

**Town of Highlands
Board of Commissioners Work Session Meeting
Highlands Community Building
71 Poplar Street**

**Thursday, October 17th, 2024
6:00pm**

*****Agenda*****

1. Meeting Called to Order *Mayor Patrick Taylor*
2. Review and Approve Agenda *Mayor Patrick Taylor*
3. Approval of September 19th Work Session Meeting Minutes *Mayor Patrick Taylor*
4. Stormwater and Erosion Control Discussion *Michael Mathis*
5. Adjournment *Mayor Patrick Taylor*

Workshop Meeting Minutes of the Town of Highlands Board of Commissioners Meeting of September 19, 2024, at the Highlands Community Building, 71 Poplar Street, Highlands, North Carolina

Town Board Present: Commissioner John Dotson, Commissioner Amy Patterson, Commissioner Eric Pierson, Mayor Pro Tempore Brian Stiehler, Commissioner Jeff Weller and Mayor Pat Taylor

Also Present: Town Manager Josh Ward, Town Attorney Bob Hagemann via Zoom, Public Works Director Lamar Nix, Police Chief Andrea Holland, Police Officer Leah McCall, Planning & Development Director Michael Mathis and Town Clerk Gibby Shaheen

1. Meeting Called to Order

Mayor Taylor called the meeting to order at 6:00pm.

2. Review and Approve the Agenda

Town Manager asked to add #7 Greenway Building at Recreation Park for Commissioner Pierson.

COMMISSIONER DOTSON MADE A MOTION TO APPROVE THE AGENDA AS AMENDED, WHICH WAS SECONDED BY COMMISSIONER PATTERSON AND THE VOTE WAS UNANIMOUS.

3. Approval of the May 16th, Work Session Minutes

COMMISSIONER PATTERSON MADE A MOTION TO APPROVE THE MAY 16TH, 2024, REGULAR WORK SESSION MINUTES AS PRESENTED, WHICH WAS SECONDED BY COMMISSIONER DOTSON AND THE VOTE WAS UNANIMOUS.

4. Closed Session pursuant to G.S. 143-318(a)(3) to consult with an attorney in order to preserve the attorney-client privilege and to consider and give instructions to an attorney concerning the handling or settlement of Huff et al. v. Town of Highlands

COMMISSIONER PATTERSON MADE A MOTION TO GO INTO CLOSED SESSION PURSUANT TO NCGS §143-318.11(A)(3) TO CONSULT WITH AN ATTORNEY IN ORDER TO PRESERVE THE ATTORNEY CLIENT PRIVILEGE AND TO CONSIDER AND GIVE INSTRUCTIONS TO AN ATTORNEY CONCERNING THE HANDLING OR SETTLEMENT OF HUFF ET AL. V. TOWN AT 6:02PM, WHICH WAS SECONDED BY COMMISSIONER DOTSON AND THE VOTE WAS UNANIMOUS.

ONCE DISCUSSION WAS HELD, COMMISSIONER PATTERSON MADE A MOTION TO GO BACK INTO OPEN SESSION AT 6:41PM, WHICH WAS SECONDED BY COMMISSIONER WELLER AND THE VOTE WAS UNANIMOUS.

5. Requests to Receive Treatment Plant Sludge

Town Manager Josh Ward said he had received letters from three different country clubs outside of town, requesting approval to dump sludge from their private sewer treatment plants into the Town's sewer plant. Currently, the sludge is being hauled to the Town of Murphy's sewer treatment plant. If approved, the Town would need to sign a contract with each entity and establish a fee for the service. Dale Wike, the Town's sewer plant operator from Environmental Inc., says the plant could accept the sludge from the treatment plants without an issue.

Discussion was held and the Board directed Town Manager to come up with a Policy with specifics and individual Contracts, but agreed with the concept.

6. Crosswalk Request on North Fourth Street at Hickory Street

Town Manager Josh Ward said he had been approached by NCDOT about a crosswalk by the ballfield at North Fourth Street and Hickory Street. Discussion was held.

Commissioner Patterson asked Town Manager Josh Ward to check with the NCDOT to see if it placed at North Fourth Street, Chestnut and Foreman.

7. Greenway Building at Recreation Park

Commissioner Pierson asked the Board if it would consider purchasing a 10x20 building for supplies and tools for the Greenway, which would be less than \$15,000.

Commissioner Pierson explained the Greenway currently housed their things in a covered trailer, but they've had issues with people trying to get into it and it is in the back parking lot at the Rec. Park. The Board agreed to move forward in finding a building.

