



Board of Commissioners Agenda

Town of Swansboro

Tuesday, February 11, 2025

Board Members

William Justice, Mayor | Jeffrey Conaway, Mayor Pro Tem | Pat Turner, Commissioner
Douglas Eckendorf, Commissioner | Joseph Brown, Commissioner

I. Call to Order/Opening Prayer/Pledge

II. Public Comment

Citizens have an opportunity to address the Board for no more than three minutes per speaker regarding items listed on the agenda. There is a second opportunity at the end of the agenda for the public to address the Board on items not listed on the agenda.

III. Adoption of Agenda and Consent Items

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

III. Consent Items:

- a. November 12, 2024, Regular Meeting Minutes
- b. November 12, 2024, Closed Session Minutes
- c. November 26, 2024, Regular Meeting Minutes
- d. November 26, 2024, Closed Session Minutes
- e. December 9, 2024, Speical Joint Meeting with TDA
- f. Budget Ordinance Amendment #2025-6
- g. Tax Refunds

The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$220.23.

Vehicle Tax:

Gordon, Carole Ann	\$16.76	Tag Surrender
Isenhart, Emily Marie	\$17.97	Tag Surrender
Byrd, Fred Raymond Jr.	\$185.50	Duplication

IV. Appointments/Recognitions/Presentations

- a. **Oath of Office for Mayor William Justice**
- b. **Oath of Office for Mayor Pro Tem Jeffrey Conaway**
- c. **Police Department Employee Introduction & Oaths**
Presenters: Dwayne Taylor - Police Chief and Mayor William Justice

V. Public Hearing

a. UDO Text Amendment to § 152.016 Definition of Basic Terms and § 152.267 Computation of Sign Area

Presenter: Rebecca Brehmer, CFM, CZO – Town Planner

After the discovery of a discrepancy in UDO Sections 152.016 Definitions of Basic Terms for the definition “Sign, Area Of” and 152.267 Computation of Sign Area (C) when it comes to calculating the square footage allowed on a sign, a text amendment to these sections is proposed for consistency.

Recommended Action:

1. Hold a public hearing
2. Motion to approve Ordinance 2025-03 amending § 152.016 Definition of Basic Terms and § 152.267 Computation of Sign Area.

VI. Business Non-Consent

a. Street Acceptance Procedures and Update

Presenter: Rebecca Brehmer, CFM, CZO – Town Planner

After directions from the Board to give both an update on upcoming street acceptance requests as well as procedures currently in place by ordinance and policies for this process, the purpose of this memo is for clarification and discussion purposes.

Recommended Action: Receive update.

b. Discussion of Filling a Vacancy on the Board of Commissioners

Presenters: Jon Barlow – Town Manager and Francis Rasberry – Town Attorney

On January 28, 2025, William Justice was appointed as mayor to serve until the next municipal election in November 2025, leaving his previous commissioner seat vacant with nearly three years remaining. Conflicting rules in the Town Charter and North Carolina General Statutes create uncertainty about whether the appointed replacement will serve the full remaining term or only until the next election, requiring the Board to decide which law to follow.

Recommended Action: Due to the inconsistencies between the Town Charter and the NCGS a determination of the preferred method to fill the unexpired term of Mr. Justice is necessary.

c. Future Agenda Topics

Presenter: Alissa Fender – Town Clerk

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

Recommended Action: Discuss and provide any guidance

VII. Items Moved from Consent

VIII. Public Comment

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

IX. Manager's Comments

X. Board Comments

XI. Closed Session

XII. Adjournment

Town of Swansboro
Board of Commissioners
November 12, 2024, Regular Meeting Minutes

In attendance: Mayor John Davis, Mayor Pro Tem William Justice, Commissioner Jeffrey Conaway, Commissioner Pat Turner, Commissioner Joseph Brown, and Commissioner Douglas Eckendorf.

Call to Order/Opening Prayer/Pledge

The meeting was called to order at 6:00 pm. Mayor Davis and the Cub Scouts Webelos Den, Pack 0003 led the Pledge of Allegiance.

Public Comment

Ann Schuller, of 140 Front Street, described the efforts behind establishing the Visitor Center and public restrooms downtown, including her husband Bob's work relocating it and addressing the town's need for handicap-accessible restrooms. The facility became a vital resource for visitors, the Chamber of Commerce, and parking. Mrs. Schuller strongly advocated for the building to be properly renovated, emphasizing its importance and sharing positive visitors' feedback. She noted that public restrooms shouldn't fall solely on the local merchants.

Tony O'Neill, founder and director of Possumwood Acres, shared her concerns about the Muscovy ducks in Swansboro, noting that her sanctuary had taken in 45 injured or orphaned ducks, most from the town, often due to road accidents or dog attacks. She advocated controlling the population humanely by preventing eggs from hatching, relocating ducks to safer areas, and encouraging adoptions, aligning with Humane Society guidelines. Ms. O'Neill suggested maintaining a manageable duck population of around 50 to reduce risks of injury and overcrowding. While the sanctuary's visitor operations were temporarily closed due to regulatory requirements, rehabilitation efforts remained active, and Ms. O'Neill expressed her continued support for the town's efforts to manage the ducks responsibly.

Mary Pat Smey addressed the board regarding the funding policy for nonprofits, noting that government support for such organizations is common and beneficial across various levels. She shared her involvement with groups supporting Swansboro's children, military, and first responders and expressed enthusiasm for the board's exploration of nonprofit partnerships. Smey emphasized that collaboration, with transparency and accountability, could enhance services for the community. Speaking on behalf of local nonprofits, she commended the board's efforts and conveyed eagerness to work together to achieve greater positive impact.

Adoption of Agenda and Consent Items

On a motion by Commissioner Conaway, seconded by Commissioner Eckendorf, the agenda as amended to add closed session pursuant to NCGS 143-318.11 (a) (5) to establish, or to instruct the public body’s staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease, and the following consent items were approved unanimously.

- August 13, 2024, Regular Meeting Minutes
- August 13, 2024, Closed Session Minutes
- August 27, 2024, Regular Meeting Minutes
- August 27, 2024, Closed Session Minutes
- Special Use Permit Order for Brezza Lofts Lot 8 Ward Farm Town Center
- Budget Ordinance Amendment #2025-4
- Tax Refund Request totaling \$250.20

Vehicle Tax

Henson, Rachelle E.	\$23.70	Tag Surrender
Pearce, Donnie G.	\$27.00	Tag Surrender
Yingst, William Lester III & Deborah M.	\$35.53	Tag Surrender
Cooke, Michelle L. & Brian J	\$10.85	Sold/Traded
Dunn, John C.	\$21.40	Tag Surrender
Jayne, David M	\$43.75	Military
Ringo, Louisa M.	\$51.97	Tag Surrender
Climie, Eric J.	\$29.65	Tag Surrender
Floyd, Boyce Wayne Jr.	\$2.99	Tag Surrender
Hayden, Brandon A.	\$3.36	Military

Appointments/Recognitions/Presentations

Cub Scouts Webelos Den, Pack 0003 Civic Questions

Mayor Davis shared that as part of their requirements Cub Scouts must speak with elected officials about the electoral process. Webelos Den, Pack 0003 asked the board 2- 3 questions prior to the start of the meeting.

Recognition - Animal Chip Reader Installation

Mayor Davis recognized Sunni Tortorici and Susan Passey for their efforts to install 24/7-accessible animal chip reader at the Public Safety Building, with support from Melissa Anderson from MilFed Construction Company. Their work reflects commitment to animal welfare and community collaboration.

Presentation of Drawing by Bella Vinson

Mayor Davis recognized Bella Vinson from Swansboro High School for the drawing she did of him, which was a Tim Burton style caricature.

Recognition of Commissioner Brown and Kathy Brown

Mayor Davis recognized Mr. & Mrs. Brown for winning the Gold Medal in the North Carolina Senior Games Cornhole Mix-Double 65-69 age group and to Mrs. Brown for winning the Gold Medal in the Individual Women's 65-69 age group.

