

PUBLIC NOTICE

THE NEXT MEETING OF THE OCRACOKE PLANNING ADVISORY BOARD (OPAB), WILL BE HELD ON THURSDAY, JULY 11, 2013 AT 5:30 P.M., AT THE OCRACOKE COMMUNITY CENTER.

AGENDA

- **CONSIDERATION OF AGENDA**
- **CONSIDERATION OF MINUTES**
 1. **May 9, 2013 – ATTACHED**
 2. **June 13, 2013 – ATTACHED**
- **PUBLIC COMMENTS**
- **CORRESPONDENCE**
- **OLD BUSINESS:**
 1. **ELECTION OF OFFICERS:**
 - **CHAIR**
 - **VICE CHAIR**
 - **SECRETARY**
 2. **OUTDOOR SALES AMENDMENT REVIEW AND DISCUSSION – ATTACHED**
 3. **OCRACOKE DEVELOPMENT ORDINANCE DISCUSSION IN REGARD TO POSSIBLE REVISION AND FOLLOW UP WITH THE UNC SCHOOL OF GOVERNMENT**
- **NEW BUSINESS:**
- **PUBLIC COMMENT**
- **ADJOURNMENT**

**ATTACHMENT:
CONSIDERATION OF PREVIOUS
MINUTES:
MAY 9, 2013
JUNE 13, 2013**

Ocracoke Planning Advisory Board

May 9, 2013 5:30PM

Ocracoke Community Center

Board members present: Tom Pahl, Sharon Justice, Corky Pentz, Amy Johnson, BJ Oelschlegel

Board members absent: Keith Parker-Lowe, Jennifer Esham

Also present: County Manager Bill Rich, County Commissioner John Fletcher, County Inspector Jerry Hardison, County Planning Director Assistant Averi Simmons, and 7-9 citizens.

Meeting called to order by Chairman Pahl.

Review of 4/11/2013 minutes. Motion to approve by BJ, second by Sharon. All approved.

Correspondence

- Tom briefly presents two pieces of correspondence that pertain to specific agenda items that he will address later on when those items are discussed in full.

Public Comment

- None.

Outdoor Sales Amendment – update

- The proposed amendment was submitted to the Hyde County Board of Commissioners Monday 5/7/2013 at which time it was tabled until the following meeting June 3, 2013. The Commissioners agreed to set up a public hearing for the amendment by June 3, 2013.
- Comments from Commissioner Fletcher and Board responses:
 - Under part **(a) The intent and purpose**, Mr. Fletcher believes the phrase, "and do not unreasonable diminish adjacent property and business values" is subjective and should be removed.
 - The Board abstains from a motion to change the language.
 - Under the section **(b) Definitions; (2) Temporary Structure**, Mr. Fletcher believes that if food trucks are required to get a permit, there should be a provision allowing them to operate in multiple locations.
 - The Board will add language to specify businesses operating from mobile units that wish to operate in multiple locations will only need to pay for one permit but must identify all locations and submit them for approval.
 - Under the section **(b) Definitions; (3) Permanent Installation**, Mr. Fletcher thinks the Board should add "pipes" as an indicator of permanent installation.
 - The Board agrees and will add "pipes" to the language.
 - Under section **(g) Setbacks**, Mr. Fletcher thinks the 8-foot setback requirement would make it almost impossible for property owners of odd shaped lots to be able to have an outdoor business that complies with the amendment.
 - After discussion the Board abstains from a motion to change the language.

- Under section **(j) Off-site impacts**, Mr. Fletcher believes the phrase, “nor significantly detract from adjacent business or residential environments” is subjective and should be removed.
 - The Board believes that although potentially contentious, this phrase affords the enforcement officer to begin dialogue with the business owner.
 - Motion from BJ to keep the wording as it stands. Motion dies for a lack of a second and subsequently remains unchanged.
- Public comment from Sean Death suggesting that all businesses on Ocracoke, temporary or not, should pay the county a small fee to operate.

Multiple, conflicting version of the Ocracoke Development Ordinance (ODO)

- Tom believes there are multiple, conflicting versions of the ODO available online.
- Manager Rich believes there is only one version and provided Tom with printed copies from the various online locations.
- Tom will review the copies and report back to the Board.

