Town of Beaufort, NC
701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

Call to Order

Roll Call

Agenda Approval

Public Comment

Special Presentations

1. Resolution Honoring and Remembering the Life of Joyce Fulford Former Mayor of the Town of Beaufort N.C.

Manager Report

Items of Consent

1. Minutes
2. Sewer Allocation Request 201 Rudolph Dr., Beaufort NC (Deerfield Shores Subdivision)
3. Carteret County Arts & Crafts Event Request to Close Off Two Parking Spaces
4. FY 2021 Budget Amendment No. 9
5. Capital Reserve Fund Budget Amendment No. 9 **and**

   Capital Project Fund Street & Pedestrian Improvement Budget Amendment No. 2

Items for Discussion and Consideration

1. Fourth of July Parade Event Application Request
2. Big Rock Event Request to Close Off Parking Spaces for a Food Truck
3. Navigable Water Ordinance Amendment

4. Appointment to the Volunteer Parks and Recreation Advisory Board

5. Beaufort Harbor and Waterways Master Plan Advisory Committee

6. Legislative Alerts - Opposition to Senate Bill 349/House Bill 401 Zoning Reform **and** Opposition to House Bill 496 Property Owners' Rights – Tree Ordinance

7. FY 2022 Budget Presentation

Mayor/Commissioner Comments

Adjourn

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Presentations

SUBJECT: Resolution Honoring and Remembering the Life of Joyce Fulford Former Mayor of the Town of Beaufort N.C.

BRIEF SUMMARY:

On April 19, 2021, Former Mayor Joyce Fulford passed away at her home in Beaufort, N.C. Ms. Fulford was elected as Mayor of the Town of Beaufort in 1980 and proudly served until 1986. She was the first female mayor to be elected as Beaufort Mayor.

Joyce served at First Citizens Bank in Beaufort for 38 years and retired as Vice President. She was active in the early beginnings of the Beaufort Historic Association and was a devoted member of Ann Street United Methodist Church.

Joyce was also a very talented seamstress and enjoyed needlepoint and any needle arts. She was a phenomenal cook and loved to garden and keep up her flowers. Joyce was a loving wife, devoted mother, and a loving grandmother, step-grandmother, and great-grandmother.

REQUESTED ACTION:

The Mayor recommends that the Board adopt and authorize the Mayor to sign the resolution honoring and remembering Joyce Fulford for the joy and spirit she shared with others and for her service as Mayor of the Town of Beaufort.

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

Mayor Newton and
Allen Coleman, Town Clerk & Assistant to the Town Manager

BUDGET AMENDMENT REQUIRED:

No

Resolution Honoring and Remembering the Life of
Joyce Fulford
Former Mayor of the Town of Beaufort

WHEREAS, Joyce Fulford, Former Mayor of the Town of Beaufort passed away at her home in Beaufort on Monday, April 19, 2021; and

WHEREAS, Joyce Fulford was elected Mayor of the Town of Beaufort in 1980 and proudly served as Mayor until 1986; and

WHEREAS, Joyce fearlessly served as the first woman Mayor of the Town Beaufort; and

WHEREAS, she served at First Citizens Bank in Beaufort for 38 years and retired as Vice President, and

WHEREAS, Joyce very actively served her community and was involved in the early beginnings of the Beaufort Historic Association, and

WHEREAS, Joyce was a phenomenal cook and loved to garden and keep up her flowers, and

WHEREAS, she truly loved Beaufort's long and rich history, unique culture, and community spirit; and

NOW, THEREFORE, BE IT RESOLVED that we, the Board of Commissioners of the Town of Beaufort on behalf of the Town residents, officials, and employees, honor and remember Joyce Fulford for her spirit, her energy, and her innumerable contributions to Beaufort and beyond; and

BE IT FURTHER RESOLVED that the Board extends condolences to her children Terry and Kay, and all of Joyce's family and friends.

ADOPTED, this the 10th day of May 2021.

_____
Everette S. "Rett" Newton,
Mayor

Attest:

_____
Allen Coleman,
Town Clerk

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items of Consent

SUBJECT: Minutes

BRIEF SUMMARY:

In accordance with 160A-72 of the General Statutes, the Governing Board has the legal duty to approve all minutes that are entered into the official journal of the Board's proceedings.

The following draft minutes are recommended for approval:

February 22, 2021 – Virtual Board of Commissioners (BOC) Work Session

March 1st – Virtual Board of Commissioners (BOC) Special Meeting

March 8th – Virtual Board of Commissioners (BOC) Regular Meeting

REQUESTED ACTION:

The Manager recommends the Board consider the draft minutes and approve as submitted or amended.

EXPECTED LENGTH OF PRESENTATION:

2 minutes

SUBMITTED BY:

Allen Coleman, Town Clerk and Assistant to the Town Manager

BUDGET AMENDMENT REQUIRED:

No

DRAFT

MINUTES
TOWN OF BEAUFORT
BOARD OF COMMISSIONERS
VIRTUAL WORK SESSION
FEBRUARY 22, 2021
4:00 P.M.

The Town of Beaufort Board of Commissioners met remotely for a work session on Monday, February 22, 2021 at 4:00 p.m. with the following members present:

Mayor Everette Newton presiding
Mayor Pro Tempore Charles McDonald
Commissioner Ann Carter
Commissioner John Hagle
Commissioner Sharon Harker
Commissioner Marianna Hollinshed

Others Present: Town Manager John Day and Town Clerk and Assistant to the Town Manager Allen Coleman (All other staff members will be identified appropriately below)

Mayor Newton asked Allen Coleman to open the meeting to the public and provide public comment instructions.

Mayor Newton called the meeting to order at 4:01 p.m., welcomed everyone in attendance, and asked Commissioners to accept a roll call.
Roll Call ensued.

Due to the State of North Carolina's Declaration of Emergency in response to the COVID-19 pandemic and per NCGS § 166A-19.24, the Town of Beaufort Board of Commissioners conducted a remote meeting using the Zoom application. Members of the Board of Commissioners participated in the meeting remotely.

[AGENDA APPROVAL]
A motion was made by Commissioner Hagle to amend the agenda to include both the Beaufort Housing Authority Utility Rate increase and the FY2020 Audit presentations back-to back verses separated by rezoning items.

Mayor Newton call each Commissioner by name (roll call).

VOTE: UNANMIOUS

[PUBLIC COMMENT]

Bucky Oliver thanked Christi Wood

[PRESENTATIONS]

1. Beaufort Housing Authority Utility Rate Increase

The Board received a presentation from the Beaufort Housing Authority regarding the impact of utility fees on the BHA budget.

BACKGROUND:

The Beaufort Housing Authority will discuss the recent utility rate increase, the effects of that increase, and the future of the authority.

Dick deButts, Jr., John Lampros, Tara Timblin, and Elwyn Wood presented the following PowerPoint presentation:

Slide #1

The Beaufort Housing Authority Established 1960

BHA's Board of Commissioners:

Richard deButts, Jr	**Chairman**
Elwyn Wood	**Vice Chair**
Constance Shannon	**Resident Board Member**
Bill Morris	
Diane Meelheim	
Perry Harker	
John Lampros	
Executive Director:	**Tara Timblin**

- The BHA is a HUD property and receives a **monthly subsidy for operations and an annual capital subsidy for maintenance**
- We have survived the **Hurricanes, Economic Crisis and now a Pandemic**
- Nationally, the backlog of public housing **capital needs is estimated at over $35 billion**.
- HUD is slowly transitioning us to **ongoing ownership as a public or non-profit entity.**
- This will allow us to **leverage public and private debt and equity in order to reinvest**
- We have very little money and **will need additional capital**

Slide #2

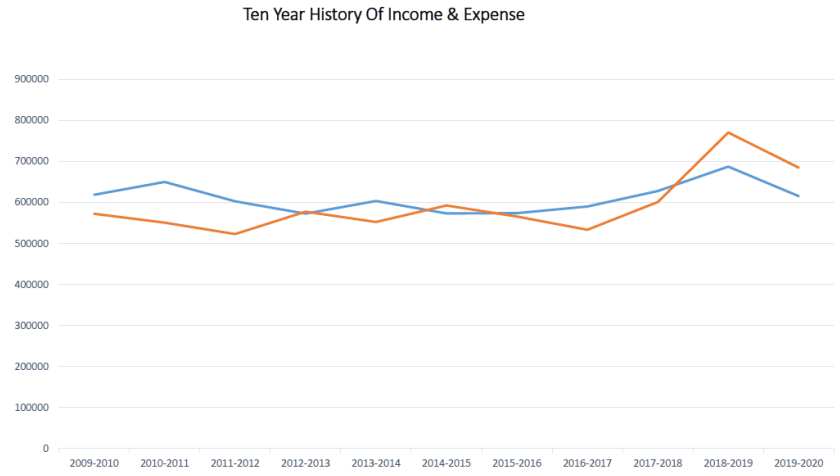
Demographic Profile 2019 Census Report

Population	4,343	
Median Age	49.8	
Income		
	Per capita income	$26,127
	Median household income	$40,926
Poverty:		
	Persons living below poverty line	
	In Beaufort, NC	19.8%
	In Morehead City	10.7%
	In North Carolina	14.7%
Number of Households:		
	In Beaufort	2,156
	In Morehead City	29,755
Persons Per Household:		
	In Beaufort	1.9
	In Morehead City	2.3
Median Value Owner Occupied Housing Units:		
	In Beaufort	$229,900
	In Morehead City	$214,100
	In North Carolina	$172,500

Slide #3

Here's A Little About Our 100 Families									
Total Occupants	Average Age Head of Household		Average Minor Age			Average Household Size Family	Elderly		
184	52		8			2.14	1.11		
Sources of Income by Family						Average Annual Gross			
Source Type	Actual	Largest				All Families	$13,388.47		
Child Support	6	2				Employed	$17,763.36		
General Assistance	1	1				Elderly	$17,160.02		
Other non-wage	1	0				Disabled	$11,761.98		
Pension	5	1							
Social Security	43	37				Tenants With No Income			
SSI	21	13				11			
Unemployement	3	2				Handicapped / Disabled Occupants			
Wages	34	28				29			
Sex	White	Black	Native American	Asian	Hawaiian	Hispanic	Non-Hispanic	Adults	Minors
Male	45	22	1	0	0	5	63	38	30
Female	73	43	0	0	0	7	109	74	42
Totals	118	65	1	0	0	12	172	112	72
Average Residency	Length of Residency				Elderly	Count	NonElderly	Count	
8.59	2 Years or Less				1.44	3	0.71	22	
	3 to 5 Years				3.83	7	3.92	28	
	6 to 10 Years				6.17	2	7.87	5	
	11 to 20 Years				12.96	4	14.09	11	
	21 Years and Over				24.94	3	32.63	10	

Slide #4



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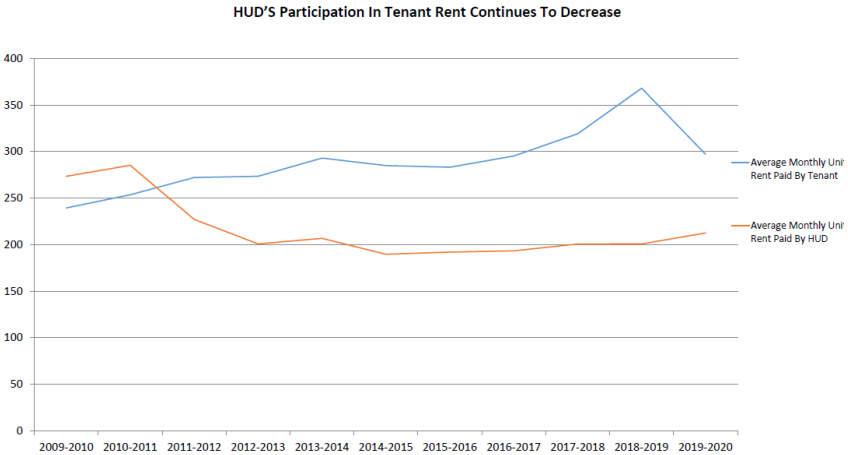

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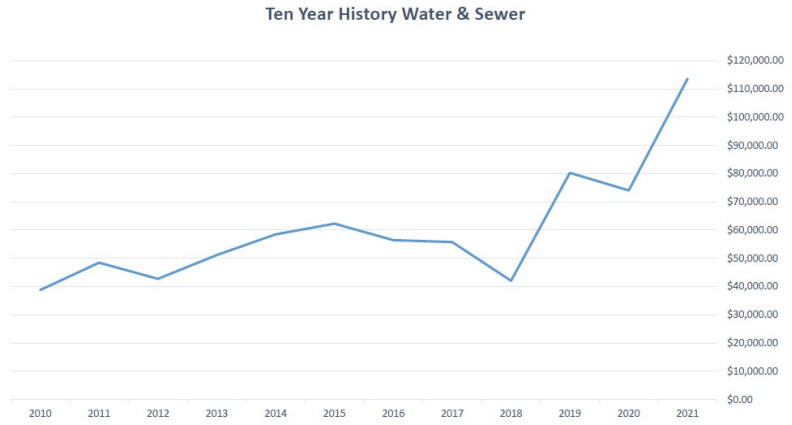

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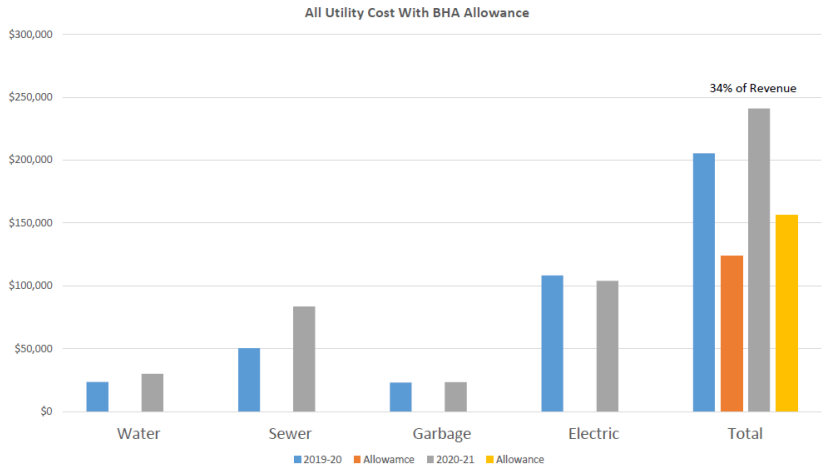

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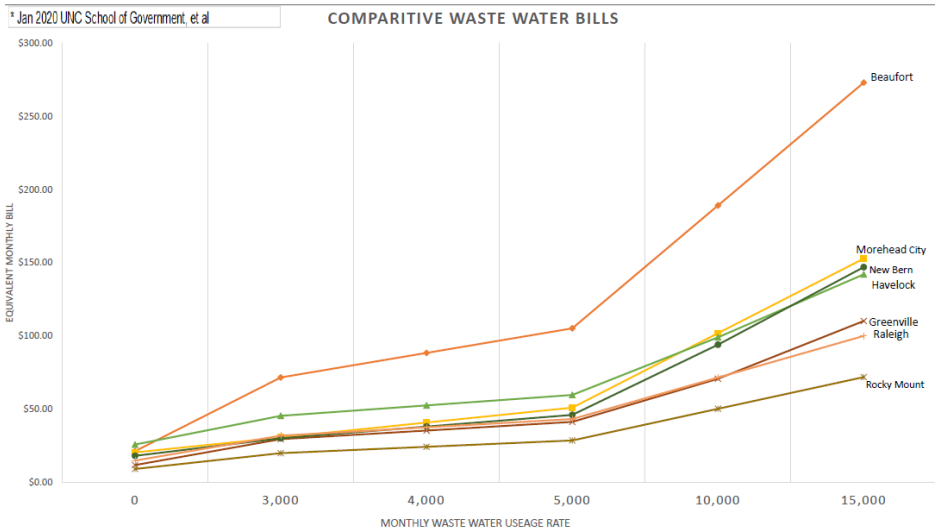

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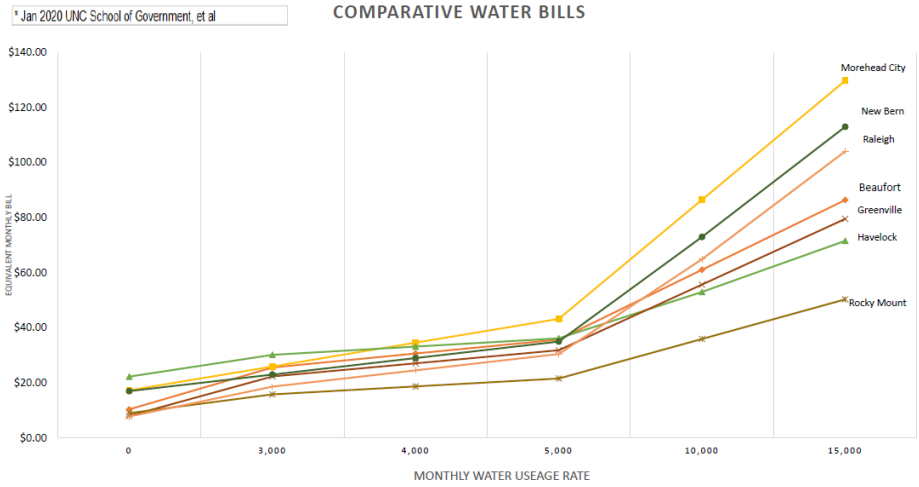

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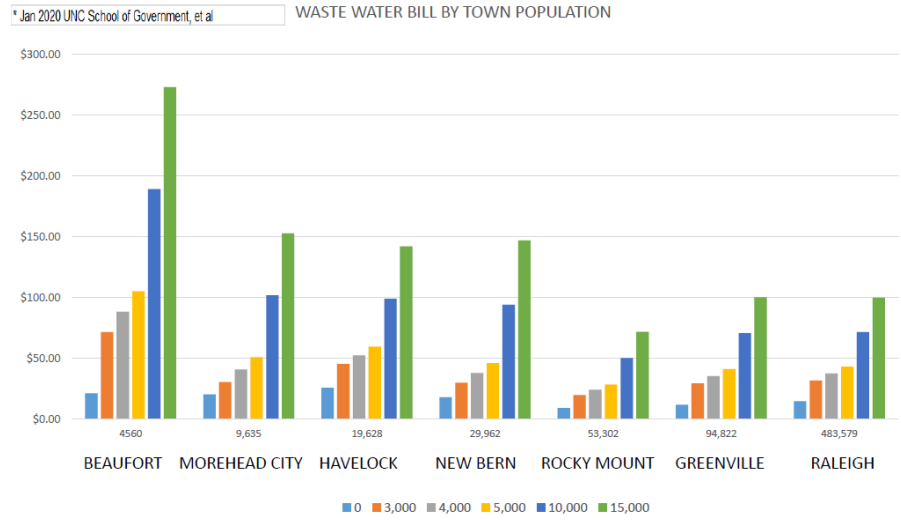

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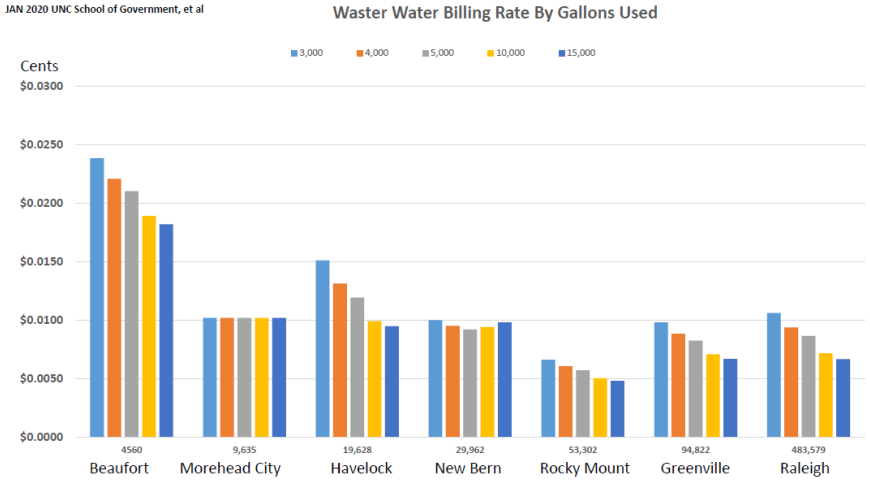


Slide #12

Bed rooms	Total Utilities	Tenant Share Utilities	Units	Contract Rent	Tenant Shrare
Turner & Craven N06-04					
2	$149.68	$47.61	508 Turner	$577.00	$50.00
2	$149.68	$47.61	510 Turner	$577.00	$212.00
3	$196.00	$50.63	512 Turner	$768.00	$0.00
3	$196.00	$50.63	514 Turner	$768.00	$735.00
4	$232.08	$51.75	516 Turner	$999.00	$438.00
4	$232.08	$51.75	518 Turner	$999.00	$50.00
4	$232.08	$51.75	520 Turner	$999.00	$116.00
4	$232.08	$51.75	522 Turner	$999.00	$417.00
3	$196.00	$50.63	509 Craven	$768.00	$50.00
3	$196.00	$50.63	511 Craven	$768.00	$925.00
4	$232.08	$51.75	513 Craven	$999.00	$472.00
4	$232.08	$51.75	515 Craven	$999.00	$1,075.00
3	$196.00	$50.63	517 Craven	$768.00	$163.00
3	$196.00	$50.63	519 Craven	$768.00	$390.00
4	$232.08	$51.75	521 Craven	$999.00	$50.00
4	$232.08	$51.75	523 Craven	$999.00	$245.00
54	$3,331.99	$813.02	16	$13,754.00	$5,388.00
		Land Tax Value		$582,000.00	

Needs Assesment N06-04			
Int Dep	Reh. <12 Mos	Reh. >12 Mos	Annual Dep
$69,440.00	$8,800	$71,400	$24,000

Slide #13

Bed rooms	Total Utilities	Tenant Share Utilities	Units	Contract Rent	Tenant Shrare
Queen N06-02					
1	$144.07	$52.47	214 Queen	$471.00	$124.00
1	$144.07	$52.47	216 Queen	$471.00	$257.00
1	$144.07	$52.47	218 Queen	$471.00	$212.00
1	$144.07	$52.47	220 Queen	$471.00	$181.00
4	$576.27	$209.88		$1,884.00	$774.00
		Land Tax Value		$331,073.00	

Needs Assesment N06-02			
Int Dep	Reh. <12 Mos	Reh. >12 Mos	Annual Dep
$21,580.00	$10,424	$28,820	$4,800

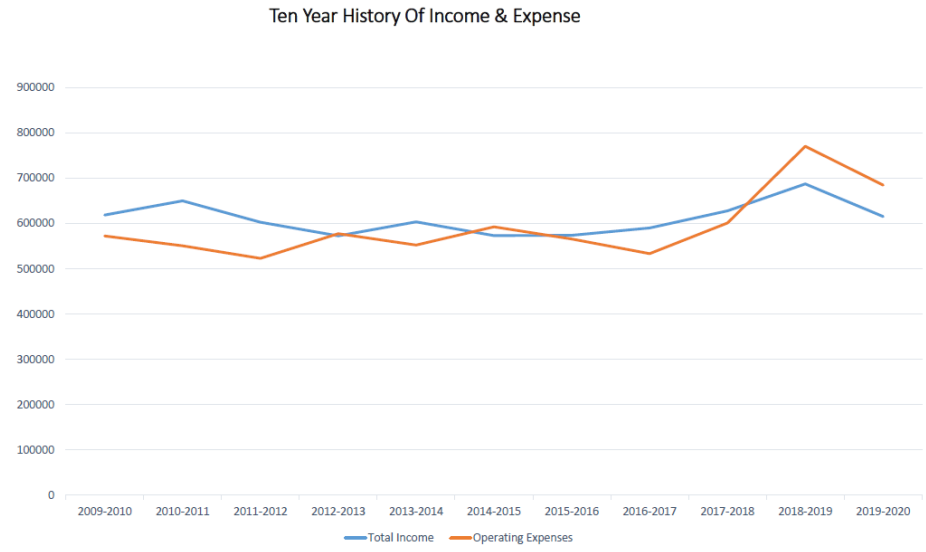
500 Broad N06-01					
1	$144.07	$52.47	509 Broad	$471.00	$476.00
1	$144.07	$52.47	511 Broad	$471.00	$241.00
1	$144.07	$52.47	513 Broad	$471.00	$227.00
1	$144.07	$52.47	515 Broad	$471.00	$428.00
1	$144.07	$52.47	517 Broad	$471.00	$163.00
1	$144.07	$52.47	519 Broad	$471.00	$203.00
6	$864.40	$314.82		$2,826.00	$1,738.00
		Land Tax Value		$236,182.00	

Needs Assesment N06-01			
Int Dep	Reh. <12 Mos	Reh. >12 Mos	Annual Dep
$37,800.00	$485	$27,222	$7,530

700 Broad N06-03					
1	$144.07	$52.47	701 Broad	$471.00	$389.00
1	$144.07	$52.47	701A Broad	$471.00	$302.00
1	$144.07	$52.47	703 Broad	$471.00	$214.00
1	$144.07	$52.47	703A Broad	$471.00	$258.00
1	$144.07	$52.47	705 Broad	$471.00	$494.00
1	$144.07	$52.47	705A Broad	$471.00	$156.00
6	$864.40	$314.82		$2,826.00	$1,813.00
		Land Tax Value		$286,202.00	

Needs Assesment N06-03			
Int Dep	Reh. <12 Mos	Reh. >12 Mos	Annual Dep
$30,000.00	$3,135	$28,545	$7,500

Slide #14



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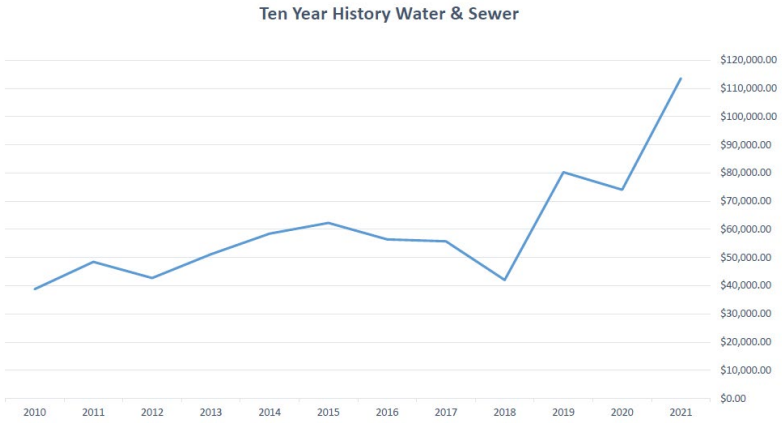

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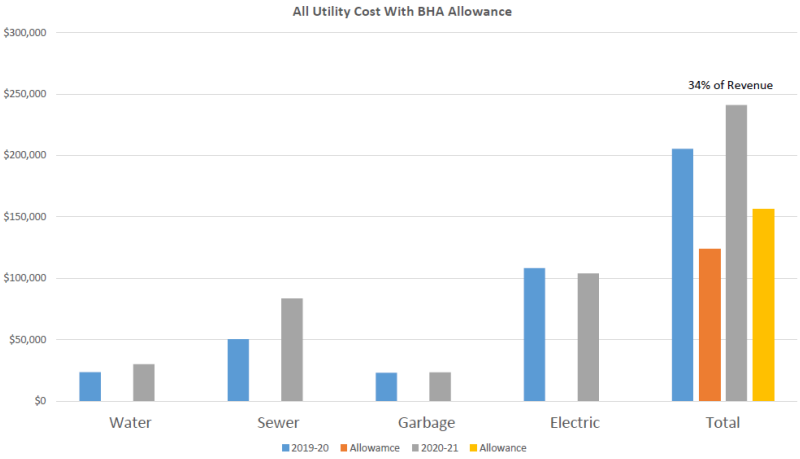
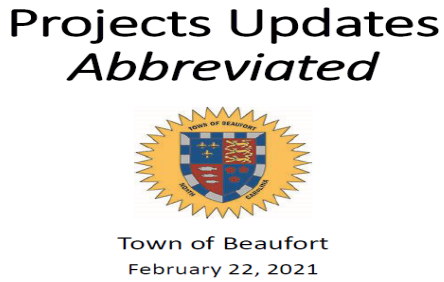


[PROJECT UPDATES]

The Mayor and Board received updates on current and/or active projects ongoing throughout the Town.

Greg Meshaw, Town Engineer, presented the following PowerPoint presentation:

Slide #1



Slide #2

FY20 Street Rehabilitation and Construction

- ✓ Stanton Road
- ✓ Hedrick Street
- ✓ Mashburn Avenue
- ✓ Professional Park Drive
- ✓ Jefferson Street
- ✓ Eastern Avenue
- ✓ Ricks Avenue
- ✓ Sherwood Boulevard
- ✓ Live Oak Street 100 Block
- ✓ Gordon Street
- ✓ Laurel Lane
- ✓ Safrit Drive
- ✓ Craven Avenue
- ✓ Carteret Avenue
- ✓ Pollock Street
- ✓ Olivia Road
- ✓ Live Oak Street 300 Block
- ✓ Taylors Creek Road
- ✓ Campen Road

Slide #3

FY20 Street Rehabilitation and Construction

Concrete Work

- ✓ Replace **467 feet** of rolled curb
- Replace **82 feet** of curb & gutter 50 ft. complete
- ✓ Replace **69 sq. yards** of sidewalk 69 ft. complete
- Replace **16 each** concrete curb ramps 11 complete

Pavement Markings

- **75 feet** of 4" wide white lines
- **1,078 feet** of 4" wide yellow lines
- **387 feet** of 24" wide crosswalk lines

} Behind Schedule

Seal Coating

- Marsh Street, Broad to Mulberry

} Awaiting warmer temperatures

Slide #4

FY20 Street Rehabilitation and Construction

New Street Construction

✓ Howard Jr. Lane

Unchanged

Slide #5

FY20 Street Rehabilitation and Construction

Orange Street

- Utilities in place
- Road base in place
- To do
  - Test & disinfect water line
  - Switchover water services
  - "Test" gravity sewer
  - Place pervious pavement and edge curb
  - Place asphalt surface course

Slide #6

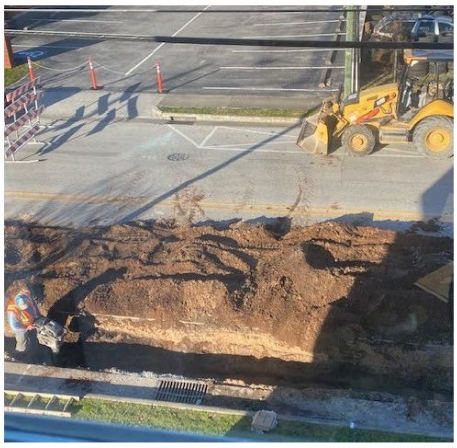
Turner Street 100 Block Street Improvements (West Side)

- Water Services
  - Budget Amendment approved Feb 8th
  - Work completed Feb 17th
- Streetscape
  - Projected start on Feb 22nd

Slide #7

Cedar Street Utility Rehabilitation & Replacements

- Work continues
  - 4 blocks of water main complete
  - Sewer construction starting
- May 3rd Completion (Schedule)
  - ≈ 1 week behind



Slide #8

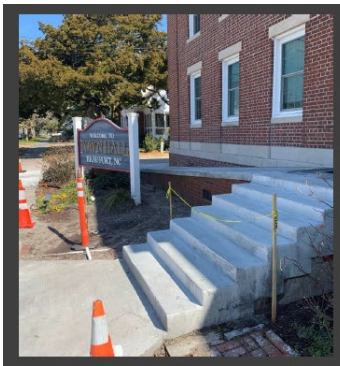
Topsail Park	Complete

Slide #9

Town Hall Reception Area Renovation

- Essentially Complete
  - Change out transaction windows

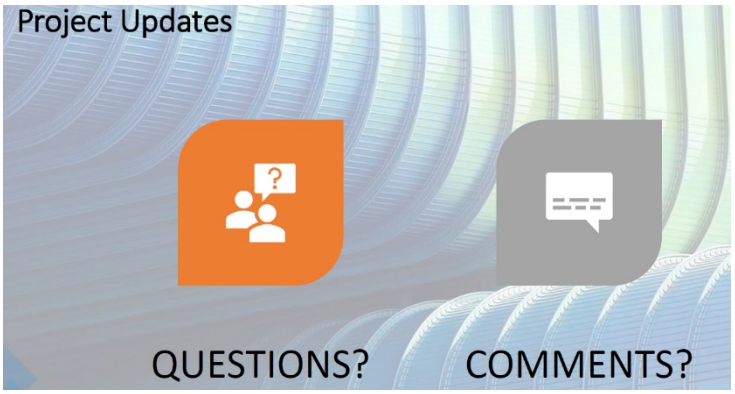
Slide #10



Town Hall Steps, ADA Ramp & Sidewalks

- Awaiting Rails
  - End of this week/first of next week
- Cleanup & Restoration

Slide #11



[ITEMS FOR DISCUSSION AND CONSIDERATION]

1. FY 2020 Audit Presentation

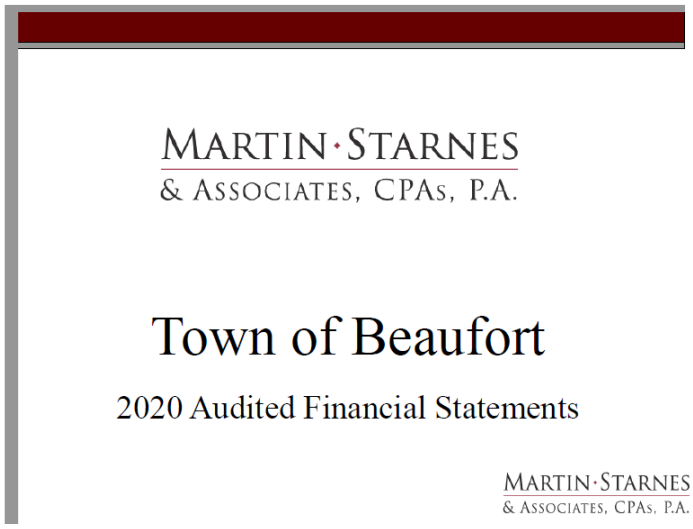
The Board received the fiscal year 2020 audit presentation from the Town's Audit Firm, Martin Starnes and Associates.

BACKGROUND:

The Town's Auditor KoTang Cha Moses of Martin Starnes and Associates presented the FY 2020 audit report.

KoTang Cha Moses, Auditor with Martin Starnes and Associates presented the following PowerPoint presentation:

Slide #1



Slide #2

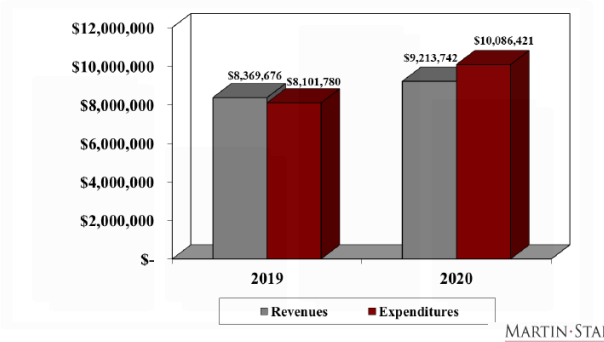
Audit Highlights

- Unmodified opinion on Financial Statements
- Cooperative staff

MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Slide #3

General Fund Summary



MARTIN·STARNES
& ASSOCIATES, CPAs, P.A.

