

1 **PRESENT:** Mayor William L. Lewis, Jr.; Commissioners Jim Kohr, Josh Kohr, Karen Lewis,
2 Danny Walsh and Brenda Wilson

3
4 **STAFF**

5 **PRESENT:** City Manager Chris McGee; Interim City Manager Jim Freeman; City Attorney
6 Troy Smith; Information Technology Director Chad Ives; Interim Police Chief
7 Chris Morning; Planning Director Katrina Marshall; Recreation Director Travis
8 Adams; Public Works Director Patrick Lee; Interim Public Utilities Director Rick
9 Day; Finance Director Lee Tillman; Fire Chief Tom Dorn; TEC Sales Manager
10 Pam Holder; City Clerk Cindy Morgan, and Deputy City Clerk Mary Weigl

11
12 Mayor Will Lewis called the regular meeting of the Havelock Board of Commissioners to order
13 at 7:00 p.m. on January 24, 2022 at Havelock City Hall with a quorum present. At this time,
14 Mayor Lewis called for a moment of silence, followed by the pledge of allegiance.

15
16 **REGULAR & CONSENT AGENDA**

17
18 City Clerk Cindy Morgan presented the Board of Commissioners with the Regular Agenda and
19 the Consent Agenda for their review and approval. Commissioner Lewis also made **motion to**
20 **adopt the consent agenda and regular agenda as presented.** Commissioner Josh Kohr
21 seconded and the motion carried unanimously. (5-0) The motion included the following
22 approvals:

23
24 **Regular Agenda as presented**

25
26 **Consent Agenda as presented:**

- 27
 - **Minutes of the January 10, 2022 Board of Commissioners Workshop Meeting**
 - **American Rescue Plan Act Funds Grant Project Amendment One**

28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64

**CITY OF HAVELOCK
BOARD OF COMMISSIONERS
GRANT PROJECT ORDINANCE
AMENDMENT ONE
AMERICAN RESCUE PLAN ACT FUNDS**

BE IT ORDAINED by the Board of Commissioners of the City of Havelock, North Carolina, pursuant to
Section 13.2 of Chapter 159 of the General Statutes of North Carolina that the following Grant Project Fund is
hereby amended:

Section 3. This fund will account for expenditures for
\$3,000,000 Hwy 70 Sewer Outfall
\$2,000,000 AMI Project
\$ 400,000 Sewer SCADA System
\$ 75,000 Senior Center Showers
\$ 75,000 Building Ventilation Systems
\$ 27,419 PPE/Decon equipment

Section 6. Copies of this grant ordinance shall be furnished to the Finance Officer and to the City Clerk.

Section 7. This Ordinance shall become effective upon adoption.

Adopted the 24th day of January 2022.

- **Resolution #22-R-01: American Rescue Plan Act Funds Grant Cost Principles/Allowable Costs Policy**

**CITY OF HAVELOCK RESOLUTION NO. 22-R-01
RESOLUTION ADOPTING ALLOWABLE COSTS AND COST PRINCIPLES FOR EXPENDITURE
OF AMERICAN RESCUE PLAN ACT RECOVERY FUNDS**

WHEREAS, the City of Havelock, has received an allocation of funds from the Coronavirus State and
Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (ARPA); and

WHEREAS, the funds may be used for projects within these categories, to the extent authorized by state law.

1. Support public health expenditures, by funding COVID-19 mitigation efforts, medical expenses, behavioral
healthcare, and certain public health and safety staff;

- 65 2. *Address negative economic impacts caused by the public health emergency, including economic harm to*
66 *the public sector;*
- 67 3. *Replace lost public sector revenue;*
- 68 4. *Invest in water and sewer infrastructure, making necessary investments to improve access to clean drinking*
69 *water, support vital wastewater and stormwater infrastructure;*

70 **WHEREAS**, *the ARPA are subject to the provisions of the federal Uniform Grant Guidance, 2 CFR Sect. 200*
71 *(UG), as provided in the Assistance Listing; and*

72 **WHEREAS**, *the Compliance and Reporting Guidance for the State and Local Fiscal Recovery Funds provides,*
73 *in relevant part:*

74 **Allowable Costs/Cost Principles as** *outlined in the Uniform Guidance at 2 CFR Part 200, Subpart E*
75 *regarding Cost Principles. Further, costs must be reasonable and allocable as outlined in 2 CFR 200.404*
76 *and 2 CFR 200.405: and*

77 **WHEREAS**, *Subpart E of the UG dictates allowable costs and cost principles for expenditure of ARPA*
78 *funds; and*

79 **WHEREAS**, *Subpart E of the UG (specifically, 200.400) states that:*

80 *The application of these cost principles is based on the fundamental premises that:*

- 81 (a) *The non-Federal entity is responsible for the efficient and effective administration of the*
82 *Federal award through the application of sound management practices.*
- 83 (b) *The non-Federal entity assumes responsibility for administering Federal funds in a*
84 *manner consistent with underlying agreements, program objectives, and the terms and*
85 *conditions of the Federal award.*
- 86 (c) *The non-Federal entity, in recognition of its own unique combination of staff, facilities,*
87 *and experience, has the primary responsibility for employing whatever form of sound*
88 *organization and management techniques may be necessary in order to assure proper*
89 *and efficient administration of the Federal award.*
- 90 (d) *The application of these cost principles should require no significant changes in the*
91 *internal accounting policies and practices of the non-Federal entity. However, the*
92 *accounting practices of the non-Federal entity must be consistent with these cost*
93 *principles and support the accumulation of costs as required by the principles, and must*
94 *provide for adequate documentation to support costs charged to the Federal award.*
- 95 (e) *In reviewing, negotiating and approving cost allocation plans or indirect cost proposals,*
96 *the cognizant agency for indirect costs should generally assure that the non-Federal*
97 *entity is applying these cost accounting principles on a consistent basis during their*
98 *review and negotiation of indirect cost proposals. Where wide variations exist in the*
99 *treatment of a given cost item by the non-Federal entity, the reasonableness and equity of*
100 *such treatments should be fully considered.*
- 101 (f) *The non-Federal entity may not earn or keep any profit resulting from Federal financial*
102 *assistance, unless explicitly authorized by the terms and conditions of the Federal award;*

