



**City of Havelock
Board of Commissioners
Regular Meeting
Monday, April 10, 2023
7:00 p.m.
Havelock City Hall**

Item #	Agenda Topics	Presenter
I.	CALL TO ORDER	Mayor Will Lewis
II.	OPENING PRAYER/MOMENT OF SILENCE	
III.	PLEDGE OF ALLEGIANCE	Mayor Will Lewis
IV.	REGULAR & CONSENT AGENDA: <i>A. Consent Agenda Items (A-C)</i> <i>B. Regular Agenda</i>	Mayor Will Lewis
V.	PUBLIC COMMENTS	(5 minutes per citizen)
VI.	REGULAR AGENDA ITEMS:	
<input type="checkbox"/> 1.	PUBLIC HEARINGS: <i>A. Stormwater Management Ordinance and Local Program Update City Code Chapter 53 and related UDO Chapters</i> <i>B. CAMA Land Use Plan</i> <i>C. Conditional Zoning District Modification - Woodfield Landing</i> <i>D. Zoning Map Amendment RA and LI to HC: 801 Greenfield Heights Boulevard</i>	Planning Director Katrina Marshall
<input type="checkbox"/> 2.	Governing Body Appointments: <i>Appearance Commission</i>	Mayor Will Lewis
<input type="checkbox"/> 3.	Reports/Comments: <i>A. City Manager</i> <i>B. City Attorney</i> <i>C. Commissioners</i> <i>D. Mayor</i>	City Manager Chris McGee City Attorney Troy Smith Commissioners Mayor Will Lewis
VII.	ADJOURNMENT	Mayor Will Lewis



**City of Havelock, North Carolina
Board of Commissioners**

AGENDA COMMUNIQUE

TO: Mayor William L. Lewis, Jr.
Board of Commissioners
City Attorney Troy Smith

FROM: City Manager Chris McGee
Assistant City Manager Cindy Morgan

SUBJECT: Board of Commissioners Meeting – Monday, April 10, 2023 – 7:00 PM

DATE: 4/6/2023

CC: Department Heads; Press

I. CALL TO ORDER:

Mayor Will Lewis will call the meeting to order.

II. OPENING PRAYER/MOMENT OF SILENCE:

The Mayor or a Board member shall request a clergy member to offer the opening prayer or the Board shall conduct a moment of silence.

III. PLEDGE OF ALLEGIANCE:

Mayor Will Lewis will lead the Commissioners and those in attendance in reciting the Pledge of Allegiance to the Flag.

“I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.”

IV. REGULAR & CONSENT AGENDA:

The City Clerk respectfully submits to Board, the Regular Agenda and the below Consent Agenda items, which there is thought to be of general agreement and little public interest or no controversy. These items may be voted on as a single group without Board discussion “or” if so desired, the Board may vote to remove any item(s) from the consent agenda and place same on the regular agenda for discussion and consideration.

Consent Agenda Item A	Minutes of the March 14-15, 2023 Board of Commissioners Annual Planning Retreat
Consent Agenda Item B	Minutes of the March 27, 2023 Board of Commissioners Regular Meeting
Consent Agenda Item C	Pension Spike Notification/Official Acknowledgement

Request: A Commissioner’s motion and second are being sought as to approving or not, the following agenda matters:

- A. Consent Agenda as presented; and
- B. Regular Agenda as presented.

City Manager’s Opinion: The Board may by majority vote add items to or subtract items from both the proposed consent and regular agenda. As of this writing, the manager understands that the presented consent agenda items are routine and therefore concurs with adopting the presented consent agenda.

V. PUBLIC COMMENTS:

If any citizen wishes to address the City of Havelock Board of Commissioners during this “Public Comments” segment of this meeting, they may do so by signing up prior to the beginning of the meeting.

The City Clerk shall provide the sign-up sheet, which lists the name and address. It should be noted that comments shall be limited to five (5) minutes and Board reserves the right not to act on requests first presented this evening.

VI. REGULAR AGENDA ITEMS:

Item #1. PUBLIC HEARINGS:

A. Stormwater Management Ordinance and Local Program Update City Code Chapter 53 and related UDO Chapters

The City is required to start implementing the updated Neuse Stormwater Rules in 2023 as a result of the NC Division of Environment Quality (DEQ) revised rules. Staff has worked with NCDEQ to prepare the City updates and received approval to proceed with the local adoption and implementation of the changes. The “Neuse River Basin Stormwater Ordinance for New Development” (**Exhibit #1A.1**) includes amending the

City Code Chapter 53, Stormwater Management, and various sections of the Unified Development Ordinance (UDO).