Slide #4

Fund Balance

- Serves as a measure of the Town's financial resources available.
  - (Assets + Deferred outflows) - (Liabilities + Deferred inflows) = Fund Balance/Net Position

5 Classifications:

- **Non spendable** - not in cash form
- **Restricted** - external restrictions (laws, grantors)
- **Committed** - internal constraints at the highest (Board) level-do not expire, require Board action to undo
- **Assigned** - internal constraints, lower level than committed
- **Unassigned** - no external or internal constraints

Slide #5

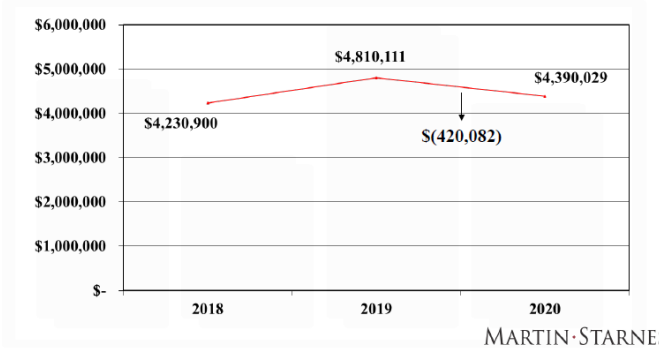
Fund Balance Position - General Fund

	2019	2020
Non-spendable	$ 7,350	$ 144,432
Restricted by State Statute	$ 1,297,209	$ 944,534
Other Restricted	$ 115,257	$ 20,440
Assigned	$ 269,459	$ -0-
Unassigned	$ 3,120,836	$ 3,280,623

MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #6

Total Fund Balance – General Fund



MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #7

Fund Balance

Available fund balance as defined by the Local Government Commission (LGC) is calculated as follows:

Total Fund Balance
Less: Non spendable (not in cash form, not available)
Less: Stabilization by State Statute (by state law, not available)
Available Fund Balance

This is the calculation utilized as the basis for comparing you to other units and calculating your fund balance percentages.

MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #8

Fund Balance Position - General Fund

Total Fund Balance	$ 4,390,029
Nonspendable prepaids	- 144,432
Stabilization by State Statute	- 944,534
Available Fund Balance	$ 3,301,063
Available Fund Balance 2019	$ 3,505,552
Decrease in Available FB	$ 204,489

MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #9

3 Year Comparison - General Fund

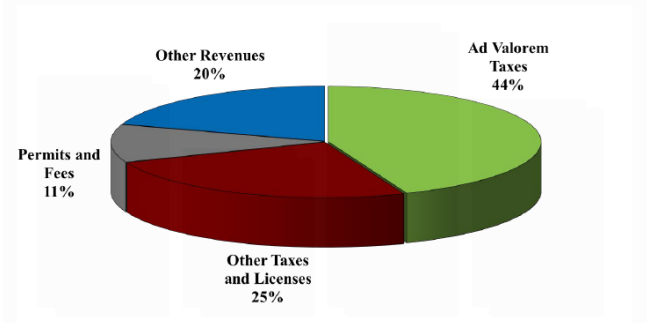
	2018	2019	2020
Available Fund Balance	$3,642,417	$3,505,552	$3,301,063
Total Exp+Trans out less proceeds	5,868,514	7,890,791	9,633,824
Avail FB/Total Exp+Trans out	62.07%	44.43%	34.27%

Fund Balance Available – All Units June 30, 2019

Population by Grouping	Average 2018-2019 Fund Balance Available	Average FBA As a Percentage of Average Expenditures	Median 2018-2019 Fund Balance Available	Median FBA As a Percentage of Average Expenditures
Statewide – All Municipalities	**$5,048,406**	**46.04%**	**$1,330,832**	**85.05%**
Units With Electrical Systems				
All	8,907,467	43.12	3,589,714	43.55
50,000 and above	33,662,211	40.22	27,914,896	35.93
10,000 to 49,999	9,907,197	43.31	7,637,214	39.96
2,500 to 9,999	3,382,748	55.48	1,960,234	40.88
1,000 to 2,499	901,012	59.08	842,499	42.49
500 to 999	2,133,566	62.10	2,133,566	61.67
499 and below	365,428	152.30	301,442	165.84

Slide #10

Top 3 Revenues: General Fund

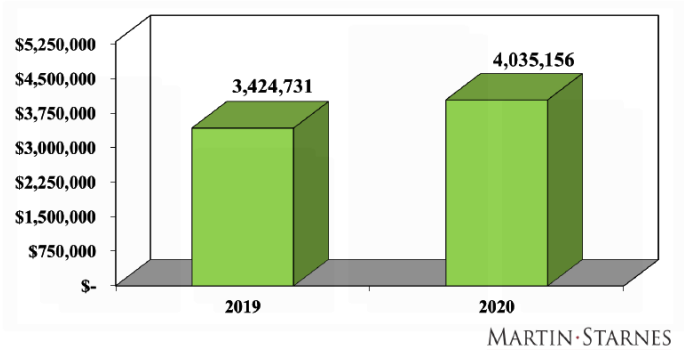


Total Revenues $ 9,213,742

MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #11

Property Taxes



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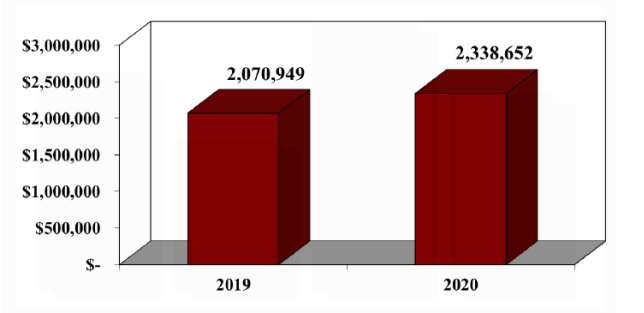
Slide #12

Other Taxes & Licenses



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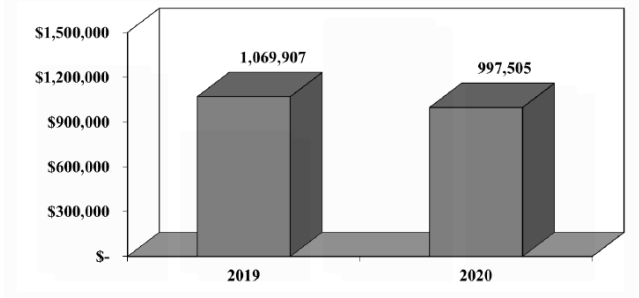
Slide #13

Permits & Fees



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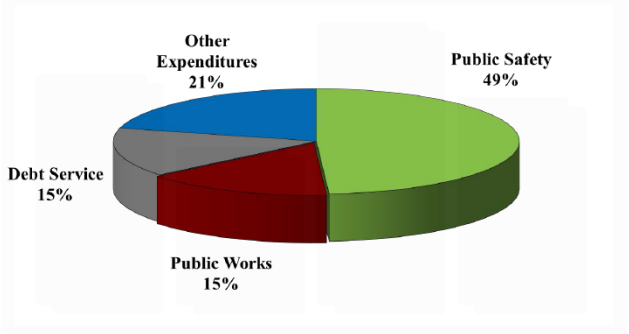
Slide #14

Top 3 Expenditures: General Fund

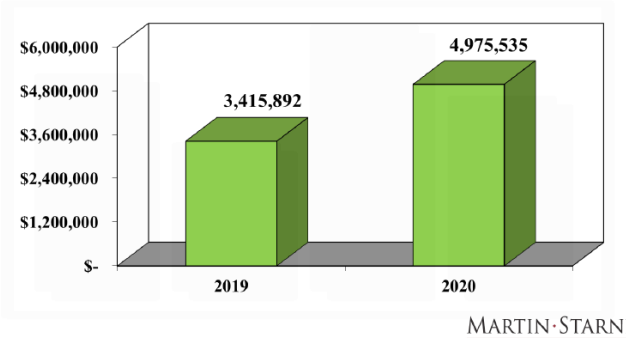


Total Expenditures $ 10,086,421

MARTIN·STARNES & ASSOCIATES, CPAs, P.A.

Slide #15

Public Safety



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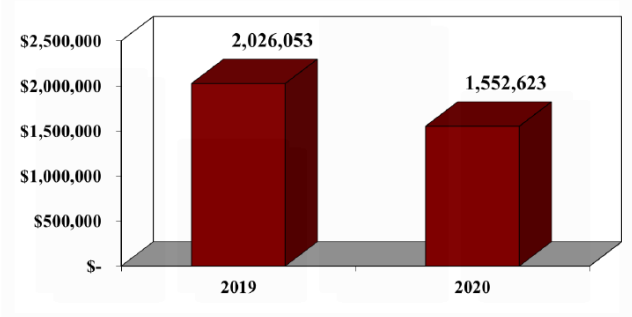
Slide #16

Public Works



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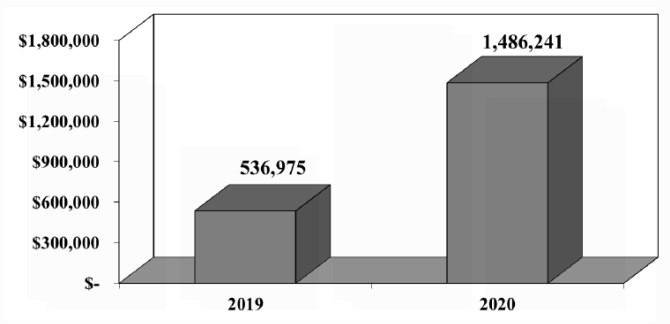
Slide #17

Debt Service



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Slide #18

Utility Fund

	2019	2020
Unrestricted Net Position	$ 1,796,503	$ 2,508,041
Cash Flow From Operations	$ 1,847,826	$ 1,870,001
Net Income (Loss) (GAAP)	$ (597,470)	$ 701,992
Total Net Position	**$ 20,364,421**	**$ 21,066,413**

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Slide #19

3 Year Comparison - Utility Fund

	2018	2019	2020
Current Assets	$4,337,407	$2,039,193	$2,796,815
Current Liabilities	1,350,156	1,345,946	1,238,519
Quick Ratio	3.21	1.52	2.26

Slide #20

Discussion
&
Questions

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& ASSOCIATES, CPAs, P.A.

2. Sewer Allocation Request 197 Rudolph Drive, Beaufort NC (Deerfield Shores Subdivison)

The Board considered the 480 gallons per day sewer allocation request.

Greg Meshaw, Town Engineer, presented the following information:

BACKGROUND:

Mr. Don Butler of 197 Rudolph Drive in the Deerfield Shores Subdivision has requested permission to connect to the Town-owned low pressure sewer collection system that exists in part of the subdivision. This parcel is not among the 30 properties which the Town accepted as customers upon transfer of the collection system by the Deerfield Shores Utility Company, Inc. to the Town. It is understood from the engineer-of-record for the work to redirect wastewater from the utility's treatment facility to the Town, that 197 Rudolph Drive is one of three parcels adjacent to the collection system that were sold with access to offsite septic tank systems. It is further understood from the engineer that the easements associated with these systems were set to expire upon availability of "public sewer." As such, service lines were extended to the three properties because their access to offsite septic tank systems was to expire once the Town took over the collection system. (See attached January 18 th memorandum to Commissioner Carter for more details.) The request to connect to the Town's system infers a request for sewer allocation in the amount of 480 gallons per day to serve the 4-bedroom residence at the parcel. Staff recommends approval of this request given the circumstances surrounding the request, the existence of existing capacity at both the Deerfield pumping station and the Town's treatment plant, and receipt of the required fees from the requestor.

Commissioner Carter asked if there were any other lots out there that have similar agreements that we may not be aware of.

Greg Meshaw said not that he is aware of. He said there are two other vacant lots that had connections that were, supposedly prior offsite septic system service, and connections were then added to the work to make it so the sewer could be pumped to the Town.

Commissioner McDonald asked if the 480 gallons per day request was based on household size and if that is the standard amount per household.

Greg Meshaw said that ist he estimated usage for the house that is requesting connection to the system. He said the rate is in the states regulations manual. He said you take the number of bedrooms and multiply them by the 120 gallons per day bedrooms. He said based on his experience the usage is typically less than the projected amount.

Greg Meshaw said the usage data is tracked and if a house is using less than the 480 gallons, they could reallocate the additional gallons to someone else.

Commissioner McDonald asked fifteen houses were using 480 gallons per day would be pump still operate efficiently.

Greg Meshaw said no, the pump would be inadequate to handle that amount of volume.

Greg Meshaw said the pumping system was designed based upon 15 extra houses over and above the 30 they picked up through the agreement with Deerfield Shores. He said those houses were projected to have only three bedrooms. He said if 15 houses connect and have four bedrooms the pump will be at capacity.

Commissioner Hagle said the capacity of the waste treatment plant had been discussed previously and hopefully the life of our plant could be extended.

Greg Meshaw said staff was working to get pump test at each of the pump stations. He said Donovan Willis is currently working to install those so we can have actual data to in conjunction with the allocation spreadsheet work toward recapturing some capacity within our system.

Commissioner Hagle said that was very important long term.

Mayor Newton asked the Board how they would like to proceed.

The Board unanimously agreed to include this item as part of the discussion and considerations portion of the March 8, 2021 Board of Commissioners regular meeting.

3. Case No. 20-13 Request for Special Use Permit for Accessory Dwelling Unit at 102 Carteret Avenue

The Board considered setting a quasi-judicial hearing date and discussing the special use permit request for accessory dwelling unit at 102 Carteret Avenue at that time.

Kate Allen, Town Planner, present the following information:

BACKGROUND:

William Bell, on behalf of property owner Steve Carroll, is requesting a Special Use Permit for an Accessory Dwelling Unit at 102 Carteret Ave. The Planning Board reviewed the request at its regular meeting January 19, 2021 and recommends placing a condition on the SUP (if approved) limiting the use to family members only.

Mayor Newton asked if the 24 hour waiting period for a public hearing was required or if the Board could proceed with discussion at that same meeting.

Arey Grady, Attorney, said the Board would need to follow the quasi-judicial hearing process and should be able to take action at the next meeting.

Mayor Newton asked the Board how they would like to proceed.

The Board unanimously agreed to include this item as part of public hearing portion of the March 8, 2021 Board of Commissioners regular meeting.

4. 21-01 Rezoning from TR to CS-MU 508 and 510 Cedar Street

The Board considered setting a public hearing date and discussing the rezoning request at that time.

Kyle Garner, Planning and Inspections Director, present the following information:

BACKGROUND:

These two lots were not included in the initial rezoning in 2019 however of late there has been a number of inquiries regarding these properties and if there zoning was mixed use like others along this corridor. In an effort to encourage the redevelopment of these properties Staff has submitted them for rezoning to the CS-MU. At the January 19, 2021 meeting the Planning Board unanimously recommended approval rezoning from TR to CS-MU.

Commissioner Hollinshed said she watched the Planning Board meeting and has a few questions and comments but will wait until the Public Hearing meeting to ask them.

Commissioner Hagle said he agreed with Commissioner Hollinshed and he would address his questions at the next meeting.

Mayor Newton asked the Board how they would like to proceed.

The Board unanimously agreed to include this item as part of public hearing portion of the March 8, 2021 Board of Commissioners regular meeting.

5. Paid Parking

The Board reviewed and discussed whether to reinstate paid parking (including applicable regulations) for the 2021 season.

John Day, Town Manager, presented the following information:

BACKGROUND:

The Board of Commissioners cancelled paid parking downtown in 2020 due to economic concerns related to the COVID-19 Pandemic. Despite the Pandemic, sales and occupancy tax collections set new records. The Beaufort Development Association recently conducted a survey on paid parking downtown and has made a number of recommendations, which are attached. Also attached are the parking regulations from the 2019 parking season and the 2019 parking season summary presentation.

Parking Regulations – 2019 Season

Dates: May 18, 2020 (Monday before Memorial Day) - Sept. 7, 2020 (Memorial Day)
Hours: 8 a.m. - 5 p.m.
Parking fee schedule:
- Front Street parking lots (East & West lot): escalating fee beginning at $1/hour
- All other spaces: $1/hour.
- Overtime/improper parking violation: $20
- Handicap parking violation: $100
- Violation fee late payment (after 30 days): $30
- Weekly parking pass: $25
- Monthly parking pass: $100
- Seasonal parking pass: $200
- WBD Resident Premium parking pass: $800 (only available to Waterfront Business District

Residents)

Fee-Parking space locations (includes golf cart-only spaces):

- On-street spaces on Front Street from Queen Street to Moore Street, 4 hour limit
- On-street spaces on Front Street from Live Oak to Queen Street, all-day
- Front Street parking lots (East and West), all-day with escalating rate
- Queen Street parking lot, all-day
- Craven Street parking lot, all-day
- 100 block of Turner Street, all-day
- 100 block of Craven Street to Middle Lane, all-day
- Pollock Street in front of Town Hall (6 spaces), 4 hour limit
- Golf cart spaces, 4 hour limit.

Manager Day said Susan Sanders from the Beaufort Development Association (BDA) was also available to answer any questions.

Commissioner Carter asked if the areas on Turner street were being considered part of paid parking or if the Board only wanted to do Front Street.

Manager Day said the recommendation was to return to the 2019 paid parking schedule.

Commissioner Carter asked if the plan was to return to the 8:00am to 5:00pm paid parking schedule.

Manager Day said yes.

Commissioner Carter said the original purpose of enforcing paid parking was to encourage turnover and the Town has certainly seen what happens if you do not have an enforcement plan. She said she does not favor paid parking but it works.

Commissioner Harker said she appreciated the survey results as it provided a lot of good information and insight. She said when paid parking was suspended it was quickly realized the turnover was not happening which created a problem for local business owners. She said she was also not a fan of paid parking, but the process seems to alleviate the turnover issue and keep local businesses thriving.

Commissioner Harker asked if the plan was to start the Monday before Memorial Day which would be May 23rd, 2021.

Manager Day said that decision was up to the Board and reminded Board members of an email they received from a BDA member who suggested maybe starting paid parking on July 4th, 2021. He said another suggestion which was creative was making the first hour free if the Board so chose to implement that discount.

Commissioner Carter said the idea of extending paid parking past Labor Day was an option that could be explored.

Commissioner Harker said the survey really didn't reveal when the program should start and in prior years they selected the Monday before Memorial Day. She said she liked the idea of the first hour free for publicity and if there was a way to track those results that would be something to talk about in the future. She said the concern of long, lengthy parking would still be an issue if the paid parking program wasn't implemented until July and turnover is important for the local business community.

Commissioner Carter said another suggestion would be to place a sign by the Beaufort House and say no ferry parking beyond this point. She said enforcement may be an issue but it was not just the Park Service ferries that parked there.

Commissioner Harker said the Board needed to decide on what they wanted to do with the west parking lot and if that area would be included in the paid parking section or if the Board wanted to continue with the same regulations as 2019.

Mayor Pro Tempore McDonald asked if the current COVID-19 restrictions would have any impact to the paid parking start date.

Manager Day said from a staff perspective, no. He said paid parking was cancelled last year to remove any kind of impediments that people might think up to coming downtown, and everyone saw the amount of people that came.

Mayor Pro Tempore McDonald asked when the survey was completed and if this question was part of the survey.

Manager Day said the survey was completed about 3 weeks ago in the middle of COVID-19.

Commissioner Hollinshed said she would suggest the Board consider doing a timed parking, omit the charges and increase the penalties but recognizes that process may be complicated to move forward. She said the borders to some extent are closed internationally and here in the United States so people may visit here rather than their other travel plans. She said her main suggestion would be the time element.

Commissioner Hagel said he reviewed the survey results and there was not a significant majority that favored paid parking. He said he did not consider the parts of uptown or other areas that really did not have impact by paid parking, but he was curious if extending the start past Memorial Day would have a major impact. He said turnover was the merchants major concern and that item received a high percentage while paid parking did not which was kind of an interesting phenomena. He said he would support the 2019 schedule but consider delaying the start date while keeping the end date at Labor Day weekend.

Commissioner Hagle asked if Susan Sanders could address some of the parking survey results. He said he supported paid parking because it was beneficial to the businesses in parts of our Town but if local businesses did not feel paid parking benefited them the Board should listen and try to accommodate the best they can.

Mayor Newton said it is not so much about paid parking as it is parking management.

Susan Sanders said none of us like paid parking but what was experienced last year was so painful to watch and a system was needed to discourage people form occupying the limited parking spots we have available. She said after analyzing the results you will notice the downtown busines owners were overwhelmingly in favor of paid parking while the managers and employees were not. She said this may have some effect on the percentages.

Susan Sanders said the one-hour free paid parking discount was an interesting twist and could potentially do wonders for the local business folks that just want to run in somewhere and pick something quick. She said it was discouraging to pay to park just to grab a quick meal or pickup an item.

Mayor Newton asked Manager Day how the free hour would work.

Manager Day said staff had been in contact with the parking company and the parking kiosks can be programmed to handle the free hour parking setting.

Mayor Newton asked what the annual commitment was for paid parking. He said his understanding was seventy-five thousand and that included the leasing of the kiosks and other components.

Manager Day said he didn't have that figure right in front of him but that figure sounded in the neighborhood of what the fixed costs were going to be whether they chose to hire a parking manager or not. He reminded the Board that currently the parking manager position is vacant.

Commissioner Carter said the Town has hired a fulltime parking supervisor in the past and questioned whether the position is needed for 12 months when parking is only a hot item for three to four months out of the year.

Manager Day said the duties can not be fully absorbed by an existing position but he could look into some alternatives to reduce the need for a 12 month manager position.

Commissioner Carter said that would help.

Commissioner Carter said the Town may consider not buying anymore of these particular meters but maybe find ones that are less costly and user friendly.

Susan Sanders said that even with the COVID19 virus the traffic last year was a huge indicator that the Town business owners were not affected.

Mayor Newton said if the Commissioners would like he would setup for John Lampros to attend the March 8, 2021 regular meeting to receive an additional perspective. He said he had spoken to Mr. Lampos and he had very interesting insight.

Commissioner Hagle said to remind the Board members and the public that paid parking and the applicable rules, etc. can be modified as we go along and it is not something that is permanent.

Commissioner Hollinshed said the Board cancelled paid parking because of a hurricane in the past.

Mayor Newton said that was correct. He said that was the value of having this process with staff verses a contractor.

6. Lions Club 5k Bridge Run

The Board considered approving the Lions Club 5k Bridge Run.

Rachel Johnson, Parks/Events Coordinator and Public Information Officer, presented the following information:

BACKGROUND:

The Lions Club event organizer David Daly has submitted an application to garner approval to move forward with making plans for the 2021 event. The event requires procuring permissions from NCDOT.

The request is for the race route to be closed off on Saturday, Nov. 6 during the event as well as Middle Lane for the finish line. The event is anticipated to be complete and everything reopened by 9 a.m.

The applicant is aware that due to COVID-19 Pandemic this event may not be possible in the manner presented and that as the fall approaches, the Board would need to reevaluate the event to see if it is able to proceed.

They are seeking preliminary approval to begin moving forward.

Commissioner Carter asked if the road closure would be the entire bridge or just one lane.

Rachel Johnson said no. She said the Lions Club wants to keep the same route they've had for the past two years which is closing the middle lane only.

Mayor Newton asked if that was just the middle lane right off front street.

Rachel Johnson said yes.

Commissioner Harker asked if the dog walk was part of their race last year.

Rachel Johnson said David Daly was also available to answer any questions, but he could not remember if the dog walk was held last year due to COVID19.

Commissioner Harker asked if the route was the same as 2019 which included a U-turn around Turner Street then come back the same way down the same way.

Rachel Johnson said yes that was correct.

Commissioner Harker asked for route specific clarification and if police presence was something being considered to help participants cross the roads safely.

David Daily said the dog strut was held in 2019 and 2020 and the route began at the starting line where the five K begins and there was a turnaround at the end of the Turner Street

Bridge. He said only the one lane would be used and it was fun for the runners to run in between he dogs as they crossed the finish line.

Commissioner Hagle asked if the Board could proceed with giving approval now so the Lions Club could begin working on their planning.

Mayor Newton asked the Board how they would like to proceed.

A motion was made by Commissioner Hagle to approve the Lions Club 5k Bridge Run as presented.

Mayor Newton call each Commissioner by name (roll call).

VOTE: UNANMIOUS

7. Emergency Paid Sick Leave Policy

The Board considered approving a Emergency Paid Sick Leave Policy for the Town of Beaufort Employees.

Christi Wood, Finance Director, presented the following information:

BACKGROUND:

The proposed Beaufort Emergency Paid Sick Leave (BEPSL) policy is a proactive step to protect town employees in the absence of the extension of the Families First Coronavirus Response Act (FFCRA), which expired on December 31, 2020.

This policy provides eligible employees with temporary emergency paid sick leave similar to that found in the FFCRA. The BEPSL policy is independent of the Town's existing sick leave policy.

Staff recommends this policy in the context of peak COVID-19 infection rates, hospitalizations, and deaths. The slow roll-out of vaccines suggests that significant improvement and the approach of "normalcy" may not materialize until this fall or even the end of 2021.

Board approval is requested as this policy is considered a change in employee benefits.

The policy has been reviewed by the Town Attorney.

Commissioner Carter asked if this policy covered employees who were already working from home. She asked if the policy covered parents who's schools had been closed off and on the entire time. She asked how many times an employee can use the emergency sick leave.

Christi Wood said the policy allows for 80 hours of regular pay and is set to expire on June 30, 2021. She said the effective date of the policy would be February 1st, 2021.

Christi Wood said the policy would allow parents to use the time if they were at home with their children because of virtual school or daycare/childcare not being available to them.

Commissioner Carter said eighty hours was two full weeks in addition to an employees sick leave.

Manager Day said none of the Town employees have utilized this policy when it was available through the CARES Act.

Manager Day said most employees are working at their regular job sites because they are either police, fire, or public works.

Commissioner Carter asked what about employees who were working from home.

Manager Day said this policy was primarily designed to deal with what happens to you if you have to get tested or have to be quarantined. He said no employee is working from home five days a week regularly and every employee must submit their time.

Commissioner Harker asked this policy was for employees who experienced COVID related symptoms.

Manager Day said that was correct. He said the Town was following guidelines provided by the CDC and the State Department of Health and Human Services with regard to employees.

Commissioner Harker asked if a child's school was closed due to COVID related symptoms would an employee be able to use this policy.

Manager Day said yes.

Manager Day said their was discussion in Washington about renewing the CARES Act which would eliminate this policy but in the interim staff thought it would be better to have something in place.

Commissioner Harker asked if the Town would be responsible for awarding the 80 hours and not individual employees sick leave.

Manager Day said yes.

Commissioner Harker said the concern was around it being an elective and this policy should only be allowed if employees fit specific criteria.

Christi Wood said an application is required to seek the emergency paid sick leave and employees would have to meet all six criteria.

Commissioner Harker said she understood the application process but was curious if we were requiring any type of documentation from the health care providers when an employee has to self-quarantine.

Christi Wood said no.

Manager Day said staff currently receives the tests results.

Commissioner McDonald asked if an employee would be able to share this sick leave with other employees.

Christi Wood said employees can share regular sick leave but no the emergency paid sick leave.

Mayor Pro Tempore McDonald asked if an employee had a broken leg and was out of sick leave could another employee donate their sick leave to assist.

Christi Wood said yes, but that was different from the emergency paid sick leave here.

Manager Day said every employee will have access to the 80 hours of emergency paid sick leave. He said if an employee was particularly ill and exceeded that amount and they had no sick leave of their own, they could then request additional donations from others.

Commissioner Hollinshed asked how the verification process would work if the individual who was ill was not an immediate family member.

Manager Day said if an employee needs to take time off to assist a family that was allowed under our normal sick leave policy.

Commissioner Hollinshed said she would ask for a little clarification on that item because of the checklist bullets references caring for a grandparent, but what if it was a neighbor.

Commissioner Hollinshed asked if employees were encouraged to receive the vaccine.

Manager Day said yes, all employees have been encouraged to receive the shot when it is available to them.

Commissioner Hagle said additional clarification is needed on who is eligible to receive the paid sick leave and for it to not be too complex. He said hopefully it will be short term deal, but he would recommend this policy be consistent with the current sick leave policy.

Mayor Newton asked the Board how they would like to proceed.

The Board unanimously agreed to include this item as part of the items for discussion and consideration at the February 8, 2021 Board of Commissioners regular meeting.

8. December Financial Report

The Board received the December 2020 financial report and discussed any questions.

Christi Wood, Finance Director, presented the following item:

BACKGROUND:

- Tax collections for November and December are listed below

November		
Tax Year	Balance Remaining	Collection Rate to Date
2014	$2,871	99.89%
2015	$7,913	99.69%
2016	$19,081	99.28%
2017	$23,111	99.21%
2018	$30,662	99.06%
2019	$72,984	98.10%
2020	$2,723,163	43.21%

December		
Tax Year	Balance Remaining	Collection Rate to Date
2014	$2,542	99.90%
2015	$7,868	99.69%
2016	$18,889	99.28%
2017	$22,579	99.23%
2018	$30,303	99.07%
2019	$69,748	98.19%
2020	$937,898	80.42%

- Sales and Use tax distribution for January is $162,919 (November sales)

Commissioner Carter asked why the Town was anticipating less income from the antenna contract revenue than in the past. She asked if they had reduced the amount of time or usage.

Christi Wood said there had not been changes that she was aware, but it could be a timing incident. She said she would research and report back to the Board.

Commissioner Hagle asked if there were any revenue trends that the Board should be concerned about.

Christi Wood said nothing to be concerned with at this time. She said the Board approved several projects that were costly, and they would require change orders.

Commissioner Hagle asked if the Sales and Use tax distribution from the County would continue to decrease.

Christi Wood said that figure was the amount remaining and staff currently anticipated collections to continue.

9. Approval to Move Forward with AFG Grant request

The Board received a request for approval of the AFG grant for an SCBA air refilling station.

Tony Ray, Fire Chief, presented the following information:

BACKGROUND:

The Fire Department requests approval to move forward on a AFG grant for an SCBA air-refilling-station to be placed at the fire station. The grant would be for $59,106.85 with a local match of 5% plus administration fee of 2% (Total $4138.47). This grant would not be awarded until next fiscal year.

Chief Ray said the local match should be $4,141.65 and not the amount previously provided.

Commissioner Carter asked for further clarification.

Chief Ray said this grant application would alter the budget for next year.

Commissioner Carter asked for further explanation of the equipment.

Chief Ray said the grant was for SCBA, which was a self-contained breathing tank the fire fighters will wear. He said this was a refilling station they would be able to refill their bottles at.

Chief Ray said the current system is about 20 years old and was purchased in 2003.

Chief Ray said the grant request was through FEMA.

Commissioner Carter asked if the fixed unit would be installed at the fire station.

Chief Ray said yes, the grant included a compressor as well. He said the QVC filter takes out viruses and things before refilling the bottles and it requires less space.

Commissioner Harker said she was pleased with the proposal and appreciated the chief researching. She said she wished him much success in the grant award and four thousand dollars out of fifty thousand dollar grant was worth it.

Commissioner Harker asked if their were any concerns if the grant award was unsuccessful.

Chief Ray said they would continue with business as usual. He said parts for the compressor has become onerous.

Commissioner Harker said we do have a five year budget as we look out, but hoped the grant would work out this time.

Mayor Pro Tempore McDonald said this certainly sounded like a nice piece of necessary equipment and he hoped the grant would be awarded.

Commissioner Hollinshed asked if this piece of equipment would help those individuals in Beaufort who were currently using oxygen tanks.

Chief Ray said no, that was not correct.

Chief Ray said this was not oxygen. He said this filters the ambient air we breathe which is compressed air that goes into the bottles they use.

Commissioner Hollinshed asked if this was similar to the oxygen tanks people could receive from medical companies.

Chief Ray said no.

Commissioner Hagle asked if the new unit is acquired would the old one be scrapped.

Chief Ray said yes, it would be retired.

Chief Ray said if the new unit was received the Town would sell the old air compressor unit and the truck.

Commissioner Hagle said good.

[MAYOR/COMMISSIONER COMMENTS]

Commissioner Carter asked if an update could be provided on the Z-Smith rentals because we should be running out of time.

Christi Wood said it was a three year grant and we are currently in year two.

Commissioner Carter asked for confirmation since it seemed longer than that.

Christi Wood said the grant award followed the fiscal year schedule, but notification of the grant could have been sent and discussed earlier. She said the grant award started in July of 2019.

Commissioner Carter said it seems like it was longer than two years.

Christi Wood said the application process started about six months prior to the actual award.

Commissioner Harker said you're doing a great job, Allen.

Mayor Pro Tempore McDonald said no comments at this time.

Commissioner Hollinshed said welcome aboard Allen. She said the street renovation project, otherwise known as the big dig was moving along fairly well on Orange Street and she wanted to thank staff for overseeing this much needed work.

Commissioner Hagle said thanks to Greg and others that have been involved in making the street crosswalks at Cedar Street and all the other streets a success. He said thanks to Susan for parking survey and it was good to see all of the input from the local business community.

Commissioner Hagle said the safety message for the evening was for everyone to focus on their driving because it is easy to get distracted.

[ADJOURN]

A motion was made by Commissioner Hagle to adjourn the meeting.

Mayor Newton called the roll.

VOTE: UNANIMOUS

The meeting adjourned at 5:47 p.m.

_____

Everette "Rett" Newton
Mayor

_____

Allen Coleman
Town Clerk

DRAFT

MINUTES
TOWN OF BEAUFORT
BOARD OF COMMISSIONERS
VIRTUAL SPECIAL MEETING
MARCH 1, 2021
4:00 P.M.

Due to the State of North Carolina's Declaration of Emergency in response to the COVID-19 pandemic and per NCGS § 166A-19.24, the Town of Beaufort Board of Commissioners conducted a remote meeting using the Zoom application. Members of the Board of Commissioners participated in the meeting remotely.

The Town of Beaufort Board of Commissioners met remotely for a special meeting on Monday, March 1, 2021 at 4:00 p.m. with the following members present:

Mayor Everette Newton presiding
Mayor Pro Tempore Charles McDonald
Commissioner Ann Carter
Commissioner John Hagle
Commissioner Sharon Harker
Commissioner Marianna Hollinshed

Others Present: Town Manager John Day and Town Clerk and Assistant to the Town Manager Allen Coleman (All other staff members will be identified appropriately below)

Mayor Newton asked Allen Coleman to open the meeting to the public.

Mayor Newton called the meeting to order at 4:00 p.m., welcomed everyone in attendance, and asked Town Clerk Allen Coleman to call the roll.
Roll Call ensued.

[AGENDA APPROVAL]
A motion was made by Commissioner Hagle to approval the agenda as presented.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

[ITEMS FOR DISCUSSION AND CONSIDERATION]

1. Discussion of the USDA Financing Package for the Utility and Storm Water, and Street Improvements CIP Project

The Board received a presentation from the Town Engineer concerning the following financing proposal from the USDA, Rural Development for the Utility Line, Storm Water, and Street Improvements Capital Improvement Project (CIP):

Wastewater Collection Rehabilitation - $7,036,000 loan / $5,005,000 grant
Water Distribution System Improvement - $8,031,000 loan/ $0 grant
Stormwater System Improvements - $3,007,000 loan / $500,000 grant

Manager Day said we have some really good news to share from the USDA Rural Development Division. He said the Town had been offered over five and half million dollars in grants and approaching 15 million dollars in low interest loans, and he and staff were extremely pleased. He said the total amount of the project was approaching 30 million dollars.

