approval required when the color changes)	X			X
71	Alteration of roof form to prevent damage to the resource		X		
72	Installation of satellite dishes and/or television antennas		X		
73	Repair/replacement of exterior surfaces when there is no change in design, materials, or general appearance	X			
74	Alteration/addition of exterior surfaces		N	C	
75	Removal of exterior surfaces		N	C	
76	Repair/replacement of Signs when there is no change in design, materials, or general appearance	X			
77	Installation of signs				X

78	Removal of existing signs	X			
79	Repair/replacement of exterior stairs , steps and handrails when there is no change in design, materials, or general appearance	X			
80	Alteration to exterior stairs, steps and handrails		N	C	
81	Construction of exterior stairs, steps and handrails		X		
82	Removal of exterior stairs, steps and handrails		N	C	
83	Repair to existing swimming pools when there is no change in design, materials, or general appearance	X			
84	Construction of swimming pools			X	
85	Alteration/construction/ removal of temporary features that are necessary to ease difficulties associated with a medical condition that will be removed when no longer needed	X			
86	Repair/replacement of existing vents and ventilators when there is no change in design, materials, or general appearance	X			
87	Alteration/installation of vents and ventilators				X
88	Removal of vents and ventilators	X			
89	Repair/replacement of existing walks when there is no change in design, materials, or general appearance	X			
90	Alteration/addition to existing walks	X			
91	Construction of new walks				X
92	Removal of walks	X			
93	Walls (see fences)				
94	Repair/replacement of windows when there is no change in design, materials, or general appearance	X			
95	Alteration of existing windows		N	C	
96	Addition/installation of new windows		N	C	
97	Installation of storm windows				X
98	Removal of windows		N	C	
99	Caulking and weather stripping windows when there is no change in design, materials, or general appearance	X			

100	Repair/replacement of other appurtenant Features and accessory site features not specifically listed when there is no change in design, materials, or general appearance	X			
101	Addition/alteration/ removal of other appurtenant features and accessory site features not specifically listed			N	C
102	Changes to previous certificates of appropriateness			X	
103	Renewal of expired certificates of appropriateness			X	
104	Emergency installation of temporary features to protect a historic resource (that do not permanently alter the resource); six month duration; replacement with in-kind reconstruction or an approved certificate of appropriateness	X			

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2008-O33, passed 10-21-2008, Am. Ord. 2016-O10, passed 9-13-2016)



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Update on Items Discussed at September 2021 Joint Meeting**

Board Meeting Date: **February 14, 2022**

Prepared By: **Jennifer Ansell, Planner**

Overview: The Board of Commissioners has asked staff to provide an update on where the Historic Preservation Commission stands on the items discussed at the September 21, 2021 joint meeting.

Staff has been including a summary in the monthly departmental reports, which have been attached for review.

Background Attachment(s):

1. December 2021 Departmental Report (HPC)
2. January 2022 Departmental Report (HPC)

Recommended Action: None

Action: _____

Department Reports for December 2021

Permitting

Historic Preservation Commission

- **December 8, 2021 Special Meeting**

The Commission continued discussion of the following items discussed during the September 21, 2021 joint meeting with the Board of Commissioners:

- 1) Educate the homeowners and public;
- 2) Town Boards to continue to work together/partner for common goals;
- 3) Provide additional staff for better enforcement;
- 4) Rewrite the design requirements;
- 5) Potentially create a preservation fund and/or preservation incentives;
- 6) Improve guidelines and the zoning ordinances; and
- 7) Consider Demo by Neglect regulations.

The Commission agreed to tackle two to three topics at each meeting and discussed the following:

Enforcement

- All members agreed more staff is needed for enforcement purposes. Mr. Larkin made a motion to recommend to the Board of Commissioners the addition of a staff member. Mr. Conaway seconded. All in favor, the motion was approved unanimously.