8. Adjournment

AS THERE WERE NO FURTHER MATTERS TO BE DISCUSSED AT THE WORKSHOP OF THE BOARD OF COMMISSIONERS, MAYOR PRO TEMPORE STIEHLER MOVED TO ADJOURN WHICH WAS SECONDED BY COMMISSIONER PIERSON AND UPON A UNANIMOUS VOTE, THE TOWN BOARD ADJOURNED AT 6:58PM.

Patrick Taylor
Mayor

Gilberta B. Shaheen
Town Clerk



**Workshop
Item**

Date: 10/17/2024

To: Mayor Taylor & The Town Board of Commissioners

Prepared by: Michael Mathis, Planning & Development Director

Subject: Stormwater Management

Section 12.6 of the Town of Highlands Unified Development Ordinance regulates stormwater management. Specifically, section 12.6.3 of the UDO says, “*No building, structure, or land shall be used, occupied, or altered and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with all the provisions of this Ordinance and all other applicable regulations except as otherwise provided in this Ordinance.*” Additionally, section 4.16.2 (A)(1) says, “*A stormwater permit is required for all development and redevelopment which disturbs one (1) acre or more and for all commercial development and redevelopment which creates more than eight thousand (8,000) square feet of new impervious area, unless exempt pursuant to this Ordinance. For all activities which are subject to this Ordinance, no person shall initiate, proceed, or undertake any land-disturbing or development activity for which a permit is required without first being issued a written stormwater control permit.*”

All development and redevelopment subject to these regulations must adhere to sections 12.6.4 and 12.6.5 of the UDO.

12.6.4 Stormwater Design and Standards

Stormwater Design Standards are established for the purpose of promoting sound development practices with respect to minimizing impacts from new development and are not intended to prohibit the use of innovative and alternative techniques that demonstrate the ability to successfully achieve the objectives of this Section. Land development activities shall be performed in such a manner as to minimize the degradation of the receiving waters and protect existing developments. All activities that meet the applicability requirement of this Section shall adhere to the following provisions for managing stormwater runoff as a minimum:

- A. Hydrological and Hydraulic analysis shall be performed in a manner acceptable to and with results reproducible by the Stormwater Administrator. Appropriate rainfall/runoff calculations include the TR-55 method, and HEC-1 and HEC-HMS*



models and other appropriate methods including the Soil Conservation Service Curve Numbers and on a limited basis the Rational Method. All models and methods should receive prior approval from the Stormwater Administrator before they are employed.

- B. The rainfall data for the Town of Highlands shall be the latest information from the National Oceanic and Atmospheric Administration (NOAA). The Town of Highlands, North Carolina rainfall data is determined from the current NOAA National Weather Service Precipitation Frequency Data Server (PFDS).

POINT PRECIPITATION FREQUENCY ESTIMATES FROM NOAA ATLAS 14 HIGHLANDS, NORTH CAROLINA (31-4050) 35.05 N 83.2 W 3,802 feet											
Precipitation Estimates (inches)											
Duration	5 min	10 min	15 min	30 min	1 hr	2 hr	3 hr	6 hr	12 hr	24 hr	
Frequency (yr)	1	0.43	0.69	0.87	1.19	1.48	1.73	1.94	2.66	3.68	4.74
	2	0.51	0.82	1.03	1.43	1.79	2.09	2.32	3.16	4.37	5.68
	5	0.60	0.96	1.21	1.73	2.21	2.57	2.84	3.81	5.26	6.99
	10	0.68	1.09	1.38	2.00	2.60	3.03	3.34	4.46	6.10	8.03
	25	0.78	1.24	1.57	2.33	3.10	3.61	4.02	5.35	7.19	9.47
	50	0.86	1.37	1.73	2.61	3.54	4.13	4.63	6.16	8.17	10.64
	100	0.94	1.49	1.89	2.89	3.98	4.67	5.28	7.02	9.17	11.86

- C. The North Carolina General Statute 143-215.23 (the Dam Safety Law of 1967) and any subsequent revisions shall be adhered to when applicable.
- D. In all instances, stormwater management facilities and devices shall be designed to compliment a development and the surrounding community. If ponds are used, they shall be incorporated into the development and landscaped as an amenity. See Also Article 11, Landscape, Screening and Buffers.
- E. Temporary sediment and erosion control facilities used during construction may be converted to permanent stormwater management facilities after construction is completed.
- F. All projects must adhere to the guidelines outlined in 15A NCAC 02H.1000.