Manager Day said this news was a huge step forward in terms of correcting a number of the utility problems, and this funding would allow resurfacing of the streets in those affected areas.

Manager Day said there were financing options available, and the Board did not need to make a final decision today, however, it would be helpful if the Board could provide a general consensus on the options proposed. He said if the Board chose to move forward with the offer proposed by USDA, the turnaround time would be fairly quickly. He said other counties and municipalities had submitted applications for this funding and if the Board was not interested in the financing options, USDA would like to be able to notify and pass along to other entities.

Greg Meshaw, Town Engineer, presented the following PowerPoint presentation:

Slide #1

USDA Funding Considerations

Town of Beaufort

March 1, 2021

Slide #2

USDA Funding Applications (Water, Sewer & Stormwater)

Program

- Water & Waste Disposal Loan & Grant Program
  - Funds for the acquisition, construction or improvement of:
    - ⇒ Drinking water sourcing, treatment, storage & distribution
    - ⇒ Sewer collection, transmission, treatment & disposal
    - ⇒ Stormwater collection, transmission & disposal

Greg Meshaw said this project proposal was started by the Board's decision to resurface streets that did not have any known or obvious problems associates with the underground infrastructure. He said this project was a rather large tasks and cost significant dollars.

Slide #3

USDA Funding Applications (Water, Sewer & Stormwater)

Funding

- Water & Waste Disposal Loan & Grant Program
  - Long-term (40 years), low-interest loans
  - Grants possible to keep user charges reasonable
    - ⇒ Sewer: Up to 75% of total
    - ⇒ Water: Up to 10% of total
    - ⇒ Stormwater: Grants not typical

Slide #4

USDA Funding Applications (Water, Sewer & Stormwater)

Premise of funding application:

- Available for debt service
  - $350,000 per year for water & sewer
  - $120,000 per year for stormwater
- Loan terms
  - 1.75% interest rate
  - 38-year principal repayment over a 40-year period

Greg Meshaw said these rates are assumptions to project the debt service needed to cover these projects.

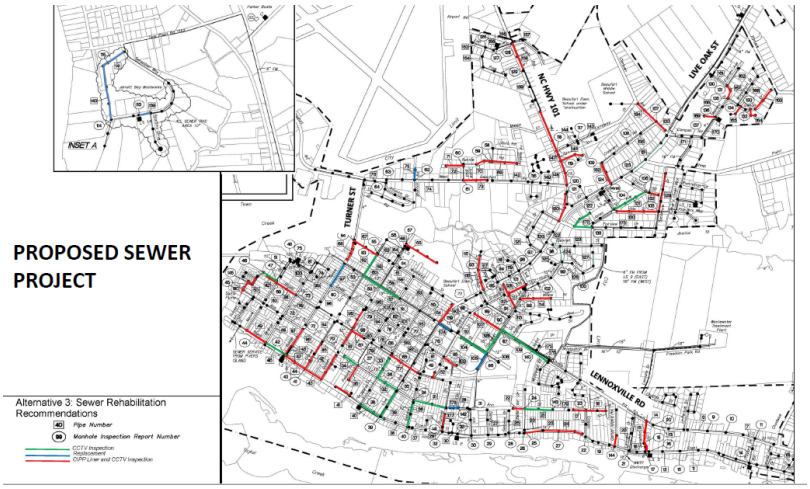
Slide #5

USDA Funding Applications (Water, Sewer & Stormwater)

Premise of funding application (continued):

- Maximum grants
  - Sewer grant @ 75%
  - Water grant @ 10%
  - Stormwater @ 0%

Slide #6



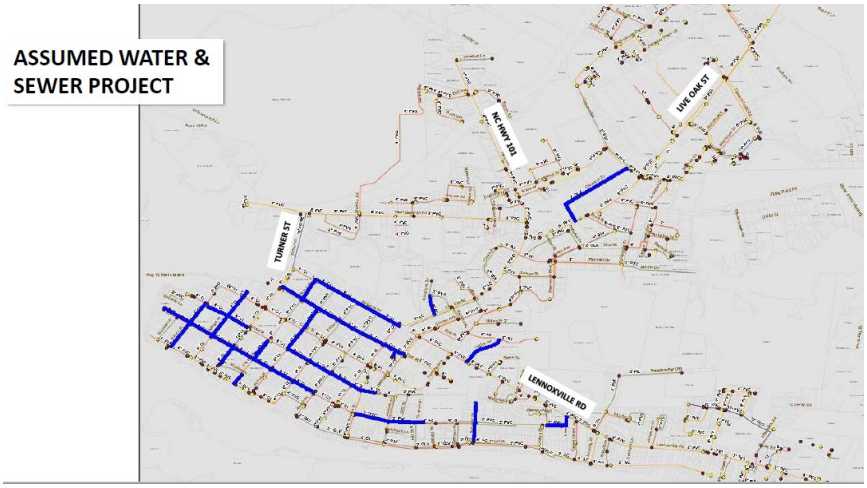
Slide #7

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Application Assumptions:

		Debt Service (1.75%, 40 Years)	
Sewer Grant Amount (75%)	$ 9,030,800		
Sewer Loan Amount (25%)	3,010,200	→ $109,100/Yr	
Sewer Subtotal	$12,041,000		→ $350,000/Yr
Water Grant Amount (10%)	$		
Water Loan Amount (90%)		→ $240,900/Yr	
Water Subtotal	$		

Slide #8



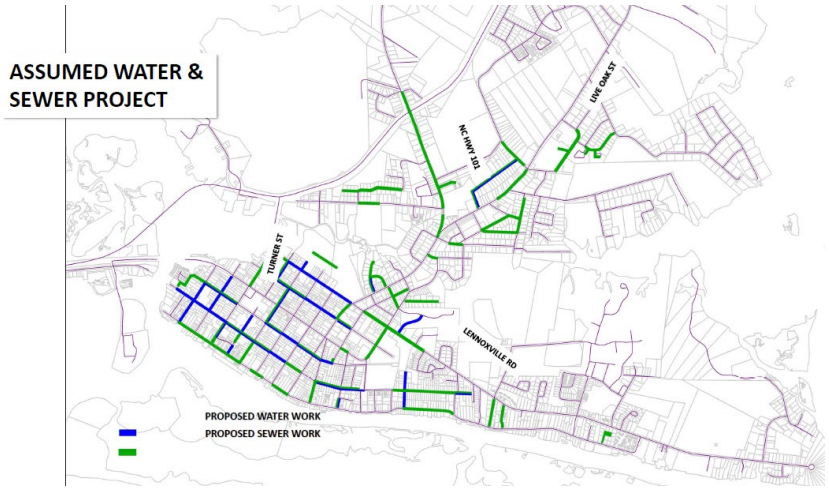
Slide #9

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Application Assumptions:

		Debt Service (1.75%, 40 Years)	
Sewer Grant Amount (75%)	$ 9,030,800		
Sewer Loan Amount (25%)	3,010,200	→ $109,100/Yr	
Sewer Subtotal	$12,041,000		$371,200/Yr
Water Grant Amount (10%)	$ 830,100		
Water Loan Amount (90%)	7,229,900	→ $262,100/Yr	
Water Subtotal	$ 8,031,000		

Slide #10



Slide #11

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Application vs Offer:

	Goal	*Actual Offer*
Sewer Grant Amount	$ 9,038,800	$ 5,005,000
Sewer Loan Amount	3,010,200	7,036,000
Sewer Subtotal	$12,041,000	$12,041,000
Water Grant Amount	$ 830,100	$ 0
Water Loan Amount	7,229,900	8,031,000
Water Subtotal	$ 8,031,000	$ 8,031,000

Slide #12

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Application vs Offer:

	Goal	*Actual Offer*
Stormwater Grant Amount	-	$ 500,000
Stormwater Loan Amount	3,431,000	3,007,000
Stormwater Subtotal	$ 3,431,000	$ 3,507,000
OVERALL FUNDING	$23,503,000	$23,579,000

Slide #13

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Offer:

- Largest North Carolina sewer grant in over 10 years
- $5,005,000 sewer grant = 38.5% of State fiscal year grant allocation
- $5,505,000 grant total = 42.3 %

Slide #14

USDA Funding Applications (Water, Sewer & Stormwater)

Premise of funding application:

- Available for debt service
  - $350,000 per year for water & sewer
  - $120,000 per year for stormwater
- Loan terms
  - ~~1.75%~~ interest rate **1.25%**
  - Repayment over 40 years ✓

Greg Meshaw said now assumptions have to be compared with the final offer from the USDA. He said the term did not change and remains at 40 years, however, the interest rates is significantly better than predicted.

Slide #15

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Offer:

		Debt Service (1.25%, 40 Years)	
Sewer Grant Amount	$ 5,005,000		
Sewer Loan Amount	7,036,000	→ $233,700/Yr	
Sewer Subtotal	$12,041,000		
Water Grant Amount	$ 0		→ $500,500/Yr
Water Loan Amount	8,031,000	→ $266,800/Yr	
Water Subtotal	$ 8,031,000		

Slide #16

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Offer:

		Debt Service (1.25%, 40 Years)
Stormwater Grant Amount	$ 500,000	
Stormwater Loan Amount	3,007,000	→ $99,900/Yr
Stormwater Subtotal	$12,041,000	
OVERALL FUNDING	$23,579,000	

Slide #17

USDA Funding Applications (Water, Sewer & Stormwater)

Premise of funding application:

- Available for debt service
  - $350,000 per year for water & sewer **vs $505,500/year (+$150,500/year)**
  - $120,000 per year for stormwater **vs $99,900/year (-$ 20,100/year)**
- Loan terms
  - ~~1.75%~~ interest rate **1.25%**
  - 40-year repayment ✓

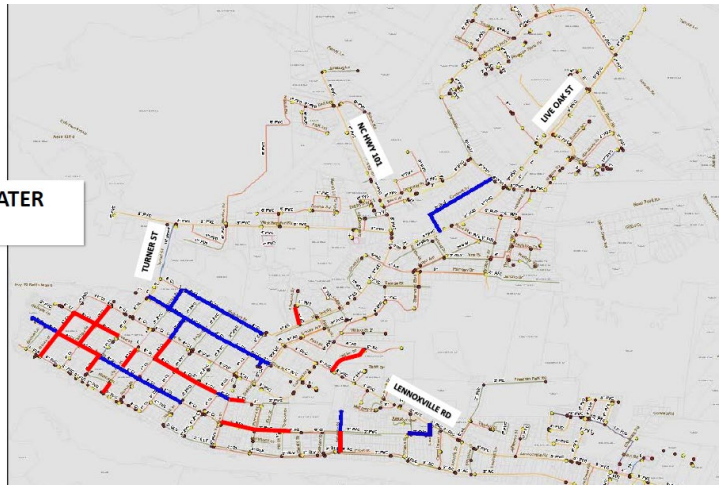
Slide #18

USDA Funding Applications (Water, Sewer & Stormwater)

Funding Offer:

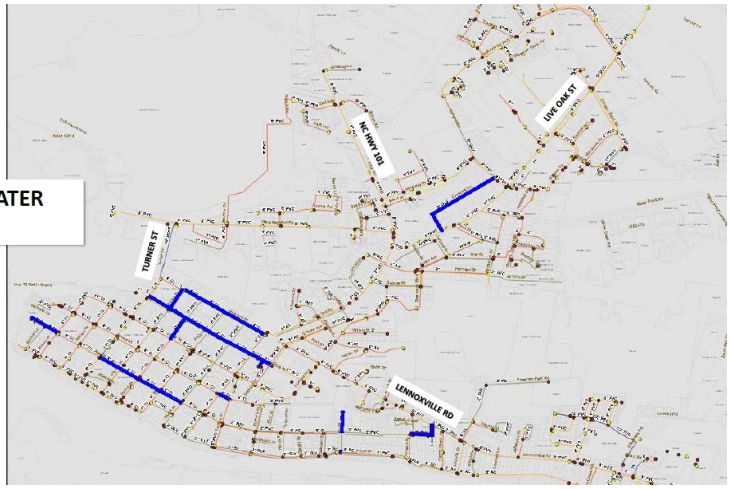
			Debt Service (1.25%, 40 Years)	
Sewer Grant Amount		$ 5,005,000		
Sewer Loan Amount		7,036,000	→ $233,700/Yr	$351,700/Yr ~~$500,500/Yr~~
Sewer Subtotal		$12,041,000		
Water Grant Amount		$ 0		
Water Loan Amount	$3,551,000	~~8,031,000~~	→ ~~$266,800/Yr~~	$118,000/Yr
Water Subtotal		$ 8,031,000		

Slide #19

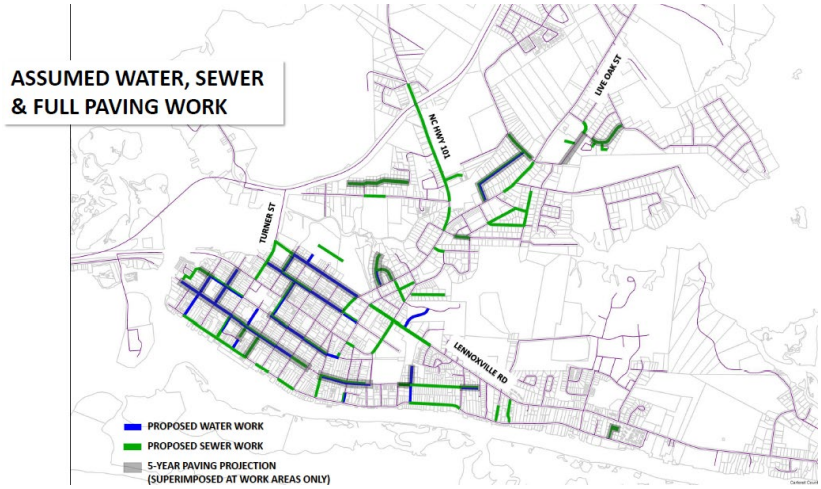


Greg Meshaw said based on the revision to the water loan project to satisfy the $350,000 in debt service goal, the streets in red would be eliminated from the original proposal.

Slide #20



Slide #21



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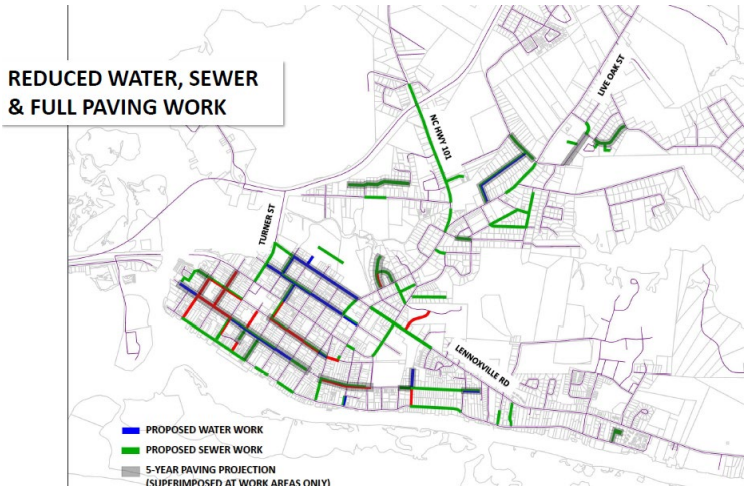
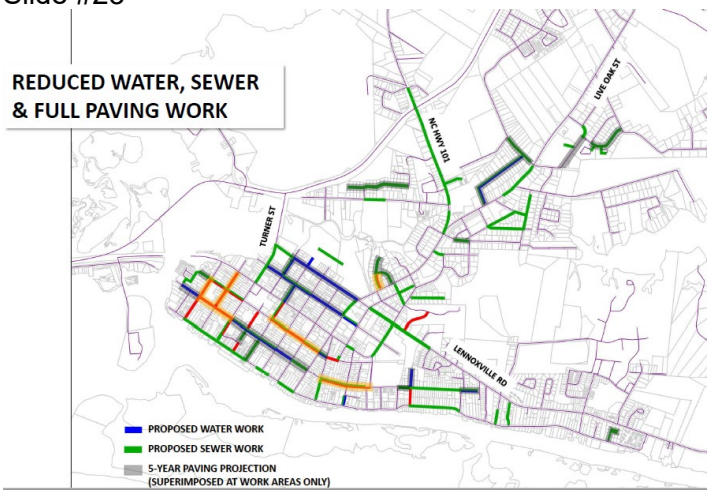


Slide #23



Mayor Pro-Tempore McDonald asked for clarification on the actual streets that were impacted by this project. He said it was hard to identify the varying colors and what they represented.

Greg Meshaw said he would use his arrow to point out Cedar Street and from that Pine Street and Mulbery Street were colored lines that would receive work. He said Queen Street from Broad Street to Pine Street would receive work. He said Orange Street from Cedar Street down to Ann Street, then Moore Street down to Ann Street and over to Front Street also receives work. He said Lennoxville Road and NC Highway 101 would also receive work. Other streets outside of the downtown area would include: Ronnie Road, Crescent Drive, Wellons Drive, Glenda Drive, Sunshine Court, and Leonda Drive.

Greg Meshaw said the work was really spread out around town, but the focus would be primarily downtown as that is where the old infrastructure is located. He said work would be from Mulberry Street all the way down to Front Street.

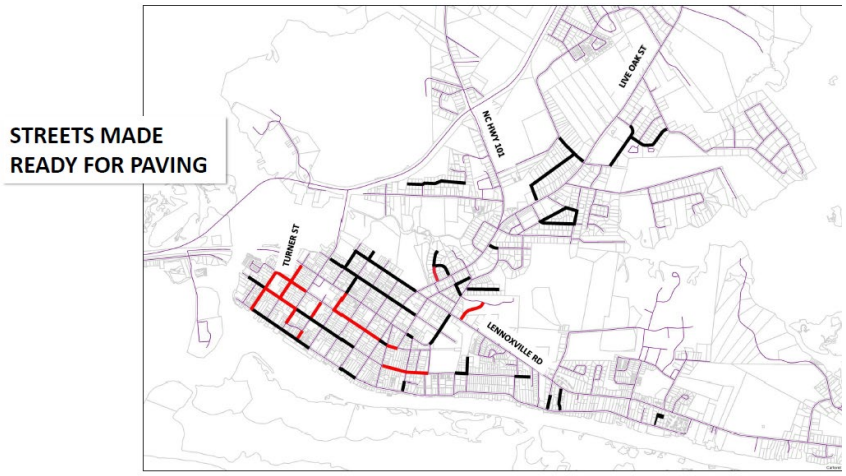
Mayor Pro-Tempore McDonald asked for a list of the streets that would not be included in this project.

Greg Meshaw said if the water project is reduced to service the debt with the money that can be allocated now, that would eliminate the following projects: Orange Street from Cedar Street to Ann Street, then Moore Street from Ann Street to Broad Street, then Ann Street goes away from Moore Street to Orange Street, then Orange Street goes away from Queen Street to Live Oak Street. He said Gordon Street towards Yapon Street and half of North Avenue would be reduced from the scope of the project.

Mayor Pro-Tempore McDonald said the areas that appear to be eliminated from this work are areas that grow the tax revenue in the last couple of years or so.

Greg Meshaw said the scope of the project primarily included downtown and as such the primary scope of the project would have to be reduced from downtown areas if the project was going to be reduced to fit the debt service availability.

Slide #24



Slide #25

STREETS MADE READY FOR PAVING

Slide #26

Funding the Additional $4.5 Million USDA Loan

Water User Rates

	EXISTING RATES		POTENTIAL RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge (minimum)	$10.37	$20.74	$10.37	$20.74
Variable Charge (per 1,000 gallons)	$ 5.07	$ 7.61	$ 6.21	$ 9.32

Note:

- Out-of-Town rate multiplier is 2 for fixed charge and 1.5 for variable charge

Slide #27

Funding the Additional $4.5 Million USDA Loan

Water User Charges Examples

- Monthly usage @ **2,000 gallons**
- ¾-inch meter

MONTH CHARGES	@ EXISTING RATES		@ NEW RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge	$10.37	$20.74	$10.37	$20.74
Variable Charge	$10.14	$ 15.21	$ 12.42	$ 18.63
Total	$20.51	$35.95	$22.79	$39.37
			+$ 2.28	+$ 3.42

Slide #28

Funding the Additional $4.5 Million USDA Loan

Water User Charges Examples

- Monthly usage @ **4,700 gallons**
- ¾-inch meter

MONTH CHARGES	@ EXISTING RATES		@ NEW RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge	$10.37	$20.74	$10.37	$20.74
Variable Charge	$23.83	$ 35.74	$ 29.19	$ 43.78
Total	$34.20	$56.48	$39.56	$64.52
			+$ 5.36	+$ 8.04

Slide #29

Funding the Additional $4.5 Million USDA Loan

Water User Charges Examples

- Monthly usage @ **10,000 gallons**
- 1½ -inch meter

MONTH CHARGES	@ EXISTING RATES		@ NEW RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge	$34.53	$ 82.96	$34.53	$ 82.96
Variable Charge	$50.70	$ 76.05	$ 62.10	$ 93.15
Total	$85.23	$159.01	$96.63	$176.11
			+$11.40	+$ 17.10

Slide #30

Funding the Additional $4.5 Million USDA Loan

Water User Charges Examples

- Monthly usage @ **25,000 gallons**
- 2-inch meter

MONTH CHARGES	@ EXISTING RATES		@ NEW RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge	$ 55.27	$147.25	$ 55.27	$147.25
Variable Charge	$126.75	$190.13	$155.25	$232.88
Total	$182.02	$337.38	$210.52	$380.13
			+$ 28.50	+$ 42.75

Slide #31

Funding the Additional $4.5 Million USDA Loan

Water User Charges Examples

- Monthly usage @ **60,000 gallons**
- **3**-inch meter

MONTH CHARGES	@ EXISTING RATES		@ NEW RATES $149,000/YEAR ADDED DEBT SERVICE	
	In-Town	Out-of-Town	In-Town	Out-of-Town
Fixed Charge	$110.65	$333.91	$110.65	$333.91
Variable Charge	$304.20	$456.30	$372.60	$558.90
Total	$414.85	$790.21	$483.25	$892.81
			+$ 68.40	+$102.60

Slide #32

Funding the Additional $4.5 Million USDA Loan

Alternatives to Rate Increase

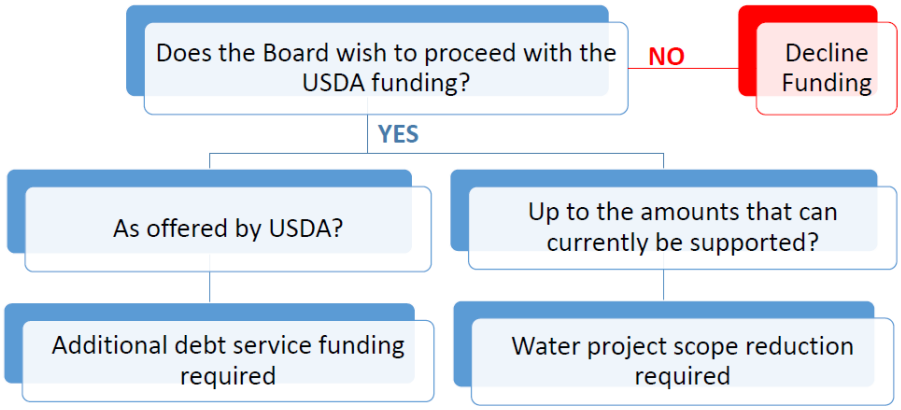
1. Budget utility revenues less conservatively to cover additional debt service requirement (including an additional amount equal to 10% of debt service as required by USDA)
2. Reduce payment to General Fund for administrative services
3. Any combination of 1 and 2
4. Any combination of 1 and 2 with a small rate increase

Important Consideration

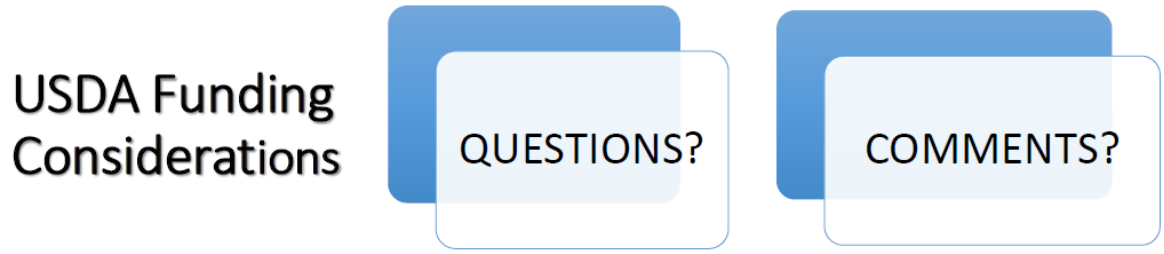
- Full accrual (business-type) accounting
  - $600,000 Utility Fund loss in FY19
  - $700,000 gain in FY20
  - $100,000 over 2-year period

Slide #33

USDA Funding Considerations



Slide #34



Commissioner Harker said this was a great presentation and very well explained. She asked if a decision on whether to decrease the amount of the loan from the water project in order to pay for debt service was needed in conjunction with accepting the grant.

Greg Meshaw said he would defer to Manager Day, however, as long as the Board could reach a general consensus on figuring the details out the primary goal was to be able to notify USDA if the Board was interested in accepting the offer.

Commissioner Harker said the offer presented is attractive and the Town was receiving more in some areas than projected like stormwater. She said the key is figuring out how to make the money spread out more over the various sewer projects.

Commissioner Harker said she would like to see the Board consider voting to accept the USDA grant/loan proposal and for the Board to work out the differences later as far as how much gets allocated to what projects.

Mayor Pro-Tempore McDonald asked if this work could be done inhouse by employees.

Manager Day said the short answer is no.

Commissioner Harker asked if the residents who own second homes in Beaufort or own homes but are not considered full-time residents here, could be charged a fixed rate fee.

Manager Day said that would be problematic.

Commissioner Hollinshed said the water rates and sewer rates are tied together and she asked if the water rates would double even if residents are not using any more water.

Greg Meshaw said no, the sewer rates would remain the same.

Commissioner Carter said she would like some additional time to study the proposals presented as the current climate is hard to judge with all that was going on.

Mayor Newton asked Manager Day if he could clarify what was needed exactly from the Board.

Manager Day said staff anticipated being able to give a decision after the meeting tonight as to whether the Board was going to move forward with the offer, not necessarily on the method of how we're going to pay the debt service. He said there are other ways to do it as as mentioned in the presentation with which is really just sort of shifting money around and not really not raising any rates. He said that's the important thing to to remember that that is one of the alternatives.

Manager Day said when staff spoke yesterday to USDA representatives, they originally wanted an answer from the Town very soon, although staff, as Greg said, didn't get the number on the stormwater until today. He said he could seek from USDA an official deadline for when they need to know something, but he would strongly suggest that opportunity be taken.

Manager Day said the financing for the water is not anything that the Town can get anywhere else in terms of low interest rates and in this kind of repayment term. He said we all know; these are significant problems that that have needed to be addressed for quite some time.

Manager Day said the only way to really pave the streets in a way that is not going to lead to them being cut up and patched very quickly is to do the work first. He said the process would be complicated and time consuming but this would be worked through with the USDA. He said staff has spent months working on the funding application and it was a huge project and very complex.

Manager Day said he hoped the Board would reach a decision tonight on at least moving forward with the project in its entirety. He said the details of the $350,000 could be worked out at the Board's retreat coming up in the next week. He said he thinks staff can present a work around that is satisfying to the Board.

Commissioner Hagle said he agreed with the Manager. He asked if the recommendation was to move forward with one of the alternatives presented in the PowerPoint slide.

Manager Day said he would recommend going with a combination of alternative options one or two but not either of them singularly.

Commissioner Hagle said he would agree and support the offer.

Mayor Pro-Tempore McDonald said he agreed with the offer, but with no increases to water rates or property taxes.

Commissioner Carter asked if the $600,000 utility reimbursement that was for administrative was removed or reduced how would that impact the utility fund.

Manager Day said the Utility Fund isn't paying the General Fund for the services provided, but there are two things that happen. He said the General Fund ends up providing some subsidy to the utility fund for it's operation and that has gone on for a number of years.

Commissioner Carter said she didn't have a problem with the $600,000 from utilities as it appears a bit excessive.

Manager Day said a formula could be shared to help look at the estimates. He said the Board could receive a more precise estimate if there was interest to hire an accounting firm to do a cost allocation assessment, however this number was an estimate, and it could be reduced.

Commissioner Hagle said budgeting less conservatively in this line item could be done.

Commissioner Hollinshed asked how much savings was showing in the prior quarterly report.

Manager Day said that was about 0.5%.

Commissioner Hollinshed what exactly does this percentage calculate to.

Greg Meshaw said those exact figures were not at his finger tips but he could certainly share that figure with the Board.

A motion was made by Commissioner Harker to accept the USDA Financing Proposal, with an exception that the debt service and project detail would be discussed in greater detail at a later time.

Mayor Newton call each Commissioner by name (roll call).

Roll call ensued.

VOTE: UNANMIOUS

Manager Day said thank you and staff would be working to prepare additional items for review at the Board's Retreat.

[MAYOR/COMMISSIONER COMMENTS]

Commissioner Harker said this was a great time for Beaufort to take a look at getting the roads and infrastructure taken care of, but it was also a time for the Board to be very diligent in their discussions on how to make the money last. She said she echoed the comments from all of the other Commissioners that there was not an appetite for raises property tax or water or sewer rates. She said thank you to the staff that worked extremely hard on this proposal and went above and beyond to make sure Beaufort received strong consideration.

Commissioner Hollinshed said a lot of work went into getting us to this point and lots of work would be going into this project.

Commissioner Hollinshed asked Greg Meshaw for an update on Orange Street.

Greg Meshaw said concrete working was taking place today on Orange Street. He said the next steps were to place the missing curb back in the street and that would serve as a boundary as the pervious concrete was scheduled to be put in place next.

Commissioner Carter said she had serious concerns about the amount debt burden that was being placed on the townspeople. She said she would not support any type of tax increase to support this project proposal.

Commissioner Hagle said it had been a long journey to get to this point, a number of years in the making. He said he agreed to not increase the rates or support a property tax increase. He said this was the best deal that appears to get the Town further down the road on rehabbing the utility system that needs refurbishing.

Mayor Pro-Tempore McDonald said there was a time that staff could preform a lot of this work except for the paving, however, he would go along with the majority of the Board.

Mayor Newton said just a couple short years ago the Town knew we had 40 to 60 billion dollars in infrastructure requirements in the town of Beaufort. He said at the time Manager Day stated the eligibility at the time was for 4 to 6 million dollars and now we are taking about 30 million dollars. He said he appreciated the professionalism of the staff and all their hard work.

Mayor Newton said this was not just about fixing potholes but also cleaning up the waterways because of the collapsed sewer systems leaching into the storm water systems. He said thank you to the Board of Commissioners, Town Staff and their coordination with residents, local business owns, churches, and non-profits.

[ADJOURN]

A motion was made by Commissioner Harker to adjourn the meeting.

Mayor Newton called the roll.

Roll call ensued.

VOTE: UNANIMOUS

The meeting adjourned at 4:54 p.m.

_____

Everette “Rett” Newton
Mayor

_____

Allen Coleman
Town Clerk

DRAFT

MINUTES
TOWN OF BEAUFORT
BOARD OF COMMISSIONERS
VIRTUAL REGULAR MEETING
MARCH 8, 2021
6:00 P.M.

Due to the State of North Carolina's Declaration of Emergency in response to the COVID-19 pandemic and per NCGS § 166A-19.24, the Town of Beaufort Board of Commissioners conducted a remote meeting using the Zoom application. Members of the Board of Commissioners participated in the meeting remotely.

The Town of Beaufort Board of Commissioners met remotely for a regular meeting on Monday, March 8, 2021 at 6:00 p.m. with the following members present:

Mayor Everette Newton presiding
Mayor Pro Tempore Charles McDonald
Commissioner Ann Carter
Commissioner John Hagle
Commissioner Sharon Harker
Commissioner Marianna Hollinshed

Others Present: Town Manager John Day and Town Clerk and Assistant to the Town Manager Allen Coleman (All other staff members will be identified appropriately below)

Mayor Newton asked Town Clerk Allen Coleman to open the meeting to the public and provide public comment instructions.

Mayor Newton called the meeting to order at 6:00 p.m., welcomed everyone in attendance, and asked Town Clerk Allen Coleman to call the roll.
Roll Call ensued.

[AGENDA APPROVAL]
A motion was made by Commissioner Hagle to approval the agenda as presented.

Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

[PUBLIC COMMENTS]
NONE

[MANAGER'S REPORT]
Manager Day said at this point everyone should be aware of the recent County Commissioners' discussions on sales tax distribution methods. He said the Board of County Commissioners received a request from some of the towns in the County to change the sales tax distribution from an ad valorem method, which is based on tax levy, and use instead a per capita method.

Manager Day said based on the latest numbers, if the sales tax distribution method changed to a per capita calculation, the Town of Beaufort would lose about 566,000. a year. He said in order to make up for that lose, a tax increase of 5.37 cents would be required. He said that is a significant increase and this issue was affecting many other towns in Carteret County.

Manager said last week the Board of County Commissioners voted to retain the ad valorem method of distribution, however, they have decided to discuss this matter again at their schedule March 15th meeting. He said the County Commissioners would be hearing from two sets of speakers representing different positions of the various towns.

Manager Day said this was a very important issue for Beaufort and should the County Commissioners chose to change the method of distribution, that would negatively affect the Town causing property tax increases to cover the gap.

Manager Day said staff had been consumed with working on the items for the Commissioners Annual Retreat and the five-year financial plan. He said those items are not something that is usually ready until late April, but he was trying to push things up a great deal to allow the Board more time for discussion.

Manager Day said the numbers that will be presented to the Board at the retreat are in draft format and they will likely change before the recommended budget appears in May.

Commissioner Carter asked if the communities that were in favor of the sales tax distribution change were from the western part of the County.

Manager Day said yes.

Commissioner Carter asked if those Towns would gain that much from the change.

Manager Day said yes, there are significant gains. He said a listing was sent to the Board describing the impacts of the change.

Manager Day said some of the Towns would receive very small amounts, but asked the Board to remember, the current method is based on property tax levy and some of those towns do not have large property tax basis, plus their tax rates are low. He said the system that we have in place now, the larger the tax bases the higher the percentage rates.

Mayor Pro-Tempore McDonald asked if Manager Day had any ideas or inside thoughts on how the County Commissioners would vote on this change.

Manager Day said he was hesitant to speculate how the County Commissioners would vote.

Commissioner Hagle asked if Town Hall was ready to be opened.

Manager Day said the rails were installed and them removed because they had to be partially fabricated in place and then would need to be powder coated. He said the anticipated date from install and reopening was within the next two weeks.

[ITEMS OF CONSENT]

A motion was made by Commissioner Hagle to approve the Consent Agenda.

Mayor Newton call each Commissioner by name (roll call).

Roll call ensued.

VOTE: UNANMIOUS

1. FY21 Audit Contract

The Board voted to approve a three-year audit contract with Martin Starnes and Associates.

2. Minutes

The Board voted to approve the draft minutes from the January 25 Virtual Work Session and February 8 Virtual Regular meeting of the Board of Town Commissioners as submitted by the Town Clerk.