Business Non-Consent*Lancers Christmas Donations for Disadvantaged Children*

Mayor Davis shared that the Lancer's were in need of a location to handle their event Operation Deployed Santa that provide Christmas presents to disadvantage children and asked the board for approval to let them use the Town Hall community room on December 14, 2024, at no cost.

On a motion by Commissioner Eckendorf, seconded by Commissioner Brown, with unanimous approval the Lancers were approved to use the Town Hall Community Room on December 14, 2024, with the fees waived.

Public Street and Sidewalk Acceptance Request- Shadow Creek Estates

Planner Rebecca Brehmer reviewed that Tidewater Associates, Inc, on behalf of One Harbor Church, Inc, were requesting acceptance of public streets and sidewalks for Shadow Creek Estates subdivision. This request included all streets within the subdivision, Shadowcreek Drive, Big Pine Court, Diamond Ridge Court, Hibiscus Court, Marshview Court, and sidewalks.

On a motion by Commissioner Eckendorf, seconded by Commissioner Brown, Resolution 2024-R10 to accept public streets and sidewalks in Shadow Creek Estates subdivision was unanimously approved.

Muscovy Duck Discussion

Manager Jon Barlow reviewed that a discussion focusing on the rules and regulations concerning the management of the Muscovy Duck population in the Town of Swansboro was requested by the Board.

Public Works Director Bates reviewed that there were approximately 200+ ducks in the area from the waterfront to Shore Drive. Additionally, he shared that there were residents that were violating town ordinances by providing food and creating artificial habitats using items such as kiddie pools, which support and encourage an increase in the population.

Tony O'Neill, founder and director of Possumwood Acres, addressed the board again and provided details on the challenges of controlling the duck population, emphasizing their continuous reproduction due to the lack of a fixed breeding season. She recommended humane measures such as collecting and replacing eggs with false ones to prevent hatching, rehoming excess ducks, and reducing supplemental food sources. Drawing from her experience of managing the duck population at her facility, Ms. O'Neill explained her method of allowing only a few ducklings to hatch while humanely managing others. She also noted that while natural predators like cats and foxes contribute to population attrition, they are insufficient as the sole control method.

On a motion by Commissioner Brown, seconded by Commissioner Turner, with unanimous approval, Public Works Director Bates was provided with approval to begin the rehoming process and implement humane population control methods to lower the population to approximately 50 ducks.

Visitors Center Repair and Maintenance

Manager Barlow reviewed that the Visitors Center located at 203 Church Street had evidence of mold growing in numerous areas of the structure. The conditions necessitated the need to close the building until the problem could be remediated. The Board instructed staff to engage the services of an expert in the area of mold identification and remediation. A detailed inspection by Kelly Hunnicutt of Safe Harbor Home Inspections revealed that the damage was far more extensive. The building required complete gutting, with potential structural replacements due to inadequacies in prior repairs after Hurricane Florence.

The historical value of the Visitor Center was emphasized, underscoring the importance of making repairs whether the town retains or sells the property. A proposal was made to allocate \$60,000 for immediate remediation and repair work. Combined with a prior \$30,000 commitment from TGA, a total of \$90,000 would be available for the project.

The Board acknowledged the need for a phased approach. The initial phase would focus on mold remediation and interior demolition, while the reconstruction phase would require careful planning to meet state building codes, including accessibility standards. It was noted that the Board must determine the building's future use before finalizing reconstruction plans to avoid costly changes later.

On a motion by Commissioner Conaway, seconded by Mayor Pro Tem Justice, with unanimous approval, \$60,000 was allocated for mold remediation and interior gutting.

2nd Amendment/Weapon Allowance at Town Hall

Manager Barlow reviewed that discussion was requested focusing on the rights contained within the 2nd amendment to the US Constitution, pertaining to the allowance of weapons at Town Hall was requested by the Board. It was noted that the town ordinance, specifically addresses concealed carry but does not explicitly prohibit open carry.

Commissioner Eckendorf expressed concerns about the "no weapons" sticker on the building, stating that it may give a false sense of security and could make the building a target.

Board members highlighted the importance of consulting staff, as they work in the building daily and should feel safe in their workplace. There was a consensus that the current sign may need to be revised for accuracy, in compliance with state laws.

Several board members and staff voiced varying perspectives on concealed carry for employees, with some advocating for training and support if employees wished to carry. Concerns about liability and public perception were also raised, with the legal counsel explaining that reasonable regulations, such as prohibiting or allowing weapons with appropriate measures, are legally permissible. The discussion also emphasized the need for practical safety measures, including installing panic buttons in the front office for staff to alert authorities in emergencies.

The discussion concluded with three actionable steps:

- Reviewing the signage for legal accuracy
- Exploring the installation of panic buttons for front office safety
- Gathering input from staff and the public about their preferences on the matter

Proposal to Establish a Funding Policy/Funding Request Application for Nonprofit Organizations

Manager Barlow reviewed that at its October 22, 2024, regular meeting, the Board directed staff to develop a funding policy/funding request application for nonprofit organizations. This policy aims to establish a clear and equitable framework for allocating resources to local nonprofits that provide essential services, align with the Town's priorities, and support community welfare.

In response to inquiries from the board Manager Barlow or Finance Director Johnson clarified the following:

- Nonprofits must demonstrate a significant presence or service to Swansboro residents, provide detailed information about their funding needs, and meet specific documentation requirements, including proof of nonprofit status and IRS tax forms.

- Applications will be submitted annually by January 31 and reviewed during budget discussions
- There was no process for out-of-budget-cycle requests.

On a motion by Commissioner Brown, seconded by Commissioner Conaway, with unanimous approval, the draft Funding Policy and application for Nonprofit organizations was approved.

Discussion on filling the Board Vacancy

Manager Barlow reviewed that with John Davis' election to the Onslow County Board of Elections, his mayor seat would become vacant. With a vacancy the Board of Commissioners were responsible for appointing and induvial to serve the remainder of Mr. Davis' term to December of 2025.

The board discussed how to handle the upcoming vacancy, including filling the mayor's position and potentially a board seat if a current board member were to be selected as mayor. They emphasized the importance of a transparent and fair process. It was decided that a call for applications for the mayor vacancy would be published with a deadline of December 15, with the goal of appointing a new mayor during the board's second meeting in January of 2025. There was debate about whether to also accept applications for the potential board vacancy at the same time, but it was decided to focus first on the mayor's position. The board acknowledged the need to allow adequate time for review and avoid rushing the decision.

Additionally, they briefly considered whether to explore changing the town's form of government. Attorney Rasberry shared that he could provide the board with a memo explaining the nuances of changing the form of government.

Future Agenda Topics

Future agenda items were shared for visibility and comments. In addition, an opportunity was provided for the board to introduce items of interest and subsequent direction for placement on future agendas. The following items were addressed:

- Request for New River YMCA to provide a presentation to the board
- Recognize Teachers of the Year and/or any fall school sport teams that excelled

Public Comment

Randy Swanson of 160 Plantation Drive shared that the Visitors Center restrooms were utilized by tourists and residents when at downtown events and/or shopping. Regardless of who own the transient dock downtown the Town should keep the Visitors Center as an available restroom facility.

Manager's Comments

Manager Barlow shared that Flotilla was upcoming on November 29th and there were 9 boats signed up so far. Additionally, the carpet install at Town Hall and the Emmerton School was complete.

Board Comments

Board members expressed their appreciation to staff for their hard work and the public who were in attendance at the meeting.

Commissioner Eckendorf shared that he had thoroughly enjoyed his first year as commissioner. He additionally inquired if the recipient of the Sam Bland Award had to be a resident, to which other board members advised that the recipient did not have to be a resident.

Mayor Davis shared the following comments:

- The town needed to find a way to work with Melissa Anderson on the dock situation
- Not convinced that the keeping the Visitors Center was the right option
- Veterans Day service was a success
- Suggested another radar station over on Walnut Street
- Invited the board to help area businesses do early Thanksgiving meal for those in need

Closed Session

On a motion by Commissioner Conaway, seconded by Commissioner Turner, and with unanimous approval, at 8:00 pm the board entered closed session pursuant to N.C.G.S. 143-318.11 (a) (2) to review 2024 Sam Bland Award applications and(5) to establish, or to instruct the public body's staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Pursuant to a motion duly made and seconded in closed session the board returned to open session.

