



**Town of Beaufort, NC**

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**Board of Commissioners**

**Regular Meeting**

**6:00 PM Monday, June 12, 2023**

**Train Depot, 614 Broad Street, Beaufort, NC 28516**

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**Call to Order/Pledge of Allegiance**

Mayor Harker called the meeting to order at 6:00 p.m. and invited all to join in reciting the Pledge of Allegiance.

**Roll Call**

Elizabeth Lewis, Town Clerk, called the roll.

**PRESENT:**

Mayor Harker  
Mayor Pro Tem Hagle  
Commissioner Oliver  
Commissioner Cooper  
Commissioner Terwilliger  
Commissioner Hollinshed

**Agenda Approval**

Mayor Harker asked for a motion to amend the agenda, to add a Police Department presentation before Public Comment.

Commissioner Hagle made a motion to approve the amended agenda.

The motion carried unanimously.

Police Chief Burdette shared of an incident where Sergeant Christopher Burroughs was off duty and stopped a brutal attack. He praised Sergeant Burroughs for his heroism and recognized one of the victims that was saved.

Mayor Harker presented a Meritorious Service Award to Sergeant Burroughs, and read the following: On June 1, 2023 at 6:46 p.m., Sgt. Burroughs was at home and off duty, cooking dinner for his family when he was alerted to a woman being assaulted in his neighborhood. At great personal risk, Sgt. Burroughs ran out of his house and subdued a male subject that was brutally beating his neighbor and her mother. Sgt. Burroughs' selfless actions stopped this violent assault and possibly saved the life of his neighbor's mother. Sgt. Burroughs actions are a credit to himself and are in keeping with the highest standards and traditions of the Beaufort Police Department. He is to be commended for his bravery and service to his community.

## Public Comment

Charisse Goodwin, 513 Ann Street, shared she was trying to establish herself as a resident in the area but was having difficulties obtaining a North Carolina ID.

Steve Mehan, 513 Ann Street, asked for guidance on how to research abandoned homes in the area, such as ownership, and future sales.

## Items of Consent

1. Meeting Minutes
2. Capital Reserve Fund Amendment #16

Commissioner Hagle made a motion to approve the Items of Consent as presented.

The motion carried unanimously.

## Public Hearing

### 1. Proposed FY 2024 Budget

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Todd Clark, Town Manager, provided a recap of the FY 2024 budget process. He explained several changes had been made to the original proposed budget, making the total \$19,052,732.00; noting that number was balanced without any tax or utility rate increases for the upcoming fiscal year.

Mayor Harker asked if members from the public wished to speak on the proposed FY 2024 Budget.

Logan Louis, 900 Cedar Street, said the proposed budget includes \$148,570 to be allocated towards the future boardwalk project. He suggested there was not a further explanation in the budget but referenced a previous budget meeting where Mr. Clark noted the future boardwalk project and potential funds for engineering. He commented on several options presented by the Harbor and Waterways Committee with the help of Moffatt and Nichol. He suggested there was a lack of transparency about the future boardwalk project, making citizens feel left out and suspicious. He questioned a recent property swap dealing with the Dock House. He explained if the Town ran the docks, it would be a tremendous revenue source, and suggested a long-term lease agreement was not the way to go.

Commissioner Hollinshed made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Hagle made a motion to adopt the Proposed FY 2024 Budget as presented.

The motion carried unanimously.

### 2. Case # 23-04 Rezoning Professional Park Dr from R-20 & B-1 to TCA

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Kyle Garner, Planning Director, explained Case #23-04 was a request to rezone two parcels totaling 4.08 acres from R-20 & B-1 to TCA. He noted the applicant was Mercer Building & Design, location as Professional Park Drive, and parcels as described: (730612765951000; B-1) and (730611762614000; R-20) Totaling 4.08 acres. He shared

in accordance with NCGS 160-D and the Town of Beaufort Land Development Ordinance, Public Notice was provided via twelve letters mailed to property owners included in the rezoning area and those within 100 feet. He also noted legal advertisement took place on Wednesday, May 31st and June 7th, 2023. He shared several maps included in the meeting packet, such as a residential survey, zoning map, CAMA Map, and future land use map. He noted a type "A" buffer will be required between any multi-family use and the single-family homes on Professional Park Drive; adjacent to the school property, a type "B" buffer will be required. He explained if approved, the requested rezoning would require an amendment to the CAMA Core Land Use Plan Future Land Use Map (FLUM). In summary of his presentation, he shared both parcels off Professional Park Drive are conforming lots of record; approval of the request would require an amendment to the FLUM (Low Density Residential to High Density Residential).