To incorporate the new rules into the City Code and UDO, the City was provided with a model ordinance which has been modified to apply specifically to Havelock. In reviewing the revised ordinance sections, please be aware that the black text is carried forward from the old versions, the red text reflects deletions, and the blue text is additions. Since Appeals and Variances are reviewed by the City's Board of Adjustment, these sections are recommended to be added to the UDO with cross references in the new Chapter 53 text. Additional sections of the City Code and UDO are included to update the references.

Another requirement of the readopted stormwater rules was the development of a new Model Program to provide guidance to local governments in the development of new or revised Local Programs. The "Local Program Document to Implement Neuse Stormwater Rules" fulfills that rule requirement. **(Exhibit #1A.2)**

Approval of this text amendment is consistent with the City's Land Use Plan Environment and Natural Resources Element goals and policies regarding protecting and enhancing the availability and quality of natural resources in the City. The Planning Board reviewed this text amendment at the February 7, 2023 meeting and recommended approval with a unanimous vote, as shown in the excerpt of the meeting minutes **(Exhibit #1A.3)**.

Once adopted by the Board of Commissioners, this ordinance will be effective May 1, 2023. A copy of the public notice is attached as a reference **(Exhibit #1A.4)**.

City Code References: City Code Chapter 53 and UDO Chapter 159.01

Request: a. Mayor Lewis is to open the public hearing and call upon the Planning Director Katrina Marshall to present the proposed text amendment to Havelock City Code Chapter 53: Stormwater Management and related sections of the City Code and the Unified Development Ordinance, along with the Local Program Document to Implement Neuse Stormwater Rules; and
b. Solicit comments from Board and/or public; and
c. Upon receiving no further comments, Mayor Lewis is to close the public hearing portion on this matter, and thereafter
d. A Commissioner's motion and a second are being sought to adopt Ordinance Amendment #23-O-07, an ordinance amending Stormwater Management within the City's Code and UDO as presented, and effective at 12:01 a.m. on May 1, 2023, along with the Local Program Document implementing the new Neuse Stormwater Rules.

City Manager's Opinion: With an overview of these changes being provided to the Board at their recent Planning Retreat, the manager supports the approval of the stormwater ordinance updates and the implementation of the new Neuse Stormwater Rules.

B. CAMA Land Use Plan

The City has been continuing to finalize the CAMA Land Use Plan since June 27, 2022, when the Board adopted the draft plan to comply with Session Law 2019-111. Staff has continued to work with Insight Planning and Development and NC Division of Coastal Management Planner Rachel Love-Adrick to complete the steps in Land Use Plan Certification Process (**Exhibit #1B.1**). As part of the Completeness Review and State Review, the City received comments that needed to be addressed in the plan. These edits were minor as described in the attachment (**Exhibit #1B.2**). The updates were incorporated in the draft plan dated 12/14/22. At that time, the City received approval to proceed with the public hearing and local adoption.

The CAMA Land Use Plan can be viewed on the City's website at: https://www.havelocknc.us/DocumentCenter/View/845/DRAFT-CAMA-Land-Use-Plan_12-14-2022.

The Planning Board reviewed the Plan at the February 7, 2023 meeting and recommended approval. A copy of the minutes are attached (**Exhibit #1B.3**)

At this meeting, the Board will hold the public hearing, as per notice (**Exhibit #1B.4**) and then consider adopting the Plan by Resolution (**Exhibit #1B.5**). The Plan is consistent with NCGS 160D as the City is required to adopt and reasonably maintain a comprehensive land use plan as a condition of adopting and applying zoning regulations.

City Code References: N/A

Request: a. Mayor Lewis is to open the public hearing and call upon the Planning Director Katrina Marshall to present the CAMA Land Use Plan for formal adoption consideration; and
b. Solicit comments from Board and/or public; and
c. Upon receiving no further comments, Mayor Lewis is to close the public hearing portion on this matter, and thereafter
d. A Commissioner's motion and a second is being sought to adopt Resolution #23-R-06, a resolution adopting the City's CAMA Land Use Plan, as presented.

City Manager's Opinion: The manager supports adoption of the plan.