12.6.5 Stormwater Quality Design Standards

- A. Required for all development and redevelopment which disturbs one (1) acre or more.
- B. Required for all commercial development and commercial redevelopment which creates eight thousand (8,000) square feet or more of new impervious area.



- C. *Stormwater quality BMPs are designed to control and treat the runoff from the 1-year, 1-hour storm event.*
- D. *All stormwater quality BMPs used to meet the requirements of this Section shall be designed to have a minimum of eighty-five percent (85%) average annual removal for Total Suspended Solids (TSS).*
- E. *Areas designated as open space that are not or will not be disturbed, developed or redeveloped do not require stormwater runoff treatment.*
- F. *Where any stormwater quality BMP utilizes a temporary water quality storage pool as a part of its designed treatment system to treat the stormwater quality volume from the 1-year, 1-hour storm event:*
 - 1. *The drawdown time shall be a minimum of forty-eight (48) hours and a maximum of one hundred twenty (120) hours;*
 - 2. *The minimum draw down orifice size shall be two (2) inches or equivalent; and*
 - 3. *The post development peak flow rate of the water quality volume discharge shall not exceed the pre development 1-year, 24-hour peak discharge rate.*
- G. *No one (1) water quality BMP shall receive runoff from a developed or redeveloped area greater than three (3) acres. However, the total drainage area for BMPs used in series can exceed this three (3) acre maximum.*
- H. *Residential subdivisions should utilize stormwater quality BMPs as part of the larger plan of development when applicable.*
- I. *All built-upon area shall comply with riparian buffer requirements of Sec. 12.3, Riparian Buffers. An exception to this requirement may be allowed when site-specific determination is made using North Carolina Division of Water Quality-approved methodology.*
- J. *No stormwater quality BMPs shall incorporate natural streams to provide treatment volumes.*

Additionally, the UDO has a Steep Slope Protection ordinance in section 12.5. Category 2 (between 30-60% slope) and Category 3 (between 60-100% slope) lots are required to adhere to the following standards (section 12.5.1 (D) & (E)):

D. Category 2 Requirements

- 1. *Basic Control Measures, as described in Section 12.4.5 of this Ordinance.*
- 2. *Other Best Management Practices to be employed:*
 - a. *No increase of surface runoff to adjacent or surrounding property for the 2-year and 10-year, 6-hour storm event as a consequence of development;*



THE TOWN OF
HIGHLANDS

- b. Surface runoff shall be controlled on-site by implementing one (1) or more NCDWQ approved Best Management Practices or alternative BMP approved by the Town of Highlands;*
 - c. Approved BMPs include bio-retention areas and rain gardens, infiltration trenches and wells, level spreaders and riparian buffers, reinforced grassy swales, and riprap; and*
 - d. The owner/builder shall include both temporary and permanent site specific BMPs.*
- 3. Post development velocity and shear stress of the 10-year, 6-hour storm runoff to adjacent or surrounding properties should not exceed the greater of the following:*
 - a. Maximum permissible velocity and shear stress for the receiving soil type;*
 - b. The velocity and shear stress of the runoff from the 10-year, 6-hour storm event to the adjacent or surrounding property prior to the development; and*
 - c. All discharge channels or conveyances shall be designed to withstand the expected post construction 10-year, 6-hour storm velocity and shear stress.*
- 4. Wire backed silt fencing shall be installed on the downhill periphery of any area of disturbed earth.*
 - a. The fencing shall extend a minimum of twenty-four (24) inches above ground with the bottom of the fence buried six to nine (6—9) inches below ground on the uphill side of the fence and packed down to prevent blowouts;*
 - b. For heavy runoff areas, bales of straw may be required in conjunction with the silt fencing. Silt fencing shall be installed immediately following tree removal and before earth is disturbed; and*
 - c. Silt fences shall be maintained throughout construction until the disturbed area is permanently stabilized.*
- 5. Driveways must be roughed-in prior to the start of construction including appropriate installed BMPs and a binder coat of asphalt applied to the driveway surface for the duration of the construction;*
- 6. Completed driveways must be paved with asphalt or concrete;*
- 7. Driveways longer than forty-five (45) feet may require one (1) or more cross driveway water traps with grates that direct the stormwater runoff to an approved BMP such as a rain garden or infiltration system. See also maximum gradient allowed for driveways in Sec. 10.4.1, Driveway Entrance Requirements; and*



8. *Permanent ground cover must be installed per the requirements of, and approved by, the Planning and Development Director.*
- E. *Category 3 Requirements. For any land-disturbing activity in District 3, regardless of size, the person wishing to conduct the land-disturbing activity shall submit a soil and erosion control plan for permit as defined in this Ordinance and meet all of the requirements listed in Category 2 above.*