Commissioner Oliver asked if stormwater consideration would come later.

Mr. Garner confirmed the only thing the Board was considering at this point was land use classifications.

Commissioner Hagle asked if there was a plan to connect the two parcels.

Mr. Garner explained there was an outdated preliminary plat that referenced a cul-de-sac in between the two properties. He also explained where the buffers would be located.

Commissioner Terwilliger asked if the area was currently having issues with drainage.

Mr. Garner explained it was to the southwest of the area being discussed, several hundred feet away.

Commissioner Terwilliger expressed concerns about people having three-story apartment buildings, with the ability to look in the neighbor's backyard. He also noted drainage issues near Professional Drive and suggested rethinking the request focused on a density standpoint.

Commissioner Hollinshed suggested the request was consistent with current property on Professional Park Drive.

Ron Cullipher, Engineer with The Cullipher Group, represented the Mercer's and explained why they were requesting the rezoning. He suggested the area being discussed has been designed to go into the stormwater pond in the housing section that is already developed. He noted the site development process would come later, and suggested this would be an opportunity to provide suitable housing in the area.

Commissioner Hagle made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Hagle made a motion to approve the rezoning request for Case #23-04.

Voting Yea: Commissioner Cooper, Commissioner Oliver, Commissioner Hagle, Commissioner Hollinshed

Voting Nay: Commissioner Terwilliger

The motion carried with a 4-1 vote.

Commissioner Hagle made a motion to approve the zoning amendment, along with the consistency statement that supports the CAMA Map Amendment, as presented by staff and in the supporting documents referenced in the meeting packet.

Voting Yea: Commissioner Cooper, Commissioner Oliver, Commissioner Hagle, Commissioner Hollinshed

Voting Nay: Commissioner Terwilliger

The motion carried with a 4-1 vote.

### **3. Non-Motorized Vehicle Permit; Applicant William Wooten**

Commissioner Hollinshed made a motion to open the Public Hearing.

The motion carried unanimously.

Ms. Lewis shared William Wooten applied for a non-motorized vehicle permit to operate a pedicab service in the Town of Beaufort. She noted the application, a copy of the Town Code that addresses non-motorized vehicles, and a new business registration application were included in the meeting packet for the Board's review and consideration. She shared the Public Hearing was advertised in the Carteret County News-Times on May 31st and noted the applicant was present to answer any questions.

Will Wooten, applicant, spoke on his desire to start a pedicab service, which would require him to hold a non-motorized vehicle permit. He explained how the service would operate, and the various stages of planning leading up to the request. He shared they would like to operate multiple pedicabs at a time, possibly three to four.

Commissioner Oliver pointed out the Town Ordinance restricted the number of vehicles that could be in operation at a time, limiting it to one. He shared he was in favor of allowing multiple vehicles to operate at the same time.

Mr. Wooten shared they planned to operate Tuesday-Saturday, potentially 1:00-10:00 p.m., depending on business. He referred to the meeting packet, where a map of the proposed route was provided, as well as a description of the vehicles.

Commissioner Hagle asked if they would be using Lennoxville Road.

Mr. Wooten shared they would be using it only as a crossing point.

Commissioner Hagle voiced his concerns regarding the safety of the operation along the congested streets.

Mr. Wooten described the safety features of each bike, noting brake lights, signal lights, mirrors and a horn.

Commissioner Hagle asked if there were seatbelts provided.

Mr. Wooten confirmed there were not any seatbelts in the pedicab vehicle.

Commissioner Hagle expressed the importance of having a seatbelt provided.

Commissioner Hollinshed shared her concerns regarding frequent stops along Front Street as they pick up people from their homes. She also noted Lennoxville Road would be difficult to avoid. She explained her main concern was congestion on the narrow streets in Town.

Commissioner Cooper asked Town Attorney, Arey Grady, for clarification regarding the ordinance and other safety requirements such as a seatbelt.

Mr. Grady explained the ordinance currently restricted usage to one vehicle at a time and did not specify any seatbelt requirements. He noted if the Board wanted to allow more than one vehicle in operation at a time, they would need to amend the ordinance.

Mayor Harker asked how difficult it would be to add some type of seatbelt.