[PUBLIC HEARING]

1. Request to Rezone 502 Cedar Street from TR to CS-MU – Case No. 21-03

The Board received the Planning Board/staff recommendation and conducted a public hearing on the rezoning request to add continuity to the 500 block of Cedar Street regarding the zoning of Mixed Use.

BACKGROUND:

At the January 19th meeting the Planning Board requested that staff submit a rezoning request for this parcel to add continuity to the 500 block of Cedar Street regarding the zoning of Mixed Use. Per the Planning Boards request staff is submitting 502 Cedar Street for rezoning from TR to CSMU.

At their February 15, 2021 meeting the Planning Board recommended unanimously to rezone 502 Cedar Street from TR to CS-MU.

Kyle Garner, Director of Planning and Inspections, presented the following PowerPoint presentation:

Slide #1

Case No.
21-03
Rezoning from TR to
CS-MU

Slide #2

Property Information

Request: Rezone one lot totaling 15,143 sq. ft. from TR to CS-MU

Applicant: Town of Beaufort

Location 502 Cedar Street.

Number of Properties 1 Parcel

Total Area .35 Acres Total (based on GIS data)

Public Notice Information

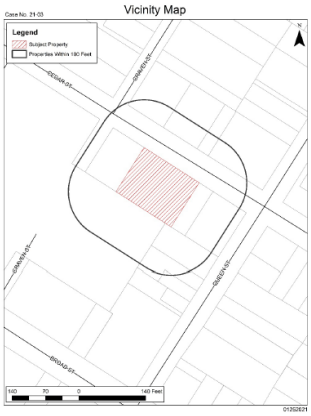
In accordance with **NCGS 160A-384** and the **Town of Beaufort Land Development Ordinance, Public Notice** was provided via

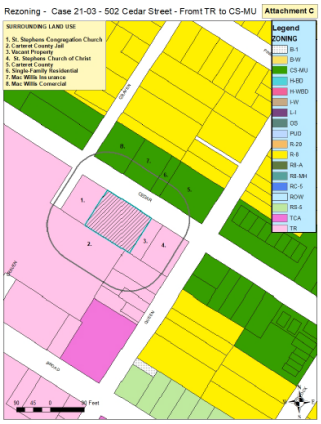
8 - Letters Mailed to property owners included in rezoning area and those within 100 feet.

Legal Advertisement – Wednesday February 24th & March 3rd

Slide #3

Proposed Area for Rezoning





Slide #4

Project Facts

- This site use to be part of the Congregational Church Property and was used as a school and seminary in the Mid 1800's. In recent years it has been a Bar-B-Que restaurant, Habitat for Humanity Outlet and most recently a Bail Bond office.
- At the January 2021 meeting staff was requested by the Planning Board to bring this property to public hear for a rezoning to CS-MU to make the 500 block zoning consistent.
- This rezoning **is** consistent with the 2006 CAMA Land Use Plan which specifically addresses the redevelopment of Cedar Street to Mixed Uses. This means an amendment to the CAMA **is not** needed.
- Town has been working with NCDOT to improve the infrastructure under Cedar Street to include elements of the Small Area Plan.

Requested Action	• **Conduct Public Hearing to:** • **Approve the request; Deny the request; or Recommend a more restrictive zoning district.** • **Provide a consistency statement addressing the requested zoning amendment and the future land use plan.**

Slide #5

Consistency Statement

The Planning Board must provide a consistency statement to the Board of Commissioners to support the request, recommend a more restrictive zoning classification, or deny the request as it relates to the surrounding land use development pattern and its relationship to the CAMA Land Use Plan.

In accordance with **NCGS § 160A-383**, the consistency statement must include one of the following:

- A statement recommending approval of the zoning amendment and describing its consistency with the CAMA Core Land Use Plan
- A statement recommending denial of the zoning amendment and describing its inconsistency with the CAMA Core Land Use Plan
- A statement recommending approval of the zoning amendment containing the following:
  - Declaration that the approval is also deemed an amendment to the CAMA Core Land Use Plan
  - An explanation of the change in conditions the board took into consideration when recommending approval

Consistency statement must <u>explain why</u> the action taken is reasonable and in the public interest

Commissioner Hagle said this property was also used by the BHA thrift store for a long time.

A motion was made by Commissioner Hollinshed to open the public hearing.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Town Clerk Allen Coleman said no members of the public had signed up to speak on this item.

A motion was made by Commissioner Hollinshed to close the public hearing.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

2. Request to Rezone 823 West Beaufort Road from R-8 to B1 – Case No. 21-04

The Board received the Planning Board/staff recommendation and conducted a public hearing on the request to rezone 823 West Beaufort Road from R-8 residential to B-1 General Business District.

BACKGROUND:

Janine Facciola is requesting to rezone 823 West Beaufort Road from R-8 Residential to B-1 General Business District. The Planning Board reviewed the request at the February 15, 2021 meeting and found the request consistent with the CAMA Future Land Use Map. 5/5 members present unanimously recommended approval of the request.

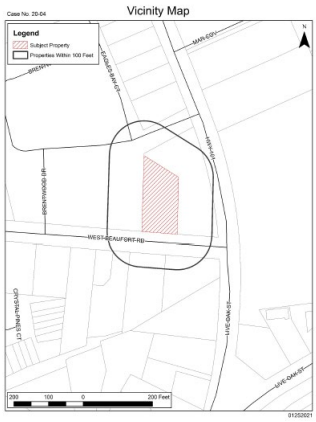
Kate Allen, Town Planner, presented the following PowerPoint presentation:

Slide #1

Case No. 21-04
Request to Rezone
823 West Beaufort Road from R-8 to B-1

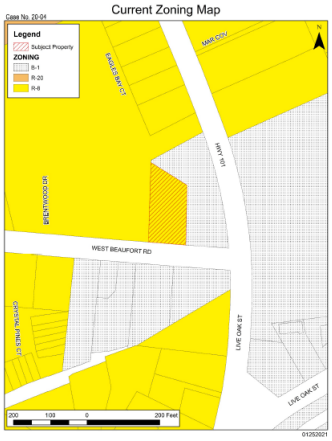
Slide #2
Public Notice

Legal Ad: Carteret News Times, February 24, 2021 & March 3, 2021
Notice Letters: Mailed February 25, 2021
Sign Posted: February 26, 2021



Slide #3
Request & Property Information

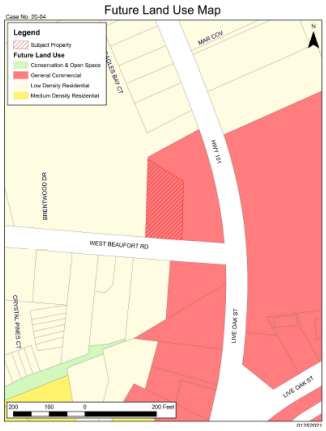
Property Information – 823 West Beaufort Road		
Current Zoning	R-8 Residential	
Current Use	Residential	
Lot Size	0.474 acres or 20,647.44 ft²	
Lot Dimensions	Front	100 ft.
	Side (west)	222 ft.
	Side (east)	167 ft.
	Rear	116 ft.
Request	Rezone to B-1 General Business	
Conforming Status		
Use	Conforming	
Lot	Conforming	
Structure(s)	Appear to be Conforming	
Adjoining Land Use & Zoning		
North	R-8; Residential	
South	B-1; Commercial	
East	B-1; Commercial	
West	R-8; Residential	



Slide #4
Future Land Use Classification & Planning Board Review

- The Future Land Use Map identifies the subject property as General Commercial
- If approved, the rezoning would not require an amendment to the CAMA Core Land Use Plan Future Land Use Map

The **Planning Board** reviewed the request at the February 15, 2021 meeting. The Board voted unanimously to **recommend approval** of the requested rezoning, as it found the request to be consistent with the CAMA Core Land Use Plan Future Land Use Map.



A motion was made by Commissioner Hollinshed to open the public hearing.

Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Town Clerk Allen Coleman said no members of the public had signed up to speak on this item.

A motion was made by Commissioner Hagle to close the public hearing.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

3. Request to Rezone 1001 Cedar Street from R-8 to CS-MU – Case No. 21-02

The Board received Planning Board/staff recommendation and conducted a public hearing on the request to rezone 1001 Cedar Street from R-8 Residential to CS-MU Cedar Street Mixed Use District.

BACKGROUND:

Property owner, Bradley Cummins, is requesting to rezone 1001 Cedar Street from R-8 Residential to CS-MU Cedar Street Mixed Use District. The Planning Board reviewed the request at the February 15, 2021 meeting and found the request consistent with the CAMA Future Land Use Map. 5/5 members in attendance unanimously recommended approval of the request.

Kate Allen, Town Planner, presented the following PowerPoint presentation:

Slide #1

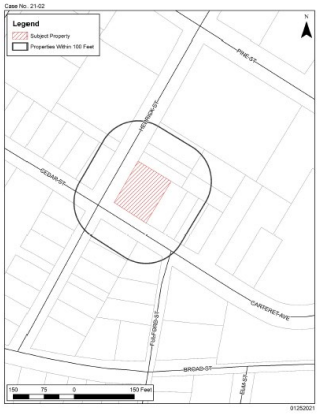
Case No. 21-02
Request to Rezone
1001 Cedar Street from R-8 to CS-MU

Slide #2

Public Notice

Legal Ad: Carteret News Times, February 24, 2021 & March 3, 2021
Notice Letters: Mailed February 25, 2021
Sign Posted: February 26, 2021

Vicinity Map

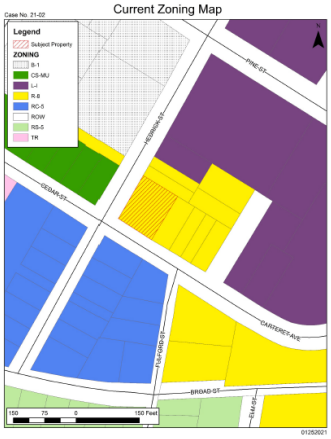


Slide #3

Request & Property Information

Property Information – 1001 Cedar Street		
Current Zoning	R-8 Residential	
Current Use	Residential	
Lot Size	0.244 acres or 10,645 ft²	
Lot Dimensions	Front (Cedar)	97.88 ft.
	Side (Hedrick)	107.53 ft.
	Side	108.21 ft.
	Rear	99.67 ft.
Request	Rezone to CS-MU	
Conforming Status		
Use	Conforming	
Lot	Conforming	
Structure(s)	Ex. Non-Conforming	
Adjoining Land Use & Zoning		
North	R-8 & L-I; Residential	
South	RC-5; Residential	
East	R-8 & L-I; Residential	
West	CS-MU; Residential	

Current Zoning Map



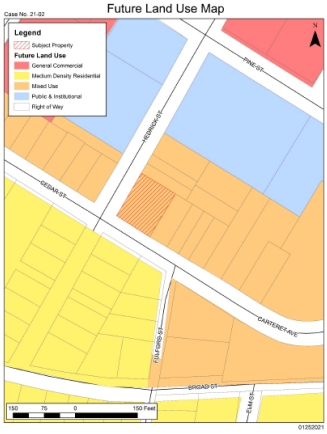
Slide #4

Future Land Use Classification

- The Future Land Use Map identifies the subject property as Mixed Use
- If approved, the rezoning would not require an amendment to the CAMA Core Land Use Plan Future Land Use Map

The **Planning Board** reviewed the request at the February 15, 2021 meeting. The Board voted unanimously to **recommend approval** of the requested rezoning, as it found the request to be consistent with the CAMA Core Land Use Plan Future Land Use Map.

Future Land Use Map



Commissioner Hollinshed asked if staff had received any feedback from adjoining landowners since this is an insertion here.

Kate Allen said no, she had not received any phone calls.

Commissioner Hagle said North Hedrick along Cedar was rezoned to Cedar Street mixed use, but to the east of this property it was still zoned residential. He said if there was any discussion on the Planning Board about the boundary between Cedar Street mixed use and the residential area that is in this area.

Commissioner Hagle said the rezoning makes use amidst other things besides residential.

Kate Allen said no, not in this case.

Commissioner Hagle asked if from a professional planner standpoint, if this was something to be considered or at least under discussion about the terms of a boundary between those kinds of two zones since they are somewhat different.

Kate Allen said the two zones are designed to be fairly compatible as this would be considered a transitional district, if you will.

A motion was made by Commissioner Hollinshed to open the public hearing.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Town Clerk Allen Coleman said no members of the public had signed up to speak on this item.

A motion was made by Commissioner Harker to close the public hearing.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

A motion was made by Commissioner Hagle to place all three public hearing items above on the March 22, 2021 work session agenda.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

[ITEMS FOR DISCUSSION AND CONSIDERATION]

1. Sewer Allocation Request – 803 Deerfield Drive, Beaufort, NC (Deerfield Shores Subdivision)

The Board considered the Sewer Allocation Request for property located at 803 Deerfield Drive, subject to the payment of the reservation fee.

Greg Meshaw, Town Engineer, presented the following information:

BACKGROUND:

Mr. Herbert Ridgeway IV of Raleigh, NC has formally requested that 360 gallons per day (gpd) of sewer capacity be reserved for 803 Deerfield Drive in the Deerfield Shores subdivision. This

parcel is not among the 30 properties which the Town accepted as customers upon transfer of the collection system by the Deerfield Shores Utility Company, Inc. As such, granting of the requested allocation must be by the Board of Commissioners.
It is understood from Mr. Ridgeway that he and his wife purchased the parcel during late November. It is also understood that they are currently working with a design firm to develop plans for a house to be built on the parcel. Since the plans are in-process the Ridgeways are not ready to build the house. Nonetheless, the Ridgeways desire to reserve allocation so that it will be in place when they are ready to connect to the Town's collection system especially since the parcel is reportedly unsuitable for an onsite septic tank system.

A request for reservation of sewer capacity for future use is deemed a Level 4 priority by the Town's Wastewater Allocation Policy. If approved, a non-refundable reservation fee equivalent to twenty percent of the applicable sewer system development fee must be paid. Additionally, Priority Level 4 projects have twenty-four months to receive all approvals, certifications, and/or permits to begin construction. Otherwise, the allocation reverts to the Town, provided that the Board of Commissioners does not grant an extension.

Commissioner Carter asked how many applications has the Town received since this process started.

Greg Meshaw said this one plus the next one tonight makes a total of three. He said he received a phone call for somebody else who may be interested in a sewer allocation.

Mayor Pro-Tempore McDonald asked if the Town would have enough allocation availability to handle the additional application requests.

Greg Meshaw said yes.

Mayor Pro-Tempore McDonald asked if this would be the maximum available.

Greg Meshaw said no, currently we have enough reservation for approximately 11 more houses.

Commissioner Hollinshed asked if an explanation and purpose of the reservation fee could be given to remind the public what exactly this is.

Greg Meshaw said the reservation fee is a fee that an individual would have to pay to reserve sewer when you're not yet ready to build. He said the Town wanted to ensure there is capacity in place for the next two years so that hopefully we can be ready to go.

Commissioner Hollinshed said the Town is under no obligation to extend the reservation passed the two-year mark. She said since this option is becoming popular it is important to note there are safeguards in place to prevent the Town from reaching capacity and over allocation.

Greg Meshaw said yes, that is why the Board approved a policy with a two-year reservation cut-off so individuals would not tie up capacity for ad infinitum, that could be used by others who are ready to go.

Commissioner Hagle said this policy was designed to be a two-year use or lose it type arrangement.

Greg Meshaw said that was correct, unless the Board choses to extend the range.

Commissioner Hagle said he appreciated the strong policy that was in place. He said others may step forward and use the capacity we have and once the Town reaches capacity that was it.

A motion was made by Commissioner Hagle to approve the sewer allocation request to reserve 360 gallons per day (gpd) of sewer capacity for 803 Deerfield Drive in the Deerfield Shores subdivision.

Mayor Newton call each Commissioner by name (roll call).

Roll call ensued.

VOTE: UNANMIOUS

2. Sewer Allocation Request – 504 Island Drive, Beaufort, NC (Deerfield Shores Subdivision)

The Board considered the Sewer Allocation Request for property located at 504 Island Drive, subject to the payment of the reservation fee.

BACKGROUND:

Mr. Harold A. Booth of Beaufort, NC has formally requested that 360 gallons per day (gpd) of sewer capacity be reserved for 504 Island Drive in the Deerfield Shores subdivision. This parcel is not among the 30 properties which the Town accepted as customers upon transfer of the collection system by the Deerfield Shores Utility Company, Inc. to the Town. As such, granting of the requested allocation must be by the Board of Commissioners.

There is no existing structure on the parcel. Town staff also understands that Mr. Booth does not currently have plans to construct a residence on the parcel. Nonetheless, Mr. Booth desires to reserve allocation so that it will be in place when he or another future owner is ready to connect to the Town's collection system.

A request for reservation of sewer capacity for future use is deemed by the Town's Wastewater Allocation Policy to be a Level 4 priority when considering allocation requests. If approved, a nonrefundable reservation fee equivalent to twenty percent of the applicable sewer system development fee must be paid. Additionally, Priority Level 4 projects have twenty-four months to receive all approvals, certifications, and/or permits to begin construction. Otherwise, the allocation reverts to the Town, provided that the Board of Commissioners does not grant an extension.

Commissioner Carter asked if the individual was prepping this land for sale.

Greg Meshaw said that was likely the possibility.

Mayor Pro-Tempore McDonald asked the reason for the difference in 380 gallons and 360 gallons.

Greg Meshaw said both requests were for 360 gallons.

A motion was made by Commissioner Hagle to approve the sewer allocation request to reserve 360 gallons per day (gpd) of sewer capacity for 504 Island Drive in the Deerfield Shores Subdivision.

Mayor Newton call each Commissioner by name (roll call).

Roll call ensued.

VOTE: UNANMIOUS

3. Appointments to Volunteer Advisory Board and Commission Positions

The Board reviewed applications received for the vacant positions on the various Town's Volunteer Advisory Boards and Commissions and voted to appoint five individuals for three-year terms.

BACKGROUND:

One major way residents can have a positive impact on the future of the Town of Beaufort is volunteering to serve on various Town advisory boards and commissions. As of January 31, 2021, four vacancies existed for the following:

• Board of Adjustments – 2 positions

• Historic Preservation Commission (HPC) – 2 positions
• Planning Board – 1 position

Active recruitment for the four vacant positions began in January, 2021 with an application deadline of Monday, February 15, 2021. In an effort to increase public participation and awareness, Town staff used the Carteret County News Times, Facebook, and the Sunshine List to advertisement the position vacancies and to encourage a diverse group of applicants.

As of Monday, February 15, 2021, twelve applications were received, and they are:

Applicant	**Board of Adjustments**	**Historic Preservation Commission (HPC)**	**Planning Board**
Barry Evans	X		X
Becky Bowler		X	X
Bradley Cummings	X	X	X
Bradley Hedrick		X	
Catherine Reeve	X		
Heather Poling (Incumbent)		X	
Howard Paul			X
Ian Huckabee		X	
Jared Penland		X	X
John Flowers		X	
Phillip Coe		X	X
Ralph Merrill (Incumbent)			X

Of the four vacant positions, two individuals are seeking re-appointment for a three-year term, expiring on January 2024.

Each applicant's submitted application is included as part of this agenda item.

A motion was made by Commissioner Harker to open nominations for the primary position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Commissioner Carter nominated Catherine Reeve.

A motion was made by Commissioner Hagle to close nominations for the primary position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Mayor Newton asked the Board to consider voting to appoint Catherine Reeve to the primary position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).

Roll call ensued.

VOTE: UNANMIOUS

A motion was made by Commissioner Harker to open nominations for the alternate position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Commissioner Carter nominated Barry Evans.
Commissioner Hollinshed nominated Barry Evans.

A motion was made by Commissioner Hagle to close nominations for the alternate position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Mayor Newton asked the Board to consider voting to appoint Barry Evans to the alternate position on the Board of Adjustments.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

A motion was made by Commissioner Harker to open nominations for the first vacant position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Commissioner Hagle nominated John Flowers.
Commissioner Hollinshed nominated John Flowers.

A motion was made by Commissioner Carter to close nominations for the first vacant position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Mayor Newton asked the Board to consider voting to appoint John Flowers to the first vacant position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

A motion was made by Commissioner Harker to open nominations for the second position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Commissioner Hagle nominated Bradley Cummins.

A motion was made by Commissioner Carter to close nominations for the second position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Mayor Newton asked the Board to consider voting to appoint Bradley Cummins to the second position on the Historic Preservation Commission.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

A motion was made by Commissioner Harker to open nominations for the position on the Planning Board.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Commissioner Hagle nominated Ralph Merrill.

A motion was made by Commissioner Harker to close nominations for position on the Planning Board.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

Mayor Newton asked the Board to consider voting to re-appoint Ralph Merrill to the position on the Planning Board.
Mayor Newton call each Commissioner by name (roll call).
Roll call ensued.

VOTE: UNANMIOUS

[MAYOR/COMMISSIONER COMMENTS]

Commissioner Hollinshed said she would like to thank everyone who applied for the various positions as it was nice to have a large group of applicants to chose from.

Commissioner Hollinshed said that four Commissioners attended an evaluating the manager and Board performance session at the School of Government. She asked the manager's evaluation item be placed on the next work session's agenda for discussion.

Commissioner Hollinshed said today was International Women's Day so all women should celebrate that and remember the many women who paved the way to give us the right to vote and do other things.

Commissioner Hagle said on March 8, 1884, capping two days of testimony in Congress, Susan B. Anthony appeared before the House Judiciary Committee on this date in 1884, arguing in favor of granting women the right to vote. He said a day earlier, Anthony had testified before the Senate Select Committee on Women's Suffrage, but Anthony would not see quick action by either the House or the Senate. He said it would take Congress another 35 years to finally approve the idea, as the 19th Amendment to the Constitution granting women the right to vote would not be ratified before the states until 1920, 14 years after Anthony died.

Commissioner Hagle said that was just a little bit of history. He said this date was very important to him as he had a lot of great women in his life including his wife, his mother, two grandmothers, his sister, and his aunts. He said they all meant a lot to him in his life and helped him to be who he was today.

Commissioner Hagle said an article in the national newspaper last week revealed that last year, even during the pandemic, accident rates were higher and particularly traffic accident deaths were much higher. He said the highest third quarter in 2020 since 2008 and some of the possible causes according to this article was high speed, not wearing seat belts, and distracted driving. He said focus should be on your driving.

Commissioner Harker said thank you to Allen for casting a wide net for applicants for our volunteer board, because it seemed to have worked and really paid off. She said she wanted to thank the many applicants that have actually put their name out there to be on our many volunteer boards and to not give up; keep your name out there and congratulations to those that were able to make it.

Commissioner Harker said since 1987, the month of March has been declared annually by President Proclamation as Women's History Month in the United States and is dedicated to reflecting on the numerous but often overlooked contributions of women such as Abigail Adams, Susan B. Anthony, Sojourner Truth, Rosa Parks, and many more. She said thank you to the many women that have paved the way for other women like herself to make significant contributions to our society.

Mayor Newton said March 1st was a big day in Carteret County and in Beaufort. He said on March the 1st, for the first time since October 9th, Carteret County COVID-19 numbers were below 100. He said as of last Friday, there were 54, today they're at 61. He said please don't stop using your social distancing, your masks, and your hygiene measures that we know have been successful. He said we're getting closer, but still we have a lot of work to do and he was just thrilled to hear and see people that are getting their vaccinations there.

Mayor Newton said in addition March 1st was also a big day because the Beaufort Commissioners approved up to 30 million dollars in infrastructure repairs. He said this is a lot of hard work from the town staff, with Greg leading the way to get these loans and grants to fix our infrastructure.

Mayor Newton said he deeply appreciated the commissioners, their passion for making these repairs, and the professionalism of our town staff to find a way to fix this infrastructure, because not only is this about fixing the stormwater, the sewer, the water pipes, which will fix the potholes, but it will also help us clean up our waterways, which is always a great thing.

[ADJOURN]

A motion was made by Commissioner Harker to adjourn the meeting.

Mayor Newton called the roll.

VOTE: UNANIMOUS

The meeting adjourned at 6:48 p.m.

_____
Everette “Rett” Newton
Mayor

_____
Allen Coleman
Town Clerk

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items of Consent

SUBJECT: Sewer Allocation Request
201 Rudolph Dr., Beaufort NC (Deerfield Shores Subdivision)

BRIEF SUMMARY:

Daniel and Amy Perry of Raleigh, NC have formally requested that 480 gallons per day (gpd) of sewer capacity be reserved for 201 Rudolph Drive in the Deerfield Shores subdivision. This parcel is not among the 30 properties which the Town accepted as customers upon transfer of the collection system by the Deerfield Shores Utility Company, Inc. to the Town. As such, granting of the requested allocation must be by the Board of Commissioners.

It is understood from Mr. Perry that he and his wife have been in the design process over the past 3 months for a house to be constructed on the parcel. In fact, the Perry's hope to have plans approved by Carteret County within the next 3 to 4 months. This of course, means that the Perrys are not currently ready to build the house. Nonetheless, they desire to ***reserve*** allocation so that it will be in place when they are ready to connect to the Town's collection system.

A request for reservation of sewer capacity for future use is deemed by the Town's Wastewater Allocation Policy to be a Level 4 priority when considering allocation requests. If approved, a non-refundable reservation fee equivalent to twenty percent of the applicable sewer system development fee must be paid. Additionally, Priority Level 4 projects have twenty-four months to receive all approvals, certifications, and/or permits to begin construction. Otherwise, the allocation reverts to the Town, provided that the Board of Commissioners does not grant an extension.

REQUESTED ACTION:

The Manager recommends the Board consider approving the reservation of 480 gpd of sewer capacity subject to the payment of the reservation fee.

EXPECTED LENGTH OF PRESENTATION:

10 minutes

SUBMITTED BY:

Greg Meshaw, PE, Town Engineer

BUDGET AMENDMENT REQUIRED:

No

TOWN OF Beaufort
Public Services Department
701 Front Street, Beaufort, NC 2816
P.O. Box 390, Beaufort, NC 28516
Phone: 252-728-2141

WASTEWATER ALLOCATION REQUEST

The Town of Beaufort, in an effort to manage and maintain the sewer and water capacity for the Town, requires that this application be completed and submitted to the Town for consideration of a utility allocation. Review fee is due upon submittal of request.

Wastewater Allocation Request Review Fee: $50

SITE INFORMATION

Name of Project: PERRY RESIDENCE **Acreage of Property:** 0.4716

County Tag Number: N/A **NC PIN:** 6397029708960000

Address/Location: 201 RUDOLPH DRIVE, BEAUFORT, NC 28516

Zoning District:

Location Status: ☐ Town Limits ☒ Existing Out-of-Town Service Area
☐ Out-of-Town Service Approval/Agreement

APPLICANT INFORMATION

Applicant: DANIEL AND AMY PERRY

Mailing Address: 2202 SAINT MARY'S STREET, RALEIGH, NC 27608

Phone Number: 919-345-6416 **Fax:**

Contact Person: DANIEL PERRY

Email Address: DPERRY@SHELCOLLC.COM

PROPERTY OWNER INFORMATION

Name: SAME AS ABOVE

Mailing Address:

Phone Number: **Fax:**

Email Address:

FOR OFFICE USE ONLY

Date Received: File Number/Name:

PROJECT INFORMATION

Use: ☒ New ☐ Expanded ☐ Change Use Type: ☒ Residential ☐ Commercial

Proposed Use(s): SINGLE FAMILY Existing Use(s): _____

Developer Name: N/A

Mailing Address: _____

Phone Number: _____ Fax Number: _____

Email Address: _____

ALLOCATION REQUEST (See instructions on page 3 regarding use of Professional Engineer)

The following supplemental information is required:

- **Complete development proposal for Priority Levels 1, 2 or 3 allocation request**
- **Preliminary plan or sketch plan for Priority Level 4 allocation request meeting requirements for site plans as established on the Town's Building Permit Application or as described for sketch plans by the Town's Subdivision Ordinance**
- **If a phasing schedule is proposed, include as an attachment**

Residential:

Gross Acreage: 0.4716

Single Family	# of Units	GPD per Unit	Total Requested GPD
1-2 Bedroom Units			
3 Bedroom Units			
>3 Bedroom Units	4	120	480
Total		------	480

Multi-Family	# of Units	GPD per Unit	Total Requested GPD
1-2 Bedroom Units			
3 Bedroom Units			
>3 Bedroom Units			
Total		------	

Non-Residential: ***(Design Flow Guideline provided as Appendix A)****

**If design flow deviates from the flow rates presented in Appendix A, provide supporting documentation/justification as an attachment in the form of 12 months of water bills demonstrating gallons per day utilized.*

Gross Acreage: _____

Use	Measurement Unit	# of Units	GPD per Unit	Total Requested GPD
Total			------	

TOTAL REQUESTED GALLONS PER DAY: 480

APPLICANT AFFIDAVIT

I/We, the undersigned, do hereby make application and petition to the Town of Beaufort to approve the subject Wastewater Allocation. I hereby certify that I have full legal right to request such action and that the statements or information made in any paper or plans submitted herewith are true and correct to the best of my knowledge. I understand this application, related material and all attachments become official records of the Planning Department of the Town of Beaufort, North Carolina, and will not be returned.

DANIEL PERRY
Print Name

Signature of Applicant

4-5-2021
Date

ENGINEER'S CERTIFICATION

The allocation request data provided on page 2 of this form shall be provided by a Professional Engineer for all requests except single lot residential infill requests and commercial requests equal to or less than 360 gallons per day. The certification statement below shall be completed by the Professional Engineer providing the data.

I, _____ hereby attest that the total requested allocation and the values used to derive the total are to the best of my knowledge, accurate and complete having been prepared in accordance with the instructions of this form while also adhering to applicable State laws, regulations, and rules, concerning the determination of design daily wastewater flows from facilities served by public wastewater collection and treatment systems.

_____
Signed and Dated Professional Engineer Seal

_____ _____
Firm Name Address

_____ _____
Telephone No. Email Address

TOWN OF BEAUFORT OFFICE USE ONLY:

Approved by: ☐ Town Engineer

☐ Board of Comissioners

Allocation approved: _____ gallons per day

Date of Approval: _____

Confirmation signature by:

_____

Town Manager

APPENDIX A: DESIGN FLOW RATES

The following table from the North Carolina Administrative Code 02T.0114 shall be used to determine the minimum allowable design daily flow of wastewater facilities. Alternatively, the Town in its sole and absolute discretion may calculate the customer's initial average daily wastewater flow based on data from the customer's operations (or from similarly situated customers) with a comparable sanitary sewer system, where such data are available and reasonably current.

Establishment Type	Daily Flow Rate
Barber and Beauty Shops	
Barber Shops	50 gal/chair
Beauty Shops	125 gal/booth or bowl
Businesses, Offices and Factories	
General business and office facilities	25 gal/employee/shift
Factories, excluding industrial waste	25 gal/employee/shift
Factories or businesses with showers or food preparation	35 gal/employee/shift
Warehouse	100 gal/loading bay
Warehouse – self storage (not including caretaker residence)	1 gal/unit
Churches	
Churches without kitchens, day care or camps	3 gal/seat
Churches with kitchen	5 gal/seat
Churches providing day care or camps	25 gal/person (child & employee)
Fire, Rescue and Emergency Response	
Fire or rescue stations without on-site staff	25 gal/person
Fire or rescue stations with on-site staff	50 gal/person/shift
Food and Drink Facilities	
Banquet, dining hall	30 gal/seat
Bars, cocktail lounges	20 gal/seat
Caterers	50 gal/100 sq. ft. floor space
Restaurant, full Service	40 gal/seat
Restaurant, single service articles	20 gal/seat
Restaurant, drive-in	50 gal/car space
Restaurant, carry out only	50 gal/100 sq. ft. floor space
Institutions, dining halls	5 gal/meal
Deli	40 gal/100 sq. ft. floor space
Bakery	10 gal/100 sq. ft. floor space
Meat department, butcher shop or fish market	75 gal/100 sq. ft. floor space
Specialty food stand or kiosk	50 gal/100 sq. ft. floor space
Hotels and Motels	
Hotels, motels and bed & breakfast facilities, without in-room cooking facilities	120 gal/room
Hotels and motels, with in-room cooking facilities	175 gal/room
Resort hotels	200 gal/room
Cottages, cabins	200 gal/unit
Self-service laundry facilities	500 gal/machine
Medical, Dental and Veterinary Facilities	
Medical or dental offices	250 gal/practitioner/shift
Veterinary offices (not including boarding)	250 gal/practitioner/shift
Veterinary hospitals, kennels, animal boarding facilities	20 gal/pen, cage, kennel or stall
Hospitals, medical	300 gal/bed
Hospitals, mental	150 gal/bed
Convalescent, nursing, rest homes without laundry facilities	60 gal/bed
Convalescent, nursing, rest homes with laundry facilities	120 gal/bed
Residential care facilities	60 gal/person
Parks, Recreation, Camp Grounds, R-V Parks and other Outdoor Activity Facilities	
Campgrounds with comfort station, without water or sewer hookups	75 gal/campsite

Establishment Type	Daily Flow Rate
Campgrounds with water and sewer hookups	100 gal/campsite
Campground dump station facility	50 gal/space
Construction, hunting or work camps with flush toilets	60 gal/person
Construction, hunting or work camps with chemical or portable toilets	40 gal/person
Parks with restroom facilities	250 gal/plumbing fixture
Summer camps without food preparation or laundry facilities	30 gal/person
Summer camps with food preparation and laundry facilities	60 gal/person
Swimming pools, bathhouses and spas	10 gal/person
Public access restrooms	325 gal/plumbing fixture
Schools, Pre-school and Day Care	
Day care and preschool facilities	25 gal/person (child & employee)
Schools with cafeteria, gym and showers	15 gal/student
Schools with cafeteria	12 gal/student
Schools without cafeteria, gym or showers	10 gal/student
Boarding schools	60 gal/person (student & employee)
Service Stations and Car Wash Facilities	
Service stations, gas stations	250 gal/plumbing fixture
Car wash facilities	1200 gal/bay
Sports Centers	
Bowling center	50 gal/lane
Fitness, exercise, karate or dance center	50 gal/100 sq. ft.
Tennis, racquet ball	50 gal/court
Gymnasium	50 gal/100 sq. ft.
Golf course with only minimal food service	250 gal/plumbing fixture
Country clubs	60 gal/member or patron
Mini golf, putt-putt	250 gal/plumbing fixture
Go-kart, motocross	250 gal/plumbing fixture
Batting cages, driving ranges	250 gal/plumbing fixture
Marinas without bathhouse	10 gal/slip
Marinas with bathhouse	30 gal/slip
Video game arcades, pool halls	250 gal/plumbing fixture
Stadiums, auditoriums, theaters, community centers	5 gal/seat
Stores, Shopping Centers, Malls and Flea Markets	
Auto, boat, recreational vehicle dealerships/showrooms with restrooms	125 gal/plumbing fixture
Convenience stores, with food preparation	60 gal/100 sq. ft.
Convenience stores, without food preparation	250 gal/plumbing fixture
Flea markets	30 gal/stall
Shopping centers and malls with food service	130 gal/1000 sq. ft.
Stores and shopping centers without food service	100 gal/1000 sq. ft.
Transportation Terminals	
Air, bus, train, ferry, port and dock	5 gal/passenger

Source: North Carolina Administrative Code 02T.0114, January 1, 2007

Per 15A NCAC 02t .0114 (b), in determining the volume of sewage from dwelling units, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.