Education

- Workshops could be held twice a year for homeowners in the Historic District, the first in May 2022. They could partner with other towns to cover some of the expenses, have John Wood come in to speak; and cover areas such as restoration, repairs, yard maintenance, etc.
- Mrs. Ansell would prepare a SurveyMonkey survey and bring the proposed questions to the Board in January for review. She will reach out to Amelia Dees Gillette for input.
- Staff would continue to send out the Historic District flyer to new property owners in the district. It has been added to the Town's website with the map that had been previously created in conjunction with the Historic Association. Onslow County GIS has also added two layers to their online mapping system for the local district and National Register district, which was also available to the public.
- The Commission inquired if they could create a Facebook page to push out information on the district.

Partnerships

- The Commission discussed appointing a liaison to attend the Historic Association meetings, Kim Kingrey, Vice-Chair, was appointed.

- **December 21, 2021 Regular Meeting**

- Cancelled.

Department Reports for January 2022

Permitting

Historic Preservation Commission

- January 18, 2022 Regular Meeting
- The Commission held elections for Chair, Vice-chair and Planning Board representative. Patrick Larkin and Kim Kingrey were re-elected Chair and Vice-chair; Edward Binanay was elected Planning Board representative.
- The Commission continued discussion of the following items discussed during the September 21, 2021 joint meeting with the Board of Commissioners:

Fees

Fee examples from several communities were provided for review and the Certificate of Appropriateness List was included for reference. The Commission asked if monies collected as application fees and enforcement penalties could be used to assist historic property owners with maintenance. A recommendation was made to amend the Schedule of Fees to:

- 1) Reduce the fee for Major Work from \$400.00 to \$200.00;
- 2) Increase the fee for Minor Work from \$0 to \$50.00; and
- 3) Establish noncompliance (after the fact) fees of \$500.00 for Major Work, \$100.00 for Minor Work and \$2,000.00 for Demolition.

Education

Mrs. Ansell provided the Oak Ridge Historic Heritage Month Proclamation as an example of a proclamation establishing a Historic Preservation Month.

The Commission discussed the following initiatives:

- 1) Have a historic appreciation day in conjunction with a workshop; include the Historic Association. Amelia Gillette was present and as a representative for the Association, stated they would be interested.
- 2) It was asked if the Historic Association could work with the Historic Commission to hold a fundraiser using their 5013C status. Amelia stated that would be something they could look into.
- 3) Amelia and Kim plan to work together to present ideas to the commission on further collaborations.

Ed Binanay was nominated to work with Mrs. Ansell to finalize the Historic Stakeholders survey. The Commission stated that they would like it to go to the entire Town, not just property owners within the district.

Design Standards

Kim Kingrey and Joan Deaton were appointed as a sub-committee to review the Design Guidelines (Standards) and present 50 percent of the revisions that they deem necessary at the next meeting of the Commission.

- The Visitor's Center Project and its Contributing Status Determination were discussed. An overview of the determination letter received from John Wood was provided. The Commission requested that the Board of Commissioners do not act on the project until

Department Reports for January 2022

more information could be received from John Wood on bringing it back to a contributing status.

- Mrs. Ansell was asked to check with the Town's attorney concerning raising funds for maintenance of properties within the district.
- Mrs. Ansell explained that Grubb & Associates had been selected to provide consulting services for the architectural survey update. She had notified the State of the Town's selection, as was awaiting execution of the contract.



Board of Commissioners Meeting

Agenda Item Submittal

Item To Be Considered: **Visitor's Center Improvements**

Board Meeting Date: **February 14, 2022**

Prepared By: **Paula Webb, Town Manager**

Overview: In 2019, it was decided that the Town would make improvements to the Visitor's Center after the Chamber of Commerce moved out of the building. Improvements would include drafting a plan that offered suggestions from downtown merchants and boaters on specific amenities to include an additional restroom, showers, and a washer/dryer.

Attention was made to FEMA regulations that consider substantial improvement to be when any combination of work exceeds 50% of the market value of a structure. If the work exceeds 50% of the value, the entire structure must be brought into compliance with the current flood ordinance regulations. Our private appraisal gave a value of \$57,000, while the Onslow County Tax Office provided a building value of \$10,850 (2021). What that means is that we would have to phase the improvements (roughly \$28,000 per year). More importantly we are not confident what improvements could be done per phase with only \$28,000.