If any provision of the Stormwater Management ordinance is violated, a Notice of Violation is sent in accordance with section 15.3 of the UDO. According to section 15.4.1 of the UDO, *“If an offender fails, for ten (10) days or more, to take all corrective actions required by a Notice of Violation, the offending party shall become subject to an immediate civil penalty assessed from the date of the violation with the issuance of a citation.”* Stormwater penalties are assessed in accordance with the “Zoning Violations” item in the Town of Highlands Fee Schedule. The fine is \$100 per day, per violation, until the violation(s) are remedied.

Moving forward, our staff will continue enforcing the regulations outlined in the UDO and the North Carolina Division of Water Quality’s Stormwater Best Management Practices Manual.



**Workshop
Item**

Date: 10/17/2024

To: Mayor Taylor & The Town Board of Commissioners

Prepared by: Michael Mathis, Planning & Development Director

Subject: Erosion & Sedimentation Control

In North Carolina, erosion and sedimentation control is governed by the Sedimentation Pollution Control Act of 1973. The Act requires anyone involved in a land disturbing activity of one acre or more to submit an erosion and sediment control plan to the Land Quality Section of the North Carolina Department of Environmental Quality or the appropriate delegated local program.

The Town of Highlands is an approved local program delegated by the State of North Carolina to review erosion control plans. According to section 11-6 (a) of the Town Code, *"No person shall initiate any land-disturbing activity that will disturb more than one (1) acre on a tract unless, thirty (30) or more days prior to initiating the activity, a plan for the activity is filed with and approved by the town..."*

Below is a table from section 4.14.1 (C) of the Town of Highlands Unified Development Ordinance (UDO) that explains when an erosion control plan is required.

Area to be Disturbed	Slope	Plan Required	Permit Required	Procedure
Up to 3,000 SF	0-30%	Site Plan per Category 1	No	Submit Letter to Planning Director
3,000 SF up to 1 acre	0-30%	Site Plan per Category 1	Yes	Land-Disturbing Permit
Up to 1 acre	30-60%	Site Plan per Category 2	Yes	Land-Disturbing Permit
1 acre and above	30-60% (Change to "Any Slope")	Erosion and Sedimentation Control Plan	Yes	Land-Disturbing Permit + EC Plan
Of any size	60-100%	Erosion and Sedimentation Control Plan	Yes	Land-Disturbing Permit + EC Plan



The Sedimentation Pollution Control Act has few limitations as to what goes into an Erosion Control Plan. Specifically, the Act has five (5) mandatory standards:

- 1. Buffer zones along streams or rivers must be sufficient to control visible siltation within the first 25% of the buffer zone closest to the land disturbing activity. There must also be a 25-foot minimum width buffer along trout waters.*
- 2. Groundcover must be established on exposed slopes within 21 calendar days after completion of any phase of grading.*
- 3. Permanent groundcover must be established within 15 working days or 90 calendar days of completion of the project, whichever is shorter, and measures must be provided to keep sediment on site.*
- 4. Any land disturbing activity of one acre or more must have an approved erosion and sediment control plan.*
- 5. Any land disturbing activity must be done in accordance with the approved erosion and sediment control plan.*

The main objective of all approved plans is to control sediment and keep it from leaving the site. Section 12.4.5 of the UDO outlines what an erosion control plan should address:

- A. Identify Critical Areas. On-site areas that are subject to severe erosion, and off-site areas that are especially vulnerable to damage from erosion and/or sedimentation, are to be identified and receive special attention.*
- B. Limit Time of Exposure. All land-disturbing activities are to be planned and conducted to limit exposure of uncovered ground to the shortest feasible time.*
- C. Limit Exposed Areas. All land-disturbing activities are to be planned and conducted to minimize the size of the area of uncovered ground to be exposed at any one (1) time.*
- D. Control Surface Water. Surface water runoff originating upgrade of exposed areas shall be controlled in such a way as to minimize to the greatest extent possible erosion and sediment loss during the period of exposure of ground on the subject site.*
- E. Identify Critical Areas. All land-disturbing activity is to be planned and conducted so as to prevent damage to off-site properties through sedimentation.*



- F. *Identify Critical Areas. When the increase in the velocity of stormwater runoff resulting from a land-disturbing activity is sufficient to cause accelerated erosion of the receiving watercourse, the plan will include measures to control the velocity to the point of discharge so as to minimize accelerated erosion of the site and increased sedimentation of the stream.*