NORTH

NC GRID NAD 1983 (2011)
ELEVATIONS NAVD 1988

LEGEND
EIP-EXISTING IRON PIPE
EIR-EXISTING IRON ROD
ECM-EXISTING CONCRETE MONUMENT
EA-EXISTING AXLE
EN-EXISTING NAIL
EPK-EXISTING PK NAIL
POINT-NOTHING EXISTING OR SET
NCGS-NORTH CAROLINA GEODETIC SURVEY
NGS-NATIONAL GEODETIC SURVEY
RW MON NCDOT MONUMENT
SIP-SET IRON PIPE
SIR-SET IRON PIPE
SCM-SET CONCRETE MONUMENT
SA-SET AXLE
SN-SET NAIL
SPK-SET PK NAIL
OP-OVERHEAD POWER
NOT HELD-NOT CONSIDERED PART OF SURVEY
NHWL-NORMAL HIGH WATER LINE
AEC-AREA OF ENVIRONMENTAL CONCERT
NAVD-NORTH AMERICAN VERTICAL DATUM
NAD-NORTH AMERICAN HORIZONTAL DATUM
PP-POWER POLE
UT-UNDERGROUND TELEPHONE
UP-UNDERGROUND POWER
UWL-UNDERGROUND WATER
DL-DRILL HOLE

N:378051.0041 NC GRID
E:2690247.0017 NC GRID
21

EIP

20' PAVEMENT

RUDOLPH DRIVE 60' PUBLIC R/W

10' UTILITY EASEMENT

CP/PK
N:378023.9165 NC GRID
E:2689293.5512 NC GRID
EL:5.12 NAVD88
38

37 EG 4.69'

A91.15'
R1929.96'
BS37°14'55"E
C91.14'

EIP UNDER ROOT

BUTLER,DONALD G ETUX CAROLYN A
199 RUDOLPH DRIVE
PIN: 6397029700933000
Deed Ref: 1572-400 Plat Ref: 26-83

70 EG 6.82'

70.82'

N45°32'25"E 220.65'
225.93'

20,643 Sq. Feet
0.4716 Acres

PORCH

PORCH

75' CAMA AEC

54.37'

30' CAMA BUFFER

6.95 EG

FLOOD

FLOOD

70.82'

ZONE AE 8.0
ZONE VE 8.0

S45°31'51"W 216.24'

LOT 2, DEERFIELD SHORES SECT 10
MB 26 PG 83, MB 33 PG 557

APPROXIMATE DRIVEWAY LOCATION

60.06'

5.44'

EIP

N37°12'44"W 7.08'

21.23'

6.82'

N39°37'15"W 24.58'

NORMAL HIGH WATER LINE

OUTSIDE FACE OF BULKHEAD

N43°20'14"W 29.57'

N50°27'26"W 29.56'

14.98'

EIR

NEWPORT RIVER

0 30 60 90

SURVEYORS CERTIFICATION

I, JAMES I. PHILLIPS III, CERTIFY THAT THIS PLAT WAS DRAWN BY ME (X), DRAWN UNDER MY SUPERVISION (), FROM AN ACTUAL SURVEY MADE BY ME (X), MADE UNDER MY SUPERVISION ( ); THAT THE RATIO OF PRECISION AS CALCULATED BY COORDINATE METHOD IS 1:10,000+; REGISTRATION NUMBER, AND SEAL THIS 29TH DAY OF OCTOBER , A.D. 2020.

JAMES I. PHILLIPS III RLS NO. L-3151

THIS IS AN EXISTING PARCEL OF LAND

NORTH CAROLINA PROFESSIONAL SEAL L-3151 LAND SURVEYOR IRA PHILLIPS III

JAMES IRA PHILLIPS III, PLS

Digitally signed by JAMES IRA PHILLIPS III, PLS
DN: cn=JAMES IRA PHILLIPS III, PLS, ou=JAMES PHILLIPS LAND SURVEYING, o=SAME, l=BEAUFORT, st=NC, c=US, email=jip3@coastalnet.com
Date: 2020.10.29 18:07:55 EDT

WASTEWATER ALLOCATION REQUEST
DRAWN BY DWP 4.5.21

survey for
DANIEL WILLIAM PERRY &
AMY LOUISE PERRY
201 RUDOLPH DRIVE
LOT 3,DEERFIELD SHORES SEC 10
BEAUFORT TOWNSHIP
CARTERET COUNTY, N.C.
SCALE 1"= 30'

PRESENT OWNER: SAME
DEED REF: BOOK PAGE 1580/341
MAP REF: BOOK PAGE 26/83
PIN: 6397029706960000
SHEET:1 OF 1
JOB #:20-168
DATE OF FIELD SURVEY:10-26-2020
DATE OF MAPPING:10-26-2020
SURVEY BY: JIP
DRAWN BY: JIP
CHECKED BY: JIP

REVISIONS

JAMES I. PHILLIPS LAND SURVEYING
PO BOX 2103, 379 Arrington Rd., Beaufort, N.C. 28516
252-728-5848 phone jip3@coastalnet.com

PRELIMINARY PLAN
NOT FOR CONSTRUCTION

FRONT ELEVATION

SC. 1/4"=1'-0"

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S.M. Monette
Residential Design

DATE: 1/15/21
REV: 2/15/21
5/24/21

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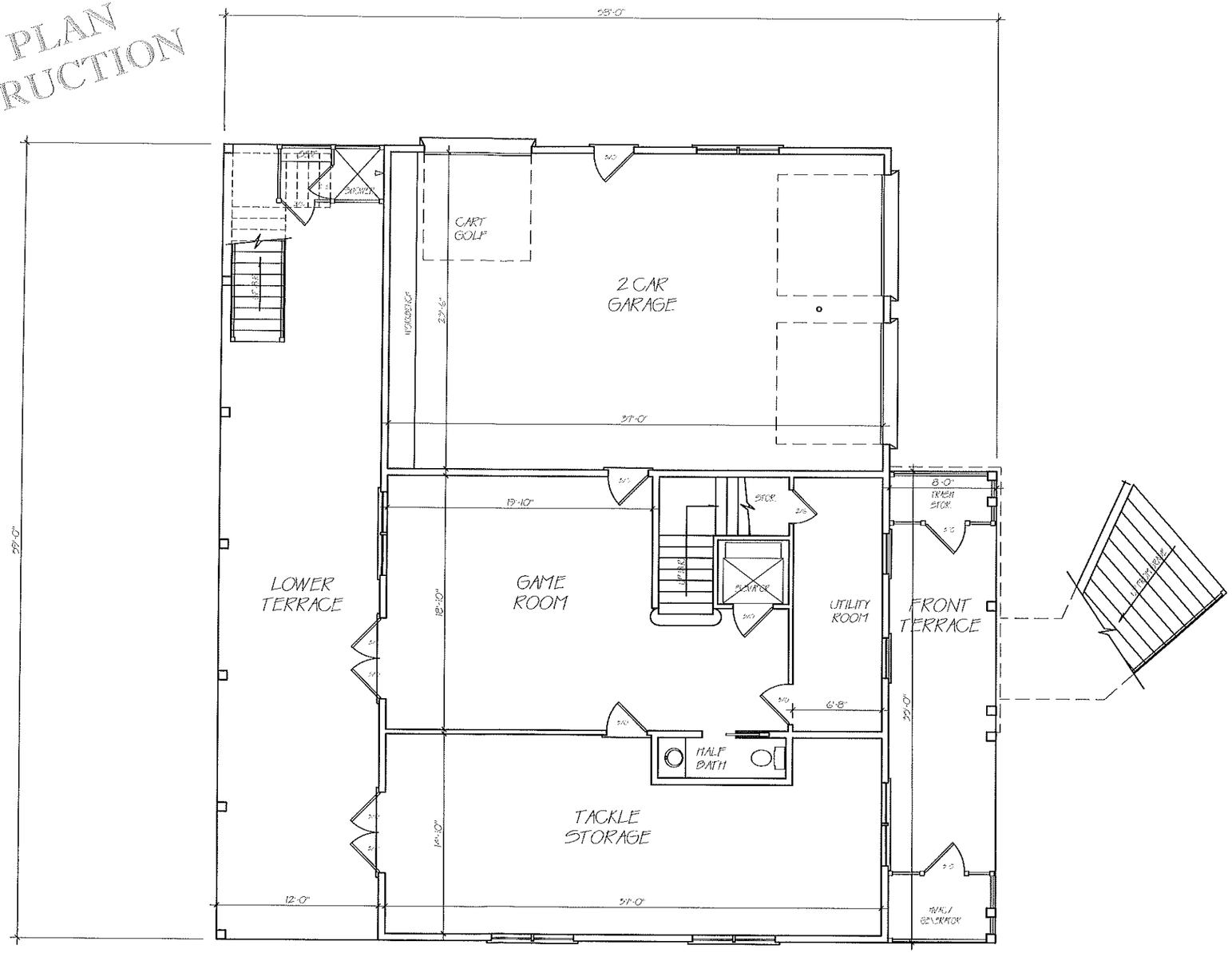
S. M. Monette
Residential Design
143 Fairview Dr. Unit D
Emerald Isle, NC 28594
(252) 424-8201

Dan & Amy Perry
201 Rudolph Drive, Beaufort, NC

SHEET: 12 OF 10

Monette Designs

PRELIMINARY PLAN
NOT FOR CONSTRUCTION



NOTES:
1) ALL DIMENSIONS ARE TO FRAMING.
2) EXTERIOR WALLS FIGURED @ 6" U.N.O.
3) INTERIOR WALLS FIGURED @ 4" U.N.O.
4) ELEVATOR SIZE TO BE FIELD VERIFIED BY BUILDER.
* 5) VERIFY PILING LOCATIONS WITH STRUCTURAL SHEETS.
6) STRUCTURAL ENGINEERING BY OTHERS.

GROUND FLOOR PLAN

1330 HEATED S.F.
912 GARAGE S.F.
988 COV'D PORCHES S.F.

SC. 1/4"=1'-0"

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Residential Design

DATE:	1/13/21
REV:	2/15/21
	3/24/21

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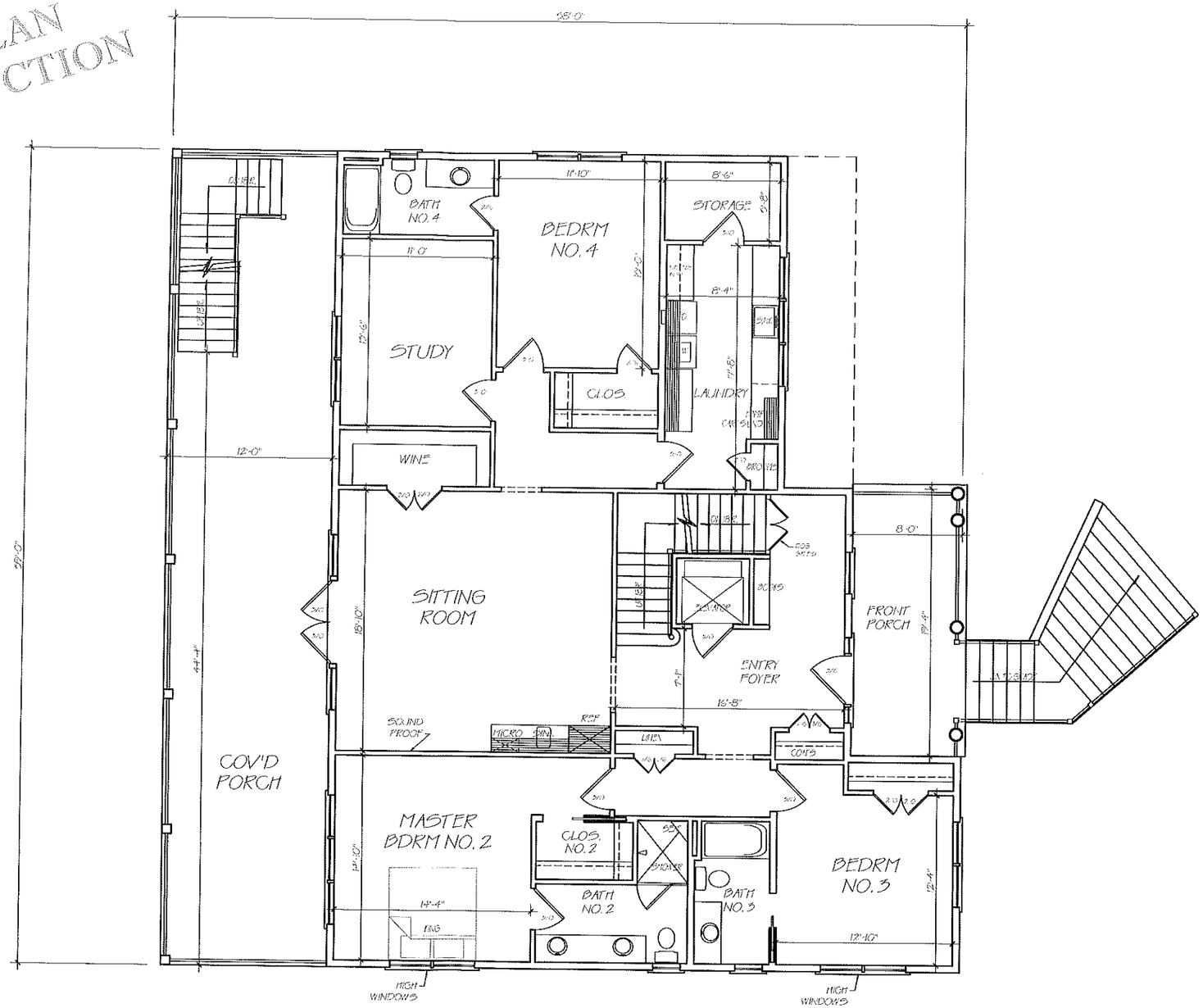
S. M. Monette
Residential Design
143 Fairview Dr. Unit D
Emerald Isle, NC 28594
(252) 424-8201

Dan & Amy Perry
201 Rudolph Drive, Beaufort, NC

SHEET: 12 OF 10

Monette Designs

PRELIMINARY PLAN
NOT FOR CONSTRUCTION



NOTES:
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2) EXTERIOR WALLS FIGURED @ 6" U.N.O.
3) INTERIOR WALLS FIGURED @ 4" U.N.O.
4) ELEVATOR SIZE TO BE FIELD VERIFIED BY BUILDER.
5) ALL DIMENSIONS TO BE FIELD VERIFIED BY BUILDER.
6) STRUCTURAL ENGINEERING BY OTHERS.

FIRST FLOOR PLAN

2245 HEATED S.F. SC. 1/4"=1'-0"
865 COV'D PORCHES S.F.

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DATE: 1/15/21
REV: 2/15/21
5/24/21

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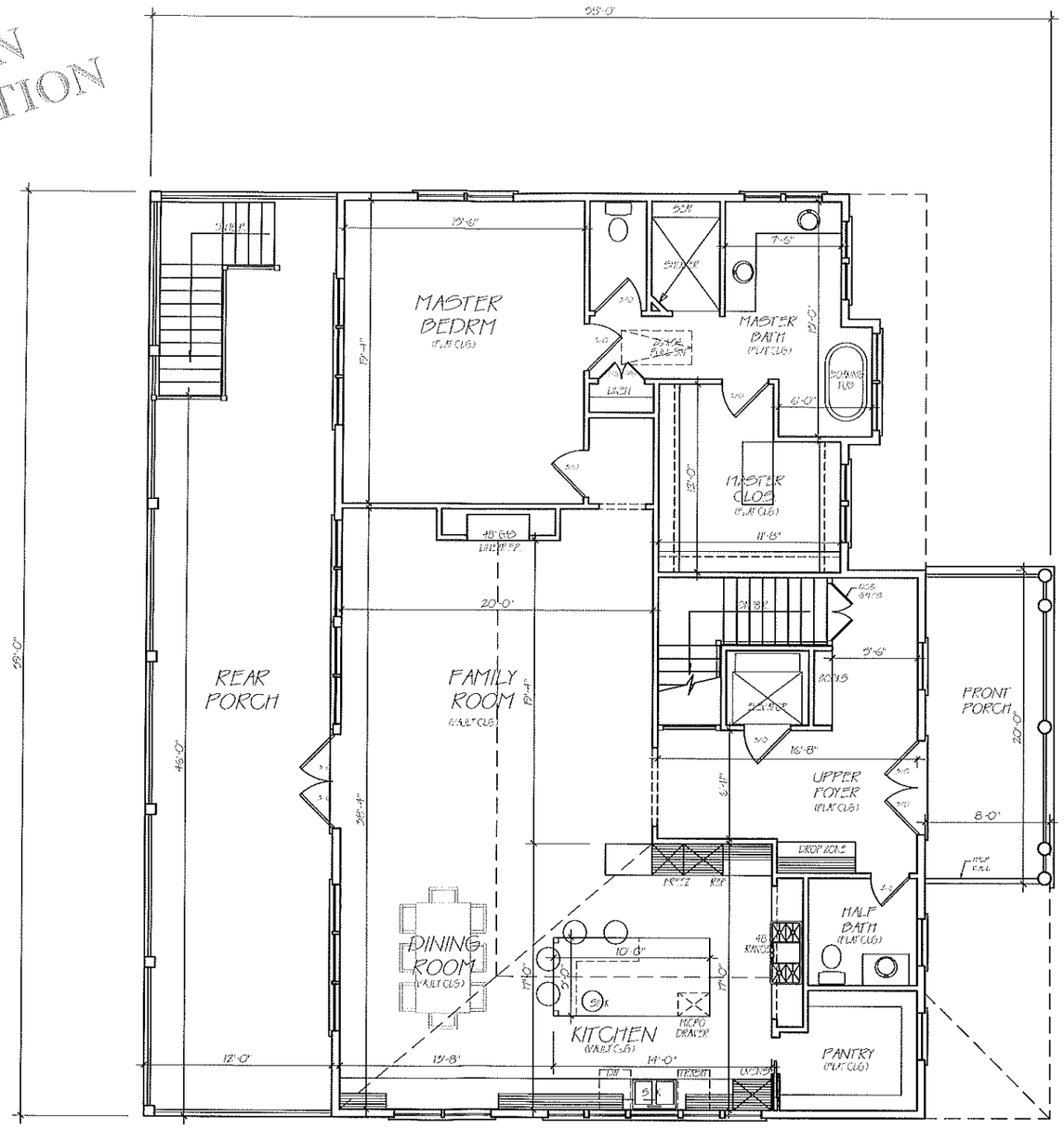
S. M. Monette
Residential Design
149 Fairview Dr. Unit D
Emerald Isle, NC 28594
(252) 424-6201

Dan & Amy Perry
201 Rudolph Drive, Beaufort, NC

SHEET: 12 OF 10

Monette Designs

PRELIMINARY PLAN
NOT FOR CONSTRUCTION



NOTES:
1) ALL DIMENSIONS ARE TO FRAMING.
2) EXTERIOR WALLS FIGURED @ 6" U.N.O.
3) INTERIOR WALLS FIGURED @ 4" U.N.O.
4) ELEVATOR SIZE TO BE FIELD VERIFIED BY BUILDER.
5) ALL DIMENSIONS TO BE FIELD VERIFIED BY BUILDER.
6) STRUCTURAL ENGINEERING BY OTHERS.

SECOND FLOOR PLAN

2138 HEATED S.F.
868 COV'D PORCHES S.F.

SC. 1/4"=1'-0"

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Residential Design

DATE:	1/13/21
REV:	2/15/21
	5/24/21

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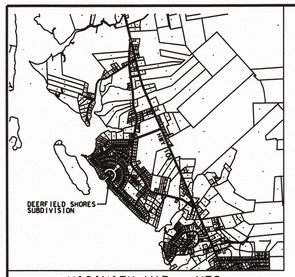
S. M. Monette Residential Design
145 Fairview Dr. Unit D
Emerald Isle, NC 28594
(252) 424-8201

Dan & Amy Perry
201 Rudolph Drive, Beaufort, NC

SHEET: 4 OF 10

Monette Designs



VICINITY MAP - NTS

SHEET INDEX

C1 - OVERALL UTILITY PLAN
C2 - PLAN & PROFILE 'A'
C3 - PLAN & PROFILE 'B'
C4 - PLAN & PROFILE 'C'
C5 - PLAN & PROFILE 'D'
C6 - LIFT STATION DETAILS
C7 - DETAILS
E1 - ELECTRICAL PLAN & RISER
E2 - ELECTRICAL SCHEDULES & DETAILS

FUTURE SERVICE CONNECTIONS 6 THRU 15 ARE RESERVED FOR LATER USE.

MATCH LINE - THIS SHEET

MATCH LINE - THIS SHEET

RUSSELLS CREEK ROAD

PRANCER DRIVE

PRANCER CT.

DEERFIELD DRIVE

ISLAND DRIVE

DASHER DRIVE

COMET DRIVE

DANCER CT.

RUDOLPH DRIVE

WRIGHT FARM ROAD

N.C. HIGHWAY 101

EX. HOME

EX. MARINA CONNECTION

EX. EX. HOME HOME

EX. HOME #1 … EX. HOME #28

EX. HOME #5 … EX. HOME #27

EX. HOME #23

EX. 2" FORCE MAIN (TO REMAIN)

EX. 2" PVC FORCE MAIN

EX. 1 1/2" PVC FORCE MAIN

CAP EX. FORCE MAIN

AS-BUILT 2" FORCE MAIN PRESSURE SEWER EXTENSION

AS-BUILT FUTURE SERVICE 2 OF 15

AS-BUILT FUTURE SERVICE 3 OF 15

AS-BUILT FUTURE SERVICE 4 OF 15

AS-BUILT FUTURE SERVICE 5 OF 15

AS-BUILT FUTURE SERVICE 1 OF 15

(2) 2" GATE VALVE & 2X2 TEE

EXISTING SANITARY SEWER DRAIN FIELD

AS-BUILT LIFT STATION

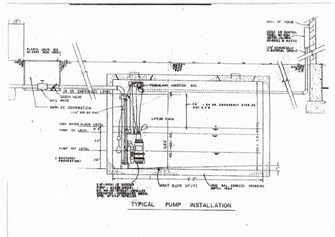
AS-BUILT 4" FORCE MAIN

EXISTING TREATMENT FACILITY TO BE DECOMMISSIONED AND REMOVED BY DEERFIELD SHORES UTILITY COMPANY

AREA = 97485.12 SF / 2.237 AC

TIE INTO EXISTING 4" STUB OUT (TOWN OF BEAUFORT)

RUDOLPH DRIVE CONTINUES →



EXISTING PUMP AND PUMP TANK DETAIL FOR EXISTING HOMES. FUTURE HOMES SHALL USE SIMILAR DESIGN AS PERMITTED IN 1988 UNDER PERMIT WO0001869 AND SHALL MEET CURRENT 15A NCAC 02T RULES AT TIME OF CONSTRUCTION.

LEGEND

STA.	STATION
TS&V	TAPPING SLEEVE & VALVE
POE	POINT OF END
POB	POINT OF BEGIN
MH	MANHOLE
LF	LINEAR FEET
WV	WATER VALVE
LP	LIGHT POLE
FH	FIRE HYDRANT
EX. SS	EX. SEWER CONNECTION
EX. PT	EX. PUMP TANK
SS	EX. SANITARY SEWER
W	EX. WATER
	EX. STORM
W W	PROPOSED WATER
	AS-BUILT FORCE MAIN

DENOTES PROPERTIES WHICH THE TOWN OF BEAUFORT ACCEPTED AS CUSTOMERS PER THE JUNE 9, 2014 AGREEMENT WITH THE DEERFIELD SHORES UTILITY COMPANY, INC.

LOCATION FOR 480 GPD ALLOCATION REQUEST

100 50 0 100 200

SCALE: 1" = 100'

REVISIONS:

NO.	BY	DATE	DESCRIPTION

AS-BUILT PLANS

DEERFIELD SHORES

OVERALL UTILITY PLAN

BEAUFORT TOWNSHIP CARTERET COUNTY NORTH CAROLINA

CLIENT: DEERFIELD SHORES UTILITY CO., INC.

ADDRESS: 224 BRANDYWINE BLVD. MOREHEAD CITY, NC 28557

PHONE:

THE CULLIPHER GROUP, P.A.
ENGINEERING & SURVEYING SERVICES
151A HIGHWAY 24
MOREHEAD CITY, N.C. 28557
(252) 773-0090 LICENSE NO. C-4482

CHARLES M. CULLIPHER P.E.

SEAL 037378 ENGINEER CHARLES M. CULLIPHER 5/21/2020

DESIGNED:	CMC
DRAWN:	CMC
CHECKED:	RDC
APPROVED:	CMC
DATE:	5/21/2020
SCALE:	1" = 100'

SHEET #C1 OF 7
PROJECT #: PM108-1
DESIGN FILE #: 108-DEERFIELD/Septic Plans

Town of Beaufort, NC
701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items of Consent

SUBJECT: Carteret County Arts & Crafts Event Request to Close Off Two Parking Spaces

BRIEF SUMMARY:

Rachel Croom with Carteret County Arts & Crafts has requested the Town reserve two parking spaces (originally three, but was reduced to two) for vendor loading/unloading/parking for their Memorial Day weekend art show at the Beaufort Historic Site.

They are requesting spaces 241 and 242 (the 2 spaces in front of the bus parking spot on Turner Street) be blocked off by the Town starting Friday before Memorial Day and remain closed through the Memorial Day weekend.

They are aware once they remove Town barricades to permit a vendor to park, they are responsible for managing who parks in these spaces as the Town can not regulate the usage.

During the BOC Virtual Work Session on April 26, the Board voted to waive the parking fee for two spaces ($9.00 per day **X** 2 spaces = $18.00 per day **X** 3 days = $54.00).

REQUESTED ACTION:

The Manager recommends the Board review and consider the request from the Carteret County Arts and Crafts Committee.

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

Rachel Johnson, PIO/Events Coordinator

BUDGET AMENDMENT REQUIRED:

No

Town of Beaufort, NC
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Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items of Consent

SUBJECT: FY 2021 Budget Amendment No. 9

BRIEF SUMMARY:

This amendment requests the following appropriations:

General Fund

- Property Tax Revenue – Tax collections are higher than budgeted; therefore, tax collection expense is more than budgeted. An additional appropriation is requested $17,000.
- Fund Balance –
    - Police Department Grants- currently there are two open grants that are funded by reimbursement requests. It is like that expenditure will exceed the reimbursements received as year-end approaches. A fund balance appropriation is requested to cover the expenditures until the reimbursements are received, $35,000.
    - Debt Service Street and Pedestrian Improvement - The first principal payment was due on the loan this year. The preliminary payment schedule that was used for budgeting purposes varied from the final schedule. An additional $15,000 is requested.
    - Legal Services- Due to current litigation an additional $40,000 is requested.
    - Contingency – As year-end approaches $60,000 is requested for any unforeseen expenditures that may arise.

Utility Fund

- This amendment requests the decrease in loan proceeds for the F-250 Dump Truck for Public Utilities, that was purchased with cash, approved at the January 2021 meeting, $90,000.
- An increase in Unrestricted Fund Balance is requested for any unforeseen expenditures that may arise prior to year-end, $50,000.

REQUESTED ACTION:

Approve BA # 9

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

Christi Wood – Finance Director

BUDGET AMENDMENT REQUIRED:

Yes

TOWN OF BEAUFORT
FY 2021 BUDGET AMENDMENT #9

WHEREAS, the Town of Beaufort adopted its Fiscal Year 2021 Budget through Ordinance on June 25, 2020, and

WHEREAS, the Board of Commissioners recognizes that periodic modifications to the estimated revenues and expenditures for the fiscal year may be necessary for fiscal management purposes and to implement decisions of the Board of Commissioners;

BE IT THEREFORE ORDAINED that the Board of Commissioners amends the Fiscal Year 2021 Budget as follows:

SECTION I: GENERAL FUND

This amendment requests the following appropriations:

- Property Tax Revenue – Tax collections are higher than budgeted; therefore, tax collection expense is more than budgeted. An additional appropriation is requested $17,000.
- Fund Balance –
    - Police Department Grants- currently there are two open grants that are funded by reimbursement requests. It is like that expenditure will exceed the reimbursements received as year-end approaches. A fund balance appropriation is requested to cover the expenditures until the reimbursements are received, $35,000.
    - Debt Service Street and Pedestrian Improvement - The first principal payment was due on the loan this year. The preliminary payment schedule that was used for budgeting purposes varied from the final schedule. An additional $15,000 is requested.
    - Legal Services- Due to current litigation an additional $40,000 is requested.
    - Contingency – As year-end approaches $60,000 is requested for any unforeseen expenditures that may arise.

A. REVENUE

INCREASE

PROPERTY TAXES	$ 17,000
APPROPRIATED FUND BALANCE	$ 150,000
TOTAL INCREASE	**$ 167,000**

B. EXPENDITURES AUTHORIZED BY DEPARTMENT

INCREASE

FINANCE	$ 17,000
POLICE	$ 35,000
PUBLIC WORKS	$ 15,000
NON-DEPARTMENTAL	$ 100,000
TOTAL INCREASE	**$ 167,000**

SECTION III: UTILITY FUND

- This amendment requests the decrease in loan proceeds for the F-250 Dump Truck for Public Utilities, that was purchased with cash, approved at the January 2021 meeting, $90,000.
- An increase in Unrestricted Fund Balance is requested for any unforeseen expenditures that may arise prior to year-end, $50,000.

A. REVENUE

DECREASE

LOAN PROCEEDS	$ 90,000
TOTAL DECREASE	**$ 90,000**

INCREASE

FUND BALANCE	$ 50,000
TOTAL INCREASE	**$ 50,000**

B. EXPENDITURES AUTHORIZED BY DEPARTMENT

DECREASE

SEWER DIVISION	$ 90,000
TOTAL DECREASE	**$ 90,000**

INCREASE

WATER DIVISION	$ 50,000
TOTAL INCREASE	**$ 50,000**

SECTION VI: DISTRIBUTION

Copies of this ordinance shall be furnished to the Town Manager and Finance Officer to be kept on file for their direction in the disbursement of funds.

Adopted this 10th day of May, 2021

ATTEST:

Allen Coleman	Everette S. Newton
Town Clerk	Mayor

Town of Beaufort, NC
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252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items of Consent

SUBJECT: Capital Reserve Fund Budget Amendment No. 9 and
Capital Project Fund Street & Pedestrian Improvement Budget Amendment No. 2

BRIEF SUMMARY:

This amendment requests a transfer from the Capital Reserve Fund to the Capital Project Fund Street and Pedestrian Improvement to replace the curb and gutter on the west side of the 100 block of Turner Street. The amount of the request is $7,000.

REQUESTED ACTION:

Approve Capital Reserve Fund Budget Amendment # 9& Capital Project Fund Street & Pedestrian Improvement Budget Amendment #2

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

Christi Wood – Finance Director

BUDGET AMENDMENT REQUIRED:

Yes

TOWN OF BEAUFORT
CAPITAL RESERVE FUND AMENDMENT #9

WHEREAS, the Town of Beaufort adopted a Capital Reserve Fund Ordinance for Bulkhead/Board Walk Project, Utility Line Improvement Project, and Street Resurfacing Project on May 13, 2019, and

WHEREAS, the Board of Commissioners recognizes that periodic modifications to the revenues and expenditures for capital projects may be necessary for fiscal management purposes and to implement the decisions of the Board of Commissioners;

BE IT THEREFORE ORDAINED that the Board of Commissioners of the Town of Beaufort amend the Capital Reserve Fund for the Bulkhead/Board Walk Project, Utility Line Improvement Project, and Street Resurfacing Project as follows:

- Transfer funds from Capital Reserve Fund to Capital Project Fund Street and Pedestrian Improvement for replacing the curb and gutter in the west side of the 100 block of Turner Street.

SECTION II: EXPENDITURES

DECREASE

FUTURE CAPITAL OUTLAY FOR STREETS/STORMWATER	$ 7,000
TOTAL DECREASE	**$ 7,000**

INCREASE

TRANSFER TO CAPITAL PROJECT FUND STREET AND PEDISTRIAN IMPROVEMNT	$ 7,000
TOTAL INCREASE	**$ 7,000**

SECTION III: DISTRIBUTION

Copies of this ordinance shall be furnished to the Town Manager and Finance Officer to be kept on file by them for their direction in the disbursement of funds for carrying out this project:

Adopted this 10th day of May 2021

ATTEST:

Allen Coleman	Everette S. Newton
Town Clerk	Mayor

TOWN OF BEAUFORT
CAPITAL PROJECT BUDGET AMENDMENT #2
STREET REHABILITATION AND PEDISTRIAN IMPROVEMENTS

BE IT ORDAINED by the Board of Commissioners by the Town of Beaufort that the following Capital Project Budget Ordinance is adopted in accordance with Section 13.2 of Chapter 159 of the General Statutes of North Carolina for street rehabilitation and pedestrian improvements.

WHEREAS, the Board of Commissioners recognizes that periodic modifications to the revenues and expenditures for capital projects may be necessary for fiscal management purposes and to implement the decisions of the Board of Commissioners;

BE IT THEREFORE ORDAINED that the Board of Commissioners of the Town of Beaufort amends the Capital Project Fund for street rehabilitation and pedestrian improvements as follows:

SECTION I: REVENUE

Receive funds from the Capital Reserve Fund for replacing the curb and gutter in the west side of the 100 block of Turner Street.

INCREASE

TRANSFER FROM CAPITAL RESERVE FUND	$7,000
TOTAL REVENUE	**$ 7,000**

SECTION II: EXPENDITURES

INCREASE

CONSTRUCTION	$ 7,000
TOTAL EXPENDITURES	**$ 7,000**

SECTION III: DISTRIBUTION

Copies of this ordinance shall be furnished to the Town Manager and Finance Officer to be kept on file for their direction in the disbursement of funds for carrying out this project.
Adopted this 10th day of May 2021.

ATTEST:

Allen Coleman
Town Clerk

Everette S. Newton
Mayor

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items for Discussion and Consideration

SUBJECT: Fourth of July Parade Event Application Request

BRIEF SUMMARY:

The Beaufort Development Association has applied to host in conjunction with the Town the Annual Fourth of July parade.

The proposed time is 4 p.m. Sunday, July 4, 2021.

The parade would follow the traditional parade route. The BDA submitted an alternate route that was reviewed by staff and denied due to public safety concerns presented in the alternate route. Staff recommended that if a parade is to take place in July, that the traditional route be followed.

During the April Work Session, staff was asked by Commissioner Hollinshed to investigate another alternative route to include extending the parade route to Orange Street for exposure for the businesses along this portion of Front Street. This route was suggested to turn on Broad and end at the courthouse.

Staff reviewed this route and received feedback from Emergency Services. Staff does not recommend this proposed route due to public safety concerns. Staff continues to recommend that if the parade is approved that the traditional parade route of Front to Turner to the courthouse be utilized for the safety of residents, participants, and attendees.

Parade line-up would begin at 3 p.m. with the parade anticipated to be complete by 5 p.m. Front Street and portions of Turner Street (from Front to Broad) would be closed to non-parade traffic for approximately an hour between 4-5 p.m. on the 4th.

It has also been requested that Paid Parking be suspended at 3 p.m. on the 4th of July to accommodate the event.

The BDA's COVID mitigation plan is to station a volunteer near each intersection to help keep crowds from gathering.

The Town traditionally partners with the BDA to provide Town Staff and Emergency Services personnel for the parade. As such the Town is an official sponsor of the parade and helps offset the costs. Six-7 Town employees from outside of the police and fire departments work overtime during the parades to block intersections. Police and Fire Staff also have extra staff who work the event.

Please consider if the COVID-19 climate is at a point where the Town feels comfortable moving forward with such a large event.