103 **BE IT RESOLVED** *that the Governing Body of the City of Havelock hereby adopts and enacts the*
104 *following US Cost Principles Policy for the expenditure of ARPA funds.*

- 106 1. *The City of Havelock shall adhere to all applicable cost principles governing the use of federal grants. This*
107 *policy addresses the proper classification of both direct and indirect charges to ARPA funded projects and*
108 *enacts procedures to ensure that proposed and actual expenditures are consistent with the ARPA grant award*
109 *terms and all applicable federal regulations in the UG.*
- 110 2. *Responsibility for following these guidelines lies with the City of Havelock Finance Officer, who is charged*
111 *with the administration and financial oversight of the ARPA. Further, all local government employees and*
112 *officials who are involved in obligating, administering, expending, or monitoring ARPA grant funded projects*
113 *should be well versed with the categories of costs that are generally allowable and unallowable. Questions on*
114 *the allowability of costs should be directed to the City of Havelock Finance Officer.*
- 115 3. *All costs expended using ARPA funds must meet the following general criteria:*
- 116 (a) *Be necessary and reasonable for the proper and efficient performance and administration of*
117 *the grant program.*
- 118 (b) *Be allocable to the ARPA federal award. Be authorized and not prohibited under state or*
119 *local laws or regulations.*
- 120 (c) *Conform to any limitations or exclusions set forth in the principles, federal laws, ARPA*
121 *award terms, and other governing regulations as to types or amounts of cost items.*
- 122 (d) *Be consistent with policies, regulations, and procedures that apply uniformly to both the*
123 *ARPA federal award and other activities of City of Havelock.*
- 124
- 125
- 126

- 127 (e) *Be accorded consistent treatment.*
128 (f) *Be determined in accordance with generally accepted accounting principles (GAAP), unless*
129 *provided otherwise in the UG.*
130 (g) *Be net of all applicable credits.*
131 (h) *Be adequately documented.*
132

133 4. *Selected Items of Cost:*
134

- 135 (a) *The UG examines the allowability of fifty-five (55) specific cost items (commonly referred to as*
136 *Selected Items of Cost) at 2 CFR § 200.420-.475.*
137 (b) *The City of Havelock Finance Officer is responsible for determining cost allowability and must be*
138 *familiar with the Selected Items of Cost. The City of Havelock must follow the applicable regulations*
139 *when charging these specific expenditures to the ARPA grant. The City of Havelock Finance Office*
140 *personnel will check costs against the selected items of cost requirements to ensure the cost is*
141 *allowable and that all process and documentation requirements are followed. In addition, State laws,*
142 *City of Havelock regulations, and program-specific rules may deem a cost as unallowable, and City of*
143 *Havelock Finance Office personnel must follow those non-federal rules as well.*
144

145 *ADOPTED, this the 24th day of January 2022.*
146

- 147 • **Allocation of \$275,000 from Sewer Fund Retained Earnings to contract with Hazen Engineering for**
148 **contract administration, engineering services and oversight of the Highway 70 Sewer Outfall Project**
149 **per the January 10, 2022 Board of Commissioners Workshop**
150

151 **PUBLIC COMMENTS**
152

153 Prior to discussing the agenda topics, Mayor Lewis stated he would like to give the public an
154 opportunity to address the Board of Commissioners on any issue. Anyone providing a public
155 comment was asked to speak their name and address for the record and noted that comments
156 would be limited to five (5) minutes. In summary, it was further explained that the Board would
157 take all comments and questions very seriously and would assign follow-up as necessary to City
158 staff. Prior to the public comments, Mayor Lewis took a moment to introduce the new City
159 Manager, Mr. Chris McGee to those in attendance this evening. At this time, the following
160 appeared before the Board providing public comments:
161

162 **Albert Lester, 706 Badger Lane, Havelock:** Mr. Lester stood before the Board this evening
163 and thanked the Mayor, the Board of Commissioners and the City Staff for making all who move
164 to and live in our City feel welcome. He went on to thank the Havelock first responders for the
165 extraordinary job that they are doing day in and day out to ensure that all citizens in Havelock
166 are safe. Mr. Lester continued by saying that the citizens of Havelock appreciate the raise that
167 was recently given to all City employees.
168

169 **Jack Dunaway, 116 South Forest Drive, Havelock:** Mr. Dunaway stood before the Board this
170 evening to give thanks to the “street guy” and his team for the patch on Hollywood Boulevard.
171 He said the patch is really nice and stated that his perseverance has really paid off and Mr.
172 Dunaway is thankful.
173

174 **REGULAR AGENDA ITEMS**
175

176 **PUBLIC HEARING – PROPOSED TEXT AMENDMENTS TO UNIFIED**
177 **DEVELOPMENT ORDINANCE**
178

179 The State Legislature recently adopted Session Law 2021-138, a wide-ranging criminal justice
180 reform law. Among other reforms, the law decriminalizes some local ordinances, including the
181 local government authority for criminal enforcement of local ordinances. These provisions
182 became effective December 1, 2021.
183

184 Under the new statutes, Planning Director Katrina Marshall explained that a local government
185 must amend ordinances to specifically identify violations that may be enforced criminally;
186 however, the new law specifically prohibits criminal enforcement of local ordinances adopted
187 under Article 19 of G.S. 160A and under G.S. 160D (i.e., land use regulations). The sole
188 exception to this is ordinances related to unsafe buildings (i.e., minimum housing codes and/or
189 minimum maintenance standards). Staff reviewed the UDO and identified sections that include

190 criminal penalties and prepared draft amendments for Sections 156.02, 157.09, 158.02; 159.10,
191 162.03(D), 162.04 of the UDO where misdemeanor penalties were included in the enforcement
192 procedures. Also included in this text amendment are a few additional amendments. The
193 language in Section 153.12 is being recommended for amendment to clarify the intent of the
194 ordinance regarding the submission date for Special Use Permits and correcting the location of
195 the Table of Permitted Uses in the UDO. Recommended changes to Section 162.03(C) are to
196 ensure consistency of wording throughout that paragraph. An amendment to the definition of
197 Development in Section 163.01 is recommended to bring it into compliance with the Flood
198 Damage Prevention Ordinance. That section of the definition was inadvertently removed while
199 updating the UDO to comply with G.S. 160D. In summary, the identified amendments to
200 remove the criminal penalties are required by Session Law 2021-138. The additional
201 amendments are needed to ensure clarity of the UDO. The proposed amendment with the all the
202 referenced sections is attached.
203