Mr. Wooten explained they could try to modify the pedicabs to include a seatbelt should that be the Board's desire, but noted they would not be traveling fast. He also shared that he rode on the back enclosed area several times and felt very safe.

Mayor Harker asked if there was anyone from the public who wished to speak on the item.

There was none.

Commissioner Hollinshed made a motion to close the Public Hearing.

The motion carried unanimously.

Commissioner Cooper suggested the permit could be approved under the current ordinance allowing them to begin using one pedicab, until the ordinance could be amended.

Mr. Grady explained the as the current ordinance reads, the statement "only one vehicle may be in operation at a time", must be listed on the permit, and that could be amended at the next Work Session meeting. He noted if the Board wanted to address the seatbelt issue, they would need to make it a condition of the permit.

Commissioner Terwilliger pointed out the challenges associated with requiring seatbelts in the pedicab, noting the applicant may not be able to successfully start the business during the summer season.

Commissioner Oliver noted short of an engineer, he did not think there was anyone technically qualified to approve a seatbelt installation.

Commissioner Cooper made a motion to approve the non-motorized vehicle permit under the current ordinance, allowing one vehicle in operation at a time, and to amend the ordinance at the upcoming Work Session.

Voting Yea: Commissioner Hollinshed, Commissioner Terwilliger, Commissioner Oliver, Commissioner Cooper

Voting Nay: Commissioner Hagle

The motion carried with a 4-1 vote.

## **Quasi-Judicial Proceeding**

### **1. Case # 23-03 Special Use Permit - Accessory Dwelling Unit - 308 Moore St**

Mayor Harker announced the case.

Commissioner Hollinshed made a motion to open the evidentiary hearing.

The motion carried unanimously.

Mayor Harker shared the following:

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this Board must make its decision. The Board of Commissioners must base its decision upon competent, material and substantial evidence in the record. A quasi-judicial decision is a decision constrained by the standards in the Land Development Ordinance and based on the facts presented. All applications for special use permits must be consistent with the Land Development Ordinance for the Town of Beaufort and whether the special use is appropriate in the proposed location. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion. The Board of Commissioners shall hear relevant information from the parties with standing, as set forth in North Carolina General Statutes 160D-406 and 1402. At the sole discretion of the Board of Commissioners, other witnesses who do not have standing may present competent, material, and substantial evidence that is not repetitive. Parties may appear in person, by designee, or by attorney to present information relevant to the requirements of the Ordinance. Parties may present evidence, call witnesses and make legal arguments. The Board of Commissioners, acting through the Mayor, may subpoena witnesses and compel the production of evidence. For certain topics, the Board of Commissioners may hear opinion testimony from expert witnesses. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. Witnesses must swear or affirm their testimony. At this time, we will administer the oath for all individuals who intend to provide witness testimony.

Mayor Harker asked for those who wish to testify as witnesses, not to be called by applicant or Town, to identify themselves.

Mayor Harker asked for those who believe they qualify as parties withstanding to identify themselves.

There was none who wished to testify other than Town Staff and the applicant.

Ms. Lewis administered the oath to Kyle Garner and Ben Lapsley as follows:

"Do you swear or affirm that the evidence you shall give to the Board in this action shall be the truth, the whole truth and nothing but the truth so help you God".

Mr. Garner and Mr. Lapsley both confirmed they did.

Mayor Harker called for disclosure by the Board members of any ex-parte communication, bias and conflicts of interest. She deemed a consensus that no Board member had participated in these actions.

Mr. Garner presented an overview of Case #23-03 Special Use Permit- Accessory Dwelling Unit at 308 Moore Street. He asked that "Exhibit A", also located in the Board's meeting packet, be formally entered into the record on behalf of the Town.

## Exhibit- A

# BOARD of COMMISSIONERS STAFF REPORT

**To:** Board of Commissioners  
**From:** Kyle Garner, AICP, Planning Director  
**Date:** May 26, 2023  
**Case No.:** 23-03

**THE REQUEST:** Special Use Permit for Accessory Dwelling Unit

**BACKGROUND:**

Location: 308 Moore Street  
Owner: Ben & Tamara Lapsley  
Applicant: Owner  
Requested Action: Decision on Special Use Permit for Accessory Dwelling Unit  
CAMA Land Use: Medium Density Residential  
PIN: 730617113608000  
Size: 0.301acres  
Existing Land Use: Vacant Lot  
Adjoining Land Use & Zoning: North - Single-Family Residence; Zoned R-8  
South - Single-Family Residence - Zoned R-8  
West - Single Family Residence - Zoned R-8  
East - Single-Family Residence; Zoned R-8

**SPECIAL INFORMATION:** In March of this year this property was issued a Certificate of Appropriateness from the Historic Commission to construct a single-family dwelling with detached garage.