Adjournment

On a motion by Commissioner Turner, seconded by Commissioner Eckendorf, the meeting adjourned at 9:15 pm.

Town of Swansboro
Board of Commissioners
November 26, 2024, Regular Meeting Minutes

In attendance: Mayor John Davis, Mayor Pro Tem William Justice, Commissioner Jeffrey Conaway, Commissioner Pat Turner, Commissioner Joseph Brown, and Commissioner Douglas Eckendorf.

Call to Order/Opening Prayer/Pledge

The meeting was called to order at 6:00 pm. Mayor Davis led the Pledge of Allegiance.

Public Comment

Rob Johnson, 109 Woodleaf Lane in Jacksonville and a member of the Onslow County Soil & Water Conservation Board of Supervisors, addressed the board about water management and infrastructure, emphasizing the need for effective resource use to support growth and attract industry. He noted that the Richlands wastewater facility isn't reclaiming water as intended and highlighted local challenges with wells and the exploration of costly reverse osmosis systems. Mr. Johnson encouraged the board to consider alternative measures and offered to share his expertise on water and wastewater operations.

Adoption of Agenda and Consent Items

On a motion by Commissioner Turner, seconded by Commissioner Conaway, the agenda along with the below consent items was adopted unanimously.

- September 10, 2024, Regular Meeting Minutes
- September 10, 2024, Closed Session Minutes
- September 24, 2024, Regular Meeting Minutes
- October 5, 2024, Special Meeting Minutes
- October 22, 2024, Regular Meeting Minutes
- October 22, 2024, Closed Session Minutes

Appointments/Recognitions/Presentations

Recognition of John Davis, Mayor

Manager Barlow acknowledged Mayor John Davis for his leadership and service to Swansboro from 2017 to 2024. He reflected on their effective working relationship despite differing personalities and presented Davis with a swan statue as a token of appreciation to mark his contributions as mayor.

The board members expressed their appreciation for Mayor John Davis, highlighting his leadership, dedication, and ability to inspire others. They recalled shared experiences, his behind-the-scenes efforts during challenges like hurricanes, and his role in encouraging and supporting new board members. While they acknowledged occasional

disagreements, they emphasized his focus on serving the community and fostering collaboration. Each member shared personal gratitude for his impact and contributions to the town.

Mayor John Davis thanked the board and staff for their teamwork and efforts. He acknowledged disagreements but noted progress made together. He expressed appreciation to the Town Manager Jon Barlow for returning and recognized the contributions of everyone involved. More detailed comments will be made at the next meeting, which will be the last meeting he will participate in officially.

New River YMCA – Serving all of Onslow County and Beyond

Charlie Myers, CEO of New River YMCA, outlined the organization's growth and plans. The YMCA, currently serving 15 schools and running programs like summer camps and after-school care, is expanding with a new \$22 million facility at Gum Branch. This facility will feature a gym, an aquatic center with an eight-lane pool, fitness areas, and spaces for group exercise classes. The project is expected to open in early 2026, with no debt upon completion. Myers highlighted the YMCA's community-focused mission, including financial assistance for families who need it. The presentation he reviewed is attached herein with the PowerPoint presentation of the meeting.

In response to inquiries from the board, Mr. Myers provided the following details.

- The YMCA is willing to assist in establishing facilities or partnerships in areas like Swansboro and Sneads Ferry to address community needs. Initial steps include conducting a community needs assessment and a feasibility study to determine viability and specific requirements.
- Initial funding requires support from key community members, government officials, and grants. Partnerships with local organizations, such as schools and parks and recreation, could help expand programs like after-school care and summer camps without duplicating existing services.
- The YMCA's national office evaluates factors like population density and location feasibility (e.g., a 15-20 minute drive radius) to assess potential sites. An exploratory committee can help evaluate costs, identify donors, and plan the next steps.
- A branch could start small, using an existing building or a donated facility, and expand as the community's interest and resources grow.
- The YMCA believes the greater Swansboro area could support a facility, considering the population of surrounding communities and regional growth.
- The "C" in YMCA does stand for "Christian" and some YMCAs offering more spiritual education depending on the community's preferences.

While on the subject of recreational facilities, Mayor Davis spoke about the town's hope to rebuild and reopen the skate park. He shared that the legal cases involving the former park have been resolved. He proposed the idea of reallocating \$150,000 from pickleball courts and raising additional funds to create a cement-based park as part of a larger recreational complex, and in turn use the existing skatepark location for Pickelball Courts. Davis emphasized the importance of providing a safe space for kids and reaffirmed the board's commitment to reopening the skatepark.

Business Non-Consent

Appointment of Representative to ONWASA

Town Clerk Fender reviewed that the ONWASA's Board of Directors were appointed to three-year terms by the local governments in the service area. The Board was composed of eight members whose regular meetings are held bi-monthly at Jacksonville City Hall, 815 New Bridge Street, Jacksonville, NC. Mayor Davis currently served as the Swansboro representative, with his recent election to the county, another board member needed to be appointed to fill his term through December 2027.

On a motion by Commissioner Conaway, seconded by Commissioner Eckendorf, and with unanimous approval, Commissioner Brown was appointed to serve on the ONWASA Board of Directors

Public Safety Pay and Classification Study Results

Manager Barlow reviewed the Pay and Classification Study for Public Safety, initiated earlier in the year to address competitive compensation for law enforcement and fire department positions. The study compared Swansboro's salaries with those in similar towns, such as Holden Beach and Oak Island, focusing on 19 positions and 24 individuals. Findings showed that some salaries, particularly starting minimums, needed adjustment. The recommendations include implementing a \$67,000 pay adjustment this fiscal year, with the full impact reflected in the next budget cycle. New minimum salaries will serve as the hiring rate, with potential merit-based increases after probation. Barlow emphasized the importance of competitive pay for recruitment and retention, and board members commended the effort.

Commissioner Eckendorf expressed optimism about Swansboro's growth, highlighting five significant commercial capital improvements that could generate future revenue. He reaffirmed his commitment to strategic budgeting, including a two-cent tax reduction next year, supported by the town's strong financial position. Each tax penny represents \$71,000, and he is confident the necessary funds will be available to prioritize public safety and attract talent. While acknowledging the challenge of retaining all employees, he emphasized the town's role in fostering growth and competitiveness, even if some staff eventually move on.

Mayor Davis shared that he had been trying to accomplish an increase to public safety salaries for seven years and this plan finally gets their salaries closer to what they should be, even though it's still below federal levels. He urged approval of the plan, calling it one of the most important steps during his time as mayor.

On a motion by Commissioner Conaway, seconded by Commissioner Turner, with unanimous approval, the recommended Pay and Classification Plan revisions as presented with full implementation effective the first pay period in January 2025 was approved.

Monthly Financial Report as of October 31, 2024

Finance Director Johnson reviewed details from the monthly financial report, attached herein with the power point presentation of the meeting.

In response to inquiries from the board Mrs. Johnson clarified the following:

- Assured the board that the Emergency Management Department Budget would not go over budget, noting that a budget amendment for hours and reimbursements related to personnel that provided Hurricane relief assistance to Western North Carolina was forthcoming.
- Regarding the American Rescue Plan, she explained that funds must be obligated by December 31, 2026, and she planned to request authority for the town manager to allocate any remaining funds where needed. She clarified that some of the funds were saved for projects like Parks and Recreation and the splash pad, but the exact amount was minimal.
- Regarding the \$40,000 to be distributed to the previously designated 4 agencies to support Hurricane relief efforts, she was waiting on necessary documentation, such as W-9 forms, and would follow up to ensure completion.
- The town earns approximately \$36,000 monthly in interest and the North Carolina Cash Management Trust had earned about \$95,000 in interest to date. Board members suggested that this detail be reported regularly.
- Interest earned from Emergency Operation Center/Public Safety Building SCIF funds must be reinvested into the project.

Future Agenda Topics

Future agenda items were shared for visibility and comments. In addition, an opportunity was provided for the board to introduce items of interest and subsequent direction for placement on future agendas. No additional items were added.