204 It was relayed that Staff feels that the proposed amendments are both reasonable and in the
205 public interest for the following reasons: 1) They do not make major policy changes or shifts in
206 the scope of authority granted to local governments and 2) are necessary to comply with the
207 standards set forth in the North Carolina General Statutes for development.
208

209 The amendments were reviewed by the Technical Review Committee at their meeting on
210 December 14, 2021. Staff then presented this request to the Planning Board at the January 4,
211 2022 meeting and the Planning Board recommended approval with a unanimous vote. All the
212 chapters have been reviewed and the public hearing was scheduled for tonight.
213

214 Staff was available to answer questions concerning the proposed text amendments. The
215 proposed amendments to the unified development ordinance are as follows:
216

217 **§ 153.12 SPECIAL USE PERMIT REGULATIONS.**

218 (A) *Applicability.* Permission may be granted by the Board of Adjustment for the establishment of uses
219 listed as special uses on the Table of Permitted Uses in Chapter ~~154~~ 155.

220 (B) *Submission.* Two copies of the special use permit application shall be filed with the Zoning
221 Administrator ~~30 calendar days prior to the Planning Board~~ seven (7) calendar days prior to the Technical
222 Review Committee (TRC) meeting at which the special use permit request will be reviewed.

223 (C) *Concurrent rezoning.* If a rezoning is to be requested in connection with the request for a special use
224 permit, complete applications for both processes must be filed concurrently with the Zoning Administrator. The
225 rezoning request will proceed first through the appropriate rezoning process, pursuant to Chapter 160, with final
226 approval by the Board of Commissioners (BOC). Upon BOC approval, the application for a special use permit
227 will proceed through its normal approval process, pursuant to this chapter.

228 (D) *Application.* Applications for special use permits shall include a site plan as specified in §
229 153.10(F).

230 (E) *Review and approval.* The review process for a special use permit request shall include:

231 (1) Planning and Inspections Department and Technical Review Committee review; and

232 (2) Evidentiary hearing held by, and subsequent action by, the Board of Adjustment in
233 accordance with the provisions of this chapter.

234 **§ 156.02 FLOOD DAMAGE PREVENTION.**

235 (C) *General provisions.*

236 (1) *Lands to which this ordinance applies.* This ordinance shall apply to all Special Flood Hazard Areas
237 within the jurisdiction, including the Extraterritorial Jurisdiction of the City of Havelock.

238 (2) *Basis for establishing the special flood hazard areas.* The Special Flood Hazard Areas are those
239 identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and
240 FEMA in its FIS dated June 19, 2020 for Craven County and associated DFIRM panels, including any digital data
241 developed as part of the FIS, which are adopted by reference and declared a part of this ordinance and all
242 revisions thereto.

243 (3) *Establishment of floodplain development permit.* A Floodplain Development Permit shall be required
244 in conformance with the provisions of this ordinance prior to the commencement of any development activities
245 within Special Flood Hazard Areas determined in accordance with the provisions of § 156.02(C)(2) of this
246 ordinance.

BOARD OF COMMISSIONERS
REGULAR MEETING
JANUARY 24, 2022
PAGE 5

247 (4) *Compliance.* No structure or land shall hereafter be located, extended, converted, altered, or
248 developed in any way without full compliance with the terms of this ordinance and other applicable
249 regulations.

250 (5) *Abrogation and greater restrictions.* This ordinance is not intended to repeal, abrogate, or impair any
251 existing easements, covenants, or deed restrictions. However, where this ordinance and another conflict or
252 overlap, whichever imposes the more stringent restrictions shall prevail.

253 (6) *Interpretation.* In the interpretation and application of this ordinance, all provisions shall
254 be:

255 (a) Considered as minimum requirements;

256 (b) Liberally construed in favor of the governing body; and

257 (c) Deemed neither to limit nor repeal any other powers granted under State statutes.

258 (7) *Warning and disclaimer of liability.* The degree of flood protection required by this ordinance is
259 considered reasonable for regulatory purposes and is based on scientific and engineering consideration. Larger
260 floods can and will occur. Actual flood heights may be increased by man-made or natural causes. This ordinance
261 does not imply that land outside the Special Flood Hazard Areas or uses permitted within such areas will be free
262 from flooding or flood damages. This ordinance shall not create liability on the part of the City of Havelock or
263 by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any
264 administrative decision lawfully made hereunder.

265 (8) *Penalties for violation.* Violation of the provisions of this ordinance or failure to comply with any of
266 its requirements, including violation of conditions and safeguards established in connection with grants of
267 variance or special exceptions, shall ~~constitute a Class 1 misdemeanor pursuant to G.S. § 143-215.58~~ be
268 enforced by any one or all of the procedures identified in §162.04. Any person who violates this ordinance or
269 fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$100.00 or
270 imprisoned for not more than thirty (30) days, or both. Each day such violation continues shall be considered a
271 separate offense. Nothing herein contained shall prevent the City of Havelock from taking such other lawful
272 action as is necessary to prevent or remedy any violation.

273 **§ 157.09 SIGNS.**

274 (C.1) *Political signs.*

275 (1) As provided in G.S. § 136-32, during the period beginning on the thirtieth day before the beginning
276 date of “one-stop” early voting and ending on the tenth day after the primary or election day, political signs may
277 be placed in the right-of-way of the State highway system.

278 (a) *Sign placement.*

279 1. No sign shall be in the right-of-way of a fully controlled access highway.

280 2. No sign shall be closer than three (3) feet from the edge of the pavement of the road.

281 3. No sign shall obscure motorist visibility at an intersection.

282 4. No sign shall be higher than 42 inches above the edge of the pavement of the road.

283 5. No sign shall be larger than six (6) square feet.

284 6. No sign shall obscure or replace another sign.

285 (b) ~~It is a Class 3 misdemeanor for a person to steal, deface, vandalize, or unlawfully remove a~~
286 ~~political sign that is lawfully placed under this section~~ Violation of this section shall be enforced by any one or
287 all of the procedures identified in §162.04.