**Public Utilities:** Water Existing Service  
Sanitary Sewer Existing Service

**ACTION:**

1. Conduct Quasi-Judicial Hearing
2. Decision on Findings of Fact
3. Decision on Special Use Permit

**PLANNING BOARD COMMENTS:**

At their May 15<sup>th</sup> meeting the Planning Board unanimously recommended approval of the Special Use Permit Application.

**STAFF COMMENTS:**

- This application is for a Special Use Permit for an Accessory Dwelling Unit per the R-8 Zoning District.
- The property owner has been through the Historic Commission and obtained a Certificate of Appropriateness for the Garage structure.
- Accessory Dwelling Units are not uncommon in the historic district as there are several within two to three blocks of this property.
- The request is consistent with the current Land Use Plan – (*See Application*)

**SECTION 20 Special Use Permit (*Town of Beaufort Land Development Ordinance*)**

**E) Required Findings**

1) In addition to any other findings or requirements as specified by any other section of this Ordinance, before any application for a special use may be granted or denied, the BOC shall make each of the following findings:

- a) The proposed use is an allowable special use in the zoning district it is being located within.
- b) The application is complete.
- c) The location and character of the use will be in conformity with the Town's land use plan and other comprehensive planning elements.
- d) Streets, driveways, parking lots, traffic control, and any other traffic circulation features shall be designed and provided in accordance with current traffic engineering standards and Town regulations and found to be adequate for the proposed special use.
- e) The proposed special use will not substantially injure the value of adjoining or abutting properties.
- f) The proposed special use will be compatible and in harmony with adjoining land uses and the development patterns of the immediate area; and,
- g) The proposed use will not materially endanger the public health or safety of the community if located where proposed and developed according to the submitted and approved plan.

Commissioner Cooper asked if the bedroom over the garage would be used for family/friend use only, questioning whether a rental would be possible.

Mr. Garner confirmed that was the staff's understanding, and the applicant would have to follow the exact Special Use Permit in those terms.

Commissioner Oliver had questions regarding page 132 of the meeting packet.

Mr. Garner explained the map represented historical properties that were on record with the Department of Archives and History with the State of North Carolina.

Mr. Lapsley explained he wanted to add the accessory dwelling to allow friends and family who were visiting more space and their own kitchenette area.

Commissioner Cooper said he was satisfied with that response and Mr. Garner's explanation.

Mayor Harker asked if there were any other materials not in evidence which would prevent the Board from determining the case.

Mayor Harker deemed a Board consensus that the finds of fact were ready to be entertained.

Commissioner Cooper made a motion to close the hearing.

The motion carried unanimously.

Commissioner Hagle made a motion to approve the Special Use Permit.

The motion carried unanimously.

Commissioner Hagle made a motion to approve the findings of fact and referenced in the Town of Beaufort Land Development Ordinance; Section 20 (E) Required Findings: (a-g).

The motion carried unanimously.

### **Manager Report**

Mr. Clark provided a report for June 2023, sharing current and upcoming projects and events. A detailed report can be found at Town Hall and online at: <https://www.beaufortnc.org/boardofcommissioners/page/managers-report>

### **Mayor/Commissioner Comments**

Commissioner Cooper thanked all for attending the meeting and wished the pedicab applicant and his counterparts a successful business.

Commissioner Oliver thanked the staff for the quality and transparency during the budget process.

Commissioner Hagle noted his excitement about the progress on Cedar Street. He also provided a safety message about the importance of focused driving.

Commissioner Terwilliger also commented on a successful budget season and the importance of First Tryon in the coming months. He praised the Police Department for having the patrol boat active on Taylors Creek.

Commissioner Hollinshed commended the Police Department and Sgt. Burroughs for his off-duty actions. She noted the budget process went well.

Mayor Harker agreed with the comments made by the Commissioners, complimenting the budget process, Police Department, and pedicab entrepreneurs.

### **Adjourn**

Commissioner Hagle made a motion to adjourn the meeting at 7:40 p.m.

The motion carried unanimously.

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Sharon E. Harker, Mayor

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Elizabeth Lewis, Town Clerk