Public Comment

Jamie Cushine Petani, Joyce Johnson, and David Johnson spoke against the future Flybridge development on Highway 24 in Swansboro, citing concerns about rapid growth straining infrastructure, traffic, schools, and emergency services. They

emphasized safety issues, including difficulties accessing emergency services due to understaffing and congestion. Additionally, they highlighted the lack of job opportunities to support the expanding population along with suggesting a moratorium on development.

Board Comments

Board members recognized concerns about fast growth and its impact on roads, schools, and emergency services. They noted that state control makes it hard to make local road improvements and encouraged residents to speak up to county and state officials. The board stressed the need for better planning, teamwork between local governments, and more community involvement to manage future development.

Mayor Davis requested that the Town Planner and Manager create a report for the board that would keep them updated on town news to stay ahead of social media discussions. He stated that the board will be involved in the reviews and approvals needed for apartment projects and emphasized the importance of the public understanding of the process. He reminded the board of their special joint meeting with the TDA and shared his thoughts that tourism funds should be used to support local nonprofits and acknowledged the board’s decision to support police and fire services. He also stated his appreciation for the staff, his wife’s support during his tenure as Mayor, and others for their contributions to the town’s success.

Closed Session

On a motion by Commissioner Conaway, seconded by Commissioner Eckendorf, and with unanimous approval, at 7:56 pm the board entered closed session pursuant to NCGS 143-318.11 (a)(5) to establish, or to instruct the public body’s staff or negotiating agents concerning the position to be taken by or on behalf of the public body in negotiating the price and other material terms of a contract or proposed contract for the acquisition of real property by purchase, option, exchange, or lease.

Pursuant to a motion duly made and seconded in closed session the board returned to open session.

Adjournment

On a motion by Commissioner Eckendorf, seconded by Commissioner Conaway, the meeting adjourned at 8:42 pm.

Town of Swansboro
Board of Commissioners & TDA
December 9, 2024, Joint Special Meeting Minutes

Board of Commissioners in attendance: Mayor Pro Tem William Justice, Commissioner Jeffrey Conaway, Commissioner Pat Turner, Commissioner Joseph Brown, and Commissioner Douglas Eckendorf. The board had 1 vacancy.

TDA members in attendance: Commissioner Joe Brown, Michael Diehl, Preston Patterson, Linda Thornley. Jack Harnatkiewicz & Randy Swanson were absent.

Call to Order/Opening Prayer/Pledge

The meeting was called to order at 4:00 pm. Mayor Pro Tem Justice led the Pledge of Allegiance. The purpose of the meeting will be for review and discussion on the rules and policies that govern Tourism Development Authorities. Anthony Prinz, Jacksonville Tourism Development Authority City Staff Liaison was in attendance to provide details and answer questions.

Anthony Prinz introduced himself, sharing his experience in the tourism development authority (TDA) business, which he had been a part of for almost four years. He reviewed how Jacksonville and nearby areas like Swansboro worked together, benefiting from shared tourism and travel. He also mentioned the importance of working with the county and other local groups to share costs and promote the area.

Mr. Prinz then went over his PowerPoint, herein attached, explaining the differences in how the occupancy tax worked in Jacksonville, Swansboro, and Onslow County. He described how the occupancy tax was collected and shared that Jacksonville and Swansboro followed newer laws, while Onslow County had more flexibility in how they used the tax money. He also brought attention to challenges with third-party rentals like Airbnb's and explained how both collecting and spending occupancy taxes were controlled by specific rules. Additionally he reviewed the tourism development authority membership requirements.

A discussion was held on tourism funding, focusing on budget limits, transparency, and the impact of economic conditions on revenues. It was clarified that allowances for tourism-related expenditures and marketing expenses were covered through occupancy tax revenue. The allocation of funds to events like those by the Seaside Arts Council and Tunnel 2 Towers was debated, emphasizing the need to track economic impact, such as hotel bookings. Concerns were raised about organizations missing application deadlines, leading to suggestions for better outreach and data collection. The balance between strict paperwork requirements and the overall success of events was also discussed, recognizing that some organizers excel at execution but struggle with formalities.

The conversation highlighted the importance of efficient marketing management and strategic partnerships while maintaining responsible spending. Jacksonville's tourism strategy was noted as a successful model, and collaboration with Visit NC, the North Carolina Restaurant and Lodging Association, and Onslow County was encouraged. Limited awareness of additional funding sources led to suggestions for improved communication between agencies.

Adjournment

On a motion by Commissioner Conaway, seconded by Commissioner Brown, the meeting adjourned at 5:16 pm.



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Budget Ordinance Amendment #2025-6**

Board Meeting Date: **February 11, 2025**

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

Overview: A Budget Ordinance Amendment is requested for multiple departments.

- 1. Church Street Dock/Visitor Center:** Three no wake buoys have been damaged and require repair or replacement to be restored to their designated locations. These buoys serve an important role in ensuring that boaters maintain no wake speed while passing by the waterfront.

Two of the damaged buoys have been recovered and can be repositioned as before. However, the third buoy was damaged beyond repair and will need to be fully replaced. The total cost for replacing the damaged buoy and repositioning all three buoys to their original locations is estimated at \$1,900.

At the January 26th Board of Commissioner’s meeting, the Board approved the replacement of the no wake buoys in the amount of \$1,900.

Source of Funds: Appropriated Fund Balance

- 2. Emergency Management:** In preparation for and in response to Snowstorm Enzo, staff incurred emergency expenditures during the week of January 20-24, 2025. These expenditures were necessary to ensure safe road conditions and public safety.

- 1. Equipment to spread salt and/or sand: \$920.25
- 2. Two loads of sand: \$400.00

Total expenditure: \$1,320.25

At the January 26th Board of Commissioner’s meeting, the Board approved the emergency expenditures for the preparation and response to Snowstorm Enzo.

Source of Funds: Appropriated Fund Balance

Background Attachment(s): Budget Ordinance Amendment #2025-6

Recommended Action: Motion to approve Budget Ordinance Amendment #2025-6

Action: _____

BUDGET ORDINANCE AMENDMENT #2025-6

BE IT ORDAINED by the Board of Commissioners of the Town of Swansboro that the following amendment be made to the annual budget ordinance for fiscal year ending June 30, 2025:

Section 1. To amend the General Fund budget, the following changes are to be made:

<u>Appropriations</u>	<u>Increase</u>
Church Street Dock/Visitor Center	\$1,900.00
Emergency Management	\$1,320.25

<u>Revenues</u>	<u>Increase</u>
Appropriated Fund Balance-General Fund	\$3,220.25

Section 2. Copies of this budget amendment shall be furnished to the Town Clerk, the Budget Officer, and the Finance Director, to carry out their duties.

Adopted by the Board of Commissioners in regular session, February 11, 2025.

William Justice, Mayor

Attest:

Alissa Fender, Town Clerk



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Tax Refunds**

Board Meeting Date: **February 11, 2025**

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

Overview: The Onslow County Tax Collector recommends refunds of the below listed taxes totaling \$220.23.

Vehicle Tax

Gordon, Carole Ann	\$16.76	Tag Surrender
Isenhart, Emily Marie	\$17.97	Tag Surrender
Byrd, Fred Raymond Jr.	\$185.50	Duplication

Recommended Action: Motion to approve refunds as recommended by Onslow County.

Action: _____



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **UDO Text Amendment to § 152.016 Definition of Basic Terms and § 152.267 Computation of Sign Area**

Board Meeting Date: **February 11, 2025**

Prepared By: **Rebecca Brehmer, CFM, CZO – Town Planner**

Overview: After the discovery of a discrepancy in UDO Sections 152.016 Definitions of Basic Terms for the definition “Sign, Area Of” and 152.267 Computation of Sign Area (C) when it comes to calculating the square footage allowed on a sign, a text amendment to these sections is proposed for consistency.