C. Conditional Zoning District Modification - Woodfield Landing

Woodfield Landing Limited Partnership is requesting a modification to the Conditional Zoning District site plan for the Woodfield Landing Apartments. Since the project was approved in 2019, the developer has been completing the plans, securing funding, and obtaining the required permits. During this time the COVID-19 pandemic occurred and construction costs increased significantly. Due to the cost increases, the developer is requesting to modify the approved site plan to decrease the number of buildings from ten (10) to eight (8). This will result in a decrease in the number of apartments from 80 to 64. The parking spaces associated with the buildings will be removed and a section of driveway will also be eliminated. The buildings to be removed are located on the eastern side of the Landing Circle loop. The first and third buildings

from the end will be removed. The second building will be relocated to the site of the third building from the end. The Planning Board packet with the application and associated maps is attached **(Exhibit #1C.1)**.

The Planning Board, at its March 7, 2023 meeting, recommended approval, with a unanimous vote, to modify the Conditional Zoning District site plan for Woodfield Landing Apartments, as the request is consistent with the City's Land Use Plan in that the area is designated as City Center Mixed-Use which allows residential uses. The modification to the site plan is reasonable and in the public interest in that it decreases only the density of the project, does not increase the amount of development on the property, and continues to provide affordable housing in the City. The Planning Board minutes are attached **(Exhibit #1C.2)**.

This evening, the Board will hold the public hearing, as per notice **(Exhibit #1C.3)**, and then consider approving the modification as proposed. The Board must also include a statement describing whether its action (approval or disapproval) is consistent with the City's CAMA Land Use Plan and include why the Board considers the action taken to be reasonable and in the public interest.

City Code References: N/A

Request: a. Mayor Lewis shall open the public hearing and call upon Planning Director Katrina Marshall to present the conditional zoning district modification request; and
b. Solicit comments from Board and/or public; and
c. Upon receiving no further public comments, Mayor Lewis is to close the public hearing; and
d. A Commissioner's motion and a second is being requested to "approve or deny" the Planning Board's recommendation to modify the Conditional Zoning District site plan for Woodfield Landing Apartments.

City Manager's Opinion: The manager supports the approval of the conditional zoning district modification as the request is consistent with the City's Land Use Plan in that the area is designated as City Center Mixed-Use which allows residential uses, and furthermore, the modification to the site plan is reasonable and in the public interest in that it decreases only the density of the project, does not increase the amount of development on the property, and continues to provide affordable housing in the City. If the BOC agrees, this consistency statement should be used as part of the motion to approve.

D. Zoning Map Amendment RA and LI to HC: 801 Greenfield Heights Boulevard

Dr. Larry S. and Mrs. Nancy C. Paul are requesting rezoning of 21.49 acres of their property at 801 Greenfield Heights Boulevard from RA (Residential Agricultural) and LI (Light Industrial) to HC (Highway Commercial). The Planning Board packet with the application and attachments is are included **(Exhibit #1D.1)**.

The 107.56 parcel at 801 Greenfield Heights Boulevard is located in the City's Extraterritorial Jurisdiction (ETJ) and is split-zoned R-20A (Single-family residential), RA and LI. The 21.49 acres proposed for rezoning are zoned RA and LI and are bordered by RA to the north, east and west and LI to the south. The section abuts the Havelock Bypass to the west and U.S. Forestry Service to the southwest, Greenfield Mobile Home Park to the south and southeast. Duke Energy has a powerline easement abutting and running through the 21.49 acres.

Current uses on the property at 801 Greenfield Heights Boulevard include, but are not limited to, Dr. and Mrs. Paul's residence and a telecommunications tower. To accommodate construction of the Havelock Bypass, NCDOT condemned a section of the Paul's property that cut the property in two. Access to the telecommunication tower that was on the property was cut off by the condemnation and had to be relocated. The access to the tower site is by an easement on a 12-foot wide, recycled asphalt private driveway. This would also be the access to the section of the property proposed for rezoning. The property owners indicated that they may, at some time in the future, develop some of the 107.56 acres as residential. If the portion proposed for HC is rezoned, it could be used for any use permitted in Table of Permitted Uses (Table 155-8 in the UDO). Staff presented to the Planning Board the concern that rezoning this section of the property could be considered as "Spot Zoning." A Spot Zoning bulletin written by the UNC School of Government was included in the Planning Board packet and identifies criteria that should be reviewed to consider if a rezoning request may be considered to be "spot zoning."