General Discussion regarding an overall revision of the ODO

- Tom spoke with Richard Ducker, an adjunct professor of law in the UNC School of Government, about potentially revising the ODO. Ducker said the School of Government can't write the ordinance, but he offered his services for guidance and review.
 - After a cursory review of the ODO Professor Ducker said the entire document needs updating for multiple reasons such as changes in state law, lack of clarity, lack of ability to address non-conforming uses, and to better conform to other local and regional land use plans.
- The Board agrees to seek advice from Professor Ducker. Tom will send him an email with the Board's concerns and questions as well as an invite to come to Ocracoke.

CAMA Core Land Use Plan for Hyde County

- Planning Director Assistant Simmons provides all Board member with the CAMA Core Land Use Plan for Hyde County.

Nominations for board positions up for re-appointment

- Board members with expiring terms: Tom Pahl, Keith Parker-Lowe, and Jennifer Esham.
- BJ motions to recommend to Mr. Fletcher the re-appointment of Tom Pahl and Jennifer Esham. Second from Corky. Amy mentions she has heard concern from two citizens regarding BJ and Jennifer both serving on the Board and having some extent of business relations. Manager Rich suggests the Board does not vote on the motion, as Mr. Fletcher was able to hear the Board's input, which should suffice at this point in time.

Public Comment

- Sean Death believes the travel trailer amendment needs reconsidering specifically in terms of the parameters that limit the number of travel trailers allowed on one site.

Next meeting scheduled for Thursday June 14, 2013 at 5:30PM.

Motion to adjourn from Amy, second from Sharon, all in favor.

Ocracoke Planning Advisory Board

June 13, 2013 5:30PM

Ocracoke Community Center

Board members present: Tom Payne, Corky Pentz, Amy Johnson, BJ Oelschlegel, Butch Bryan, Jerry Midgett, & Sharon Justice

Board members absent: None

Also present: County Manager Bill Rich, County Commissioner John Fletcher, County Inspector Jerry Hardison, County Planning Director Kris Noble, previous Board Chair Tom Pahl, and 3-5 citizens

Meeting called to order by Kris Noble

New Business

New board members appointments – appointed by Commissioner Fletcher on June 3, 2013

- Tom Payne
- Butch Bryan
- Jerry Midgett

Nominations for new Board Chair

- Kris Noble describes all duties of Board Chair and Vice Chair.
- The Board decides to table the appointments until the next meeting. Kris Noble agrees to act as facilitator.

Correspondence

- Review of the letter from Professor Richard Ducker from the UNC School of Government regarding his offer to provide guidance to the Board should they choose to update the ODO per his recommendation.
- No formal decision on how to keep in touch with Professor Ducker regarding this topic.

Public Comment

- Tom Pahl states he doesn't know why he wasn't reappointed but would like to update the new Board members about the previous Board's work. According to Pahl two major accomplishments involved problems that were brought to the Board by then Commissioner Darlene Styron; the use of travel trailers as residences and pop-up outdoor businesses. Pahl also credits the previous Board with revising the application process as well as establishing a general sense of credibility and openness to the community. Pahl believes the Board and the ODO should change as Ocracoke changes.
- BJ Oelschlegel gives a public thank you to Tom Pahl for the amount of work he put into the Board and for his interest and energy for the task at hand.

Old Business

Outdoor Sales Amendment

- The Board of Commissioners approved with the proposed Outdoor Sales Amendment at their last meeting June 3, 2013 with changes to the language of section A and section J.
- Copies of the adopted Outdoor Sales Amendment were passed out to all Board members.
- The Board decides to table the topic until next month's meeting so all new Board members have time to look over the Ordinance.

Revision of the Ocracoke Development Ordinance

- Kris Noble overviews the comments from Professor Ducker regarding the need to update the ODO.
- BJ clarifies that the question is more about *how* to update the ODO not if the ODO needs updating.
- Butch recommends that the Board needs to be extremely careful about how they go about changing the ODO.
- Inspector Hardison states the need for enforceable language.
- The Board decides to table the topic until next month's meeting so all new Board members have time to read the ODO.