Currently, the two last sentences of Section 152.016 Definitions of Basic Terms for the definition of “Sign, Area Of” reads “In computing the area, only one side of a double-face sign structure shall be considered. Unless copy is not the same on both sides, then both sides should be calculated as area of sign” which contradicts Section 152.267 Computation of Sign Area (C) which reads “The sign area computation shall include all sides of the sign in which there is sign copy which can be seen”. Based on past enforcement and interpretation and to keep new signs in town consistent with what is already present, the proposed text amendment changes the last two sentences of Section 152.016 Definition of Basic Terms “Sign, Area of” by changing the way of computing the area of a sign to include calculating both sides of a double-faced structure and completely removing the last sentence and changes Section 152.267 Computation of Sign Area (C) to “The sign area computation shall include all sides of the sign.”. This leaves no conflict and clearly states that all sides of a sign, whether the same copy or not, shall be counted in total square footage allowed.

The Planning Board recommend this text amendment at their January 7, 2025, regular meeting.

Background Attachment(s):

- 1. Ordinance 2025-O3
- 2. Comprehensive Plan Consistency Statement

Recommended Action:

- 1. Hold a public hearing
- 2. Motion to approve Ordinance 2025-O3 amending § 152.016 Definition of Basic Terms and § 152.267 Computation of Sign Area.

Action: _____

**ORDINANCE 2025-03
AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE
§ 152.016 DEFINITION OF BASIC TERMS AND § 152.267 COMPUTATION OF SIGN AREA**

WHEREAS North Carolina General Statute 160D-605 and 160D-701 requires that zoning regulations shall be made in accordance with a Comprehensive Plan; and

WHEREAS the Board of Commissioners finds that the proposed text amendments to the Unified Development Ordinance regarding referenced above to be consistent with the Town of Swansboro CAMA LAND USE Plan updated January 22, 2019, and amended August 28, 2023.

NOW BE IT ORDAINED by the Town of Swansboro Board of Commissioners that the Town Unified Development Ordinance be amended.

***TITLE XV: LAND USAGE
CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE
§ 152.016 DEFINITIONS OF BASIC TERMS.***

SIGN, AREA OF. Sign area shall be computed by the smallest square, triangle, rectangle, circle, or combination thereof, which will encompass the entire sign including lattice work, frame, or supports incidental to its decoration. In computing the area, **only one side both sides** of a double-face sign structure shall be considered. **Unless copy is not the same on both sides, then both sides should be calculated as area of sign.**

***TITLE XV: LAND USAGE
CHAPTER 152: UNIFIED DEVELOPMENT ORDINANCE
§ 152.267 COMPUTATION OF SIGN AREA***

(C) The sign area computation shall include all sides of the sign, **in which there is sign copy which can be seen.**

This Ordinance shall be effective upon adoption.

Adopted by the Board of Commissioners in regular session, February 11, 2025.

William Justice, Mayor

Attest:


Alissa Fender, Town Clerk

**TOWN OF SWANSBORO PLANNING AND ZONING BOARD
STATEMENT OF CONSISTENCY**

On January 7, 2025, the Planning Board heard the requested text amendments and recommended unanimous approval of the text amendments to the Town Unified Development Ordinance as followed: §152.016 Definitions of Basic Terms and §152.267 Computation of Sign Area .

The Town’s Planning Board finds that the proposed text amendments are consistent with the current Comprehensive Plan and other applicable plans and policies and considers the action taken to be reasonable and in the public interest because it provides the structure, for Town staff to proactively address issues related to impacts caused by development in order to protect the health, safety, and welfare of the Town’s residents.


Planning Board Chair


Town Planner



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Street Acceptance Procedures and Update**

Board Meeting Date: **February 11, 2025**

Prepared By: **Rebecca Brehmer, CFM, CZO – Town Planner**

Overview: After directions from the Board to give both an update on upcoming street acceptance requests as well as procedures currently in place by ordinance and policies for this process, the purpose of this memo is for clarification and discussion purposes.

Currently, as outlined in the ordinance sections and policies attached, the procedures in place for prerequisites required before the Board considers accepting any streets or sidewalks are as follows: Warranties submitted by the developer remain on file for one year and are reviewed by our engineer and public works director for accuracy and compliance stating that the streets and sidewalks are constructed to the correct standard and are in good repair. As far as stormwater, inspection reports by NCDEQ are provided in order for stormwater systems to be transferred from developer to HOA which shows that the stormwater system is functioning correctly and will not impact the longevity of the streets and sidewalks. It is important to note that the Town typically does not take on stormwater maintenance or ownership as part of the street acceptance process. We feel that with the standards outlined in the ordinance as well as administrative procedures and policies in place, this process is able to function efficiently.

Prior and upcoming street acceptance requests:

- The Board accepted streets and sidewalks for Shadow Creek at their November 12, 2024, regular meeting after the standards listed above were met.
- The Board will soon hear a request for street and sidewalk acceptance for Swansgate. They have completed repairs to the streets that were outlined in the engineer report and currently are waiting on the ArmyCorps to approve moving a wetland line based on a delineation completed by ECS. Once this is done, they will be able to install the sidewalk along Main St Ext that is required by the Town and proceed with the acceptance request.

Background Attachment(s):

1. § 152.326 Conformance Prerequisite to Acceptance of Streets, Extension of Public Services, and the Like
2. § 152.384 Warranties, Sureties, and Improvements Guarantees
3. § 93.001 Board Approval of New Streets
4. Board of Commissioners Policy No. 15 – Private Roads and Associated Facilities Acceptance of Dedication and Maintenance

Recommended Action: Receive update.

Action: _____

§ 152.326 CONFORMANCE PREREQUISITE TO ACCEPTANCE OF STREETS, EXTENSION OF PUBLIC SERVICES AND THE LIKE.

Item VI - a.

No street shall be maintained by the town, no street dedication accepted for ownership and maintenance, no building permits issued nor shall water, sewer, or other public facilities or services be extended to or connected with any subdivision for which a plat is required to be approved unless and until the requirements set forth in this ordinance have been met.

(Ord. 2005-O3, passed 3-15-2005)

(A) *Improvements* . Prior to the approval of the final plat the following improvements shall be installed or arrangement made so as to insure their installation. Improvements guarantees will not be considered for subdivisions where the utilities, curb and gutter, and final base course of compacted gravel have not been installed.

(B) *General; monuments*. Monuments and markers shall be installed in accordance with the *Manual of Practice for Land Surveying*, published by the North Carolina State Board of Registration for Professional Engineers and Land Surveyors.

(C) *Streets* .

(1) *Grading*. All streets shall be cleared and graded to their full right-of-way width so as to provide adequate shoulders and pedestrian walkways. Finished grades, cross sections, and profile shall be considered for approval by the Town's Public Works Director and/or consulting engineer.

(2) *Paving*. The sub-divider will be responsible for the installation of the road base and paving necessary to serve his needs and meet the requirements of this chapter. Paving and base shall be installed in accordance with NCDOT standards or town specifications, whichever is greater. The inspection of the road base and paving shall be considered for approval by the Town's Public Works Director and/or consulting engineer.

(D) *Curbs and gutters*.

(1) Concrete curbs and gutters will be installed by the sub-divider in accordance with NCDOT standards or town specifications, whichever is greater.

(2) The inspection of the curb and gutters shall be considered for approval by the town's Public Works Director and/or consulting engineer.

(3) Curbs and gutters shall be concrete combination curb and gutter.

(E) *Storm drainage*.

(1) Storm sewers, drains and structures shall be installed by the subdivider in accordance with NCDOT standards or town specifications, whichever is greater.

(2) The inspection of the storm drainage shall be considered for approval by the town's Public Works Director and/or consulting engineer.

(F) *Guarantees*.

(1) *General requirements*.

(a) No final plat shall be approved until the required improvements have been constructed in a satisfactory manner and approved by the Town Manager or his/her designee and a financial guarantee has been posted, or, in lieu of such prior construction, the town may accept a letter of credit, a certificate of deposit, cash or certified check, or bond in the required amount. Acceptable financial guarantee formats:

1. *Letter of credit*. Must be from a financial institution located and incorporated in the State of North Carolina; must contain the specified language detailed in division (F)(1)(c) of this section.

2. *Cash or check*. Must be in the form of a certified check or United States currency. Certified checks should reflect the name of the developer submitting them.

3. *Certificates of deposit*. Must be in the name of and payable to the Town of Swansboro. The developer's name must be referenced on the certificate of deposit. For example: Town of Swansboro for John Doe.