288 **158.02 REGULATION OF SUBDIVISIONS IN GENERAL.**

289 (A) *Exclusions determination.* If a proposed division of land meets one or more of the exclusions under the
290 definition of “subdivision” in Chapter 163, Definitions, the owner may submit to the City Planning and
291 Inspections Department maps, deeds or other materials in sufficient detail to permit a conclusive determination
292 by the Planning and Inspections Director or designee. For the purpose and intent of this chapter, where reference
293 is made to the Planning and Inspections Director it shall also include his or her designee. An owner of land who
294 wishes to record a plat of such a division of land shall obtain a Certificate of Exemption (see Appendix B) from
295 the Planning and Inspections Director.

296 (B) *Approval required.*

297 (1) *Date of compliance.* After the effective date of the UDO and in accordance with
298 G.S. § 160D-803(d), plats for the subdivision of land within the City Planning and Zoning Jurisdiction shall not be
299 filed, accepted for recording, or recorded, nor shall the Clerk of the Superior Court order the recording of a plat
300 until it has been submitted to and approved by the city.

301 (2) *Coordination with other procedures.* To lessen the time required to attain all necessary approvals
302 and to facilitate the processing of applications, an applicant may start the subdivision approval process
303

BOARD OF COMMISSIONERS
REGULAR MEETING
JANUARY 24, 2022
PAGE 6

304 simultaneously with other applications for approvals required for the particular project.

305 (3) *No subdivision without approval.* No real property, including property declared under the State
306 Condominium Act, G.S. §§ 47C-1 et seq., lying within the City Planning and Zoning Jurisdiction as now or
307 hereafter fixed shall be subdivided except in conformance with all applicable provisions of this chapter.
308 Violation of this section shall ~~constitute a misdemeanor~~ be enforced by any one or all of the procedures
309 identified in
310 §162.04.

311 (4) *Preliminary plats approved prior to the effective date of this UDO.* Preliminary plats approved by
312 the city prior to the effective date of this chapter shall be valid for 12 months from the date of approval of the
313 plat unless a longer time period has been authorized through vested rights provisions.

314 (5) *Decisions on approval or denial of subdivision plats.* In accordance with the provisions of G.S. §
315 160D-801, decisions on the approval or denial of preliminary and final subdivision plats may be made only on
316 the basis of standards explicitly set forth in this chapter. Whenever this chapter includes criteria for a decision
317 that requires the application of judgment on the part of the approval authority, those criteria must provide
318 adequate guiding standards for the approval authority.

319 (6) *Recording of unapproved plats.* The filing or recording of a plat of a subdivision without the approval
320 of the legislative body or the Planning and Inspections Director as required by this chapter shall render the plat
321 null and void.

322 (7) *Penalties for transferring lots in unapproved subdivisions.* Penalties for transferring lots in
323 unapproved subdivisions are delineated in § 162.04(H).

324 **§ 159.10 EVIDENCE.**

325 (A) The provisions of this section apply to all hearings for which a notice is required by § 159.07.

326 (B) All persons who intend to present evidence to the Board of Adjustment, rather than arguments only,
327 shall be sworn.

328 (C) All findings and conclusions necessary to the issuance or denial of the requested appeal or variance
329 (crucial findings) shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of
330 law) shall be preferred whenever reasonably available, but in no case may crucial findings be based solely upon
331 incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to
332 be particularly reliable, and the matter at issue is not seriously disputed.

333 (D) The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person
334 fails or refuses to obey a subpoena issued pursuant to this division (D), the Board of Adjustment may apply to the
335 Superior Court of Craven County for an order requiring that its order be obeyed, and the court shall have
336 jurisdiction to issue these orders after notice to all proper parties. No testimony of any witness before the Board
337 of Adjustment pursuant to a subpoena issued in exercise of the power conferred by G.S. § 160D-406(g) may be
338 used against the witness in the trial of any civil or criminal action other than a prosecution for false swearing
339 committed on the examination. Any person, who, while under oath during a proceeding before the Board of
340 Adjustment, willfully swears falsely, ~~is guilty of a Class 1 misdemeanor~~ will be subject to enforcement under
341 §162.04.

342 **§ 162.03 ENFORCEMENT PROCEDURES.**

343 When the Zoning Administrator or designee discovers a violation of the UDO or receives a complaint
344 alleging a violation of the UDO, it shall be his or her duty to attempt to immediately notify the owner and
345 occupant of the land, building, structure, sign or use of the violation.

346 (A) *Notice of Non-Compliance.* Upon discovery of the existence of a violation of the UDO, the Zoning
347 Administrator shall by first-class mail, telephone, electronic delivery, or personal service attempt to notify the
348 owner, occupant of the property or holder of the development approval of the nature of the violation, provide a
349 citation of the section(s) of the ordinance violated, and describe the measures necessary to remedy the violation.
350 The Zoning Administrator may also request that the owner or occupant of the property arrange a meeting with the
351 Planning and Inspections Department staff to further discuss the violation and options for remedying the
352 violation. Any recipient of notifications under this section shall not be considered a 'person aggrieved' for appeal
353 purposes.

354 (B) *Notice of Violation.* If the owner or occupant of the land, building, sign, structure or use in violation
355 fails to take prompt corrective action, the Zoning Administrator shall issue a Notice of Violation to the holder
356 of the development approval, occupant of the property, and the property owner (if not the holder of the
357 development approval).

358 (1) The Notice shall be issued by personal delivery, electronic delivery, or first-class mail and may be
359 provided by similar means to the occupant of the property or the person undertaking the work or activity. The
360 Notice may be posted on the property.

361 (2) The staff member issuing the Notice of Violation shall certify to the City that the Notice was
362 provided, and the certificate shall be deemed conclusive in the absence of fraud.

363 (3) The Notice of Violation shall state:

364 (a) The lands, building, sign, structure or use is in violation of the UDO.

365 (b) The nature of the violation, and citation of the section of the UDO violated;
366 and

367 (c) The measures necessary to remedy the violation.