Staff summarized that there are no commercial zoning districts abutting or near the applicants' property and the area for the proposed rezoning is surrounded by a very large RA zoning district and a much smaller section zoned LI. Additionally, Section 154.03(B)(2) of the UDO states that the HC district was established to allow commercial development for retailing of goods and services, and providing offices and personal services on major highways and other thoroughfares in the community. In this case, the property will not have any direct access from the bypass or Greenfield Height Boulevard. Staff does not support rezoning the 21.49 acres to HC because there is no direct public access available or planned.

Dr. and Mrs. Paul presented their views on the rezoning request to the Planning Board and that they believe spot zoning would not be an issue.

At the time the Board acts on the request, the Board must include a statement describing whether the action taken is consistent with the City's CAMA Land Use Plan and explain why it considers the action taken to be reasonable and in the public interest. The Future Land Use Map shows this area is classified as "Neighborhood Mixed Use" which accommodates business uses and services within or near residential neighborhoods. This request may be consistent with the City's Land Use Plan; however, it does not appear to be reasonable because of the size of the area proposed to be rezoned in comparison to the amount of property zoned RA surrounding it and it would not be in the public interest due to its remote location, lack of public access, and very limited uses that could be on the property due to the limited access.

The Planning Board, at the March 7, 2023 meeting, voted unanimously to recommend approval of the application to the Board of Commissioners. This was based on the proposed rezoning being consistent with the City's Land Use Plan in that the area is designated as Neighborhood Mixed Use on the Future Land Use Map, which accommodates business uses and services within or near residential neighborhoods. They included that it is reasonable and in the public interest because there will be no building in the forest and the area is by the highway. The Planning Board minutes excerpt is attached **(Exhibit #1D.2)**.

The public hearing was published **(Exhibit #1D.3)** and the abutting property owners and MCAS Cherry Point were notified **(Exhibit #1D.4)**.

City Code References: UDO 160.12 Amendments

Request: a. Mayor Lewis shall open the public hearing and call upon Planning Director Katrina Marshall to present the rezoning request; and
b. Solicit comments from Board and/or public; and
c. Upon receiving no further public comments, Mayor Lewis is to close the public hearing; and
d. A Commissioner's motion and a second is being requested to "approve or deny" the Planning Board's recommendation to rezone the identified 21.49 acres of 801 Greenfield Heights Boulevard from RA (Residential Agricultural) and LI (Light Industrial) to HC (Highway Commercial).

City Manager's Opinion: While this request "may" be consistent with the City's Land Use Plan as a "Neighborhood Mixed Use," the manager agrees with Staff's assessment that it is not reasonable due to the size of the proposed rezoning portion in comparison to the amount of property surrounding the area being zoned RA. Additionally, the lack of public access and its remote access would not be in the public interest. It should be noted that any action taken by the BOC this evening must include a consistency statement to include an explanation of why such action is reasonable and in the public interest. The BOC may refer to Staff's assessment or the Planning Board's recommendation when making a motion to approve or deny.

Item #2. Governing Body Appointments: *Appearance Commission*

The terms of Appearance Commission members Glenda Strunk, Nadyne Bentley and Shirley Kelly expire on April 30, 2023 **(Exhibit #2A)**.

Ms. Strunk will like to be considered for reappointment and Ms. Bentley and Ms. Kelly do not **(Exhibit #2B)**. In addition to Ms. Strunk's application **(Exhibit #2C)**, as of this writing, the City has received six (6) applications for consideration **(Exhibit #2D)**.

City Code References: 33.26

Request: A Commissioner's motion and a second is being sought to appoint three (3) members to the Appearance Commission for a term beginning May 1, 2023 and expiring April 30, 2026.

City Manager's Opinion: The manager recognizes that appointments are made at the Board's discretion; and therefore, does not offer an opinion.

Item #3. Elected/Appointed Officials Reports/Comments:

- a. **City Manager:** At this time, City Manager Chris McGee submits a manager's report as referenced in the agenda packet (**Exhibits #3A**) and at this evening's meeting may offer other comments.
- b. **City Attorney:** At this time, City Attorney Troy Smith is provided an opportunity to report on any related City business matters.
- c. **Commissioners:** At this time, Commissioners are provided an opportunity to report on any related City business matters.
- d. **Mayor:** At this time, Mayor Will Lewis is provided an opportunity to report on any related City business matters.

VII. ADJOURNMENT/RECESS