

Many people have asked the question "How did we get here? How did the Town of Swansboro allow the Walmart permit to go through?" While much of this has been discussed in articles in the newspapers, the Town did not do a good job in keeping the public apprised of the situation. In fact, much was hidden in executive and closed door meetings in 2014 and 2015. It wasn't until the citizens (and even the Town's Planning Board) were caught by surprise that we now know that the Swansboro Commissioners hatched a backroom agreement with the Walmart developer. After then, any town meetings were more for show.

People knew there was a lawsuit brought against the town by the Walmart developer, Swansboro Investors, LLC (SI). But many believed that the SI suit had minimal standing due to the state laws on moratoriums. Little was made public knowledge and most citizens assumed everything would turn out ok because the Commissioners are responsible to act in the Town's best interest and to represent the citizens (the majority of which at meetings spoke in opposition to the proposed Walmart development).

After a series of closed-door meetings and bullying by SI in the form of a lawsuit for damages, the Town Commissioners folded. This left SACRED to pick up the battle.

As of July 7, 2015, the closed session meeting minutes still have not been released, despite multiple requests by various SACRED members. These minutes, per state law, must be made available to the public in a timely manner, and be complete (without any editing). The Commissioners voted to release the past three years of closed door meeting minutes on July 7, 2015.

To help us understand what exactly happened, we have combed through records and developed the following timeline. Please take the time to read it. It's rather enlightening, and perhaps a bit maddening . . .

What Are These "Open" or "Closed" Meetings All About?

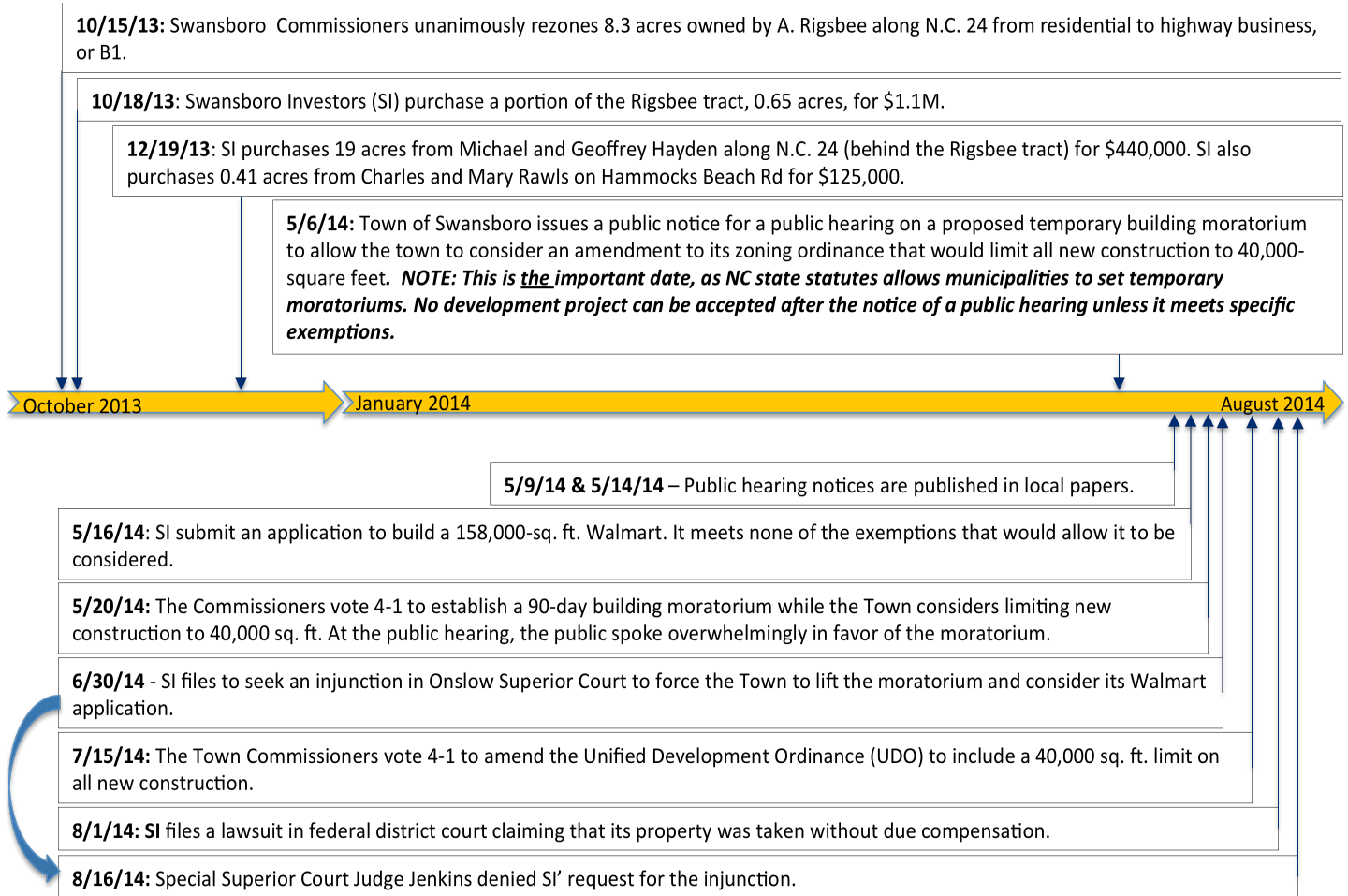
The statute in question is [G.S. 148-138](#), known as the N.C. Open Meetings Law. It notes that public bodies, like the Board of Commissioners, exist solely to conduct the people's business and that it is the policy of the State that such business be done in the open. The law details when a meeting is "official" and thus open to the public, how and when the public is to be notified of meetings and the type of records that must be kept at those meetings. This is the law the Commissioners wanted to avoid violating when they met in pairs with the Walmart developer, SI. Three attending those meetings would have constituted a quorum of the five-member board. That would have been an "official" meeting of the board as defined by this law, requiring public notice and would have been open to the public. As an aside, if you ever see three commissioners or two and the mayor having breakfast together in town, squeeze in among them. They are conducting a public meeting and you have every right to be there. Three or more on an email chain or conference call is also a public meeting.