368 (C) *Appeal.* Any owner, occupant or holder of a development approval who has received a Notice of Non-
369 Compliance and Notice of Violation may appeal, in writing, as a person aggrieved, the final decision of the
370 Zoning Administrator to the Board of Adjustment, in accordance with the provisions of Chapter 159 within 30
371 days following the date of receipt or posting of the ~~Notice of Violation and Order of Compliance~~ Notice of Non-
372 Compliance and Notice of Violation. The Board of Adjustment shall hear an appeal within a reasonable time, and
373 it may affirm, modify or revoke the ~~Notice of Violation and Order of Compliance~~ Notice of Non-Compliance and
374 Notice of Violation. In the absence of an appeal, the remedies and penalties sought by the Zoning Administrator
375 in the ~~Notice of Violation and Order of Compliance~~ Notice of Non- Compliance and Notice of Violation shall be
376 final.

377 (D) *Stop Work Orders.*

378 (1) The Zoning Administrator may issue a Stop Work Order whenever any work or activity subject to
379 UDO regulations is undertaken in substantial violation of any State law or local ordinance, or in a manner that
380 endangers life or property. The order shall identify the specific part of the work or activity that is in violation or
381 presents such a hazard and order the work be stopped. The Stop Work Order shall:

382 (a) Be in writing and directed to the person doing the work or activity;

383 (b) Identify:

384 1. The specific work or activity to be stopped;

385 2. The reasons therefor; and

386 3. The conditions under which the work or activity may be resumed.

387 (2) A copy of the order shall be delivered to the holder of the development approval and to the owner of
388 the property involved by personal delivery, electronic delivery, or first-class mail.

389 (a) The staff member(s) delivering the stop work order shall certify to the City that the order was
390 delivered and the certificate shall be deemed conclusive in the absence of fraud.

391 (b) The Stop Work Order may be appealed to the Board of Adjustment as pursuant to §
392 159.01

393 (c) No further work or activity shall take place in violation of a Stop Work Order pending a ruling on
394 the appeal. Violation of a Stop Work Order shall ~~constitute a Class 1 misdemeanor~~ be enforced by any one or
395 all of the procedures identified in §162.04.

396 **§ 162.04 PENALTIES AND REMEDIES.**

397 As authorized by G.S. §§ 160A-365, 160A-375, 160A-175 and 14-4, any one or all of the following
398 procedures may be used to enforce the provisions of the UDO.

399 (A) *Injunction.* Any violation of the UDO or of any condition, order or requirement, or remedy adopted
400 pursuant hereto may be restrained, corrected, abated, mandated or enjoined by other appropriate proceeding
401 pursuant to state law.

402 (B) *Civil penalties.* Any person who violates any provisions of the UDO shall be subject to the assessment
403 of a civil penalty under the procedures provided in § 162.05.

404 (C) *Denial of permit or certificate.* The Zoning Administrator may withhold or deny any permit,
405 certificate, occupancy or other form of authorization on any land, building, sign, structure or use in which
406 there is an uncorrected violation of a provision of the UDO or of a condition or qualification of a permit,
407 certificate or other authorization previously granted.

408 (D) *Conditional approval.* The Zoning Administrator may condition the authorization of any permit or
409 certificate upon the correction of the deficiency, payment of civil penalties within a specified time, or the
410 posting of a compliance security approved by the city attorney.

411 (E) *Revocation of permits.* In accordance with § 162.06, permits shall be revoked for any substantial
412 departure from the approved applications, plans or specifications; refusal or failure to comply with the
413 requirements of state or local laws; or for false statements or misrepresentations made in securing the permit.
414 Any permit mistakenly issued in violation of an applicable state or local law may also be revoked.

415 (F) *Criminal Other penalties.* Any violation of the UDO ~~shall be a misdemeanor or infraction as~~
416 ~~provided by G.S. § 14-4, and~~ shall result in a fine as specified in the City ~~Permit and~~ Fee Schedule.

417 (G) *State and common law remedies.* In addition to other enforcement provisions contained in the
418 UDO, the Board of Commissioners may exercise any and all enforcement powers granted to it by state law
419

420 or common law.

421 (H) *Penalties for transferring lots in unapproved subdivisions.* In accordance with the provisions of G.S. §
422 160D-807, any person who, being the owner or agent of the owner of any land located within the planning and
423 zoning jurisdiction of the city, subdivides his or her land in violation of the requirements of the UDO or transfers
424 or sells land by reference to, exhibition of, or any other use of a plat showing a subdivision of the land before the
425 plat has been properly approved under the provisions of the UDO and recorded in the office of the appropriate
426 Register of Deeds, ~~shall be guilty of a Class 1 misdemeanor~~ shall be subject to the penalties set forth herein. The
427 description by metes and bounds in the instrument of transfer or other document used in the process of selling or
428 transferring land shall not exempt the transaction from these penalties. The city may bring an action for
429 injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate
430 findings, issue an injunction and order requiring the offending party to comply with the provisions of the UDO.
431 Building permits required pursuant to G.S. § ~~160A-417~~ 160D-1110 may be denied for lots that have been
432 illegally subdivided. In addition to other remedies, the city may institute any appropriate action or proceedings to
433 prevent the unlawful subdivision of land, to restrain, correct or abate the violation, or to prevent any illegal act or
434 conduct. The provisions of this section shall not, however, prohibit any owner or its agent from entering into
435 contracts to sell or lease by reference to an approved preliminary plat for which a final plat has not yet been
436 properly approved or recorded with the Register of Deeds, provided that the contract does all of the following:

437 (1) Incorporates as an attachment a copy of the preliminary plat referenced in the contract and obligates
438 the owner to deliver to the buyer a copy of the recorded plat prior to closing and conveyance;

439 (2) Plainly and conspicuously notifies the prospective buyer or lessee that a final subdivision plat has
440 not been approved or recorded at the time of the contract, that no governmental body will incur any obligation
441 to the prospective buyer or lessee with respect to the approval of the final subdivision plat, that changes
442 between the preliminary and final plats are possible, and that the contract or lease may be terminated without
443 breach by the buyer or lessee if the final recorded plat differs in any material respect from the preliminary plat;

444 (3) Provides that if the approved and recorded final plat does not differ in any material respect from the
445 plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close any earlier
446 than five days after the delivery of a copy of the final recorded plat; and

447 (4) Provides that if the approved and recorded final plat differs in any material respect from the
448 preliminary plat referred to in the contract, the buyer or lessee may not be required by the seller or lessor to close
449 any earlier than 15 days after the delivery of the final recorded plat, during which 15-day period the buyer or
450 lessee may terminate the contract without breach or any further obligation and may receive a refund of all earnest
451 money or prepaid purchase price. The provisions of this section also shall not prohibit any owner or its agent from
452 entering into contracts to sell or lease land by reference to an approved preliminary plat for which a final plat has
453 not been properly approved under these regulations or recorded with the Register of Deeds where the buyer or
454 lessee is any person who has contracted to acquire or lease the land for the purpose of engaging in the business of
455 construction of residential, commercial or industrial buildings on the land, or for the purpose of resale or lease of
456 the land to persons engaged in that kind of business, provided that no conveyance of that land may occur and no
457 contract to lease it may become effective until after the final plat has been properly approved under the UDO and
458 recorded with the Register of Deeds.