In addition, we learned from John Wood, of the NC State Historic Preservation Office that the structure lost its contributing status when it was moved from its original location, raised (due to FEMA regulations), and a handicap ramp added (required for ADA Compliance). One of the only exemptions to the substantial improvement rule is alteration to a historic structure (contributing). Without other significant architectural changes (such as moving the side entry steps to the front of the building for example) it seems unlikely that we can do anything to regain the contributing status because we are required to adhere to flood zone elevations and ADA compliance regulations. I will add that Mr. Wood did say that he would need to make a site visit to better determine what steps the Town could take to regain the contributing status.

The Town was awarded \$20,000 from the Onslow County TDA that must be spent by June 30, 2022. I have confirmed that we can utilize the \$20K County TDA funds to pay an engineer to develop such plan as described in Option 2 below. We are looking for guidance on how the Board would like to proceed with this project.

Option 1. Continue with the phased approach, which could take 3-4 years to complete due to the 50% rule.

Option 2. Raise the building to meet the current Coastal A Zone requirements (treated like the VE zone; foundation would have to be breakaway, and all equipment like air handlers, electrical components must be elevated) then the 50% rule would no longer apply, and we can make the improvements all at one time in lieu of a phased project. *This option would need Historic Preservation Commission review and approval.*

Recommended Action: Provide guidance on how to proceed with the project

Action: _____



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Future Agenda Topics**

Board Meeting Date: **February 14, 2022**

Prepared By: **Alissa Fender - Town Clerk/Admin Services Director**

The purpose of this memo is to provide the Board with matters that staff anticipates/proposes for upcoming meetings. It should be noted that these items are tentatively scheduled for the specified monthly agenda but are subject to change due to preparation of materials, public notice requirements, etc.

In providing this memo each month, we hope it will also provide opportunity for the Board to introduce items of interest and subsequent direction for placement on future agendas, which will allow staff the opportunity to plan accordingly.

March 2, 2022 – Planning Retreat @ Hampton Inn 9 am to 4 pm

Proposed for March 14, 2022

Nothing currently proposed

Budget Workshop March 21-24 (further details TBD)

Proposed for March 28, 2022

- * Board Appointments (2 boards with 1 vacancy each)
- * Finance Report

Future Agenda Items

- * American Rescue Plan Funding Recommendations (updates)
- * Further LUP Review/Amendments
- * Comprehensive Transportation Plan Revisions
- * Gateway Plan Discussion/Town Limits Beautification
- * Text Amendments – Occupancy Tax
- * Text Amendments – R/A Zoning Uses – *referred back to Planning Board*
- * Sub-committee designations for Strategic Plan Implementation
(*Eco Dev Committee est. Oct 2020*)
- * Shipwrights Point Phase II Street Acceptance (*Tentative*)
- * Postponed Text Amendments (deferred by Board 1.10.22 due to return to hybrid meetings)
 - o Temporary Signs
 - o Sign Amortization
 - o Political Signs
- * Historic Preservation Commission Recommendations (Joint Meeting Items)
- * Visitor's Center Improvements

April Meetings:

Regular – 11th

Regular – 25th

[Advisory Board Reception?](#)

FYI – Resiliency Grant Public Input Meeting Scheduled for February 23rd 4 pm to 6 pm.

Advertised as follows:

The Town of Swansboro is hosting a drop-in public meeting to present information and gather feedback on proposed options to improve the Town’s resilience to coastal hazards.

This meeting is scheduled for:

Wednesday, February 23, 2022

4:00 – 6:00 p.m.

Swansboro Town Hall
601 W. Corbett Avenue
Swansboro, NC 28584

The public is welcome to drop in at any time to learn more about potential resilience projects, ask questions, and provide feedback to project representatives on current risks and the needs to be addressed.

This meeting is being held as part of the state’s Resilient Coastal Communities Program; under this program, the Town received a grant from the N.C. Division of Coastal Management to develop a list of projects that would address critical Town infrastructure needs, with a focus on increasing resilience to coastal risks. Public input is a key part of the process to determine what facility improvements are most important to the community.

Those not able to attend in person are welcome to participate in an online survey, which can be accessed at the following link: <https://arcg.is/0eGOzi>.

You can also access the survey with the following QR code:



Comments should be submitted by Wednesday, March 9, 2022.

For more information, please contact:

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