The BDA has indicated they plan to move forward with their annual fireworks display on the 4th. This event traditionally takes place at dusk and utilizes Gallants Channel.

REQUESTED ACTION:

Discussion/Direction

EXPECTED LENGTH OF PRESENTATION:

10 minutes

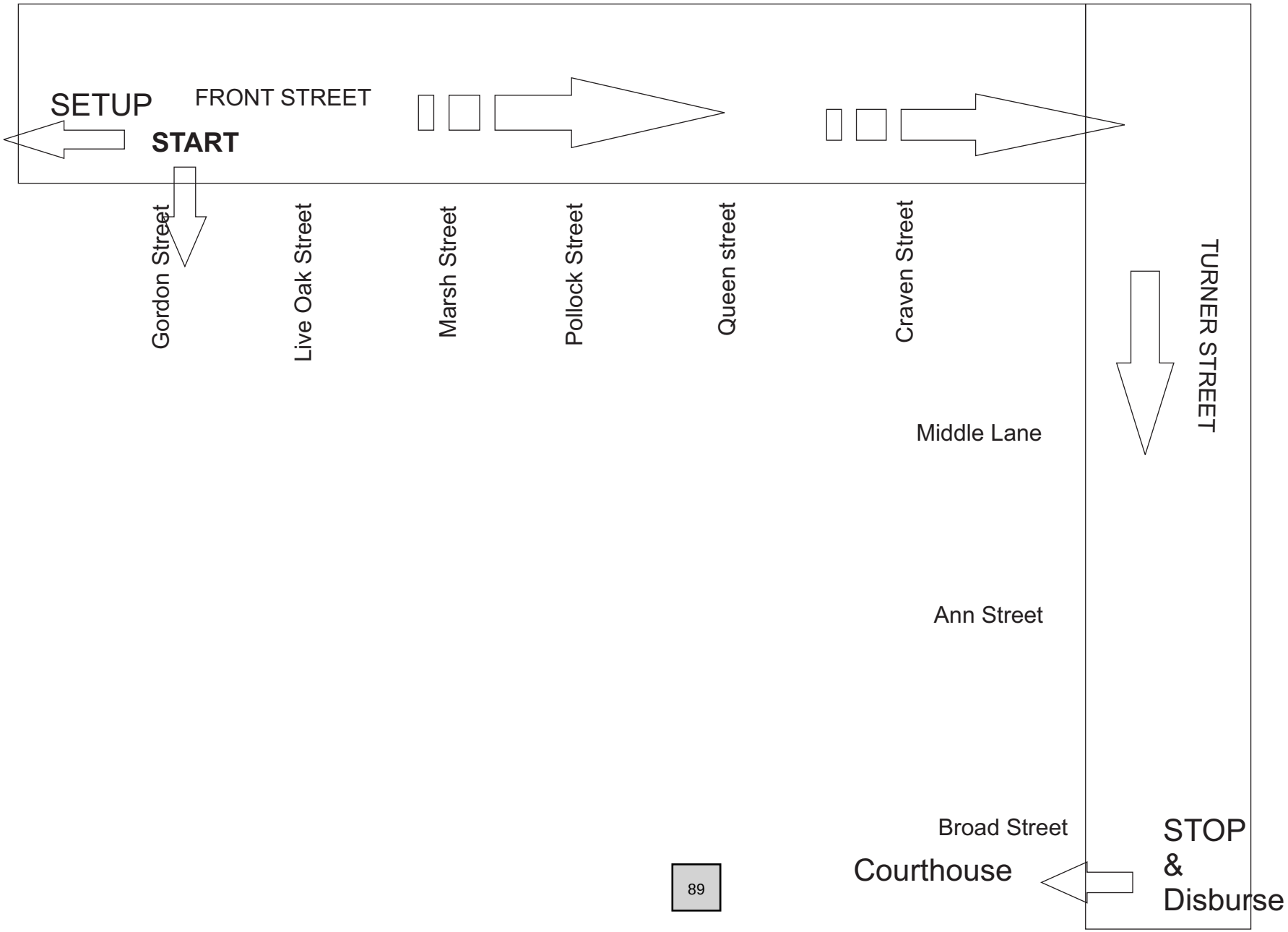
SUBMITTED BY:

Rachel Johnson, PIO/Events Coordinator

BUDGET AMENDMENT REQUIRED:

No

4th of JULY PARADE ROUTE



Date Application Received:

Permit Number:

1.

TOWN of BEAUFORT NORTH CAROLINA

APPLICATION FOR SPECIAL EVENT PERMIT

Please return completed application form with permit fee and paperwork to:

Events Coordinator, Town of Beaufort
701 Front Street
P.O. Box 390
Beaufort, NC 28516
Phone: (252) 728-2141 Email: r.johnson@beaufortnc.org

Applications submitted late or incomplete may not receive approval and may not be issued a permit.

EVENT BASICS

Event Name: BEAUFORT 4th OF JULY PARADE

Location of Event Site: ALONG FRONT STREET

(If more than one site is being requested please be specific and list each one individually below)

Run by: BEAUFORT DEVELOPMENT ASSOCIATION

Applicant (Organizer) Name: SUSAN SANDERS Contact # 252 241 4485

Day of Event Contact #: SAME Email: susanrsanders@gmail.com

Type of Event:

- ○ Festival
- ☒ Parade
- ○ 5K Race
- ○ 10K Race

- ○ Music Event
- ○ Other _____

Actual Event Date(s): 4th of July, 2021 Time of Event: 4pm

Set-Up Date: 7/4/21 Start Time: 3pm

Tear Down Date: 7/4/21 End Time: 5pm (approx)

Estimated Attendance: _____ Admission Fees: FREE

Event Description:
Traditional parade route - Front Street from Gordon to Turner - end at Courthouse - Line up along Front Street starting East of Marsh Street -

ORGANIZER/APPLICANT INFORMATION

Name of Organization: BEAUFORT DEVELOPMENT ASSOCIATION

Primary Contact Person: SUSAN SANDERS

Mailing Address: PO BOX 56 BEAUFORT NC 28516

Email: susanr sanders@gmail.com

Daytime Phone #: 252 241 4485 Cell Phone #: 252 241 4485

Alternate Contact Person: _____ Phone #: _____

Is your group a non-profit organization? yes If yes, please provide documentation with your application.

SITE PLAN

Site Plan Attached

- ☒ Yes
- ○ No

(If you need help, please set up a meeting with the Town of Beaufort's Events Coordinator)

A detailed site plan must be included with your event application. The following, should they be relevant, must be included in your Site Plan.

- Location of all tents and temporary structures
- Location of requested barricades and road closures
- Emergency exits
- Fire extinguishers, propane storage
- Location of command post, medical & first aid station, emergency vehicle access points and all exits and entrances (both emergency and for the public)
- Fencing, staging, bleachers, stages, inflatables, etc.
- Food/refreshment tent vendors, refreshment tents
- Food Trucks
- Location of Restrooms
- 5K/10K race routes

If the Site Plan is not submitted with the event application, the deadline is 45 days before the event, otherwise a permit will not be issued.

PARKS & PARKING LOTS REQUESTED

Please mark all that apply:

- o East Parking Lot
- o West Parking Lot
- o Craven Street Parking
- o Middle Lane
- o John Newton Park
- o Lynn Eury Park
- o Grayden Paul Park
- o Topsail Marine Park
- o Other Please list: _____

Specific Requirements: (Extra trash cans/recycling/electrical etc.) Please be specific and include each item on the Site Plan for the desired location. Please note extra charges may apply in accordance to the fee schedule. (Trash/Recycling Carts: $10 each, Electricity: $50)

_____
_____
_____
_____
_____
_____
_____

OTHER EVENT DETAILS

Please provide the name and contact information of all outside companies who are providing services during your event. IE: Tent Rentals, Inflatable Rentals, Port-A-Pottie Rentals, etc.

Will there be canon/re-enactment fire during your event? No If yes, please coordinate with the Beaufort Fire Department for safety procedures.

ALCOHOL

Alcohol at the event YES ____ NO ✓ Attach all required paperwork. Applicant is responsible for obtaining applicable ABC License and Liquor Liability Insurance. Applicant must provide a clearly marked and contained area for alcohol consumption and hire two Town of Beaufort police officers at a rate of $35 per hour for the duration. (The Police Chief will review the application for exceptions.) All local, state and Federal laws must be adhered to.

I/we have read, understand and will comply with the rules outlined by the Town of Beaufort in the Town Code of Ordinances as well as in the Event Procedures.

X _____ *(Applicant's Signature)*

ROAD CLOSURES

Does your event require a road closure? ✓ YES _____ NO

Please provide specifics below:

Road	Set-Up Time	Event Start Time	Finish Time	Tear Down Time
Front Street from		4 pm	5pm	5pm
Gordon to Turner St		4 pm	5 pm	5pm
Turner Street from		4pm	5 pm	5pm
Front to Broad				

If a road closure has any impact on area businesses and/or residents, the applicant will be required to inform all residents and/or businesses in the area of the road closure, by letter or hand-delivered flyer at least 14 days in advance of the event, of the particulars of the approved temporary road closure and any detour route available.

Emergency Vehicle Access Requirements: *A road may be closed to regular traffic during an event, but an unobstructed fire lane must be left open at all times for emergency vehicles.*

PARKING/PARKING LOTS

Parking lots required for Event set-up: (Please mark on the site map if applicable) (Please note charges may apply. The rate is $18 per day per space in the East & West parking lots and $9 per on street parking space per day for special event closure during Pay-To-Park season).

Please list all parking lots and spaces you are requesting. Spaces are numbered so please be specific. Also please note that parking space closures MUST be approved by the Board of Commissioners. Event organizers are not permitted to acquire additional spaces without Town permission prior to an event.

Request Paid Parking be suspended for the day at 3 p.m.

Please list off-site Parking Location for Vendors & Event Staff. A letter of permission is required for the use of private property per the event procedures. Please include this with your event application.

Bicycle Parking: Yes _____ No _____

Additional Handicap Parking: Yes _____ No _____ Location: _____

Event Parking: (Please outline your plan for day of parking for event attendees. Please include parking lot locations and the name/contact information for any shuttle/trolley service):

PARADE/WALK INFORMATION

Parade Assembly Area: ALONG FRONT EAST of Gordon Time: 3pm

Parade Dismissal Area: County Courthouse parking lot Time: 5pm

Parade Start Time: 4pm

EMERGENCY MANAGEMENT

Route Map Attached: __X_____ YES _____ NO (Please note a route map is required)

Designated Emergency personal/liaison (onsite): _____

Cell #: _____ Other Contact: _____

How will your event staff react to severe weather?

CANCEL EVENT

How will you alert visitors to the event to evacuate the site? (If multiple sites are being requested, a plan must be submitted for each location)

RISK ASSESSMENT

It is important for Event Organizers to identify risks and hazards associated with their event and know how to prevent these risks. Please identify possible risks for your event and list below (weather, food, fire, etc.) Please provide details.

What training will you provide to your volunteers/staff/participants regarding emergencies?

TENTS

Will you have tents at your event? _____YES ___✓___NO

Please list the tent sizes: _____

If your event includes tents, you must make arrangements with the Beaufort Fire Department for a tent permit. There is a $50 fee. Please contact Tammy Turek at (252) 728-4325 to make arrangements. The Tent Permit Application and a list of requirements are available online at www.beaufortnc.org.

FOOD

Will there be food served at your event? _____YES ___✓___NO

If yes, please provide a detailed list of all food vendors.

If yes, have you contacted the Carteret County Health Department to set up inspections? _____YES _____NO

All food vendors must have proper licensing, inspections, etc.

VENDORS

Will there be vendors selling items at your event? _____Yes ___✓___No

Please note vendors are only permitted to sell during the event hours listed on this application. Any vendor selling before or after the listed hours is in violation and subject to being shut-down.

All vendors must have proper certifications and licenses. They must display the required state sales and use tax information and the event organizer must keep all of this information on file pursuant to North Carolina State laws.

CHECKLIST

Please submit the following documents with your event application. Once all forms (if applicable) are received and the event is approved an Event Permit will be issued.

COVID PRECAUTIONS:
WE WILL HAVE VOLUNTEERS STATIONED IN EACH BLOCK TO MONITOR CROWD POTENTIALLY GETTING TOO CLOSE OR CLUSTERING -

- ○ Tent Permit
- ○ Detailed Site Plan
- ○ Detailed Route Map (Parade/5K/10K)
- ○ Map of Road Closures
- ○ ABC Permit
- ○ Health Inspection Documentation
- ○ Insurance
- ○ Non-profit documentation
- ○ Private property parking permission letter
- ○ List of food vendors
- ○ List of vendors
- ○ Application Fee
- ○ Application Signature

I/We the event organizer ___SUSAN SANDERS___, on behalf of ___BDA___, the party requesting the use of the Town of Beaufort facilities noted in the above application do hereby hold and save harmless and agree to indemnify the Town of Beaufort and its elected officials, directors, officers, employees, servants, agents, contractors and their respective heirs, executors, successors with respect to any and all liability, actions, debts, suits, demands, costs, damages and expenses whatsoever arising wither directly or indirectly as a result of the use of the Town of Beaufort's facilities, park, road or other and in accordance with the provisions contained in this policy. I/We have read and understand this application, the event procedures and the requirements placed upon this applicant and organization. I agree to abide by the Town of Beaufort rules, regulations and ordinances.

Applicant's Signature Susan R Sanders Date 3-26-2021

Internal Use Only

Permission is granted to the applicant and/or sponsoring organization to use the streets/facilities/parks as listed in the application for the special event described.

Permit Issue Date: _____
Authorized Signature: _____

Insurance Certificate: Yes____ No ____
Permit Fee: Yes ____ No ____
BOC Approval Date: _____
Police Chief Approval: _____
Fire Chief Approval:_____

Town of Beaufort, NC
701 Front St. - P.O. Box 390 - Beaufort, N.C. 28516
252-728-2141 - 252-728-3982 fax - www.beaufortnc.org

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items for Discussion and Consideration

SUBJECT: Big Rock Event Request to Close Off Parking Spaces for a Food Truck

BRIEF SUMMARY:

Tim Heaney operates a food truck for the Big Rock Fishing Tournament. During the 2020 Big Rock event, he was able to safely navigate a Covid-19 friendly way to serve food to participants in lieu of a traditional dinner gathering in Beaufort. He has requested to do the same in 2021.

He has requested to close two parking spaces adjacent to John Newton Park, in order to pull his food truck parallel to the park and create a pedestrian safe area for patrons participating in Big Rock to receive a meal and to use the park space for a one way entry and exit/access to the food window while using the park for distancing.

The original request for two spaces included one handicap space with the loading zone and the space immediately next to it. The food truck would be serving after paid parking hours are complete but in order to ensure the space is available, he has asked the town to close the parking spaces for the day and is willing to pay the daily fee for the spaces.

Staff is seeking the BOC approval to move forward with closing the spaces beginning at 6 a.m. Thursday, June 17 with the spaces reopening by 10 p.m. or earlier on the 17.

At the April Board of Commissioners Work Session, staff was instructed to work with the applicant to find an alternative that did not involve the closure of a handicap space. Staff worked with the applicant. The request is to park the truck parallel to the sidewalk facing Front Street for pedestrian safety as there is not an alternative to parking parallel to John Newton Park without closing a handicap space. (Photo included)

The new configuration involves reserving parking spaces 165,164,163,162 and 161. The applicant has agreed to pay the established rate of $18/day for these spaces for a total of $90.

REQUESTED ACTION:

Discussion/Approval

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

Rachel Johnson, PIO/Events Coordinator

BUDGET AMENDMENT REQUIRED:

No

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items for Discussion and Consideration

SUBJECT: Navigable Waters Ordinance Amendment

BRIEF SUMMARY:

Currently, the Navigable Waters Ordinance requires that vessels may only remain anchored in Beaufort's waters for a maximum of 10 days in a 30 day period.

There are some vessels that have been moving just outside of the Town's jurisdiction after 10 days, and then returning after the remainder of the 30 day period has ended, on a recurring basis.

To address this issue an amendment is recommended that will give the Police Chief discretion to ban vessels from overnight stays for up to 12 months after receiving one citation for violation of the Navigable Waters Ordinance.

REQUESTED ACTION:

Motion to approve the amendment.

EXPECTED LENGTH OF PRESENTATION:

5 minutes

SUBMITTED BY:

John Day, Town Manager

BUDGET AMENDMENT REQUIRED:

N/A

TOWN OF BEAUFORT BOARD OF COMMISSIONERS
ORDINANCE TO AMEND TITLE IX GENERAL REGULATIONS
CHAPTER 97: NAVIGABLE WATER
OF THE TOWN OF BEAUFORT CODE OF ORDINANCES

WHEREAS, The Board of Commissioners of the Town Beaufort has previously established a Code of Ordinances to ensure the health, safety, and welfare of its residents, and

WHEREAS, the Ordinance establishes the Board of Commissioners ability to regulate the navigable water within the Town, enforceable pursuant to G.S. 160A-175, and

WHEREAS, there are vessels anchoring in Beaufort waters for 10 days, and then returning after the 30 day period has ended, on a recurring basis, creating a potential for negative financial impact,

WHEREAS, the Board of Commissioners of the Town of Beaufort finds it necessary to amend the Code of Ordinances title IX General Regulations Chapter 97 Navigable Water to meet the town's needs;

NOW, THEREFORE BE IT RESOLVED AND ORDAINED, that the Code of Ordinances, Town of Beaufort, North Carolina, Chapter 97, is hereby amended in the sections as follows:

97.02 Definitions
Owner means a person, other than a lien holder, having the legal or equitable property interest in or title to a vessel, or the person's legal representative. For purposes of this article, where a vessel is determined to have been registered with the North Carolina Wildlife Resources Commission, or an agency of another state responsible for registration, such registration shall create a rebuttable presumption that the owner is the last registered owner of record. <u>Also for purposes of this Article, any person who has apparent or actual control of a vessel, or who has assisted another, including a person having legal title to a vessel, in placing a vessel in violation of this article shall be subject to the penalty provisions of this article.</u>

97.03 Anchoring; docking; mooring; interference with navigation.
(J) Notwithstanding the "deemed anchorage permission" provisions of section 97.03(c) above, no vessel previously posted for violation of this article within the previous 24 months and no vessel which is owned by a person who has been

cited for violation of this article within the previous 24 months shall be deemed to have anchorage permission for any purpose for any length of time.

97.06 – Enforcement responsibility and authority
(I) Notwithstanding the notice and hearing provisions of sections 97.03, 97.04 and 97.05 above, the police chief is empowered to enforce the provisions of this article against any vessel previously posted for violation of this Article within the previous 24 months without the necessity of posting or providing a hearing.

(J) Notwithstanding the notice and hearing provisions of sections 97.03, 97.04 and 97.05 above, the police chief is empowered to enforce the provisions of this article against any vessel which is owned by a person who has been cited for violation of this article within the previous 24 months, without the necessity of posting or providing a hearing, regardless of whether the specific vessel at issue has been previously posted.

This Amendment is effective upon Adoption.

Adopted by the Town of Beaufort Board of Commissioners this _____ day of _____, 2021.

_____
Everette Newton
Mayor

[SEAL]

_____
Allen Coleman
Town Clerk

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM Monday, May 10, 2021

AGENDA CATEGORY: Items for Discussion and Consideration

SUBJECT: Appointment to the Parks and Recreation Advisory Board

BRIEF SUMMARY:

One major way residents can have a positive impact on the future of the Town of Beaufort is volunteering to serve on various Town advisory boards and commissions.

Position(s) requested to be filled:

Board/ Commission/ Committee	# of Positions	Term Length	Reason
Parks and Recreation Advisory Board	1	Partial Term Expiring 9/24/2024	Resignation

Active recruitment and advertisement of the vacant Parks and Recreation Advisory Board position began on March 24, 2021 with an application deadline of Friday, April 16, 2021.

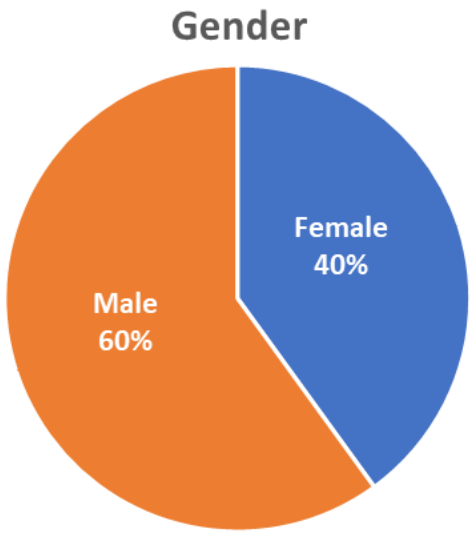
In an effort to increase public participation and awareness, Town staff used the Carteret County News Times, Facebook, and the Sunshine List to advertise the position vacancy and to encourage a diverse group of applicants.

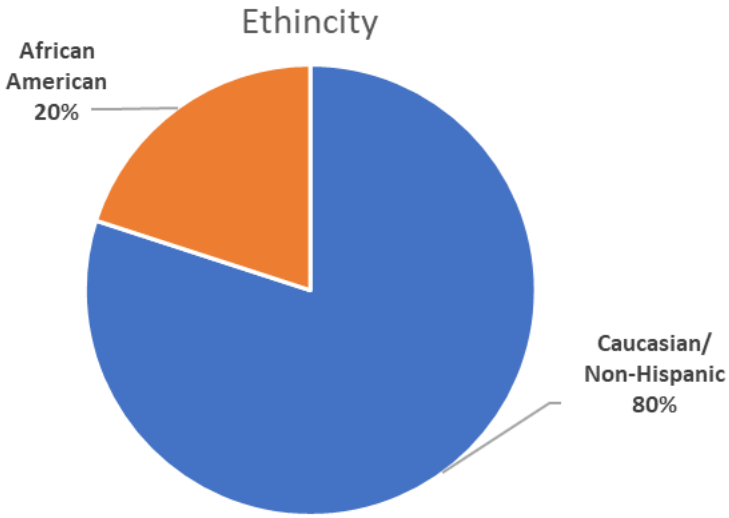
As of Monday, April 19, 2021, five applications were received, and they are:

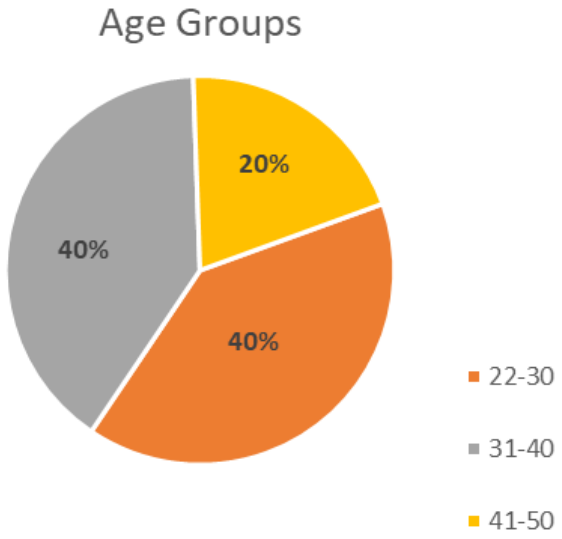
Applicant	Re-Appointment Or New
Elizabeth Bertram	NEW
Charlie Deaton	NEW
Sheresa Elliot	NEW
Sony Haynes	NEW
Zeb Schobernd	NEW

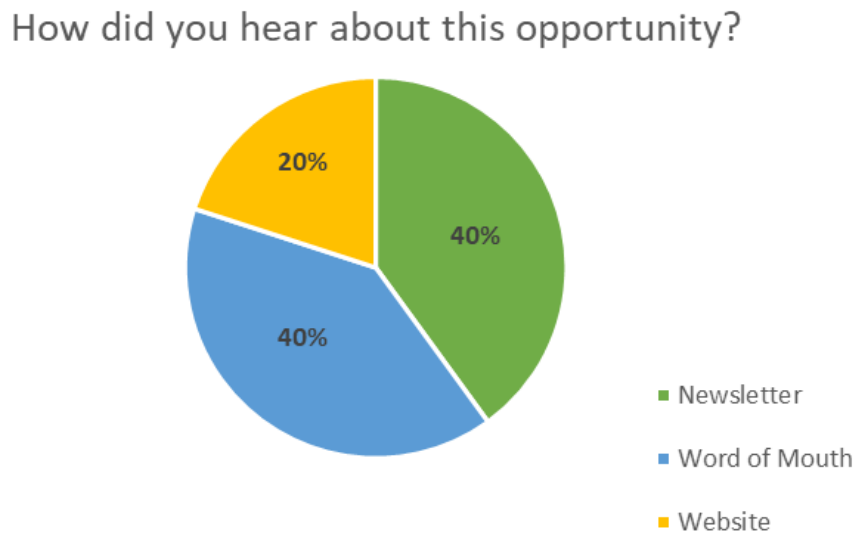
Each applicant's submitted application is included as part of this agenda item.

A couple of statistics based on the above applications:


Gender
Female
40%
Male
60%


Ethincity
African
American
20%
Caucasian/
Non-Hispanic
80%


Age Groups
20%
40%
40%
22-30
31-40
41-50



REQUESTED ACTION:

The Manager recommends the Board consider appointing an applicant to the vacant Parks and Recreation Advisory Board position which is a partial term expiring September 24, 2024.

EXPECTED LENGTH OF PRESENTATION:

10 min

SUBMITTED BY:

Allen Coleman,
Town Clerk & Assistant to the Town Manager

BUDGET AMENDMENT REQUIRED:

N/A

Volunteer Boards, Commissions, and/or Committees' Application

On behalf of the Beaufort Commissioners, Town Manager, and Town staff, we are pleased you are interested in becoming a member of one of the Town's vital Boards, Committees, or Commissions.

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If you wish to be considered for appointment to an advisory board, please complete this application. Once you click submit, your application will be routed to the TOWN CLERK. For more information about this application or it's process, you may contact the Town Clerk Allen Coleman, at a.coleman@beaufortnc.org or 252-728-2141 ext. 233

Board (s) / Commission (s) Selection

Please select in order of preference:

CHOICE 1 *

Advisory Board(s) / Commission (s) Interested in:

Parks and Recreation Advisory Board

CHOICE 2

Advisory Board(s) / Commission (s) Interested in:

Planning Board

CHOICE 3

Advisory Board(s) / Commission (s) Interested in:

Beaufort Harbor & Waterways Master Plan Advisory Committee

Contact Information

First Name *

Elizabeth

Last Name *

Bertram

Email Address *

Elizabeth.bertram1@gmail.com

Home Address *

314 Orange St. Beaufort NC 28516

Is your mailing address the same as your home address? *

- (●) Yes
- ( ) No

Please provide your preferred mailing address below. If your mailing address is the same as your home address please enter N/A *

NA

Are you a full-time resident of the Town of Beaufort? *

- (●) Yes
- ( ) No

Are you a part-time resident of the Town of Beaufort? *

- ( ) Yes
- (●) No

If you are a part-time resident of Beaufort, please provide your other address. If you are a full-time resident of Beaufort, please put N/A below. *

NA

Telephone Number *

9199000032

Employment/Education/Volunteer Experience

Please summarize your education, work and volunteer experience in the spaces below OR submit a cover letter and/or resume to a.coleman@beaufortnc.org and request this to be attached to your application.

4.

Please select your highest level of COMPLETED education: *

- ( ) Less than a High School Diploma or Equivalent (GED)
- ( ) High School Diploma or Equivalent (GED)
- (•) Associates Degree
- ( ) Bachelor's Degree
- ( ) Master's Degree

Who is your current Employer? *

Self Employed Yoga Teacher and Consultant

What is your current Job Title? *

Consultant

Years in your current position: *

3 years but less than 7 years

Please provide a brief description of your duties: *

After running my family's adventure outfitter shop for six years, I decided to go back to school to pursue a degree in elementary education with the dream of starting an outdoor education programs. I am a consultant and yoga instructor in addition to being a student. I have worked with many different clients and served various roles as a consultant. Most recently, I served as the interim Economic Development Director for the Town of Carrboro. I am now working with a client on marketing, business strategy and events. As a consultant, student and mom, my duties are diverse depending on the day.

Please briefly describe your community activities and/or volunteer experience: *

In Carrboro N.C. where I grew up and ran my family's adventure outfitter business in my early 20s, I helped found the Carrboro Business Alliance (CBA). The CBA supported locally owned businesses in our town and planned community events that benefited the town as a whole. I also served on the Economic Sustainability Commission. Additionally I served on the board of Chapel Hill based non-profit, Learning Outside. After my father's death, I established a scholarship in his honor through Learning Outside and helped to raise $12,000 to make their education programs more accessible to underprivileged children. I also partnered with the Haw River Assembly every year to do trash pick-ups on local trails in the Carrboro/Chapel Hill area. Weekly I hosted a free yoga class in the community to make the practice I love accessible to a wider audience. I hope to offer community yoga in Beaufort one day.

Background

Please tell us more about you. You must be a Town of Beaufort resident to serve on one of the Town's boards and commissions.

How long have you lived in the Town of Beaufort? *

<2 years

What is your connection to Beaufort? *

I grew up coming to Beaufort as a child and have always loved this town. My parents bought a house in 2012 and I dreamed of moving here one day. We spent the last year of my father's life here in Beaufort. After he died, I continued to dream of moving here but didn't know how it would be possible given the circumstances of my life. However, when COVID-19 shifted my education to virtual, I realized there was nothing holding me back from moving to my favorite place on the planet. In August I moved full-time to Beaufort after spending most of the summer here. My partner, two young boys and I love calling Beaufort home.

Are you currently serving on a Town Advisory Board/Commission? *

- ○ Yes
- ◉ No

Do you have any personal or business interest that could create a conflict (either real or perceived) if appointed? *

- ○ Yes
- ◉ No

Background Continued

List any Boards you have served on in the past. If this is your first time, please enter N/A *

Economic Sustainability Commission for the Town of Carrboro, Carrboro Business Alliance and Learning Outside

4.

Why are you interested in serving on this board(s)/commission(s)? *

I have a dream of having an outdoor education program in Beaufort and feel drawn to the Parks and Recreation board so that I can be an active participant engaged in the future of Beaufort's outdoor spaces.

Please describe any background or abilities that qualify you to serve on these board(s)/commission(s): *

My experience serving as the Interim Economic Development Director for the Town of Carrboro gave me excellent experience in how town government works and why it is so important for community members to be involved in their town's development. Furthermore, my experience serving on the Economic Sustainability Commission and the board for Learning Outside developed my skills to work with diverse board members to achieve goals and objectives. Lastly, I also served as the Vice President of the board for the Skip Yowell Future Leadership Academy through the Outdoor Industry Association and think my experience will translate well to the Parks and Recreation board.

Diversity/General Questions (Optional)

Volunteer Boards, Commissions, and/or Committees' Application

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Board (s) / Commission (s) Selection

Please select in order of preference:

CHOICE 1 *

Advisory Board(s) / Commission (s) Interested in:

Parks and Recreation Advisory Board

CHOICE 2

Advisory Board(s) / Commission (s) Interested in:

Choose

4.

CHOICE 3

Advisory Board(s) / Commission (s) Interested in:

Choose

Contact Information

First Name *

Charlie

Last Name *

Deaton

Email Address *

cddeaton2@gmail.com

Home Address *

617 Broad St, Beaufort, NC 28516

Is your mailing address the same as your home address? *

- (•) Yes
- ( ) No

Please provide your preferred mailing address below. If your mailing address is the same as your home address please enter N/A *

N/A

Are you a full-time resident of the Town of Beaufort? *

- (●) Yes
- ( ) No

Are you a part-time resident of the Town of Beaufort? *

- ( ) Yes
- (●) No

If you are a part-time resident of Beaufort, please provide your other address. If you are a full-time resident of Beaufort, please put N/A below. *

N/A

Telephone Number *

5404481222

Employment/Education/Volunteer Experience

Please summarize your education, work and volunteer experience in the spaces below OR submit a cover letter and/or resume to a.coleman@beaufortnc.org and request this to b[illegible]ned to your application.

4.

Please select your highest level of COMPLETED education: *

- ( ) Less than a High School Diploma or Equivalent (GED)
- ( ) High School Diploma or Equivalent (GED)
- ( ) Associates Degree
- ( ) Bachelor's Degree
- (•) Master's Degree

Who is your current Employer? *

NC Coastal Reserve (Rachel Carson Reserve)

What is your current Job Title? *

Research associate

Years in your current position: *

1 year but less than 3 years

Please provide a brief description of your duties: *

Responsible for providing research support for policy-making by NCDEQ, as well as water quality monitoring, GIS mapping, data analysis, and field support for academic partners working at the the Rachel Carson Reserve.

4.

Please briefly describe your community activities and/or volunteer experience: *

-W&M Bike Alliance: advocated for improved bike/pedestrian transportation in Williamsburg, VA in coordination with city government, college administration, and local businesses
-Carteret for Science: participated in a network of marine scientists to promote science-based policy and citizen engagement in science education
-Led field trips in coastal environmental change for students and general public with Beaufort Paddle and UNC-CH in the Rachel Carson Reserve

Background

Please tell us more about you. You must be a Town of Beaufort resident to serve on one of the Town's boards and commissions.

How long have you lived in the Town of Beaufort? *

5 years but less than 10 years

What is your connection to Beaufort? *

I've lived here for 5+ years (and been coming here for work for longer) and work for the NCDEQ's Coastal Reserve program, which manages the Rachel Carson Reserve

Are you currently serving on a Town Advisory Board/Commission? *

- ○ Yes
- ◉ No

4.

Do you have any personal or business interest that could create a conflict (either real or perceived) if appointed? *

- ( ) Yes
- (•) No

Background Continued

List any Boards you have served on in the past. If this is your first time, please enter N/A *

N/A

Why are you interested in serving on this board(s)/commission(s)? *

I'm a cyclist and runner, and I primarily commute by bicycle, and I helped start a volunteer organization organization that advocated for improved bicycle and pedestrian infrastructure in Williamsburg, VA. I'm also an avid kayaker (and work part-time with Beaufort Paddle), and I'm passionate about protecting and expanding public access to the our town's incredible waterways. I want to advocate for the equitable use of our resources, making sure that our parks are accessible to all, rather than catering primarily toward small subsections of residents or tourists.

Please describe any background or abilities that qualify you to serve on these board(s)/commission(s): *

-Helped start the W&M Bike Alliance, advocating for improved alternative transportation in Williamsburg, VA coordinating with city government, college administration, and local businesses
-Work with Beaufort Paddle and the Rachel Carson Reserve regularly use and understand the value of our waterway accesses
-Extensive GIS experience

Diversity/General Questions (Optional)

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Board (s) / Commission (s) Selection

Please select in order of preference:

CHOICE 1 *

Advisory Board(s) / Commission (s) Interested in:

Parks and Recreation Advisory Board

CHOICE 2

Advisory Board(s) / Commission (s) Interested in:

Planning Board

CHOICE 3

Advisory Board(s) / Commission (s) Interested in:

Choose

Contact Information

First Name *

Sheresa

Last Name *

Elliot

Email Address *

iamsheresaelliot@gmail.com

Home Address *

803 Pine street

Is your mailing address the same as your home address? *

- (●) Yes
- ( ) No

Please provide your preferred mailing address below. If your mailing address is the same as your home address please enter N/A *

N/a

Are you a full-time resident of the Town of Beaufort? *

- (●) Yes
- ( ) No

Are you a part-time resident of the Town of Beaufort? *

- ( ) Yes
- (●) No

If you are a part-time resident of Beaufort, please provide your other address. If you are a full-time resident of Beaufort, please put N/A below. *

N/a

Telephone Number *

3366027121

Employment/Education/Volunteer Experience

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4.