Additionally, section 4.14.4 of the UDO covers what should be included in the erosion control plan:

- A. *General - Contents of Plan. The proposed plan shall be prepared per the requirements of the Town of Highlands "Erosion and Sedimentation Control Plan Preliminary Review Checklist", as amended. A copy of the current checklist shall be kept on file by the Town and shall be distributed to each person who wishes to submit a proposed plan. The plan shall be drawn to an appropriate scale and at a minimum contain the information listed below:*
1. *All information required in Sec. 4.14.2, Application for Land-Disturbing Permit, Item A, Content;*
 2. *General site features;*
 3. *Site drainage features;*
 4. *Required design calculations;*
 5. *Erosion control measures;*
 6. *Vegetative stabilization;*
 7. *Plan designer's signature and date.*
- B. *Additional Documents. Along with submission of the Plan, the applicant shall submit the following information:*
1. *Required narratives;*
 2. *Completed Financial Responsibility Form;*
 3. *Bid specifications for erosion control; and*
 4. *Construction sequence.*

Section 12.4.3 (B) of the UDO requires property owners to obtain a Land Disturbance Permit before undertaking any land-disturbing activity. However, activities listed in section 12.4.3 (C) of the UDO are exempt from receiving a Land Disturbance Permit. These activities include:



THE TOWN OF
HIGHLANDS

1. *An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:
 - a. *Forage and sod crops, grain and feed crops, tobacco, cotton, and peanuts;*
 - b. *Dairy animals and dairy products;*
 - c. *Poultry and poultry products;*
 - d. *Livestock, including beef cattle, sheep, swine, horses, ponies, mules, and goats;*
 - e. *Bees and apiary products; and*
 - f. *Fur producing animals.**
2. *An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with Best Management Practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the North Carolina Forest Service. If land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Article shall apply to such activity and any related land-disturbing activities on the tract.*
3. *An activity for which a permit is required under the Mining Act of 1971, G.S. 74-76 et seq.*
4. *A land-disturbing activity over which the State has exclusive regulatory jurisdiction as provided in G.S. 113A-56(a).*
5. *An activity that is essential to protect human life during an emergency.*
6. *Land-disturbing activities of less than three thousand (3,000) square feet in area for relatively minor land-disturbing activities, such as the installation of a driveway or a septic system, and where, in the opinion of the Planning and Development Director, because of limited scope of activity, lack of proximity to a watercourse, relatively low slope of land, or other factors, there is little likelihood of soil erosion or sedimentation. The person proposing to conduct the land-disturbing activity shall submit a letter to the Planning and Development Director requesting the waiver of permit. Additional information shall be provided as requested by the Planning and Development Director as necessary to render an opinion. See also Sec. 12.4.3, Scope and Exclusions, Item H.*

If any provision of the Erosion and Sedimentation Ordinance is violated, a Notice of Violation is sent in accordance with section 15.3 of the UDO. According to section 15.4.1 of the UDO, *"If the offender fails, for ten (10) days or more, to take all corrective actions required by a Notice of Violation, the offending party shall become subject to an immediate civil penalty assessed from*



the date of the violation with the issuance of a citation." Specifically, section 15.4.3 of the UDO outlines how we determine the amount of penalties issued for erosion control violations.

In determining the amount to assess for an erosion control and sedimentation issue, the Board shall consider each of the following factors:

- A. The degree and extent of harm caused by the violation;*
- B. The cost of rectifying the damage, including clean up costs, devaluation of the property, and value of animal and plant life damaged, and other reasonable costs;*
- C. The amount of money the offender saved by noncompliance;*
- D. Whether the violation was committed willfully;*
- E. Whether the violator reported the violation;*
- F. Whether the violator took reasonable measures to comply with this Ordinance;*
- G. Whether the violator voluntarily took reasonable measures to restore any areas damaged by the violation;*
- H. The prior record of the offender in complying or failing to comply with this Ordinance or any other Local, State, or Federal pollution control rule or regulation;*
- I. The date of the violation or the date it was detected; and*
- J. Any other relevant mitigating and aggravating factors.*

In conclusion, we believe the Town's UDO is consistent with the Sedimentation Pollution Control Act of 1973. Moving forward, our staff will continue enforcing the UDO and requiring that all development is done in accordance with the North Carolina Erosion and Sediment Control Planning and Design Manual. Furthermore, we believe that the additional Code Enforcement Officer will be vital in the enforcement of the UDO.