459 **§ 163.01 DEFINITIONS.**

460 *DEVELOPMENT.* Any of the following:

461 (1) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to
462 another site, or demolition of any structure.

463 (2) The excavation, grading, filling, clearing, or alteration of land.

464 (3) The subdivision of land as defined in G.S. § 160D-802.

465 (4) The initiation or substantial change in the use of land or the intensity of use of land.

466 For the purposes of development within the special flood hazard area, development also means
467 any man-made change to improved or unimproved real estate, including, but not limited to, buildings or
468 other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of
469 equipment or materials.

471 At this time, a Commissioner's motion and a second was requested to adopt Ordinance
472 Amendment No. 22-O-01, an ordinance amending the UDO for compliance with recent
473 legislation that requires decriminalizing of some local ordinances, effective at 12:01 a.m. on
474 January 25, 2022, as the amendments are both reasonable and in the public interest for the
475 following reasons: 1) They do not make major policy changes or shifts in the scope of authority
476 granted to the local governments and 2) are necessary to comply with the standards set forth in
477 the North Carolina General Statutes for development.

478
479 Commissioner Jim Kohr then asked if seven days gives staff enough time to prepare the Special
480 Use Permit for the Technical Review Committee and Ms. Marshall replied "Yes."

481
482 Moving on, Commissioner Wilson **moved to open the public hearing**. Commissioner Jim Kohr
483 seconded and the motion carried unanimously. (5-0)
484

485 After a solicitation of public comments, the following individual appeared before the Board:
486

487
488 **Mr. Albert Lester 706 Badger Lane, Havelock:** Mr. Lester stood before the Board to state that
489 he “believes that the City is moving in the right direction with the Session Law 2021 – 138”.
490

491 After another solicitation of public comments and receiving none, Mayor Lewis asked the Board
492 if they had any other comments or questions before closing the public hearing on this matter.
493 With no comments/questions, Commissioner Wilson **moved to close the public hearing**.
494 Commissioner Lewis seconded and the motion carried unanimously. (5-0)
495

496 At this time, Commissioner Josh Kohr made a **motion to adopt Ordinance Amendment No.**
497 **22-O-01, an ordinance amending the UDO for compliance with recent legislation that**
498 **requires decriminalizing of some local ordinances, effective at 12:01 a.m. on January 25,**
499 **2022, as the amendments are both reasonable and in the public interest for the following**
500 **reasons: 1) They do not make major policy changes or shifts in the scope of authority**
501 **granted to the local governments and 2) are necessary to comply with the standards set**
502 **forth in the North Carolina General Statutes for development.** Commissioner Walsh
503 seconded the motion and it carried unanimously. (5-0)
504

505 Ordinance Amendment No. 22-O-01 is on file in the City Clerk’s Office.
506

507 **MONTHLY FINANCIAL PRESENTATION: DECEMBER 2021 REPORT**
508

509 Finance Director Lee Tillman appeared before the Board of Commissioners this evening to
510 present the December 2021 monthly financial report. She noted that at 50% into the fiscal year,
511 she does not have any concerns but does shared the following:
512

- 513 • Powell Funds received in January where higher than anticipated. The City received
514 \$272,972.05 versus the \$196,847.15 October payment. FY 2021-22 budget was \$400,000
515 so funds received did exceed the budgeted amount. The reason for the higher payment
516 was the NC State budget, which was passed and signed, appropriated a higher allocation
517 than last fiscal year.
518
- 519 • As Ms. Tillman briefly mentioned at the January workshop, the Interim City Manager
520 approved using \$11,000 of contingency funds for anticipated fuel shortages (due usage)
521 in the Fire/EMS departmental budget. There is \$79,000 remaining in General Fund
522 contingency.
523
- 524 • The FY 2022-23 Budget Schedule was shared with the Board, which as officially started.
525 It was noted that the TEC is not available on May 10, 2022 for a scheduled budget
526 workshop; therefore, the official BOC meeting schedule will need to be amended after
527 alternate dates/times are determined. The Budget Schedule was provided as follows:
528

529 **BUDGET SCHEDULE – FISCAL YEAR 2022-2023**
530

531	January 5, 2022	Budget instructions distributed to Department Heads
532	February 7, 2022	CIP items, capital outlay requests and major program request changes (i.e. new 533 personnel, large contracts, etc.) are due. Any increase that will cause the budget 534 request to be greater than 10% of current year’s initial budget must be submitted 535 at this point.
536	February 21, 2022	Operating and year–end projection worksheets due to Finance
537	March 9-10 2022	Board of Commissioners’ Annual Retreat
538	March 15, 2022	Finance presents first draft of budget to City Manager
539	March 16-22, 2022	City Manager, Finance Director and Department Heads review departmental 540 requests. Departments - try to leave schedules open.
541	March 24, 2022	Team Lock Down to balance budget

BOARD OF COMMISSIONERS
REGULAR MEETING
JANUARY 24, 2022
PAGE 10

542 March 31, 2022 Team Lock Down to finish balancing
543 April 15, 2021 Issue papers and budget docs to Finance in final form
544 April 25, 2022 Board sets budget public hearing date
545 May 9, 2022 First Budget Workshop: Budget Outlook and overview
546 May 10, 2022 Budget available for public inspection and notice of public hearing published
547 May 10-11, 2022 Board of Commissioners' Budget Workshops
548 May 23, 2022 Board holds public hearing
549 June 13, 2022 Board holds final budget workshop, if needed
550 June 27, 2022 Board adopts Fiscal-Year 2022-2023 budget
551 July 1, 2022 FY 22-23 Begins
552

- 553 • The Board was notified that insurance is now mandated to cover eight (8) Over-The-Counter (OTC)/Home COVID tests a month. The City's third-party administrator has reviewed and the City does not have to amend our specific plan design. As of this writing, employees who purchase a kit can file for reimbursement by the health plan. Employees can also obtain from the preferred provided (Walmart Pharmacy) at no out of pocket expense. Unless the Board objects, the City will purchase approximately \$3,000-\$5,000 in OTC\home tests so that symptomatic employees can be tested on site. The City will utilize tests that are on the NC Department of Health and Human Services approved COVID-19 test list and funding will come from the administration contracted services line item.