Generally, the law requires that all business be conducted publicly but includes nine very narrow exceptions that allow the commissioners to go into a private or "closed," sessions. They include discussions on important things like criminal investigations and terrorist threats and on silly things like honorary degrees. Boards can meet privately with attorneys to discuss ongoing lawsuits. Understand that the law doesn't require that boards meet in closed sessions for any of these things. It says they "may" do so. Neither does it prevent the Commissioners from talking about what was said in those closed sessions. It's a point that many who serve on public boards fail to grasp and they use the law as a shield claiming it prevents them from discussing those meeting with anyone.

Boards can't take votes in closed sessions. That can only be done in public meetings.

As they do in regular meetings, the Commissioners must keep "full and accurate" minutes of their closed sessions. If they are written, the minutes must contain enough information so that a person would have a "reasonable understanding of what transpired." They don't have to release those minutes to the public "as long as public inspection would frustrate the purpose of the closed session." Once the lawsuit is officially settled, there is no longer a need to keep those records sealed.

Swansboro Walmart Timeline



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2/1/15: Town Commissioners begin private meetings with the Walmart Developer (SI) seeking a settlement of the 8/1/14 lawsuit. The meetings would continue until at least through March. The Commissioners also held at least a dozen "closed door" executive sessions on the lawsuit in 2014 and 2015. The commissioners also met in 'twos' which is not considered a formal meeting and skirts the need for meeting minute recordkeeping.

5/4/15: The first indication of the Commissioners and the Walmart developer (SI) had reached a settlement was when the Swansboro Planning Board is notified that it would meet in a special session to consider the SI's application for a Walmart under the post moratorium ordinance. The Planning Board members are then given three days to consider a 125-page application.



5/13/15: After a 2 hour public meeting in which dozens of people spoke against the proposed Walmart, the Planning Board votes 2-2 on a motion to table the application to allow sufficient time to review it, and is also deadlocked on a motion to approve the application. A tie vote is technically a denial of the application. In a following workshop meeting, the Commissioners scheduled the application at its next meeting.

5/19/15: Almost 200 people show up for a public hearing on the Walmart application. Dozens spoke in opposition; less than 10 were in favor. The commissioner voted 4-1 to approve the application under old zoning law and sign a settlement agreement with the Walmart developer that night.

Late May 2015: Opponents of the Walmart application form a grassroots organization called SACRED, Swansboro Area Citizens for Responsible Economic Development. They start a petition drive, launch a website and Facebook Page and hire an attorney.

6/16/15 – Town Commissioners voted to modify the UDO such that the Walmart development permit would no longer be non-compliant. Nearly 100 SACRED members attend, and dozens of mostly SACRED members spoke and chided the Commissioners for failing in their responsibilities and failing to represent the town.

6/18/15 – SACRED members file a legal complaint against the town and the Walmart developer, claiming that the commissioners acted unlawfully in approving the application under the old zoning ordinance.

6/29/15 – SACRED applies for non-profit corporate status with the N.C. Secretary of State and with the IRS.