4. *Bond*. Must be in the name of and payable to the Town of Swansboro. The developer's name must be referenced on the bond. For example: Town of Swansboro for John Doe.

(b) All financial guarantees submitted shall be accompanied by an agreement signed by the developer, and the Town Manager or his/ her designee. The agreement shall include a completion date, which cannot exceed two years from the application date, unless special approval has been granted by the Board of Commissioners for a completion date, which exceeds two years.

(c) All financial guarantees, agreements, and/or accompanying documentation must at least contain the following language: " This instrument is for the purpose of insuring that developer's name] will complete all water facilities, sewer facilities, streets , sidewalks, storm drainage, and all other public improvements as shown on the preliminary plat for [subdivision name] as approved by the Swansboro Board of Commissioners and guarantee these public improvements for a 12-month warranty after the public improvements have been approved by the town. The issuer of this instrument of financial guarantee agrees that, upon receipt of a written certification from the Town Manger that any portion of the required improvements has not been installed or properly maintained through the warranty period, to issue payment from this guarantee to the Town in the amount required to effect the necessary improvements ". Each project may vary as to the improvements required; however, all financial guarantees must include the specified phrase.

(d) All financial guarantees must either be issued from a financial institution incorporated in the State of North Carolina or be redeemable at a financial institution incorporated in the State of North Carolina.

(e) All forms of guarantees must be approved by the Finance Director or their designee and the Town Manager or his/her designee before acceptance.

(f) Except for those guarantees that may be associated with improvements that will or have been under the purview of the Onslow Water and Sewer Authority (ONWASA), those guarantees will meet the standards, requirements, amounts and/or processes set forth by ONWASA.

(2) *Review of cost estimates.*

(a) The Planning Department shall submit the plans and developer's cost estimates to the Town's consulting engineer for review and agreement on cost estimates. The cost of Town Engineer services rendered to review cost estimates are the burden of the developer.

(b) The town's consulting engineer shall submit detailed cost estimates changes, if any, to the Planning Department.

(c) The Planning Department shall then notify the applicant (developer) of the amount needed for the financial guarantee.

(d) Financial guarantee estimates will be considered valid for two years and must be reviewed every two years and adjusted accordingly to reflect market values. Estimates will be determined by using the current year construction cost index or other acceptable methods as approved by town consulting engineer and Town Manager or his/her designee.

(3) *Determination of amount of financial guarantee.*

(a) The estimated cost of total improvements (for the purpose of the warranty) and of the incomplete improvements shall be determined by the town's consulting engineer, including any appropriate contingency amounts. The engineer may, at his discretion, take into consideration any cost information submitted by the developer.

(b) The amount of the financial guarantee required shall be the total cost of all incomplete improvements as determined by the town staff and the town's consulting engineer plus 25%.

(c) The warranty period begins after the following are complete:

1. The developer's engineer provides a letter certifying that all improvements have been completed in accordance with the approved subdivision plans;

2. The Town Manager or his/her designee has issued a letter of approval for the improvements ; and

3. The warranty period financial guarantee has been submitted and accepted.

(4) *Maintenance of financial guarantees.*

(a) *Receipt and approval.* Upon receipt of financial guarantees, the Planning Department shall submit the financial guarantee to the Finance Department. The Finance Department will review, approve, record, and maintain the financial guarantee until the improvements have been installed and accepted by the Board of Commissioners following the approval by the Town Manager or his/her designee that the improvements are acceptable for maintenance. All original financial guarantees shall be kept in the town vault, except cash or certified checks, which shall be deposited in an account specified by the Town Finance Department.

(b) *Extensions and condemnations.* The town may condemn the financial guarantee if the improvements are not completed within the time specified in the agreement, which was submitted with the financial guarantee. The developer may, however, submit a request to the town for the date of completion to be changed. The Town Manager or his/her designee will review the request and recommend to the Board of Commissioners up to a 12 month extension.

(c) *Expiration and renewal.* Approximately 45 days prior to the expiration date of the financial guarantee, the Town Finance Director shall notify the developer and financial guarantee company by certified mail that the town will condemn their financial guarantee if a renewed financial guarantee is not submitted prior to the expiration date. The town will send only one notification.

(5) *Draw downs permitted.*

(a) *Draw down requests.* The developer may request that a draw down be made on the financial guarantee by submitting a written request to the Town. The request shall include a listing of those improvements which have been completed as of the date of request. The request shall be certified by a Professional Land Surveyor or Professional Engineer, reviewed by appropriate department heads and town consulting engineer. The cost of Town engineer services rendered to review the cost of the draw down estimates are the burden of the developer .

(b) *Guarantee release.* Once the town confirms the dollar amount of work that has been completed, the town shall notify the developer of the permitted draw down, if any. No financial guarantee may be reduced below 10% of the total cost of improvements plus the cost of uncompleted sidewalks, until the warranty period has elapsed.

(6) *Warranty period.*

(a) The developer shall submit, in writing, a request to the Planning Department for a final inspection once all work is complete.

(b) Once the town has determined that all improvements are complete, except for sidewalks, and meet approved

standards, the financial guarantee may be reduced to 10% of the total cost of improvements plus the amount needed to insure adequate sidewalks. A new estimate of the cost of the uncompleted sidewalks, plus 25% will be made at this time to insure an adequate financial guarantee and would be valid for a two-year period.

(c) The Planning Department shall prepare a Board of Commissioners agenda item for improvements to be accepted within 60 days of the reduction. Once the improvements are accepted, the 12-month warranty period shall begin.

(d) After the improvements have been accepted by the Board of Commissioners, the town shall hold a financial guarantee of no less than 10% of the total cost of improvements plus 125% of the cost of any incomplete sidewalks for a 12-month warranty period.

(e) During the ninth month of the warranty period, the town shall inspect the project for any deficiencies. If deficiencies are found, the town shall notify the developer. If the developer does not correct the deficiencies, the Town Manager or his/her designee may condemn the guarantee and correct the deficiency or contract to have it corrected. If the Town Manager or his/her designee decides to condemn a guarantee an appeal may be made to the Board of Commissioners for this consideration.

(f) Once the Finance Director has been notified by the Planning Department that the project is complete and meets town standards, the Finance Director shall return the financial guarantee.

(7) *ETJ subdivisions and subdivisions with private streets.*

(a) Inspections are required once improvements are complete, the developer shall submit, in writing, a request to the town for a final inspection. The town shall inspect the subdivision. If deficiencies are found, the town shall notify the developer by in writing. Once the corrections have been completed, the developer must request an inspection by the town for verification of the satisfactory completion of the corrections. The town will notify the developer in writing of its findings and reduce the financial guarantee as appropriate.

(8) *Specific warranty situations.* Because the town may not accept improvements outside the town limits, and because some subdivisions designate their streets as private, the following shall govern the warranty period:

(a) *Warranty for private streets.* A financial guarantee in the amount of 10% of the total cost of improvements is required for a 12-month period unless a homeowner's association has been organized and documentation recorded which addresses the upkeep and maintenance of streets.

(b) *Warranty for NCDOT streets.* If a Homeowner's Association has been organized and the documentation recorded which addresses the upkeep and maintenance of streets and addresses the petition process for NCDOT acceptance, no warranty period for streets will be required. Additionally, if the developer can provide documentation that the streets have been included on the state system; no warranty guarantee for streets will be required.

(9) *Extensions for warranties.* A developer may request only one 12 month extension for an expired warranty period to repair damaged infrastructures. There will be no warranty period for water and sewer utilities that would be warranted in another governmental jurisdiction or operated by a private entity.

(10) Warranties that may be associated with improvements that will or have been under the purview of the Onslow Water and Sewer Authority (ONWASA) will meet the standards, requirements, terms and/or processes set forth by ONWASA.

(G) *Streetlights.* Streetlights shall be installed in accordance with the Town of Swansboro's Street Lighting Policy as well as the local power company's standards and specifications. All street lighting shall be installed prior to receiving a certificate of occupancy for any structure in the section. The developer will be responsible for the cost of installation and upkeep of all streetlights until the acceptance of public improvements by the Board of Commissioners. The maintenance and all future related cost of streetlights in the area accepted may then be transferred by the developer to the town.