564 In conclusion, Ms. Tillman shared the December financial report. The report was presented as follows:
565
566

**CITY OF HAVELOCK
BUDGET VERSUS ACTUAL
DECEMBER 2021
GENERAL FUND**

Revenues

Source	Budget	Actual	Percentage
Ad Valorem Taxes	\$ 5,225,900	3,736,339	71.50%
Sales Tax	2,963,000	1,624,515	54.83%
Powell Bill	400,000	469,819	117.45%
Intergovernmental Revenues	1,545,434	1,272,139	82.32%
Permit Fees	182,083	81,290	44.64%
Rents & Concessions	215,000	127,540	59.32%
EMS Revenues	1,158,500	732,786	63.25%
Interest	12,153	(34,777)	-286.16%
Other	4,364,149	68,037	1.56%
Total Revenues	16,066,219	8,077,688	50.28%

Expenditures

Departments	Budget	Actual	Percentage
Governing Body	183,018	64,075	35.01%
ACT Expenses	11,440	10,480	91.61%
Administration	1,428,508	458,399	32.09%
Economic Development	99,811	-	0.00%
Finance & Revenue	238,817	(194,263)	-81.34%
Legal	85,000	56,082	65.98%
Information Technology	695,406	335,370	48.23%
Planning	514,190	222,582	43.29%
Police	3,386,808	1,853,964	54.74%
Animal Control	106,504	48,989	46.00%
Fire & EMS	2,765,160	1,300,225	47.02%
Public Works	246,828	156,111	63.25%

Street Lighting	161,260	50,452	31.29%
Garage	184,239	96,048	52.13%
Streets-Non Powell	1,062,985	287,896	27.08%
Powell Bill	596,216	107,063	17.96%
Public Buildings	419,754	195,356	46.54%
Recreation	1,309,116	823,837	62.93%
Interfund/Hurricane	2,571,159	2,126,055	82.69%
Total Expenditures	16,066,219	7,998,721	49.79%
Excess of Revenues Over (Under) Expenditures	\$ -	\$ 78,968	

Actual expenses include encumbrances some of which are for the entire year.

568

**CITY OF HAVELOCK
BUDGET VERSUS ACTUAL
DECEMBER 2021
WATER FUND**

Revenues

Source	Budget	Actual	Percentage
Water Revenue	\$ 2,737,662	\$ 1,336,607	48.82%
System Development Fees	-	-	0.00%
Reconnect Fees	30,000	18,540	61.80%
Interest	8,050	(350)	-4.35%
Other	1,053,400	18,065	1.71%
Total Revenues	3,829,112	1,372,862	35.85%

Expenditures

Departments	Budget	Actual	Percentage
Plant	3,146,531	1,375,910	43.73%
Distribution	682,581	305,469	44.75%
Total Expenditures	3,829,112	1,681,379	43.91%
Excess of Revenues Over (Under) Expenditures	\$ -	\$ (308,517)	

Actual expenses include encumbrances some of which are for the entire year.

569

**CITY OF HAVELOCK
BUDGET VERSUS ACTUAL
DECEMBER 2021
SEWER FUND**

Revenues

Source	Budget	Actual	Percentage
Sewer Revenue	\$ 4,035,115	\$ 1,949,835	48.32%
System Development Fees	-	-	0.00%
Reconnect Fees	23,948	13,125	54.81%
Interest	7,200	2,278	31.63%
Other	978,161	11,538	1.18%
Total Revenues	5,044,424	1,976,776	39.19%

Expenditures

Departments	Budget	Actual	Percentage
Plant	3,231,916	1,754,226	54.28%
Collection	1,812,508	764,630	42.19%
Total Expenditures	5,044,424	2,518,857	49.93%
Excess of Revenues Over (Under) Expenditures	\$ -	\$ (542,081)	

Actual expenses include encumbrances some of which are for the entire year.

**CITY OF HAVELOCK
BUDGET VERSUS ACTUAL
DECEMBER 2021
SOLID WASTE**

Revenues

Source	Budget	Actual	Percentage
Solid Waste Revenue	1,148,562	\$ 593,238	51.65%
Total Revenues	1,148,562	593,238	51.65%

Expenditures

Departments	Budget	Actual	Percentage
Solid Waste	1,148,562	1,018,159	88.65%
Total Expenditures	1,148,562	1,018,159	88.65%
Excess of Revenues Over (Under) Expenditures	\$ -	\$ (424,922)	

Actual expenses include encumbrances some of which are for the entire year.

570

**CITY OF HAVELOCK
BUDGET VERSUS ACTUAL
DECEMBER 2021
TOURIST AND EVENT CENTER**

Revenues

Source	Budget	Actual	Percentage
Building Rent	75,475	\$ 28,403	37.63%
ABC Sales	14,250	6,240	43.79%
Exhibit Revenue	25,320	13,694	54.08%
Transfer from General Fund	191,051	191,051	100.00%
Other	220,340	5,682	2.58%
Total Revenues	526,436	245,069	46.55%

Expenditures

Departments	Budget	Actual	Percentage
Center	501,116	255,110	50.91%
Exhibits	25,320	8,965	35.41%

Total Expenditures	526,436	264,075	50.16%
Excess of Revenues Over (Under) Expenditures	\$ -	\$ (19,006)	

Actual expenses include encumbrances some of which are for the entire year.