CAMA Core Land Use Plan for Hyde County

- Kris Noble explains that Hyde County doesn't need to update their land use plan this year. This fall there will be workshops to talk to local governments about updating portions of their plans.
- Kris will provide copies of the entire CAMA land use plan for the new Board members.

Public comment

- None

Motion to adjourn by Jerry Midgett, second and all in favor.

Next meeting scheduled for July 11, 2013 5:30 PM at the Ocracoke Community Center.

ATTACHMENT:
AMENDMENT TO OCRACOKE
DEVELOPMENT ORDINANCE:
SEC. 36-185 REGULATION OF
OUTDOOR SALES

Commissioner Fletcher moved to close public hearing on the Hyde County FY2013-2014 Budget at 6:30 p.m. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Public Hearing – Proposed Amendment to the Ocracoke Development Ordinance:

Commissioner Fletcher moved to open public hearing, at 6:31 p.m., to receive citizen questions and/or comments on the proposed Amendment to the Ocracoke Development Ordinance regarding outdoor sales. Mr. Pugh seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

County Manager Rich reported that he and Commissioner Fletcher met with the Ocracoke Planning Board and recommended changes were not voted on by the Planning Board at that time.

Tom Pahl, Chairman – reported that the Planning Board supports changes to Section 36 – 185 (a) – *and do not unreasonably diminish adjacent property and business values*; and (j) – *nor significantly detract from adjacent business or residential environments*. Mr. Pahl stated that 90% of the work is done by the Building Inspector and language changes were made to allow him room for negotiation.

Commissioner Fletcher reported the proposed changes would create a subjective evaluation of the Amendment to the Ordinance.

Darlene Styron, Ocracoke – reported the amendment was written with a lot of thought and that language referencing triangle shaped lots was included for safety reasons.

Commissioner Fletcher moved to close public hearing on the Proposed Amendment to the Ocracoke Development Ordinance at 6:45 p.m. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Public Comments:

Chairman Swindell called for comments from the public.

Ken Collier, Ponzer – asked the Board to support Waterway Landing Subdivision Resolution. Mr. Collier also expressed concern about relocation of DSS to the ECB building in Engelhard.

Christian Gibbs, Fairfield – presented statistics and requested Board support of Resolution Requesting Speed Limit – New Lands Community.

There being no further comments from the public, Chairman Swindell continued the meeting.

Employee Recognition:

County Manager Bill Rich recognized the following employees for recent accomplishments:

- Health Department – Wesley Smith, Director, for receiving full North Carolina Local Health Department Accreditation Status. Hyde County Health Department performed an agency assessment which included 41 benchmarks and 138 activities. Mr. Rich commended Health Director Smith for running a professional organization.
- Inspections Department – Jerry Hardison, Building Inspector, and Jane Hodges, Permits Technician/Airport Manager, recently relocated in the Administration Department at the Government Center.
- Solid Waste Department – James Blount, Supervisor, for his service to Ocracoke on Thursday and Friday when he pulled the front end from the Ocracoke machine, took it to the mainland, fixed it and returned before daybreak the next morning to install it and have it running for Memorial Day weekend. Manager Rich commended Mr. Blount for going over and above the call of duty.

Resolution Relating To The Hyde County Budget For Fiscal Year 2013-2014

County Manager Rich presented "Resolution Relating to The Hyde County Budget for FY2013-14. Manager Rich reported that delinquent tax letters have been sent. He thanked Tax Administrator Linda Basnight and County Attorney Fred Holscher for collection of \$110,000.00 delinquent taxes.

Commissioner Byrd moved to adopt "Resolution Relating To The Hyde County Budget For Fiscal Year 2013-2014." Mr. Pugh seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "Resolution Relating To The Hyde County Budget For Fiscal Year 2013-2014" is attached herewith as Exhibit F and incorporated herein by reference.

FY2013-2014 Hyde County Budget Ordinance

County Manager Bill Rich presented the FY2013-2014 Hyde County Budget Ordinance.