(H) *Exception to sidewalk construction and guarantee.*

(1) Construction of sidewalks in subdivisions may be delayed by the developer for a period not to exceed 12 months from the date of acceptance of public improvements provided that the town holds a financial guarantee in an amount equal to the value of the uncompleted sidewalks plus 25%; however, no final inspection or certificate of occupancy for any building may be issued until the construction of sidewalks have been completed upon the land for which such final inspection or certificate of occupancy is required and the construction approved by the Town Planning Department. If the developer cannot complete sidewalks within 12 months of acceptance of public improvements, a request may be made to the town for additional time. The Town Manager or his/her designee shall have the authority to approve up to two, 12-month extensions completion periods for the sidewalk installation. If the Town Manager or his/her designee does not grant extensions for uncompleted sidewalks, the financial guarantee will be condemned and used to rectify the deficiency. If the Town Manager or his/her designee decides to condemn a guarantee an appeal may be made to the Board of Commissioners for their consideration.

(2) A financial guarantee payable to the town in an amount equal to the estimated cost of the construction of the sidewalk, plus 25%, for that subdivision improvement shall be submitted to the town by the developer. In the event of a default by the developer in the requirements of this ordinance, and after 45 days written notice of such default by the town to the developer, the financial guarantee shall be forfeited to the town and the town may construct the sidewalks in question and apply the amount of said financial guarantee to the construction cost.

(3) In no case shall any town official accept the improvements in a subdivision for town maintenance respons without the installation of sidewalks being completed or a financial guarantee payable to the town being posted to such construction. Item VI - a.

(Ord. 2005-O3, passed 3-15-2005) (Am. Ord. 2006-20, passed 9-19-2006; Am. Ord. 2011-O26, passed 8-16-2011)

§ 93.001 BOARD APPROVAL OF NEW STREETS.

Item VI - a.

(A) Board approval of new streets consists of two elements, an offer of dedication on the part of a property owner to dedicate his property or an interest therein to some public use and an acceptance of that offer by some appropriate public authority.

(B) Before any new street offered for dedication to the town is accepted as such and officially recognized as a town-maintained street, the Board must give its approval, finding that the street complies with engineering standards set by the Board and that the best interests of the town would be served by accepting the street as a town street.

(OC, § 4-1-1) (Am. Ord. passed 11-10-88)

PRIVATE ROADS AND ASSOCIATED FACILITIES
ACCEPTANCE OF DEDICATION AND MAINTENANCE
TOWN OF SWANSBORO

A. Purpose

The purpose of this policy is to set forth the procedures, criteria, and conditions under which the Town will consider accepting dedication and maintenance of private streets or roads and associated facilities, such as drainage, sidewalks, street lighting, traffic signs, and street markers.

B. Statement of Intent

1. Future Private Streets and Roads. In order to insure (1) that street facilities are properly designed, constructed, and maintained from the beginning, (2) that the Town and its citizens are not asked to assume ownership and maintenance of facilities that have not been properly and continuously maintained, and (3) that the Town is not asked to assume maintenance of infrastructure as it is entering periods of higher maintenance costs, it is the intention of the Town to avoid, in the future, acceptance and maintenance of streets not meeting the Town's standards.
2. Dedication at Outset. From and after the adoption of this policy, it shall be the policy of the Town that any road or street facility for which dedication and maintenance by the Town is to be considered should be offered for dedication *at the time of initial construction*. The Town will decline to consider the acceptance or maintenance of streets or roads *constructed* after the date of this policy, unless such streets or roads and any associated facilities are offered for dedication and maintenance by the Town immediately after construction.
3. Limited Scope of Policy. The procedures, criteria, and conditions set forth in this policy for the acceptance and maintenance of private streets and roads shall apply only to such private roads and streets *constructed prior to the adoption of this policy*.
4. Acceptance of Facilities. For those facilities (only) that are eligible for acceptance under this policy and which comply with the requirements of this policy, it shall be general intention of the Town to accept such facilities for ownership and maintenance.

C. Request for Consideration

1. Authority. All requests for municipal acceptance of private streets or roads and any associated facilities shall be made by a person or persons with complete and verifiable legal authority to offer dedication and to request municipal maintenance of such facilities, such as the owner(s) or the owner(s)' legal agent.

2. Application. All requests shall be in writing and shall specifically identify all of the facilities for which dedication is being offered and maintenance is being requested, including any land, rights-of-way, easements, and/or improvements to be conveyed. If a specific form of application is provided by the Town, the request shall be submitted in that form and shall be complete with regard to any associated informational requirements.

3. Fees. All requests for consideration shall be accompanied by an application fee, deposits, and/or promissory commitments that may be established from time to time by the Town in association with this process.

D. Standards and Principles of Acceptance

In order to be eligible for municipal acceptance and maintenance, the private facilities must meet the following standards and conditions:

1. Subdivision Standards Compliance. The private facilities must be constructed to a level equal to or better than the infrastructure design standards of the Town's subdivision regulations. Any facilities that are not designed in a manner, have not been constructed in a manner, have not maintained at a level, or are not found to be in a condition substantially equal to the Town's standards must be improved to those standards prior to acceptance; provided, however, in unusual or exceptional circumstances where equitable or other considerations are present, the Town may accept streets and associated infrastructure, including easements and rights of way accommodating the infrastructure, which do not meet the Town's construction or maintenance standards. The Town may require, at the applicant's expense, any appropriate tests, investigations, or engineering inspections necessary to evaluate the condition of the facilities. The Town will not ordinarily accept for maintenance any facilities that are designed or configured in a manner inconsistent with Town standards.

2. Plans and Certifications. The Town may require submission of facilities design and construction plans for review and evaluation. The Town may require the applicant

to provide certifications, from an engineer or engineers licensed to practice in North Carolina, regarding the design and construction of the facilities.

3. Deeds of Dedication. The Town shall require deeds and/or plats of dedication for any facilities proposed to be transferred to Town ownership and maintenance. Such deeds and/or plats shall be in a form acceptable to the Town, shall be suitable for recording, and shall be executed by a person or persons with suitable legal authorization. The applicant shall be responsible for any survey costs associated with the preparation of needed maps or plats and for any legal costs incurred by the Town or the applicant for research of the title and/or verification of ownership and authority.

4. Equitable Cost Consideration. Except in unusual circumstances as referenced above, the private facilities may not present anticipated maintenance costs that exceed the normal costs of similar facilities and services provided by the Town to other residents or property owners. *(For example, if street lighting has been installed at a level or in a form that would exceed the average cost of similar developments in the town, the Town may decline to officially accept, or assume responsibility for operation of, those facilities that would exceed normal levels.)*

5. Improvement Responsibilities. Unless special provisions to the contrary are included in any action or agreement to accept dedication or maintenance of previously private facilities, the Town will not be responsible for any improvements necessary to bring private facilities up to a level equivalent to prevailing municipal standards. Any such improvements - required by the Town or desired by the property owner(s) - will be the responsibility of the property owner(s). Application for acceptance and maintenance of private streets or roads and associated facilities shall constitute a specific acknowledgement of this condition. The Town may, at its option, require additional, specific acknowledgement of this condition.

6. Special Improvements or Features. If the Town elects to accept dedication and maintenance of formerly private streets or roads and associated facilities under this policy, such acceptance shall not include responsibility to maintain any special improvements, features, or amenities that would not customarily be included in its program of municipal maintenance. (Such special improvements or features might include. For example, entrance signs, street marker logos, decorative features, special landscaping areas, special signage, off-street parking, or other amenities.)

E. Evaluation of Facilities

1. Process. The private streets or roads and associated facilities proposed to be dedicated to and maintained by the Town shall be thoroughly inspected and evaluated by the Town public works department and by a consulting engineer employed by the Town. The inspection and evaluation process shall include field inspection, plan review, and any tests or surveys and engineering evaluations. The Town may require that the costs of such tests, surveys, or evaluations shall be borne by the applicant, and the applicant may be required to deposit funds sufficient to pay the expenses of same or to otherwise guarantee payment of such costs.

