

**Town of Navassa
Environmental & Stormwater Advisory
Committee Minutes
August 2, 2010
5:30 PM**

IN ATTENDENCE:

Committee Members Present: Gregory Westfield, Dorsey Jones Jr., John Klein, Ella Beatty, Mayor Eulis Willis

Committee Members Absent: None

Staff: Travis Barnes, Town Planner

Other Attendees: None

CALL TO ORDER: Chairman Gregory Westfield called meeting to order at 5:35 pm

APPROVAL OF MINUTES: Mr. Barnes reminded the committee that they need to approve the minutes from both the June and July meetings. Mr. Klein made a motion to accept the minutes from the June and July meetings. Mr. Willis seconded the motion and it passed unanimously.

OLD BUSINESS:

1. *Review Draft Environmental Plan and NCLM Green Challenge Requirements:* Mr. Barnes stated that the committee members have been given a copy of the final draft of the town's Environmental Plan as part of their agenda packet. Mr. Barnes stated that he has also given a copy of the draft plan and discussed its requirements with Steve Pagley, Navassa Public Works Director, and Claudia Bray, Navassa Town Administrator, and they have no issues with the draft. Mr. Barnes said that he will also provide copies of the plan to the Town Council members, in which he will highlight any of the requirements that the plan creates for the town. He also said that he will be providing the Town Council with an executive summary that will have bullet points clearly describing the main aspects of the Environmental Plan. For example, the plan requires an annual report, so that item will be listed as a bullet point on the executive summary and the section of the plan that describes this requirement will also be highlighted in yellow in the body of the Environmental Plan for quick reference. Mr. Barnes said that based on the committee's comments from the previous meeting, he removed a lot of the requirements from the Environmental Plan and replaced them with softer language that states that the town will work towards those goals, without requiring the town to do so. In this way the plan is still a step in the right direction and will help the town achieve environmental progress overtime, without being overly burdensome from the start. As the town grows in staff and its capacity to administer additional projects, the Environmental Plan can also continue to improve. Mr. Barnes stated that the only other significant change is the addition of the section regarding the public environmental education program, because that section was not finished last month. Mayor Willis asked if this plan would need to have a public hearing, when it goes to the Town Council. Mr. Barnes stated that this plan is an internal town policy to handle municipal operations and does not need a public hearing to be adopted, although it will be good to have the public made aware of the plan. Mr. Barnes stated that he intends to put a new page on the town's website that will be dedicated to the town's environmental initiatives. Mr. Klein asked if the plan required the creation of a new Sustainability Manager position. Mr. Barnes stated that the plan does not require a new position at this time, and it merely states that the Town Planner would be the acting Sustainability Manager. However 5-10 years down the road, there might become a need for a new position depending on how fast the town grows.

Mr. Barnes stated the town should meet the qualifications for the NCLM Green Challenge, assuming the Town Council approves the Environmental Plan. Mayor Willis asked if it would get the town to the "intermediate" level of the green challenge. Mr. Barnes said he would submit all of the various environmental activities that the town has been working on and that he anticipated the town would qualify for the "intermediate" level, although the League of Municipalities makes that decision. Mr. Klein asked if the Public Works Director is okay with having to do the monthly water loss report. Mr. Barnes stated that Mr. Pagley has actually already set up a meeting with the NC Rural Water Association to look at water conservation and that he and the town's administrative assistant are in support of water conservation. Mr. Barnes added that he would work with the rest of the staff to create a monthly

report for the town. The committee thanked Mr. Barnes for his hard work and they agreed the plan is a good thing for the town.

2. *Address Outstanding Issues from DRAFT Stormwater Ordinance:* *Note: The voice recorder stopped recording this section of the meeting because it ran out of batteries, so this section will not be as detailed as others.

Mr. Barnes informed the committee that he included some new comments regarding the stormwater ordinance that he received from the North Carolina Department of the Environment and Natural Resources (NCDENR), from the Business Alliance for the Sound Economy (BASE), and from Larry Sneed with the Coastal Carolina Resource Group. Mr. Barnes reiterated that the only real issue with the current draft of the Stormwater Ordinance is with the maintenance section, which is Article IV in the ordinance. Mr. Barnes stated that he has highlighted all of the newly added ordinance language in green and has underlined it. All of the language that is recommended to be deleted has been highlighted in red and struck through. Additionally, Mr. Barnes stated that his comments and concerns are highlighted in yellow.

According to the comments received, NCDENR wants the town to require the developer to fund an escrow account for the ongoing maintenance of the stormwater BMPs associated with a particular development, and BASE feels this requirement is overly burdensome and too costly for developers. BASE also stated that this is not a requirement found in the state legislation. The committee agreed that some form of an escrow account should be required in order to ensure that the stormwater BMPs operate as they are designed to do over the long term. After discussing some of the proposed changes to the draft ordinance the committee agreed there are seven main issues that need to be resolved within the ordinance and they are as follows:

1. ***How will the town calculate the amount of funding to be placed in the escrow account?*** The committee decided that the developer shall be responsible for having to fund 50% of the estimated construction cost for the stormwater BMPs associated with the project into the required escrow account for ongoing maintenance incase a BMP fails. The ordinance will require the developer to submit a certified construction cost estimate that will be required to have an engineer's seal in order for the town to verify that it is a fair and accurate cost estimate. Mr. Klein stated that it is common for engineers to certify cost estimates, so obtaining the certified construction cost estimate should not be difficult.
2. ***How will the town require the escrow account to be funded over time?*** This particular issue is addressed in Section 1-55 (B)(3) of the draft. The committee decided that the developer will have to pay the required 50% of the certified construction costs in equal annual installments. The developer shall pay 10% of the construction costs upfront prior to plat recordation or the issuance of construction permits. The developer shall then have to pay an additional 10% of the certified construction costs annually for the next four years until the escrow account totals 50% of the certified construction cost. This annual escrow contribution must be deposited by February 1st of each year in order to correspond with the annual operations and maintenance report that must be submitted to the town for review. The town must be able to verify that the money has been deposited. The town will also need to think about how they will enforce this requirement if the developer does not deposit the required funds. The town could possibly withhold building permits.
3. ***How will the town require the escrow account to be replenished if it is used to repair a stormwater BMP after it fails?*** The committee decided that the HOA should be allowed a period up to five years for the escrow account to be reimbursed for any money that is expended for BMP replacement or maintenance. The HOA shall have to deposit 10% of the expended escrow account funds back into the escrow account each year until the escrow account is back to its account balance prior to the BMP replacement. This money and any annual escrow contribution from the HOA must be deposited by February 1st of each year in order to correspond with the annual operations and maintenance report that must be submitted to the town for review. Due to the rising price of construction over time and the fact that future dollars are not worth as much as current dollars, the committee asked staff to research an appropriate discount rate to be included in the calculation of the required replacement funding. The committee still needs to determine how this requirement will be enforced if the money is not deposited back into the escrow account.

4. ***The committee felt that they should delete Section 1-55 (B)(4) because it places too much subjectivity into the decision-making process of the stormwater administrator and the town in determining the percent of developer contribution to the escrow account and the length of time allowed to fund the account.*** Everyone felt that it would be a good decision to remove this item from the ordinance.
5. ***What is the deadline or threshold at which the town will require the stormwater permit for a subdivision to be transferred from the developer to the Home Owners Association?*** Larry Sneed submitted comments arguing that it would be best to transfer the permit to the HOA as soon as possible so that they are aware of the required operations and maintenance agreements from the start and they have experience administering their stormwater permits. According to the comments received from NCDENR, the state requires developers to transfer stormwater permits to the HOA when: 1. The BMP has been certified by the engineer for a high density project and either the developer or the designer of the Low density has sent them a statement that the LD has been built according to the approved plan (they recommend that the designer (who should have a license) certify the LD design and the developer certify the construction. That way both are held accountable for the system). 2. The HOA is legally established and can accept the permit 3. Over 50% of the lots have been sold and are owned privately or the legally established HOA has at least 33% membership associated with lots having been sold in the project. 4. They have all signatures on the transfer document (go to DWQ website for copy of transfer application) 5. The property or common area has been transferred to the HOA. 6. AND last but not least, the system has been maintained and is in compliance with the O & M requirements.

The committee felt that the NCDENR recommended transfer requirements where appropriate except for the percentage of lots that are required to be sold. The committee asked staff to change the ordinance to state that a permit must be transferred sometime between when 25%-50% of the lots have been sold and are owned privately. The committee also agreed that there should be a required inspection of all the BMPs before the stormwater permit is allowed to be transferred.

6. ***How will the escrow account be administered?*** The committee decided to make the HOA responsible for administering the escrow account, however the Stormwater Ordinance will need to require an annual financial report to be submitted along with the operations and maintenance report so that the Stormwater Administrator can verify that the escrow account is being used for the proper purposes and to ensure that the annual contributions into the account are being made. The committee still needs to consider whether or not they want to have a penalty or some other enforcement mechanism for the HOA not contributing to the escrow account as required.
7. ***When is the developer no longer responsible for funding the escrow account?*** The committee decided that the developer should be required to pay into the escrow account for 50% of the certified construction costs as described in item 2 above. The developer shall also have to pay his portion of the annual HOA contribution to the escrow account, which is dependent on the amount of lots he still owns. Once the stormwater permit is transferred to the HOA then the developer will only have to pay the pro-rated portion of the annual fee for that year.

NEW BUSINESS:

1. ***Deciding on Monthly Meeting Schedule for the remainder of the year and future committee initiatives:*** Mr. Barnes stated that once the Stormwater Ordinance is approved he was thinking about changing the committee meeting schedule to every other month as opposed to having monthly meetings. Mr. Barnes stated that the committee will need to continue to work on implementing the town's stormwater program by having activities and taking care of some of the other requirements, but that the committee should not have to meet every month to accomplish this. The committee agreed that meeting every other month would be fine and that this issue would be discussed in greater detail once the Stormwater Ordinance is approved and they see how much other work is left to be accomplished.

Staff Report

1. Mr. Barnes stated that he wanted to give the committee an update on the Planning Board's progress regarding text amendments to the town's Tree Preservation Article of the Zoning Ordinance. Staff has been working on text amendments to the town's Zoning Ordinance to enhance the tree preservation article to include a pay in lieu mechanism that would enable developers to pay for replacement trees if they could not plant them on the development site. Staff will provide more details based on the Planning Board's final decision, but he wanted to let the committee know that they are working to protect the town's tree canopy.

Chair's Report:

The next EVS meeting happens to fall on the Labor Day Holiday so Mr. Westfield made a motion to reschedule the meeting to the following Monday. Mr. Klein seconded the motion and it passed unanimously. The next EVS meeting will be on Monday, September 13th at 5:30 PM at Town Hall.

Member Comments

Public Comment

Adjournment

Mr. Jones motioned for adjournment, seconded by Mr. Klein. The meeting was adjourned at 7:30 pm.

Minutes prepared by Travis Barnes, Town Planner, on August 20, 2010.