Please select your highest level of COMPLETED education: *

- ( ) Less than a High School Diploma or Equivalent (GED)
- ( ) High School Diploma or Equivalent (GED)
- ( ) Associates Degree
- ( ) Bachelor's Degree
- (•) Master's Degree

Who is your current Employer? *

Easter Seals UCP-New Bern

What is your current Job Title? *

Mental Health Clinician

Years in your current position: *

1 year but less than 3 years

Please provide a brief description of your duties: *

As a Clinician for the Child First program, I engage with families in their homes or community for play based therapy to address the impact of trauma; develop comprehensive clinician formulations and detailed Child and Family plan of care; provide Child and Parent Psychotherapy using psychotherapeutic services; help increase caregivers reflective capacity; provide mental health and developmental consultations with early education providers and other early intervention programs; crisis intervention when needed.

Please briefly describe your community activities and/or volunteer experience: *

I have been a mentor in Eastern North Carolina through my nonprofit organization, I Am Her, INC., for adolescents for 6 years. I am a member of Faith Tabernacle of Praise, Beaufort, NC. I have lead and organized successful, peaceful and impactful Black Lives Matter protest in Beaufort, NC. I participate and engage in Beaufort Culture Club meetings. I have organized Voter Registration drives in Carteret County. I have also volunteered at shelters during hurricane season.

Background

Please tell us more about you. You must be a Town of Beaufort resident to serve on one of the Town's boards and commissions.

How long have you lived in the Town of Beaufort? *

5 years but less than 10 years

What is your connection to Beaufort? *

I have lived in Beaufort for 5 years. My ex husband was in the military. I loved the uniqueness and character in Beaufort and decided to begin my own family here! I am drawn to history of Beaufort, the hometown-welcoming feel and opportunities to have an impact on my community!

4.

Are you currently serving on a Town Advisory Board/Commission? *

- ○ Yes
- ◉ No

Do you have any personal or business interest that could create a conflict (either real or perceived) if appointed? *

- ○ Yes
- ◉ No

Background Continued

List any Boards you have served on in the past. If this is your first time, please enter N/A *

N/A

Why are you interested in serving on this board(s)/commission(s)? *

I am interested in using my voice to represent the residents of Beaufort! I would love to have an opportunity to be a part of planning events and activities for our residents. I am interested in identifying what the needs are for our community and taking necessary actions to make our community better!

4.

Please describe any background or abilities that qualify you to serve on these board(s)/commission(s): *

Mentoring programs/Coordinating and organizing educational and self sufficiency events and meetings
Director of Youth program
Ability to plan, lead and organize successful events for targeted populations
Marketing/social media skills

Diversity/General Questions (Optional)

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Board (s) / Commission (s) Selection

Please select in order of preference:

CHOICE 1 *

Advisory Board(s) / Commission (s) Interested in:

Parks and Recreation Advisory Board

CHOICE 2

Advisory Board(s) / Commission (s) Interested in:

Planning Board

CHOICE 3

Advisory Board(s) / Commission (s) Interested in:

Beaufort Harbor & Waterways Master Plan Advisory Committee

Contact Information

First Name *

Sonny

Last Name *

Haynes

Email Address *

sonnyhaynes8@gmail.com

Home Address *

314 Orange Street

Is your mailing address the same as your home address? *

- (●) Yes
- ( ) No

Please provide your preferred mailing address below. If your mailing address is the same as your home address please enter N/A *

N/A

Are you a full-time resident of the Town of Beaufort? *

- (●) Yes
- ( ) No

Are you a part-time resident of the Town of Beaufort? *

- ( ) Yes
- (●) No

If you are a part-time resident of Beaufort, please provide your other address. If you are a full-time resident of Beaufort, please put N/A below. *

N/A

Telephone Number *

9107249051

Employment/Education/Volunteer Experience

Please summarize your education, work and volunteer experience in the spaces below OR submit a cover letter and/or resume to a.coleman@beaufortnc.org and request this to be attached to your application.

4.

Please select your highest level of COMPLETED education: *

- ( ) Less than a High School Diploma or Equivalent (GED)
- ( ) High School Diploma or Equivalent (GED)
- ( ) Associates Degree
- ( ) Bachelor's Degree
- (•) Master's Degree

Who is your current Employer? *

Durham Technical Community College

What is your current Job Title? *

Instructor

Years in your current position: *

7 years or more

Please provide a brief description of your duties: *

Plan and teach 5 -6 sections of English classes each semester. Classes include freshman composition level courses as well as higher level literature courses; serve on committees and work groups to ensure the college is achieving its mission; work on maintaining accreditation compliance in various areas of the college.

4.

Please briefly describe your community activities and/or volunteer experience: *

some work with my kids sports programs through the parks and rec department of the town we lived in previously; some volunteer experience with local projects around Durham Tech in both Durham and Hillsborough (community garden and some event planning)

Background

Please tell us more about you. You must be a Town of Beaufort resident to serve on one of the Town's boards and commissions.

How long have you lived in the Town of Beaufort? *

<2 years

What is your connection to Beaufort? *

My two sons (8 and 13) moved here this January to move in with my partner/their stepmom who was already living here.

Are you currently serving on a Town Advisory Board/Commission? *

- ○ Yes
- ◉ No

Do you have any personal or business interest that could create a conflict (either real or perceived) if appointed? *

- ( ) Yes
- (•) No

Background Continued

List any Boards you have served on in the past. If this is your first time, please enter N/A *

N/A

Why are you interested in serving on this board(s)/commission(s)? *

As we settle our family into Beaufort, we are really excited about rooting into the community and taking volunteer opportunities, both to serve the community we live in and to model this behavior for our sons.

Please describe any background or abilities that qualify you to serve on these board(s)/commission(s): *

A handful of background experiences here are helpful: my time in the military working with different groups of people and working to get them all on the same page (sometimes to varying degrees of success!); my work with my sons in our previous town of plugging into our community as much as we were able to at the time; my work at my current college on compliance and assessment and the need to have grand plans that are ultimately achievable and my function in a lot of these teams as a go-between communicator trusted by both administration and faculty as someone who listens to the concerns of those around me.

Diversity/General Questions (Optional)

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Please select in order of preference:

CHOICE 1 *

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Parks and Recreation Advisory Board

CHOICE 2

Advisory Board(s) / Commission (s) Interested in:

Choose

4.

CHOICE 3

Advisory Board(s) / Commission (s) Interested in:

Choose

Contact Information

First Name *

Zeb

Last Name *

Schobernd

Email Address *

zeb.schobernd@gmail.com

Home Address *

502 Professional Park Dr.

Is your mailing address the same as your home address? *

- (●) Yes
- ( ) No

4.

Please provide your preferred mailing address below. If your mailing address is the same as your home address please enter N/A *

N/A

Are you a full-time resident of the Town of Beaufort? *

- (●) Yes
- ( ) No

Are you a part-time resident of the Town of Beaufort? *

- ( ) Yes
- (●) No

If you are a part-time resident of Beaufort, please provide your other address. If you are a full-time resident of Beaufort, please put N/A below. *

N/A

Telephone Number *

541-961-5491

Employment/Education/Volunteer Experience

Please summarize your education, work and volunteer experience in the spaces below OR submit a cover letter and/or resume to a.coleman@beaufortnc.org and request this to be attached to your application.

4.

Please select your highest level of COMPLETED education: *

- ( ) Less than a High School Diploma or Equivalent (GED)
- ( ) High School Diploma or Equivalent (GED)
- ( ) Associates Degree
- ( ) Bachelor's Degree
- (•) Master's Degree

Who is your current Employer? *

NOAA

What is your current Job Title? *

Biological Science Technician

Years in your current position: *

7 years or more

Please provide a brief description of your duties: *

I help run a project that monitors reef fish population offshore of NC, SC, GA, and FL. I serve as chief scientist on several research cruises every year, and I am in charge of training employees how to "read" underwater videos to identify and count reef fish species from videos collected on research cruises.

4.

Please briefly describe your community activities and/or volunteer experience: *

I am a Guardian ad Litem for the county court system, representing foster children in their court hearings. I have also been president of Beaufort Little League since 2019, and I have coached youth soccer since 2014.

Background

Please tell us more about you. You must be a Town of Beaufort resident to serve on one of the Town's boards and commissions.

How long have you lived in the Town of Beaufort? *

5 years but less than 10 years

What is your connection to Beaufort? *

I moved to Beaufort in 2010 for my job at NOAA, and after a few years living in Morehead City I moved permanently to Beaufort in 2015. My child goes to school here and I very much consider Beaufort my home.

Are you currently serving on a Town Advisory Board/Commission? *

- ○ Yes
- ◉ No

4.

Do you have any personal or business interest that could create a conflict (either real or perceived) if appointed? *

- ○ Yes
- ◉ No

Background Continued

List any Boards you have served on in the past. If this is your first time, please enter N/A *

N/A

Why are you interested in serving on this board(s)/commission(s)? *

I have been personally involved in youth sports in Beaufort for many years, and my son has played on the fields and playgrounds since he was very little. I have a strong personal connection to the parks in our town, and my time with Beaufort Little League has given me some insight into how the parks department functions. I feel like I have a vision for what our parks need to match the changing needs of the youth in our community.

Please describe any background or abilities that qualify you to serve on these board(s)/commission(s): *

As I mentioned before, my background in youth sports (and especially with Beaufort Little League) gives me some insight into how our parks are used and what they may need into the future. Those experiences, as well as those as a Guardian ad Litem, have connected me to the families with kids in our community, and I believe I have a consensus-building temperament that will be an asset to the committee advising on issues regarding our parks.

Diversity/General Questions (Optional)

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY:	Items for Discussion and Consideration
SUBJECT:	Beaufort Harbor and Waterways Master Plan Advisory Committee

BRIEF SUMMARY:

As discussed at the February 2020 Town Board retreat, a comprehensive harbor and waterways master plan is needed to address water quality, harbor management, the expiration of the current Beaufort Docks and National Park Service leases in 2024, the possible development of a mooring field, and how such items impact the timing of the replacement of the Front Street bulkhead and boardwalk.

At this year's Town Board retreat it was decided that an advisory committee should be appointed to assist in the effort. This committee will engage the public and work with the town's staff and consultant to advise the Board of Commissioners during the formation of a Beaufort Harbor & Waterways Master Plan.

The Board also discussed preparation of an updated application for appointments to boards and committees, including a question related to applicants' "connection" to Beaufort. There was consensus that there should not be a residency requirement for all appointees to this committee, and that there should be full disclosure of any potential financial implications for members.

At the March 22, 2021 Virtual Work Session, the Board recommended the Beaufort Harbor & Waterways Master Plan Advisory Committee be comprised of six members, with the term limits being set for the duration of the project. The Board unanimously agreed to follow the normal process for advertisement, recruitment, and appointment of the six new/vacant positions. In addition, the Board directed staff to begin working with Moffit and Nichols on a consulting contract.

At the April 12 Regular Meeting, the Board agreed to add an ex officio seat for a Commissioner and require monthly progress reports. Also, it was suggested there should be a prioritization of the scope elements, and there seemed to be consensus that the task should be completed by the end of the end of FY22.

At the April 26 Work Session, the Board unanimously agreed to include the consultants (Moffit and Nichols) early on in the planning stages with a concept plan to be presented to the Board by the end of fiscal year 2022. The Board discussed whether out-of-town applicants would be considered and decided to focus primarily on Beaufort residents with consideration being given to applicants with exceptional experience in this field.

A revised description of the committee' background, charge, and composition is attached (changes are highlighted in yellow).

REQUESTED ACTION:

The Manager recommends that the Board discuss and review the draft charge/composition document for the Beaufort Harbor and Waterways Master Plan Advisory Committee and provide direction to staff.

EXPECTED LENGTH OF PRESENTATION:

15 minutes

SUBMITTED BY:

John Day, Town Manager &

Allen Coleman, Town Clerk-Assistant to the Town Manager

BUDGET AMENDMENT REQUIRED:

N/A

Beaufort Harbor & Waterways Master Plan
Advisory Committee

Beaufort is largely defined by the waters around it – Beaufort Inlet, Taylors Creek, Town Creek, Turner Creek, Back Sound. Beaufort's economy has been dependent on these waters for its economy ever since its founding. At first for merchants and fishing, and now mostly for tourism, travel, and recreation.

Because of the town's dependence on these waters, it is important that it manage this resource, and the infrastructure in and around them, in a sustainable fashion that supports the town's economy.

Beaufort, NC Harbor

To effectively address the many issues coming to bear on the town's waters over the next few years in a coordinated fashion that supports a positive outcome for Beaufort's residents and visitors, the Beaufort Board of Commissioners establishes the *Beaufort Harbor & Waterways Master Plan Advisory Committee*. This committee will engage the public and work with the town's staff and consultant to advise the Board of Commissioners during the formation of a Beaufort Harbor & Waterways Master Plan.

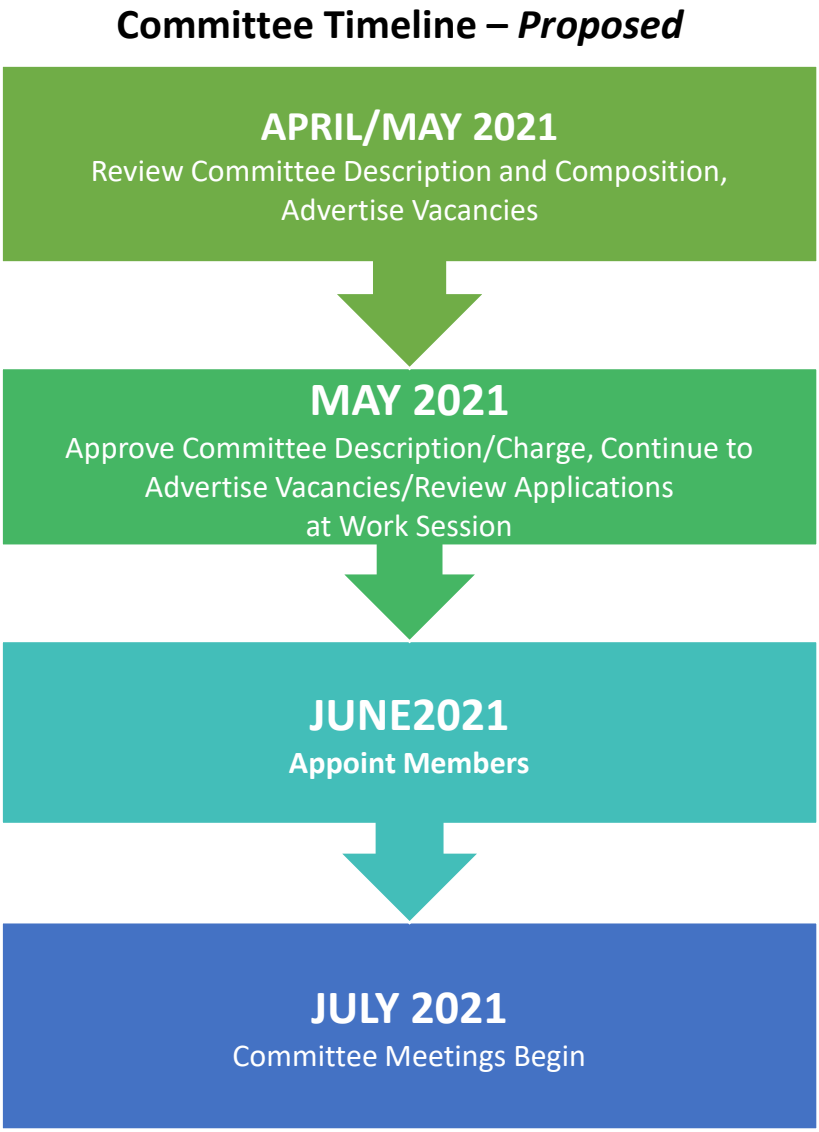
The following elements, listed in priority order, among others that may be identified during the process, should be addressed, coordinated, and integrated in the Master Plan:

1. Disposition of the Beaufort Docks (the current lease expires in 2024)
2. Reconstruction of the Front Street bulkhead between Turner and Queen Streets.
3. Reconstruction of the Front Street boardwalk
4. Consideration of establishing mooring fields in Taylors Creek and Town Creek (harbor of refuge)
5. Disposition of the National Park Service lease for the Town Hall Information Center and ferry concessionaire docks (the lease expires in 2024)
6. A dredging plan (which includes plans for the necessary environmental assessments required for dredging of Taylors Creek and Town Creek)
7. Suggested amendments to the Navigable Waters Ordinance
8. Opportunities for public access
9. Water quality and environmentally sensitive areas (examples follow)
    a. Best practices for reduction of black water and grey water
    b. Best practices for reduction of marine debris
    c. Protection of the Rachel Carson Reserve

The Beaufort Harbor & Waterways Master Plan Advisory Committee will be comprised of at least six members selected by the Board of Commissioners from applications submitted to the Town Clerk by

interested people. The Board may consider applications from individuals out-of-town who possess exceptional experience in this field, however, a majority of the committee will be Beaufort residents. Additionally, there will be an ex officio seat for a Commissioner. The Committee will meet at least monthly, with a goal of holding its first meeting, including staff and consultant, within three weeks of appointments. Progress reports will be presented to the Board of Commissioners periodically, with a goal of completing the Beaufort Harbor & Waterways Master Plan by the end of FY22.

The town has $40,000 appropriated in FY2021 to hire a consulting firm to assist in preparation of the Beaufort Harbor & Waterways Master Plan and expects to contract with Moffatt and Nichol.



Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY:	Items for Discussion and Consideration
SUBJECT:	Legislative Alerts - Opposition to Senate Bill 349/House Bill 401 Zoning Reform **and** Opposition to House Bill 496 Property Owners' Rights – Tree Ordinance

BRIEF SUMMARY:

On March 24, 2021 House Bill 401 and Senate Bill 349 were both filed with the House and Senate Clerks. Both bills were described as "an act to provide reforms to local government zoning authority to increase housing opportunities and make various changes and clarifications to the zoning statues." In addition, both bills have passed a first reading and have been sent to committee for further discussion and review.

Senate Bill 349 and House Bill 401 *Increase Housing Opportunities* represent a radical, on-size fits all approach to zoning and land use, in the guise of increasing affordable housing. The bill's overall effect would be to usurp local control, further eroding the rights of local homeowners and property owners to work through their locally elected officials to determine how development should occur in their communities and neighborhoods.

The following attachments are included in this agenda to provide a more in-depth explanation of the proposed bills, as well as a resolution of opposition:

- Attachment A – General Assembly House Bill 401
- Attachment B – General Assembly House Bill 349
- Attachment C – SB349-HB401 Increase Housing Opportunities Explainer Edition 1
- Attachment D – SB349-HB401 North Carolina League of Municipalities Opposition
- Attachment E – Resolution in Opposition of House Bill 401 and Senate Bill 349

On April 5, 2021 House Bill 496 was introduced, stating "an act providing that counties and cities shall not adopt ordinances regulating the removal of trees from private property without the express authorization of the General Assembly". This bill has passed a first reading and has been sent to committee for further discussion and review.

House Bill 496, another bill to restrict local tree ordinances, is pending in the N.C. General Assembly. This bill threatens to damage local efforts that create community character. HB 496 Property Owners' Rights/Tree Ordinances would require that all local ordinances regulating the removal of trees be permitted only with the express authorization of the General Assembly.

An additional attachment is included in this agenda to provide a more in-depth explanation of HB 496, as well as a resolution of opposition. The attachments are:

- Attachment F – General Assembly House Bill 496

- Attachment G – Resolution in Opposition of House Bill 496

On Wednesday, April 28, 2021, Commissioner Hollinshed submitted a petition to add this item to the next regular meeting agenda and a majority of the Board supported this request.

REQUESTED ACTION:

Review the draft resolutions and consider adopting as submitted or as amended.

EXPECTED LENGTH OF PRESENTATION:

15 minutes

SUBMITTED BY:

Allen Coleman, Town Clerk-Assistant to the Town Manager

BUDGET AMENDMENT REQUIRED:

N/A

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H **1**

HOUSE BILL 401

Short Title:	Increase Housing Opportunities.	(Public)
Sponsors:	Representatives D. Hall, Moffitt, Brody, and Richardson (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	State Government, if favorable, Local Government - Land Use, Planning and Development, if favorable, Rules, Calendar, and Operations of the House	

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES.

The General Assembly of North Carolina enacts:

PART I. AFFORDABLE HOUSING OPTIONS

SECTION 1.1.(a) Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-707. Middle housing use in residential zones.**

(a) Definitions. – As used in this section, the term "middle housing" means a residential dwelling that is one of the following, as defined by the North Carolina Building Code Council:

(1) A duplex.
(2) A triplex.
(3) A quadplex.
(4) A townhouse.

(b) Middle Housing in Residential Zones. – A local government shall allow all middle housing types in areas zoned for residential use, including those that allow for the development of detached single-family dwellings.

(c) Regulation and Scope. – A local government may regulate middle housing pursuant to the provisions of this Chapter, provided that the regulations do not act to discourage development of middle housing types through unreasonable costs or delay. In permitting middle housing types, nothing in this section shall be construed to prohibit a local government from permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing in this section affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions. Any regulation adopted pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This section shall only apply to areas that are served, or through extension may be served, by one or more of the following:

(1) A local government water system.
(2) A local government sewer system.
(3) A public water system.

(4) A wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which a permit is issued under Part 1 of Article 21 of Chapter 143 of the General Statutes."

SECTION 1.1.(b) G.S. 160D-102 is amended by adding a new subdivision to read:

"(28a) Single-family dwelling. – The term shall include all of the types of middle housing as defined in G.S. 160D-707(a)."

SECTION 1.1.(c) This section becomes effective October 1, 2021.

SECTION 1.2. The North Carolina Building Code Council (Council) shall adopt amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code) to define and include regulation of triplex dwelling units and quadplex dwelling units in order to facilitate regulation of those units in areas zoned for residential use, including those that allow for the development of detached single-family dwellings. Upon adoption of the amendments, the Council and local governments enforcing the Code shall regulate triplex dwelling units and quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the new amendments to the Code.

SECTION 1.3.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-917. Accessory dwelling units.**

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.

(3) Establish development setbacks that differ from the development setbacks applicable for a similarly situated lot in the same zoning classification."

SECTION 1.3.(b) This section becomes effective October 1, 2021.

SECTION 1.4.(a) G.S. 42A-3 reads as rewritten:

"**§ 42A-3. Application; exemptions.**

(a) The provisions of this Chapter shall apply to any person, partnership, corporation, limited liability company, association, or other business entity who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to properties covered under this Chapter.

(b) The provisions of this Chapter shall not apply to:

(1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the General Statutes.

(2) Rentals to persons temporarily renting a dwelling unit when traveling away from their primary residence for business or employment purposes.
(3) Rentals to persons having no other place of primary residence.
(4) Rentals for which no more than nominal consideration is given.
(5) Accessory dwelling units permitted pursuant to G.S. 160D-917."

SECTION 1.4.(b) This section becomes effective October 1, 2021.

SECTION 1.5. Local governments shall adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions in this Part no later than October 1, 2021.

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES FOR MORE HOUSING OPPORTUNITIES

SECTION 2.1. G.S. 160D-108 reads as rewritten:

"**§ 160D-108. Permit choice and vested rights.**

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(b1) Substantial Compliance. – A development permit application that substantially complies with the provision of information required by ordinance or regulation shall be sufficient to accept and process a request for a local or State development permit. Minor omissions in the application shall not be a sufficient basis to make an application ineligible for vesting. A local development regulation shall not condition the acceptance or processing of a development permit application upon the application for or issuance of a State permit, nor shall a State development regulation condition the acceptance or processing of a development permit application upon a local permit, unless specifically authorized by statute.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
(4) A multi-phased development pursuant to subsection (f) of this section.
(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of

common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this ~~section,~~ section or common law vesting, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section or common law vesting for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

(e) Multiple Permits for Development Project. – Subject to subsection (d) of this section, where multiple ~~local~~ development permits are required to complete a development project, the development permit applicant may choose the version of each of the ~~local~~ land development regulations applicable to the project upon submittal of the application for the initial development permit. ~~This~~ Except as provided in subsection (f) of this section, this provision is not applicable ~~only~~ for those subsequent development permit applications filed ~~within~~ after 18 months of the latter of (i) the date ~~following the approval of an initial~~ of cessation of work related to the uncompleted development project or (ii) the date of issuance of the immediately preceding local development permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. – A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. – Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a

person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. – The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) Definitions. – As used in this section, the following definitions apply:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 2.2. G.S. 160D-702 reads as rewritten:

"**§ 160D-702. Grant of power.**

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) ~~and (c)~~ through (e) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

(1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

(2) The structures are located in an area designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the

property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) A local government shall not adopt or enforce an ordinance downzoning property, as defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local government can show a change in circumstances that substantially affects the public health, safety, or welfare.

(e) A local government shall not adopt or enforce an ordinance that establishes a ban or has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

(f) Nothing in this section shall be construed to limit the authority of a local government to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the General Statutes."

SECTION 2.3. G.S. 160D-703 reads as rewritten:

"**§ 160D-703. Zoning districts.**

(a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but are not be limited to, the following:

(1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

(2) Conditional districts, in which site plans or individualized development conditions are imposed.

(3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.

(4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

(5) Districts allowed by charter.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be

incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(c) Uniformity Within Districts. – Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) Limitations. – A local government shall not engage in any of the following practices:

(1) The adoption or enforcement of an ordinance that downzones property in order to evade voluntary consent of landowners or petitioners or any other requirements contained in subsection (b) of this section.

(2) Allow a particular land use only through conditional zoning.

(3) Establishing a threshold on square footage or the number of dwelling units, where to exceed the threshold would require conditional zoning."

SECTION 2.4. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-703.1. Remedies for violations.**

(a) If a court finds that a local government has acted in violation of G.S. 160D-702 or G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the actions of the local government.

(b) In the event that a court invalidates a regulation pursuant to this section, a permit applicant may choose which zoning designation will apply to the permit and use of the building, structure, or land indicated on the permit application from the following options:

(1) The zoning development regulation that existed most recently prior to the invalidated regulation.

(2) The least restrictive development standards contained within the zoning designation for the jurisdiction that is the most similar zoning designation to the class of property use identified in the permit application.

(c) For the purposes of this section, the term "class of property use" means one of the following major land-use groups:

(1) Commercial.

(2) Governmental.

(3) Industrial.

(4) Institutional.

(5) Residential."

SECTION 2.5. G.S. 160D-706 reads as rewritten:

"**§ 160D-706. Zoning conflicts with other development standards.**

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern.

(b) When adopting regulations under this Article, a local government may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council.

(c) Except as provided in subsection (a) of this section, a local government shall not adopt or enforce development regulations that alter the principle that ambiguities in land development regulations are to be construed in favor of the free use of land, including any development regulations that assert that a more restrictive rule or regulation is controlling.

(d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local government, through its governing board, is authorized to settle any litigation related to the enforcement of or compliance with development regulations for a development or a development permit applicant, including any quasi-judicial development permit."

SECTION 2.6. G.S. 160D-1402 reads as rewritten:

"**§ 160D-1402. Appeals in the nature of certiorari.**

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is untimely and shall not be allowed if filed after the court has rendered a final judgment on the underlying appeal.

(h) The Record. – The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the petition raises any of the following issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the supplementation of the record of these issues:

(1) Whether ~~a petitioner or~~ an intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles. A failure to object at a hearing by a person with standing under subsection (c) of this section shall not constitute a waiver of a right to assert impermissible conflict involving any member of the quasi-judicial decision-making body.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. –

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.
e. Unsupported by competent, material, and substantial evidence in view of the entire record.
f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, does not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.
b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety. <u>An approval by the North Carolina Department of Transportation of a traffic impact analysis for a development project shall be conclusive evidence that the traffic related to the project will not pose a danger to the public safety and will otherwise preclude using traffic as a basis for denying a development permit.</u>
c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160D-1403.1.

(k) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the

decision below with appropriate findings of fact. However, findings of fact are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(*l*) Effect of Appeal ~~and Ancillary Injunctive Relief.~~ of Administrative Decision on a Permitted Use. –

~~(1)~~ If a development approval is ~~appealed,~~ appealed on the basis of a use not being permitted by a development regulation, the applicant shall have the right to commence work while the appeal is pending. However, if ~~the development approval is reversed by a final decision of~~ any court of competent ~~jurisdiction,~~ jurisdiction determines that the use is not allowed, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

~~(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.~~

(*l*1) Effect of Appeal of Quasi-Judicial Relief. –

(1) An appeal by a party with standing under subsection (c) of this section from the granting of a special use permit by a local board or other development permit issued pursuant to quasi-judicial proceedings shall be rendered moot if development authorized by the approved permit substantially commences prior to the issuance of an injunction by a court under subsection (o) of this section or under Rule 65 of the Rules of Civil Procedure with appropriate security.

(2) If a special use permit is issued by the applicable local board after remand from a decision of a court of competent jurisdiction and no injunction is otherwise in place to prevent the issuance of a permit, any appeal related to the subject matter of the permit is rendered moot.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

(o) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal. The court shall require the moving party to post an appropriate bond set by the judge or clerk issuing the stay. A local government shall not be required to post a bond under this subsection."

PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING DENIALS

SECTION 3.1. Beginning October 1, 2021, every local government engaged in development permitting review shall submit a semiannual report to the Joint Legislative Committee on Local Government and the Fiscal Research Division. The report shall contain at least all of the following:

(1) The number of development permit applications received.

(2) The number of development permit applications denied and the reason for denial.

(3) The number of down-zoning ordinances enacted.

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply to permit applications filed and appeals taken before, on, and after the effective date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

S **1**

SENATE BILL 349

Short Title:	Increase Housing Opportunities.	(Public)
Sponsors:	Senators Edwards, Newton, and Fitch (Primary Sponsors).	
Referred to:	Rules and Operations of the Senate	

March 25, 2021

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REFORMS TO LOCAL GOVERNMENT ZONING AUTHORITY TO INCREASE HOUSING OPPORTUNITIES AND TO MAKE VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES.

The General Assembly of North Carolina enacts:

PART I. AFFORDABLE HOUSING OPTIONS

SECTION 1.1.(a) Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-707. Middle housing use in residential zones.**

(a) Definitions. – As used in this section, the term "middle housing" means a residential dwelling that is one of the following, as defined by the North Carolina Building Code Council:

(1) A duplex.
(2) A triplex.
(3) A quadplex.
(4) A townhouse.

(b) Middle Housing in Residential Zones. – A local government shall allow all middle housing types in areas zoned for residential use, including those that allow for the development of detached single-family dwellings.

(c) Regulation and Scope. – A local government may regulate middle housing pursuant to the provisions of this Chapter, provided that the regulations do not act to discourage development of middle housing types through unreasonable costs or delay. In permitting middle housing types, nothing in this section shall be construed to prohibit a local government from permitting single-family dwellings in areas zoned to allow for single-family dwellings. Nothing in this section affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to dwelling type restrictions. Any regulation adopted pursuant to this section shall not apply to an area designated as a local historic district (i) pursuant to Part 4 of Article 9 of this Chapter or (ii) on the National Register of Historic Places. This section shall only apply to areas that are served, or through extension may be served, by one or more of the following:

(1) A local government water system.
(2) A local government sewer system.
(3) A public water system.
(4) A wastewater collection or treatment works, the operation of which is primarily to collect or treat municipal or domestic wastewater and for which

a permit is issued under Part 1 of Article 21 of Chapter 143 of the General Statutes."

SECTION 1.1.(b) G.S. 160D-102 is amended by adding a new subdivision to read:

"(28a) Single-family dwelling. – The term shall include all of the types of middle housing as defined in G.S. 160D-707(a)."

SECTION 1.1.(c) This section becomes effective October 1, 2021.

SECTION 1.2. The North Carolina Building Code Council (Council) shall adopt amendments to the North Carolina Residential Code for One- and Two-Family Dwellings (Code) to define and include regulation of triplex dwelling units and quadplex dwelling units in order to facilitate regulation of those units in areas zoned for residential use, including those that allow for the development of detached single-family dwellings. Upon adoption of the amendments, the Council and local governments enforcing the Code shall regulate triplex dwelling units and quadplex dwelling units being sited pursuant to G.S. 160D-707, as enacted in this act, under the new amendments to the Code.

SECTION 1.3.(a) Part 1 of Article 9 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-917. Accessory dwelling units.**

(a) A local government shall allow the development of at least one accessory dwelling unit which conforms to the North Carolina Residential Code for One- and Two-Family Dwellings, including applicable provisions from State fire prevention code, for each detached single-family dwelling in areas zoned for residential use that allow for development of detached single-family dwellings. For the purposes of this section, the term "accessory dwelling unit" means an attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling.

(b) Development and permitting of an accessory dwelling unit shall not be subject to any of the following requirements:

(1) Owner-occupancy of any dwelling unit, including an accessory unit.

(2) Minimum parking requirements or other parking restrictions.

(3) Conditional use zoning.

(c) In permitting accessory dwelling units under this section, a local government shall not do any of the following:

(1) Prohibit the connection of the accessory dwelling unit to existing utilities serving the primary dwelling unit.

(2) Charge any fee other than a building permit that does not exceed the amount charged for any single-family dwelling unit similar in nature.

(3) Establish development setbacks that differ from the development setbacks applicable for a similarly situated lot in the same zoning classification."

SECTION 1.3.(b) This section becomes effective October 1, 2021.

SECTION 1.4.(a) G.S. 42A-3 reads as rewritten:

"**§ 42A-3. Application; exemptions.**

(a) The provisions of this Chapter shall apply to any person, partnership, corporation, limited liability company, association, or other business entity who acts as a landlord or real estate broker engaged in the rental or management of residential property for vacation rental as defined in this Chapter. The provisions of G.S. 160A-424 and G.S. 153A-364 shall apply to properties covered under this Chapter.

(b) The provisions of this Chapter shall not apply to:

(1) Lodging provided by hotels, motels, tourist camps, and other places subject to regulation under Chapter 72 of the General Statutes.

(2) Rentals to persons temporarily renting a dwelling unit when traveling away from their primary residence for business or employment purposes.

(3) Rentals to persons having no other place of primary residence.

(4) Rentals for which no more than nominal consideration is given.
(5) Accessory dwelling units permitted pursuant to G.S. 160D-917."

SECTION 1.4.(b) This section becomes effective October 1, 2021.

SECTION 1.5. Local governments shall adopt land use ordinances and regulations or amend their comprehensive plans to implement the provisions in this Part no later than October 1, 2021.

SECTION 1.6. Except as otherwise provided, this Part is effective when it becomes law.

PART II. VARIOUS CHANGES AND CLARIFICATIONS TO THE ZONING STATUTES FOR MORE HOUSING OPPORTUNITIES

SECTION 2.1. G.S. 160D-108 reads as rewritten:

"**§ 160D-108. Permit choice and vested rights.**

(a) Findings. – The General Assembly recognizes that local government approval of development typically follows significant investment in site evaluation, planning, development costs, consultant fees, and related expenses. The General Assembly finds that it is necessary and desirable to provide for the establishment of certain vested rights in order to ensure reasonable certainty, stability, and fairness in the development regulation process, to secure the reasonable expectations of landowners, and to foster cooperation between the public and private sectors in land-use planning and development regulation. The provisions of this section and G.S. 160D-108.1 strike an appropriate balance between private expectations and the public interest.