2. Tests and Surveys. The Public works Director may require any such tests, surveys, or engineering evaluations required for the facilities evaluation, including but not limited to soil borings, core sampling and evaluation, dynamic core penetrometer tests, proof rolling, drainage elevation surveys, and camera surveys of drainage facilities. The Public Works Director may require that any such tests be conducted by a properly qualified geo-technical firm or under the supervision of persons that hold QMS Roadway certifications from the North Carolina Department of Transportation (NCDOT). The Public Works Director may also require that testing or survey information be submitted under the seal of a supervisory professional engineer and/or on standard forms utilized by NCDOT. The acceptable standards of acceptance for such tests shall be determined by the Public Works Director, in consultation (as needed) with the Town's consulting engineer.

3. Report. Following completion of the facilities evaluation, the Public Works Director will submit a report of the evaluation and any needed repairs or improvements to the applicant and to the Town Manager, together with any recommendations regarding corrective actions. The Town Manager shall provide a report or a summary of the report to the Board of Commissioners. If repairs or improvements are needed, the "Corrections and Improvements" provisions below shall apply.

F. Corrections and Improvements

1. Application Response. Following receipt of the facilities evaluation report, the applicant shall advise the Town Manager within 90 days whether the applicant intends to make the needed repairs and/or improvements that are required or desires to withdraw the application. If the applicant intends to make the needed repairs, the applicant shall provide a timetable for completion of the work and shall diligently

pursue such repairs and/or improvements. If the applicant does not indicate an intention within 90 days (or the response deadline is not extended with the approval of the Town Manager), the application shall be considered withdrawn and any further consideration must take place under a new application.

2. Reinspection. Following the completion of any repairs or improvements undertaken in response to the facilities evaluation report, the facilities shall be re evaluated under the same requirements set forth under "evaluation of Facilities above and a new evaluation report shall be issued by the public works director. Such inspections and reports shall continue until the facilities are suitable for recommendation for acceptance.
3. Satisfactory Completion. When the report finds that the facilities are in compliance with Town standards, the application shall be eligible for submission to the Board of Commissioners for acceptance of dedication (ownership) and maintenance under the "Eligibility for Acceptance" provisions above.

G. Acceptance Procedure

1. Recommendation. Upon a finding that the private street or road and/or associated facilities meet the requirements of this policy and that necessary transfer of ownership documentation associated with the offer of dedication has been provided and approved by the Town Attorney, the application shall be calendared for consideration by the Board of Commissioners. The Board shall be provided with the final facilities evaluation report, any other information related to the issue of acceptance, and the recommendation of the Town staff.
2. Board Action. If the Board finds that any or all the facilities included in the application meet the requirements of the policy, those facilities shall be accepted for ownership and maintenance, under any appropriate conditions deemed prudent by the Board. Any action of acceptance may include some but not all of the facilities in the application, if the Board finds that not all facilities comply with requirements for acceptance. The Board shall, at its discretion, determine the effective date of any acceptance of maintenance.
3. Guarantee for Minor Corrections. The Board, in its sole discretion, may elect to accept ownership and prospective maintenance of certain facilities that may need minor corrections, provided that an adequate financial guarantee, in the form of a cashier's

check or letter of credit equal to 125% of the cost of improvements, is submitted to guarantee their completion. If a facility is accepted under such a guarantee, the acceptance shall not become effective until the corrections are satisfactorily completed.

4. Warranties and Bonds. All streets, roads, or associated facilities accepted for ownership and maintenance shall remain under warranty by the applicant for a period of at least one year (or a greater period if specified for acceptance of similar facilities in the Town's subdivision ordinance) following acceptance by the Town. The Board of Commissioners may, for good reason and at its sole discretion, require a bond to ensure such warranty if it so desires.

Originally Adopted: June 21, 2011
Amended: March 12, 2024



Board of Commissioners Meeting Agenda Item Submittal

Item To Be Considered: **Discussion of Filling a Vacancy on the Board of Commissioners**

Board Meeting Date: **February 11, 2025**

Prepared By: **Jon Barlow – Town Manager and Francis Rasberry – Town Attorney**

Overview: On January 28, 2025, Bill Justice was appointed as mayor to serve until the next municipal election in November 2025, leaving his previous commissioner seat vacant with nearly three years remaining. Conflicting rules in the Town Charter and North Carolina General Statutes create uncertainty about whether the appointed replacement will serve the full remaining term or only until the next election, requiring the Board to decide which law to follow.

Expanded Overview: Mr. Justice was serving a 4-year term expiring in November 2027. As a result of his appointment, there is about 3 years left on his unexpired term. Unfortunately, the process to fill Mr. Justice’s term is not straight forward. Upon review of the Town Charter and NC General Statutes there are inconsistencies between the laws.

NCGS 160A-63, *Vacancies*, provides that, if the term of the vacated office expires either following the next regular election, or if the next regular election is within 90 days after the vacancy occurs, the Board-appointed replacement serves the remainder of the unexpired term. In other words, if the office expires within 2 years or less, or if the next election is just around the corner, the appointed replacement serves the remainder of the vacated office’s term, being a relatively short period of time. Otherwise, and **specifically when the vacated office has two or more years remaining in the term, the appointed replacement serves only until the next election, and the successor elected at that election serves the remainder of the term of the vacated office, i.e., two years.**

Regarding the filling of vacancies, The **Town Charter provides otherwise.** *Section 3.3 (C), Vacancies*, of the Charter provides that, if a vacancy occurs in the office of commissioner, the board **“shall by majority vote... appoint a qualified person to fill the same for the remainder of the unexpired term.”** The Charter ostensibly allows the BOC appointee to serve the full remaining term, making no distinction between filling the seat expiring in less than two years, and one that may have nearly four years before expiration.

There is a remedy to help resolve when there is a conflict as one described above. **NCGS 160A-3, General Laws Supplementary to Charter**, sets forth rules for reconciling conflicts, inconsistencies, or overlaps between Town charter law and general law. This statute is extremely tedious and challenging to apply. However the most-applicable section provides: “(a) When a procedure that purports to prescribe all acts necessary for the execution of any... power, duty, (or) function...

Action: _____

is provided by both general law and a city charter, the **two procedures may be used as alternat**
and a city may elect to follow either one.”

Item VI - b.

In the event the Board chooses to follow the Charter, then the process is fairly straight forward. The person appointed would fill the remaining balance of time on Mr. Justices term. If the General Statute is followed then the appointee only serves until the next election in November 2025 and may seek reelection (special election) for the remaining two years of the original 4-year term or a seat for one of the three seats that are up for reelection in November 2025.

Background Attachment(s): Click here to enter text (should not be in bold)

Recommended Action: Due to the inconsistencies between the Town Charter and the NCGS a determination of the preferred method to fill the unexpired term of Mr. Justice is necessary.



Board of Commissioners Meeting Agenda Item Submittal

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

Board Meeting Date: **February 11, 2025**

Prepared By: **Alissa Fender – Town Clerk**

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

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

February 25th

- * Presentation – Park & Recreation Projects Update
- * Recognition – Fire Department
- * Public Hearings
 - o CAMA Future Land Use Map Amendment for parcels on W. Corbett Ave from RA to Suburban Town Center
 - o Zoning Map Amendment to rezone parcels on W Corbett Ave from RA to B-1 Conditional Zoning
- * Funding Request - PirateFest
- * Monthly Financial Report

February 20th – Special Meeting for mid-year budget review

March 11th or 25th

- * RFQ Award – Sidewalk Design Project
- * Monthly Financial Report

Future Agenda Items

- * Minimum Housing Code
- * Street Acceptance of Swansgate (*developer has applied*)
- * Waterfront Access and Development Plan (*review/revision considerations*)
- * Community Presentations (*ongoing monthly*)
- * 2nd Amendment/Weapon Allowance at Town Hall
- * DOD Grant
- * EMS Plan (*ongoing*)
- * Presentation – Proposal for Heritage Center Museum in Emmerton School Building (*postponed by presenter*)
- * UDO/Policy Amendment on acceptance of streets, sidewalks and stormwater infrastructure
- * Consideration to enable paid parking for downtown
- * Visitor’s Center Future Plans dicussion