Commissioner Fletcher moved to adopt "FY2013-2014 Hyde County Budget Ordinance" as amended to include \$5,000.00 increase in the Beaufort/Hyde/Martin Regional Library System budget. Mr. Pugh seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "FY2013-2014 Hyde County Budget Ordinance" is attached herewith as Exhibit G and incorporated herein by reference.

Amendment to Ocracoke Development Ordinance

County Manager Rich presented Proposed Amendment to the Ocracoke Development Ordinance. Possible changes to language in Sec. 36 – 185 (a) and (j) were discussed.

Commissioner Fletcher moved to adopt "Amendment to the Ocracoke Development Ordinance" with deletion of language in Section 36 – 185 (a) – and do not unreasonably diminish adjacent property and business values; and (j) – nor significantly detract from adjacent business or residential environments. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "Amendment to Ocracoke Development Ordinance" is attached herewith as Exhibit H and incorporated herein by reference.

Amendment to Engelhard Marine Industrial Park Ordinance

Kris Noble, Planner, reported the original Project Ordinance 2011-10-01 Engelhard Marine Industrial Park has been modified to accurately reflect revenues and expenditures. Some additional funds were moved from the Contingency line to the Electrical line to adjust for the three phase power installation required by the tenant. Overall actual project costs were \$128.66 less than estimates and the Project Ordinance has been amended to reflect actual final project costs.

Commissioner Fletcher moved to adopt "Amendment to ~~Wanehese Seafood Industrial Park~~ Engelhard Marine Industrial Park Project Ordinance 2012-05-01" to accurately reflect funds spent on this project. Mr. Pugh seconded the motion. The motion passed on the following vote: Ayes – Byrd, Fletcher, Pugh, Tunnell and Swindell; Nays – None; Absent or not voting – None.

Clerk's Note: A copy of "Amendment to ~~Wanehese Seafood Industrial Park~~ Engelhard Marine Industrial Park Project Ordinance 2012-05-01" is attached herewith as Exhibit I and incorporated herein by reference.

US Cellular 4G Wireless Telecommunications Upgrade and Tower & Ground Space Lease Agreement Addendum

Justin Gibbs, Emergency Services Director, reported US Cellular has requested authorization to upgrade the equipment and utilities, located at 1151 Main Street; Swan Quarter, NC, to provide 4G

Amendment to the Ocracoke Development Ordinance

Sec. 36-185 Regulation of Outdoor Sales

(a) The intent and purpose of this section is to establish minimal regulations and restrictions intended to ensure that outdoor sales; do not interfere with the orderly and safe movement of pedestrian and vehicular traffic; do not interfere with the proper maintenance of parking and yard areas; do not cause congestion in the streets or public rights-of-way; are conducted within structures safe for public occupancy when structures are used.

At the same time, these regulations intend to recognize the tradition of outdoor sales as a part of Ocracoke's economy and also recognize and encourage the responsible development of outdoor sales establishments as an entrepreneurial incubator.

(b) **Definitions:** For the purpose of this section the following definitions shall apply:

- (1) **Outdoor Sales:** The display and/or sale of any merchandise, commodities or product where primary transactions are conducted a) in the open air; b) within a temporary structure, or: c) within a kiosk or similar structure.
- (2) **Temporary Structure:** an enclosure or covering which is readily dismantled or readily moved, including, but not limited to tents, canopies, tarps, trailers, food trucks, lean-tos, pre-fabricated sheds, sheds and similar structures. This definition shall apply to any of these and similar structures even if, at a later date, the structure is modified, strengthened or made more permanent.
- (3) **Permanent Installation:** a structure attached to the ground by in-ground piers, pilings or posts, at least 3 ½" in cross section, and set such that they are not removable without the use of digging tools or equipment.
- (4) **Kiosk:** a small, free-standing non-residential structure which is primarily intended as a place for the conduct of sales, rentals, information exchange, self-service, etc. Also referred to as a booth, portico, pavilion, venting station, etc.

(c) **Grandfathered Uses:** Outdoor sales establishments in existence on the approval date of this amendment shall be exempt from sections of this amendment as follows:

- (1) Permanent installations in existence on the approval date of this amendment including certain signs, displays, kiosks, booths, etc. may remain in their existing locations without regard to the setback requirements in this amendment.