(b) Permit Choice. – If a land development regulation is amended between the time a development permit application was submitted and a development permit decision is made or if a land development regulation is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(b1) Substantial Compliance. – A development permit application that substantially complies with the provision of information required by ordinance or regulation shall be sufficient to accept and process a request for a local or State development permit. Minor omissions in the application shall not be a sufficient basis to make an application ineligible for vesting. A local development regulation shall not condition the acceptance or processing of a development permit application upon the application for or issuance of a State permit, nor shall a State development regulation condition the acceptance or processing of a development permit application upon a local permit, unless specifically authorized by statute.

(c) Vested Rights. – Amendments in land development regulations are not applicable or enforceable without the written consent of the owner with regard to any of the following:

(1) Buildings or uses of buildings or land for which a development permit application has been submitted and subsequently issued in accordance with G.S. 143-755.
(2) Subdivisions of land for which a development permit application authorizing the subdivision has been submitted and subsequently issued in accordance with G.S. 143-755.
(3) A site-specific vesting plan pursuant to G.S. 160D-108.1.
(4) A multi-phased development pursuant to subsection (f) of this section.
(5) A vested right established by the terms of a development agreement authorized by Article 10 of this Chapter.

The establishment of a vested right under any subdivision of this subsection does not preclude vesting under one or more other subdivisions of this subsection or vesting by application of common law principles. A vested right, once established as provided for in this section or by common law, precludes any action by a local government that would change, alter, impair, prevent, diminish, or otherwise delay the development or use of the property allowed by the

applicable land development regulation or regulations, except where a change in State or federal law mandating local government enforcement occurs after the development application is submitted that has a fundamental and retroactive effect on the development or use.

(d) Duration of Vesting. – Upon issuance of a development permit, the statutory vesting granted by subsection (c) of this section for a development project is effective upon filing of the application in accordance with G.S. 143-755, for so long as the permit remains valid pursuant to law. Unless otherwise specified by this section or other statute, local development permits expire one year after issuance unless work authorized by the permit has substantially commenced. A local land development regulation may provide for a longer permit expiration period. For the purposes of this section, a permit is issued either in the ordinary course of business of the applicable governmental agency or by the applicable governmental agency as a court directive.

Except where a longer vesting period is provided by statute or land development regulation, the statutory vesting granted by this ~~section,~~ section or common law vesting, once established, expires for an uncompleted development project if development work is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months, and the statutory vesting period granted by this section or common law vesting for a nonconforming use of property expires if the use is intentionally and voluntarily discontinued for a period of not less than 24 consecutive months. The 24-month discontinuance period is automatically tolled during the pendency of any board of adjustment proceeding or civil action in a State or federal trial or appellate court regarding the validity of a development permit, the use of the property, or the existence of the statutory vesting period granted by this section. The 24-month discontinuance period is also tolled during the pendency of any litigation involving the development project or property that is the subject of the vesting.

(e) Multiple Permits for Development Project. – Subject to subsection (d) of this section, where multiple ~~local~~ development permits are required to complete a development project, the development permit applicant may choose the version of each of the ~~local~~ land development regulations applicable to the project upon submittal of the application for the initial development permit. ~~This~~ Except as provided in subsection (f) of this section, this provision is not applicable ~~only~~ for those subsequent development permit applications filed ~~within~~ after 18 months of the latter of (i) the date ~~following the approval of an initial~~ of cessation of work related to the uncompleted development project or (ii) the date of issuance of the immediately preceding local development permit. For purposes of the vesting protections of this subsection, an erosion and sedimentation control permit or a sign permit is not an initial development permit.

(f) Multi-Phased Development. – A multi-phased development is vested for the entire development with the land development regulations then in place at the time a site plan approval is granted for the initial phase of the multi-phased development. A right which has been vested as provided for in this subsection remains vested for a period of seven years from the time a site plan approval is granted for the initial phase of the multi-phased development.

(g) Continuing Review. – Following issuance of a development permit, a local government may make subsequent inspections and reviews to ensure compliance with the applicable land development regulations in effect at the time of the original application.

(h) Process to Claim Vested Right. – A person claiming a statutory or common law vested right may submit information to substantiate that claim to the zoning administrator or other officer designated by a land development regulation, who shall make an initial determination as to the existence of the vested right. The decision of the zoning administrator or officer may be appealed under G.S. 160D-405. On appeal, the existence of a vested right shall be reviewed de novo. In lieu of seeking such a determination or pursuing an appeal under G.S. 160D-405, a person claiming a vested right may bring an original civil action as provided by G.S. 160D-1403.1.

(i) Miscellaneous Provisions. – The vested rights granted by this section run with the land except for the use of land for outdoor advertising governed by G.S. 136-131.1 and

G.S. 136-131.2 in which case the rights granted by this section run with the owner of a permit issued by the North Carolina Department of Transportation. Nothing in this section precludes judicial determination, based on common law principles or other statutory provisions, that a vested right exists in a particular case or that a compensable taking has occurred. Except as expressly provided in this section, nothing in this section shall be construed to alter the existing common law.

(j) Definitions. – As used in this section, the following definitions apply:

(1) Development. – As defined in G.S. 143-755(e)(1).

(2) Development permit. – As defined in G.S. 143-755(e)(2).

(3) Land development regulation. – As defined in G.S. 143-755(e)(3).

(4) Multi-phased development. – A development containing 25 acres or more that is both of the following:

a. Submitted for development permit approval to occur in more than one phase.

b. Subject to a master development plan with committed elements showing the type and intensity of use of each phase."

SECTION 2.2. G.S. 160D-702 reads as rewritten:

"**§ 160D-702. Grant of power.**

(a) A local government may adopt zoning regulations. Except as provided in subsections (b) ~~and (c)~~ through (e) of this section, a zoning regulation may regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards, courts, and other open spaces; the density of population; the location and use of buildings, structures, and land. A local government may regulate development, including floating homes, over estuarine waters and over lands covered by navigable waters owned by the State pursuant to G.S. 146-12. A zoning regulation shall provide density credits or severable development rights for dedicated rights-of-way pursuant to G.S. 136-66.10 or G.S. 136-66.11. Where appropriate, a zoning regulation may include requirements that street and utility rights-of-way be dedicated to the public, that provision be made of recreational space and facilities, and that performance guarantees be provided, all to the same extent and with the same limitations as provided for in G.S. 160D-804 and G.S. 160D-804.1.

(b) Any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

(1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.

(2) The structures are located in an area designated as a historic district on the National Register of Historic Places.

(3) The structures are individually designated as local, State, or national historic landmarks.

(4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.

(5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.

(6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604

or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection affects the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

(c) A zoning regulation shall not set a minimum square footage of any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings.

(d) A local government shall not adopt or enforce an ordinance downzoning property, as defined in G.S. 160D-601(d), that has access to public water or public sewer, unless the local government can show a change in circumstances that substantially affects the public health, safety, or welfare.

(e) A local government shall not adopt or enforce an ordinance that establishes a ban or has the effect of establishing a ban on a use of land that is not an industrial use, a nuisance per se, or that does not otherwise pose a serious threat to the public health, safety, or welfare.

(f) Nothing in this section shall be construed to limit the authority of a local government to regulate adult establishments or other facilities as defined in Article 26A of Chapter 14 of the General Statutes."

SECTION 2.3. G.S. 160D-703 reads as rewritten:

"**§ 160D-703. Zoning districts.**

(a) Types of Zoning Districts. – A local government may divide its territorial jurisdiction into zoning districts of any number, shape, and area deemed best suited to carry out the purposes of this Article. Within those districts, it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. Zoning districts may include, but are not be limited to, the following:

(1) Conventional districts, in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

(2) Conditional districts, in which site plans or individualized development conditions are imposed.

(3) Form-based districts, or development form controls, that address the physical form, mass, and density of structures, public spaces, and streetscapes.

(4) Overlay districts, in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts.

(5) Districts allowed by charter.

(b) Conditional Districts. – Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the local government or its agencies, but only those conditions approved by the local government and consented to by the petitioner in writing may be incorporated into the zoning regulations. Unless consented to by the petitioner in writing, in the exercise of the authority granted by this section, a local government may not require, enforce, or incorporate into the zoning regulations any condition or requirement not authorized by otherwise

applicable law, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to local government ordinances, plans adopted pursuant to G.S. 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. The zoning regulation may provide that defined minor modifications in conditional district standards that do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification of the conditions and standards in a conditional district shall follow the same process for approval as are applicable to zoning map amendments. If multiple parcels of land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved apply only to those properties whose owners petition for the modification.

(c) Uniformity Within Districts. – Except as authorized by the foregoing, all regulations shall be uniform for each class or kind of building throughout each district but the regulations in one district may differ from those in other districts.

(d) Standards Applicable Regardless of District. – A zoning regulation or unified development ordinance may also include development standards that apply uniformly jurisdiction-wide rather than being applicable only in particular zoning districts.

(e) Limitations. – A local government shall not engage in any of the following practices:

(1) The adoption or enforcement of an ordinance that downzones property in order to evade voluntary consent of landowners or petitioners or any other requirements contained in subsection (b) of this section.

(2) Allow a particular land use only through conditional zoning.

(3) Establishing a threshold on square footage or the number of dwelling units, where to exceed the threshold would require conditional zoning."

SECTION 2.4. Article 7 of Chapter 160D of the General Statutes is amended by adding a new section to read:

"**§ 160D-703.1. Remedies for violations.**

(a) If a court finds that a local government has acted in violation of G.S. 160D-702 or G.S. 160D-703(e), the court shall award reasonable attorneys' fees and costs to the party who successfully challenged the actions of the local government.

(b) In the event that a court invalidates a regulation pursuant to this section, a permit applicant may choose which zoning designation will apply to the permit and use of the building, structure, or land indicated on the permit application from the following options:

(1) The zoning development regulation that existed most recently prior to the invalidated regulation.

(2) The least restrictive development standards contained within the zoning designation for the jurisdiction that is the most similar zoning designation to the class of property use identified in the permit application.

(c) For the purposes of this section, the term "class of property use" means one of the following major land-use groups:

(1) Commercial.

(2) Governmental.

(3) Industrial.

(4) Institutional.

(5) Residential."

SECTION 2.5. G.S. 160D-706 reads as rewritten:

"**§ 160D-706. Zoning conflicts with other development standards.**

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left ~~unoccupied, or impose other higher standards~~ unoccupied than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation govern.

(b) When adopting regulations under this Article, a local government may not use a definition of building, dwelling, dwelling unit, bedroom, or sleeping unit that is inconsistent with any definition of those terms in another statute or in a rule adopted by a State agency, including the State Building Code Council.

(c) Except as provided in subsection (a) of this section, a local government shall not adopt or enforce development regulations that alter the principle that ambiguities in land development regulations are to be construed in favor of the free use of land, including any development regulations that assert that a more restrictive rule or regulation is controlling.

(d) Subject to the provisions of Article 33 of Chapter 143 of the General Statutes, a local government, through its governing board, is authorized to settle any litigation related to the enforcement of or compliance with development regulations for a development or a development permit applicant, including any quasi-judicial development permit."

SECTION 2.6. G.S. 160D-1402 reads as rewritten:

"**§ 160D-1402. Appeals in the nature of certiorari.**

(a) Applicability. – This section applies to appeals of quasi-judicial decisions of decision-making boards when that appeal is in the nature of certiorari as required by this Chapter.

(b) Filing the Petition. – An appeal in the nature of certiorari shall be initiated by filing a petition for writ of certiorari with the superior court. The petition shall do all of the following:

(1) State the facts that demonstrate that the petitioner has standing to seek review.

(2) Set forth allegations sufficient to give the court and parties notice of the grounds upon which the petitioner contends that an error was made.

(3) Set forth with particularity the allegations and facts, if any, in support of allegations that, as the result of an impermissible conflict as described in G.S. 160D-109, or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles.

(4) Set forth the relief the petitioner seeks.

(c) Standing. – A petition may be filed under this section only by a petitioner who has standing to challenge the decision being appealed. The following persons have standing to file a petition under this section:

(1) Any person possessing any of the following criteria:

a. An ownership interest in the property that is the subject of the decision being appealed, a leasehold interest in the property that is the subject of the decision being appealed, or an interest created by easement, restriction, or covenant in the property that is the subject of the decision being appealed.

b. An option or contract to purchase the property that is the subject of the decision being appealed.

c. An applicant before the decision-making board whose decision is being appealed.

(2) Any other person who will suffer special damages as the result of the decision being appealed.

(3) An incorporated or unincorporated association to which owners or lessees of property in a designated area belong by virtue of their owning or leasing property in that area, or an association otherwise organized to protect and foster the interest of the particular neighborhood or local area, so long as at least one of the members of the association would have standing as an individual to challenge the decision being appealed, and the association was not created in response to the particular development or issue that is the subject of the appeal.

(4) A local government whose decision-making board has made a decision that the governing board believes improperly grants a variance from or is otherwise inconsistent with the proper interpretation of a development regulation adopted by the governing board.

(d) Respondent. – The respondent named in the petition shall be the local government whose decision-making board made the decision that is being appealed, except that if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, then the respondent shall be the decision-making board. If the petitioner is not the applicant before the decision-making board whose decision is being appealed, the petitioner shall also name that applicant as a respondent. Any petitioner may name as a respondent any person with an ownership or leasehold interest in the property that is the subject of the decision being appealed who participated in the hearing, or was an applicant, before the decision-making board.

(e) Writ of Certiorari. – Upon filing the petition, the petitioner shall present the petition and a proposed writ of certiorari to the clerk of superior court of the county in which the matter arose. The writ shall direct the respondent local government or the respondent decision-making board, if the petitioner is a local government that has filed a petition pursuant to subdivision (4) of subsection (c) of this section, to prepare and certify to the court the record of proceedings below within a specified date. The writ shall also direct the petitioner to serve the petition and the writ upon each respondent named therein in the manner provided for service of a complaint under Rule 4(j) of the Rules of Civil Procedure, except that, if the respondent is a decision-making board, the petition and the writ shall be served upon the chair of that decision-making board. Rule 4(j)(5)d. of the Rules of Civil Procedure applies in the event the chair of a decision-making board cannot be found. No summons shall be issued. The clerk shall issue the writ without notice to the respondent or respondents if the petition has been properly filed and the writ is in proper form. A copy of the executed writ shall be filed with the court.

Upon the filing of a petition for writ of certiorari, a party may request a stay of the execution or enforcement of the decision of the quasi-judicial board pending superior court review. The court may grant a stay in its discretion and on conditions that properly provide for the security of the adverse party. A stay granted in favor of a city or county shall not require a bond or other security.

(f) Response to the Petition. – The respondent may, but need not, file a response to the petition, except that, if the respondent contends for the first time that any petitioner lacks standing to bring the appeal, that contention must be set forth in a response served on all petitioners at least 30 days prior to the hearing on the petition. If it is not served within that time period, the matter may be continued to allow the petitioners time to respond.

(g) Intervention. – Rule 24 of the Rules of Civil Procedure governs motions to intervene as a petitioner or respondent in an action initiated under this section with the following exceptions:

(1) Any person described in subdivision (1) of subsection (c) of this section has standing to intervene and shall be allowed to intervene as a matter of right.

(2) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a petitioner must demonstrate that the

person would have had standing to challenge the decision being appealed in accordance with subdivisions (2) through (4) of subsection (c) of this section.

(3) Any person, other than one described in subdivision (1) of subsection (c) of this section, who seeks to intervene as a respondent must demonstrate that the person would have had standing to file a petition in accordance with subdivisions (2) through (4) of subsection (c) of this section if the decision-making board had made a decision that is consistent with the relief sought by the petitioner.

For intervention under subdivisions (2) and (3) of this subsection, a motion to intervene is untimely and shall not be allowed if filed after the court has rendered a final judgment on the underlying appeal.

(h) The Record. – The record shall consist of the decision and all documents and exhibits submitted to the decision-making board whose decision is being appealed, together with the minutes of the meeting or meetings at which the decision being appealed was considered. Upon request of any party, the record shall also contain an audio or videotape of the meeting or meetings at which the decision being appealed was considered if such a recording was made. Any party may also include in the record a transcript of the proceedings, which shall be prepared at the cost of the party choosing to include it. The parties may agree that matters unnecessary to the court's decision be deleted from the record or that matters other than those specified herein be included. The record shall be bound and paginated or otherwise organized for the convenience of the parties and the court. A copy of the record shall be served by the local government respondent, or the respondent decision-making board, upon all petitioners within three days after it is filed with the court.

(i) Hearing on the Record. – The court shall hear and decide all issues raised by the petition by reviewing the record submitted in accordance with subsection (h) of this section. The court shall allow the record to be supplemented with affidavits, testimony of witnesses, or documentary or other evidence if, and to the extent that, the petition raises any of the following issues, in which case the rules of discovery set forth in the North Carolina Rules of Civil Procedure apply to the supplementation of the record of these issues:

(1) Whether ~~a petitioner or~~ an intervenor has standing.

(2) Whether, as a result of impermissible conflict as described in G.S. 160D-109 or locally adopted conflict rules, the decision-making body was not sufficiently impartial to comply with due process principles. A failure to object at a hearing by a person with standing under subsection (c) of this section shall not constitute a waiver of a right to assert impermissible conflict involving any member of the quasi-judicial decision-making body.

(3) Whether the decision-making body erred for the reasons set forth in sub-subdivisions a. and b. of subdivision (1) of subsection (j) of this section.

(j) Scope of Review. –

(1) When reviewing the decision under the provisions of this section, the court shall ensure that the rights of petitioners have not been prejudiced because the decision-making body's findings, inferences, conclusions, or decisions were:

a. In violation of constitutional provisions, including those protecting procedural due process rights.

b. In excess of the statutory authority conferred upon the local government, including preemption, or the authority conferred upon the decision-making board by ordinance.

c. Inconsistent with applicable procedures specified by statute or ordinance.

d. Affected by other error of law.

e. Unsupported by competent, material, and substantial evidence in view of the entire record.

f. Arbitrary or capricious.

(2) When the issue before the court is one set forth in sub-subdivisions a. through d. of subdivision (1) of this subsection, including whether the decision-making board erred in interpreting an ordinance, the court shall review that issue de novo. The court shall consider the interpretation of the decision-making board, but is not bound by that interpretation, and may freely substitute its judgment as appropriate. Whether the record contains competent, material, and substantial evidence is a conclusion of law, reviewable de novo.

(3) The term "competent evidence," as used in this subsection, does not preclude reliance by the decision-making board on evidence that would not be admissible under the rules of evidence as applied in the trial division of the General Court of Justice if (i) except for the items noted in sub-subdivisions a., b., and c. of this subdivision that are conclusively incompetent, the evidence was admitted without objection or (ii) the evidence appears to be sufficiently trustworthy and was admitted under such circumstances that it was reasonable for the decision-making board to rely upon it. The term "competent evidence," as used in this subsection, shall, regardless of the lack of a timely objection, not be deemed to include the opinion testimony of lay witnesses as to any of the following:

a. The use of property in a particular way affects the value of other property.

b. The increase in vehicular traffic resulting from a proposed development poses a danger to the public safety. <u>An approval by the North Carolina Department of Transportation of a traffic impact analysis for a development project shall be conclusive evidence that the traffic related to the project will not pose a danger to the public safety and will otherwise preclude using traffic as a basis for denying a development permit.</u>

c. Matters about which only expert testimony would generally be admissible under the rules of evidence.

(j1) Action Not Rendered Moot by Loss of Property. – Subject to the limitations in the State and federal constitutions and State and federal case law, an action filed under this section is not rendered moot, if during the pendency of the action, the aggrieved person loses the applicable property interest as a result of the local government action being challenged and exhaustion of an appeal described herein is required for purposes of preserving a claim for damages under G.S. 160D-1403.1.

(k) Decision of the Court. – Following its review of the decision-making board in accordance with subsection (j) of this section, the court may affirm the decision, reverse the decision and remand the case with appropriate instructions, or remand the case for further proceedings. If the court does not affirm the decision below in its entirety, then the court shall determine what relief should be granted to the petitioners:

(1) If the court concludes that the error committed by the decision-making board is procedural only, the court may remand the case for further proceedings to correct the procedural error.

(2) If the court concludes that the decision-making board has erred by failing to make findings of fact such that the court cannot properly perform its function, then the court may remand the case with appropriate instructions so long as the record contains substantial competent evidence that could support the decision below with appropriate findings of fact. However, findings of fact

are not necessary when the record sufficiently reveals the basis for the decision below or when the material facts are undisputed and the case presents only an issue of law.

(3) If the court concludes that the decision by the decision-making board is not supported by competent, material, and substantial evidence in the record or is based upon an error of law, then the court may remand the case with an order that directs the decision-making board to take whatever action should have been taken had the error not been committed or to take such other action as is necessary to correct the error. Specifically:

a. If the court concludes that a permit was wrongfully denied because the denial was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court shall remand with instructions that the permit be issued, subject to any conditions expressly consented to by the permit applicant as part of the application or during the board of adjustment appeal or writ of certiorari appeal.

b. If the court concludes that a permit was wrongfully issued because the issuance was not based on competent, material, and substantial evidence or was otherwise based on an error of law, the court may remand with instructions that the permit be revoked.

c. If the court concludes that a zoning board decision upholding a zoning enforcement action was not supported by substantial competent evidence or was otherwise based on an error of law, the court shall reverse the decision.

(*l*) Effect of Appeal ~~and Ancillary Injunctive Relief. –~~ of Administrative Decision on a Permitted Use. –

~~(1)~~ If a development approval is ~~appealed,~~ appealed on the basis of a use not being permitted by a development regulation, the applicant shall have the right to commence work while the appeal is pending. However, if ~~the development approval is reversed by a final decision of~~ any court of competent ~~jurisdiction,~~ jurisdiction determines that the use is not allowed, the applicant shall not be deemed to have gained any vested rights on the basis of actions taken prior to or during the pendency of the appeal and must proceed as if no development approval had been granted.

~~(2) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal.~~

(*l*1) Effect of Appeal of Quasi-Judicial Relief. –

(1) An appeal by a party with standing under subsection (c) of this section from the granting of a special use permit by a local board or other development permit issued pursuant to quasi-judicial proceedings shall be rendered moot if development authorized by the approved permit substantially commences prior to the issuance of an injunction by a court under subsection (o) of this section or under Rule 65 of the Rules of Civil Procedure with appropriate security.

(2) If a special use permit is issued by the applicable local board after remand from a decision of a court of competent jurisdiction and no injunction is otherwise in place to prevent the issuance of a permit, any appeal related to the subject matter of the permit is rendered moot.

(m) Joinder. – A declaratory judgment brought under G.S. 160D-1401 or other civil action relating to the decision at issue may be joined with the petition for writ of certiorari and decided in the same proceeding.

(n) Stays. – An appeal under this section is stayed as provided in G.S. 160D-405.

(o) Upon motion of a party to a proceeding under this section, and under appropriate circumstances, the court may issue an injunctive order requiring any other party to that proceeding to take certain action or refrain from taking action that is consistent with the court's decision on the merits of the appeal. The court shall require the moving party to post an appropriate bond set by the judge or clerk issuing the stay. A local government shall not be required to post a bond under this subsection."

PART III. LOCAL GOVERNMENT REPORTING ON GROWTH HAMPERING DENIALS

SECTION 3.1. Beginning October 1, 2021, every local government engaged in development permitting review shall submit a semiannual report to the Joint Legislative Committee on Local Government and the Fiscal Research Division. The report shall contain at least all of the following:

(1) The number of development permit applications received.

(2) The number of development permit applications denied and the reason for denial.

(3) The number of down-zoning ordinances enacted.

PART IV. EFFECTIVE DATE

SECTION 4.1. Except as otherwise provided, this act is effective when it becomes law. Sections 2.1, 2.5, and 2.6 of this act clarify and restate the intent of existing law and apply to permit applications filed and appeals taken before, on, and after the effective date.

SB 349/HB 401 Increase Housing Opportunities

Edition 1 Explainer

When taken together, all the provisions that are explained below severely reduce or eliminate the tradition of community-wide decisions regarding development. In SB 349, elected local governing boards see their decision-making authority hamstrung. And community members face new, large hurdles to use legal tools that currently give them a voice. So, by sidelining community members and their elected boards, SB 349 would allow development to proceed with little regard for a community's preferences.

How does this bill eliminate local zoning authority?

- Section 1.1 preempts local zoning authority by putting in place a statewide zoning scheme that would allow duplexes, triplexes, quadplexes, and townhomes in every zone that also has single-family zoning.
- Section 1.3 mandates that every single-family zone in the state also accommodate an accessory dwelling unit on each lot, subject to the local government's setback rules. This section also preempts a local government's ability to set parking standards for these additional homes.
- Section 2.2 locks in place all zoning codes, and it only allows future changes that would increase the density of development or allow a more-intense land use. An exception for public health, safety, or welfare is likely to happen only rarely. *Proposed 160D-702(d).*
- Section 2.2 also appears to eliminate all zoning except for industrial zoning and adult establishments. *Proposed 160D-702(e) and (f).*
- Section 2.3 severely restricts conditional zoning, thereby taking away a tool that gives developers and local governments flexibility to tailor development.

What other devices are in this bill that hamper a local governing board's ability to make development decisions that benefit the community at large?

- Section 2.2 appears to prevent a local government from enforcing any prior-enacted zoning changes that shifted the uses in that zone from higher-intensity to lower-intensity. Therefore, this provision invalidates countless past zoning decisions. *Proposed 160D-702(d).*
- Section 2.4 gives automatic attorney's fees to successful legal challengers, paid by local taxpayers. However, the bill does not offer a reciprocal automatic attorney's fees award if the local government prevails in any lawsuit. The threat of having to automatically pay attorney's fees will result in overly cautious decision-making by local governing boards who wish to avoid lawsuits.
- Section 2.5 disallows a governing board from adopting language into its zoning code that would clarify conflicts within the code, if—as it resolved the conflict—the governing board wanted to choose a more restrictive rule. *Proposed 160D-706(c).*

In what ways does this bill obstruct the ability of community members and neighbors to have a say in how nearby development should occur?

- Section 2.6 places hurdles on community members and neighbors who want to intervene in legal disputes involving development, thereby making it difficult for them to participate and protect their property interests. Examples of these hurdles include:
    - Shortening the amount of time in which they may ask a court to grant them intervenor status. *Proposed 160D-1402(g).*
    - Eliminating their ability to appeal an unwanted local government development decision, if the developer starts work before they can appeal that decision to the courts. *Proposed 160D-1402(l1).*
    - Requiring them to post a bond. *Proposed 160D-1402(o).*

How would this bill affect mixed-used developments that are becoming increasingly popular in downtowns and urban areas?

- Section 2.3 severely restricts conditional zoning, and for many mixed-use developments, this provision would curb flexibility for developers and harm their ability to address the concerns of nearby residents and property owners.

Would this bill ensure that housing that is built would be affordable?

- No. There is no language in the bill that would require any housing to be affordable to people with lower incomes.

NCLM
NC LEAGUE OF MUNICIPALITIES

WORKING AS ONE.
ADVANCING ALL.

Oppose SB 349/HB 401 Increase Housing Opportunities

LOCAL ZONING AND LAND USE CONTROLS PROTECT EXISTING HOME VALUES

SB 349/HB 401 Increase Housing Opportunities represents a radical, one-size-fits-all approach to zoning and land use, in the guise of increasing affordable housing. It would usurp local control, undermine the rights of existing property owners and damage existing home values. The legislation would do so by eliminating single-family zoning statewide and wipe out other aspects of local zoning, further eroding the rights of local property owners and the decisions of their locally elected officials to determine how development should occur in their communities and neighborhoods.

BY OPPOSING SB 349, KNOW THAT:

- While Oregon has adopted similar radical measures, even its state legislature did not go so far as to eliminate single-family zoning and other forms of zoning to the degree that this legislation proposes.
- From start to finish, SB 349 represents a broad and comprehensive attack on local land-use decision-making and the ability of local property owners to weigh in on what is and is not appropriate development in their neighborhoods and communities.

- SB 349 would obstruct the ability of locally elected officials to consider all interests when making land-use decisions, including those of existing homeowners and property owners, who stand to lose the most when incompatible uses are allowed adjacent to their property.
- Many North Carolina cities have led the way when it comes to making investments and policy changes designed to encourage affordable housing options, but have done so with community involvement and neighborhood-appropriate measures. This bill is a blunt instrument that does neither.

SB 349/HB 401 Increase Housing Opportunities is the latest effort by development interests – now cloaked in the language of affordable housing – to extinguish local authority when it comes to determining how growth and development proceed. **Please oppose SB 349/HB 401, and work with cities and towns and their representatives to find real ways that advance affordable and workforce housing opportunities.**

TOWN OF BEAUFORT BOARD OF COMMISSIONERS RESOLUTION IN OPPOSITION TO HOUSE BILL 401 (HB401) AND SENATE BILL 349 (SB349) INCREASE HOUSING OPPORTUNITIES

WHEREAS, the legislation proposed in Senate Bill 349 and House Bill 401 is of great concern to the Town of Beaufort and other municipalities within North Carolina; and

WHEREAS, provisions within this legislation would severely diminish or even eliminate the ability of local government to determine what is best for its community or even allow community input or involvement in the decision-making process; and

WHEREAS, development would become uncontrolled and reckless with little to no regard for property-owners rights, not to mention the added stress and demand on a municipality's infrastructure which would eventually lead to declining property values**;** and

WHEREAS, town officials were elected by their citizens for a reason – to protect and preserve the quality of life that they have come to enjoy; and

WHEREAS, HB401/SB349 seeks to impose a "one shoe fits all" approach to certain zoning issues without regard to the unique characteristics of individual municipalities or the effects that such legislation would have to municipal infrastructure and existing development; and

WHEREAS, H401/S349 creates a discriminatory arrangement whereby residents who can afford to live in newer subdivisions with existing covenants can prevent middle housing from occurring in their subdivisions, but those residents who live in older communities lacking covenants have no voice in whether middle housing is appropriate within their neighborhood, and

WHEREAS, increased housing does not guarantee more affordable housing nor does this legislation.

NOW, THEREFORE, BE IT RESOLVED, that we, the Board of Commissioners of the Town of Beaufort strongly oppose House Bill 401 and Senate Bill 349; and

BE IT RESOLVED, that the Town strongly opposes any legislation that has the similar effect of not only invalidating decades worth of careful development planning, but also promotes development at a level that exceeds municipal infrastructure capabilities, and harms the investments and lives of its residents; and

BE IT FURTHER RESOLVED, that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop SB 349/HB 401 from becoming law and to work together to find real ways to advance affordable housing opportunities.

ADOPTED, this the 10th day of May 2021.

_____
Everette S. “Rett” Newton,
Mayor

Attest:

_____
Allen Coleman,
Town Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H **1**

HOUSE BILL 496

Short Title:	Property Owners' Rights/Tree Ordinances.	(Public)
Sponsors:	Representatives Boles, Hunter, Brody, and Moffitt (Primary Sponsors). *For a complete list of sponsors, refer to the North Carolina General Assembly web site.*	
Referred to:	Local Government - Land Use, Planning and Development, if favorable, Rules, Calendar, and Operations of the House	

April 12, 2021

A BILL TO BE ENTITLED

AN ACT PROVIDING THAT COUNTIES AND CITIES SHALL NOT ADOPT ORDINANCES REGULATING THE REMOVAL OF TREES FROM PRIVATE PROPERTY WITHOUT THE EXPRESS AUTHORIZATION OF THE GENERAL ASSEMBLY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 6 of Chapter 153A of the General Statutes is amended by adding a new section to read as follows:

"**§ 153A-145.9. Limitations on regulating trees.**

No county may adopt ordinances regulating the removal of trees from private property within the county's jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a county to adopt ordinances regulating the removal of trees from private property, shall be used by a county's governing body as the basis for adopting ordinances regulating the removal of trees from private property."

SECTION 2. Article 8 of Chapter 160A of the General Statutes is amended by adding a new section to read as follows:

"**§ 160A-205.4. Limitations on regulating trees.**

No city may adopt ordinances regulating the removal of trees from private property within the city's corporate limits or extraterritorial jurisdiction without the express authorization of the General Assembly. Neither the general police powers authorized in this Article nor any other powers authorized in this Chapter or in any other general or local law, except a general or local law expressly authorizing a city to adopt ordinances regulating the removal of trees from private property, shall be used by a city's governing body as the basis for adopting ordinances regulating the removal of trees from private property."

SECTION 3. Any local acts authorizing ordinances regulating the removal of trees from private property and any ordinances that were adopted under that authority before the date this act becomes law shall remain in effect after this act becomes law.

SECTION 4. Any ordinances regulating the removal of trees from private property that were adopted before the date this act becomes law without the express authorization of the General Assembly are hereby repealed.

SECTION 5. This act is effective when it becomes law.

TOWN OF BEAUFORT BOARD OF COMMISSIONERS
RESOLUTION IN OPPOSITION TO
HOUSE BILL 496 (HB496)
PROPERTY OWNERS' RIGHTS/TREE ORDINANCES

WHEREAS, the legislation proposed in House Bill 496 is of great concern to the Town of Beaufort and other municipalities within North Carolina; and

WHEREAS, the N.C. General Assembly will be considering HB 496, which would require that all local ordinances regulating the removal of trees be permitted only with the express authorization of the General Assembly; and

WHEREAS, trees are an essential and integral part of our unique Historic District and the state-approved Beaufort Historic Preservation Commission, comprised of local residents, can best safeguard the integrity of our Historic District and National Register designations in our community; and

WHEREAS, trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community; and

WHEREAS, Beaufort Board of Commissioners believes that local officials are best positioned to determine how local zoning ordinances should be created and applied, as they are responding to local voters and property owners and understand the differing needs of their constituents**;** and

WHEREAS, any state legislation restricting local tree ordinances will damage local efforts to preserve our rural and historic character, hamper economic development, and lower residents' quality of life; and

NOW, THEREFORE, BE IT RESOLVED, that we, the Board of Commissioners of the Town of Beaufort strongly oppose House Bill 496; and

BE IT FURTHER RESOLVED, that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop HB496 from becoming law.

ADOPTED, this the 10th day of May 2021.

_____
Everette Newton
Mayor

Attest:

_____
Allen Coleman,
Town Clerk

Town of Beaufort, NC

Board of Commissioners
Virtual Regular Meeting
6:00 PM – Monday, May 10, 2021

AGENDA CATEGORY: Items for Discussion and Consideration

SUBJECT: FY 2022 Budget Presentation

BRIEF SUMMARY:

The Town Manager will present the proposed budget for FY 2022. Dates and times for additional meetings for budget deliberations are found on the attached budget calendar.

REQUESTED ACTION:

Receive budget.

EXPECTED LENGTH OF PRESENTATION:

10 minutes

SUBMITTED BY:

John Day, Town Manager

BUDGET AMENDMENT REQUIRED:

N/A

Town of Beaufort
FY 2022 Budget Calendar

- **Budget Document Presented**
  Town Board Regular Meeting
  May 10–6 PM via Zoom

- **Budget Work Sessions**
  May 17, 2021–4 PM via Zoom
  May 20, 2021–4 PM via Zoom
  May 26, 2021–4 PM (if needed) via Zoom

- **Public Comment**
  Town Board Work Session
  May 24, 2021–4 PM via Zoom

- **FY 2021 Budget Adoption**
  Town Board Meeting
  June 14, 2021–6 PM via Zoom