571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620

**MEMORANDUM OF UNDERSTANDING: CITY OF HAVELOCK & CRAVEN
COUNTY – HWY 101 RECREATIONAL FACILITY**

Recreation Director Travis Adams stood before the Board tonight and sought a Commissioner's motion and a second to approve a Memorandum of Understanding between the City of Havelock and Craven County for a 50/50 capital needs funding partnership for the HWY 101 Recreation Complex.

In an effort to enhance community recreational facilities located at the City's Recreation Complex, Craven County Manager Jack Viet provided an executed Memorandum of Understanding (MOU) for Havelock's official approval consideration. This MOU includes the construction of two (2) equipment and maintenance metal storage facilities at the recreation complex, along with the replacement of recreational field fencing.

The estimated cost for these projects is \$169,400 of which a 50% City and County cost share is proposed (*City Funding Commitment: \$84,700/County Funding Request: \$84,700*). It should be noted that once both governing bodies approve the presented MOU, the City would need to begin project bid advertisements within 14 days per the MOU.

At this time, Commissioner Walsh made a **motion to approve the Memorandum of Understanding between the City of Havelock and Craven County for a 50/50 capital needs funding partnership for the HWY 101 Recreation Complex as presented.** Commissioner Wilson seconded the motion and it passed unanimously. (5-0) This MOU is on file in the City Clerk's Office.

CITY MANAGER'S REPORT

City Manager Chris McGee took this opportunity to brief the Board of the following issues:

Woodhaven Project: Notice of Intent to File a Claim: Per information, the City has received "A Notice of Intent to File a Claim" from Trader Construction Company regarding the overhead utility line relocation cost at the Woodhaven Project site. Mr. Matthew Jones of Hazen Engineering is working with the contractor to resolve this issue. No action is requested at this time.

BluePrint Business Communications Marketing Report: Tourist & Event Center: The Board authorized Staff to enter into an Agency Services Agreement with BluePrint Business Communications to streamline the Havelock Tourist & Event Center's digital process for a 6-month term, ending June 30, 2022. BluePrint plans to highlight the TEC's features/amenities and expand the digital footprint, in the hopes of increasing the number of visitors and leads during this time. The Board was provided with a progress report detailing their efforts over the last couple of weeks. Overall, a more detailed analysis will be provided once the data can be broken down by each month.

Eastern Carolina Aviation Heritage Foundation Annual Gala: The Eastern Carolina Aviation Heritage Foundation (ECAHF) will hold their 2022 Gala on Friday, February 25, 2022 at 5:30 p.m. at the Havelock Tourist & Event Center. This year's theme will be "Just a Few Good Reasons Why This Is a Great Country!" Guinness World Record holder LtCol Art Nalls, USMC (Retired) will spend the evening sharing his experiences with the audience.

621 In addition to various sponsorship opportunities, individual tickets are available for \$60 or
622 2/\$110. Anyone interested in tickets or sponsorship details may contact the Havelock Tourist &
623 Event Center at (252) 444-4348. If a Board member would like to attend, email Cindy or Mary
624 within the next few days.

625

626 **CITY ATTORNEYS REPORT**

627

628 City Attorney Troy Smith had no comment/report.

629

630 **COMMISSIONERS REPORTS/COMMENTS**

631

632 Commissioner Walsh welcomed City Manager McGee. He is mentioned he was glad to see
633 Cindy back.

634

635 Commissioner Josh Kohr thanked the City Staff, for all that they do and he is thankful that
636 everyone made it through the ice storm safely.

637

638 Commissioner Wilson stated that she would be presenting the Service Person of the Quarter
639 award on Tuesday for the Chamber of Commerce. "She is always honored to do that."

640

641 Commissioner Lewis welcomed City Manager McGee to our City. She also thanked the
642 Havelock Police Department for their work in keeping our citizens safe during the ice storm this
643 past weekend.

644

645 Commissioner Jim Kohr stated that it speaks highly of our Staff when citizens come to the
646 meetings to thank them. He also welcomed City Manager McGee. Commissioner Jim Kohr
647 went on to state that the Council of Government (COG) met on December 13th and he suggests
648 discussing that meeting at the next workshop meeting.

649

650 **MAYOR'S REPORTS/COMMENTS**

651

652 Mayor Lewis echoed the Commissioner's in welcoming Chris McGee to Havelock. He is proud
653 of the Staff and their hard work during the last nine months. The City will hold a public "Meet
654 and Greet" at the TEC with the City Manager in the future.

655

656 The Mayor went on to state that Governor Cooper has signed the State budget, of which, the City
657 of Havelock has several initiatives. They are:

658

- 659 • From Representative Tyson – a \$100,000 project for Wayfinding signs around the City;
- 660 • From Representative Bell – a \$300,000 resiliency project for drainage repair work around
661 the City; and
- 662 • A \$120,000 project to augment the playground at the Recreation Complex.

663

664 Also, Commissioner Walsh asked the Mayor to point out, separate from the state budget is the
665 ARPA funding which is \$6.3M to be used over the next five years on infrastructure in Havelock.
666 The Mayor went on to explain to the audience that the monies used from the ARPA funding will
667 be spent on the following infrastructure projects over the course of the next five years:

668

- 669 • Hwy 70 Sewer Outfall Line
- 670 • AMI Project
- 671 • Sewer SCADA at only \$400,000 to get the project started (Phase I)
- 672 • Building Ventilation Systems
- 673 • Showers at Senior Center

674

675 At this time, the Mayor recognized Jim Freeman, who was the City Manager for nine years
676 before retiring, and then came back to serve as our Interim Manager until we hired Mr. McGee.
677 Mr. Freeman received a standing ovation.

678

679 Mr. Freeman stood before the Board and stated that Havelock holds a special place in his heart

680 and he was glad to help us out.

681

682 **ADJOURNMENT/RECESS**

683

684 With there being no other business to discuss, Commissioner Josh Kohr made a **motion to**
685 **adjourn.** Commissioner Wilson seconded and the motion carried unanimously. (5-0)

686

687 The meeting adjourned at 7:51 p.m.

688

689 Date approved: _____

690

William L. Lewis, Jr., Mayor

691 Attest:

692

693

694 _____

695 Mary C. Weigl

696 Deputy City Clerk