(2) Outdoor sales establishments in existence on the approval date of this amendment shall not be subject to the section of this regulation titled "(i) Parking".

(3) Except as (1) and (2) above, existing outdoor sales establishments shall be subject to the provisions of this amendment.

(d) **Exceptions:** The following categories of outdoor sales are not subject to the regulations in this section of the ODO: temporary yard and rummage sales and the like; the outdoor seating portion of a restaurant which is otherwise not an outdoor sales establishment; sales organized and operated by anyone under the age of 16; vending machines and self-service sales taking no more than none square feet; sales as a part of a short-term festival, parade, non-profit fundraising event and the like.

All other outdoor sales shall be considered regulated outdoor sales establishments. The following regulations shall apply to regulated outdoor sales and shall be enforceable by the ODO Enforcement Officer.

(e) **Permit Required:** All regulated outdoor sales establishments shall be required to apply for an ODO permit by the regular ODO permit application. Approval of that application shall constitute approval to conduct an outdoor sales establishment under these regulations. Where a single owner operates more than one outdoor sales establishment, a separate permit must be acquired for each location. Where more than one point of sale may exist on a single lot, each establishment must acquire its own permit.

(f) **Location:** Regulated outdoor sales may take place anywhere within the Village of Ocracoke as long as the owner of the outdoor sales establishment is either the owner of the land it sits on, or has the expressed written permission of the owner of the land it sits on. At the order of ODO Enforcement Officer the owner of the outdoor sales establishment shall provide any documentation necessary to establish compliance with these regulations.

(g) **Setbacks:** All structures, signage, displays, etc. associated with outdoor sales shall be subject to the following minimum setback requirements: from any paved public street – ten feet from the edge of the asphalt pavement; from any unpaved public street – four feet from the road edge; from side and rear property lines – eight feet; from any structures, signage, displays, etc. associated with another outdoor sales establishment – eight feet.

(h) **Safe Passage:** In addition to the minimum setback requirements above, all structures, displays, merchandise, products, signage, flags, banners, etc. Shall be arranged such that no portion shall block or hinder established public pedestrian and bicycler passageways or obstruct reasonable sight-lines required for safe vehicle passage at driveways and intersections. The application of this paragraph to a particular site shall be at the order of the ODO Enforcement

Officer. On request of the affected business owner, the order of the ODO Enforcement Officer may be subject to additional review, in consultation with the ODO Enforcement Officer, the Hyde County Sheriff's Office and the business owner. Final determination shall be by the ODO Enforcement Officer. All rights and processes for appeal, as outlined in the ODO shall remain in effect.

(i) **Parking:** All regulated outdoor sales establishments shall designate at least two readily accessible parking places. Both designated parking places shall be kept available for customer parking during hours of operation. Such designated parking places shall not reduce the available parking of another business or residence such that it may fall below its parking requirements as set out in the ODO. If the designated parking spaces are on land which does not belong to the owner of the outdoor sales establishment, a letter of agreement from the land owner shall verify the designation.

(j) **Off-site Impacts:** regulated outdoor sales establishments shall minimize off-site impacts. No lighting shall shine directly onto an adjacent residence. Trash and garbage, associated with the business, which is not contained, whether on-site or off, shall be the responsibility of the business to clean up daily. Aggressive hawking, noise, music, signage, flags, etc. shall not create a nuisance.

(k) **Related Sections of the ODO:** Outdoor sales regulated under this section shall not be subject to the provisions of Section 36-182 nor Section 36-177 of the ODO.

(l) **Other Codes:** The ODO Enforcement Officer shall call for the enforcement of all existing building, electrical, fire, health department codes and the codes and regulations of other jurisdictions as may apply to any portion of a regulated outdoor sales establishment.

A Public Hearing on this Amendment to the Ocracoke Development Ordinance was held on June 3, 2013.

This Amendment to the Ocracoke Development Ordinance was adopted on the 3rd day of June, 2013.

HYDE COUNTY BOARD OF COMMISSIONERS


Barry Swindell, Chairman

ATTEST:


Lois Stotesberry, Clerk to the Board

