AGENDA

TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM
WEDNESDAY, JULY 1, 2020, 9:00 A.M.

*(**PLEASE NOTE**: In accordance with State and County Regulations - Face Coverings must be worn in indoor and outdoor public spaces where social distancing cannot be maintained)*

Link to watch LIVE Broadcast of Meeting - https://iframe.dacast.com/b/3556/c/35673

A. CALL TO ORDER / MOMENT OF SILENCE / PLEDGE OF ALLEGIANCE

B. INTRODUCTION OF 2020 SEASON LIFEGUARDS

C. ADOPTION OF AGENDA

D. PUBLIC COMMENT

E. CONSENT AGENDA

1. Consideration Of Budget Adjustment #1 To FY 20/21 Budget

   Documents:

   7 F1 BUDGET ADJ 1 TO FY 20-21 SUMMARY.PDF
   7 F1 BUDGET ADJ 1 SPREADSHEET.PDF

2. Write-Off Of Old Business Licenses/Registration Fees

   Documents:

   7 F2 WRITE-OFF FOR BUS LICENSES SUMMARY.PDF
   7 F2 WRITE-OFF FOR BUS LICENSES MEMO.PDF
   7 F2 WRITE OFF FOR BUS LICENSES TOWN CODE.PDF

3. Approval Of Minutes

   Documents:

   7 F3 MINUTES SUMMARY.PDF
   7 F3 MAY 27 2020 BOC BUDGET WORKSHOP MINS.PDF
   7 F3 JUN 3 2020 BOC MINS.PDF
   7 F3 JUN 9 2020 BOC BUDGET WORKSHOP MINS.PDF
   7 F3 JUN 17 2020 BOC MID-MONTH MINS.PDF

4. Consideration Of Agreement With Dare County For Coronavirus Relief Fund Allocation

   Documents:

   7 F4 COVID RELIEF FUNDING AGREE SUMMARY.PDF

7 F4 COVID RELIEF FUNDING AGREEMENT.PDF

5. Consideration Of FY 20/21 Reimbursement Resolution
   Declaring the intention to reimburse the cost of certain expenditures

   Documents:

   7 F5 REIMBURSEMENT RES SUMMARY.PDF
   7 F5 REIMBURSEMENT RES.PDF

6. Consideration Of Resolution To Update Town Banking Signatures

   Documents:

   7 F6 BANK OFFICIALS RES SUMMARY.PDF
   7 F6 BANK OFFICIALS RES.PDF

7. Consideration Of Updated Cashier Policy

   Documents:

   7 F7 CASHIER REV POLICY SUMMARY.PDF
   7 F7 CASHIER REV POLICY.PDF

8. Request For Public Hearing To Consider A Revised Preliminary Plat For A Major Subdivision Known As Coastal Villas,
   For an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the
   intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987 and Parcel #: 006749039; PIN #: 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an
   associated street and other required improvements, and requires a public hearing due to requested waivers

   Documents:

   7 F8 RPH COASTAL VILLAS SUBDIV SUMMARY.PDF

F. PUBLIC HEARINGS

1. Public Hearing To Consider Text Amendments
   to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

   Documents:

   7 G1 PH OUTDOOR STANDS SUMMARY.PDF
   7 G1 OUTDOOR STANDS PN.PDF
   7 G1 PH OUTDOOR STANDS MEMO.PDF
   7 G1 PH OUTDOOR STANDS ORD.PDF

G. REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

1. UPDATE FROM PLANNING DIRECTOR

- Includes Planning Board report on Large Occupancy Homes
- Includes Planning Board recommendation re: residential stormwater regulations

Documents:

7 H1 PLNG DIRECTOR UPDATE SUMMARY.PDF
7 H1 PLNG DIRECTOR UPDATE MEMO.PDF

2. Consideration Of Resolution To Adopt Hazard Mitigation Plan

Documents:

7 H2 HAZ MIT PLAN SUMMARY.PDF
7 H2 HAZ MIT PLAN MEMO.PDF
7 H2 HAZ MIT PLAN RES.PDF

3. Consideration Of Town Code Sec 26-7 Amendment Re: Camping

Documents:

7 H3 CAMPING AMENDMENT SUMMARY.PDF
7 H3 CAMPING AMENDMENT MEMO.PDF
7 H3 CAMPING AMENDMENT ORD.PDF

4. Consideration Of Scope For Update Of The Decentralized Wastewater Management Plan

Documents:

7 H4 DECEN WASTE PLAN SCOPE SUMMARY.PDF
7 H4 DECEN WASTE PLAN SCOPE MEMO.PDF
7 H4 DECEN WASTE PLAN SCOPE.PDF

H. NEW BUSINESS

1. Committee Reports

Documents:

7 I1 COMMITTEE REPORTS SUMMARY.PDF

I. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

J. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

K. BOARD OF COMMISSIONERS AGENDA

1. Comr. Kevin Brinkley - Update On Recycling

Documents:

7 L1 BRINKLEY UPDATE ON RECYCLING SUMMARY.PDF

L. MAYOR'S AGENDA

1. Future Town Envision

Documents:

7 M1 MAYOR ENVISION THE TOWN SUMMARY.PDF

M. OTHER BUSINESS

N. ADJOURNMENT

O. FULL AGENDA In .PDF Format With Bookmarks

5401 S. Croatan Hwy, Nags Head, NC 27959
252-441-5508

Agenda Item Summary Sheet

Item No: **F-1**
Meeting Date: **July 1, 2020**

Item Title: Consideration of Budget Adjustment #1 to FY 20/21 Budget

Item Summary:

Attached please find Budget Adjustment #1 to the FY 20/21 Budget which is provided for Board review and approval at the July 1st Board of Commissioners meeting – and is in accordance with the FY 20/21 Budget Ordinance, adopted at the June 17, 2020 meeting. The worksheets associated with Budget Adjustment #1 are attached.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached Budget Amendment #1.

Submitted By: Administrative Services Date: June 24, 2020

Finance Officer Comment:

Request Board approval of attached Budget Amendment #1.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Greg Sparks Date: June 24, 2020

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.1

SOURCE OF FUNDS				USE OF FUNDS		
CODE	300	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Information technology**	
10-473005	Dare County contribution	$ 31,636.00		441-543405	Other supplies-computer	$ 27,415.00
				441-544508	Contracted annual support	4,221.00
TOTAL CHARGES		$ 31,636.00		TOTAL CREDITS		$ 31,636.00

JUSTIFICATION

Dare County Board of Commissioners approved the NC Covid 19 Relief Fund Plan - Town of Nags Head telework costs.

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.2

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue					
10-434000	Grant-CAMA	$ 47,232.00		10-499000	Fund Balance Appropriated	$ 47,232.00
TOTAL CHARGES		$ 47,232.00		TOTAL CREDITS		$ 47,232.00

JUSTIFICATION

This is to re-budget revenues budgeted but not received in FY 2020 from CAMA.
Islington Street beach access grant of $47,232 was not completed in FY 2019/2020, so funds will be carried over to FY 2020/2021.

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.3

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	Water				**Water**	
961-590081	Interfund-General Fund Cost Allocation	$ 667,283.00		720-569900	General Fund Cost Allocation	$ 55,694.00
				725-569900	General Fund Cost Allocation	38,216.00
				810-569900	General Fund Cost Allocation	413,738.00
				818-569900	General Fund Cost Allocation	159,635.00
TOTAL CHARGES		$ 667,283.00		TOTAL CREDITS		$ 667,283.00

JUSTIFICATION

Allocate General Fund Cost allocation reimbursement to each department.
FY 20/21

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.4

SOURCE OF FUNDS			USE OF FUNDS		
CODE	ACCOUNT	AMOUNT	CODE	ACCOUNT	AMOUNT
	General			**General**	
410-569900	General Fund Cost Reimbursement	$ 15,110.00	10-492500	General Fund Cost Allocation Reimbursement	$ 667,283.00
420-569900	General Fund Cost Reimbursement	146,895.00			
440-569900	General Fund Cost Reimbursement	85,382.00			
441-569900	General Fund Cost Reimbursement	34,831.00			
490-569900	General Fund Cost Reimbursement	132,260.00			
500-569900	General Fund Cost Reimbursement	39,112.00			
530-569900	General Fund Cost Reimbursement	153,210.00			
555-569900	General Fund Cost Reimbursement	43,976.00			
470-569900	General Fund Cost Reimbursement	16,507.00			
TOTAL CHARGES		$667,283.00	TOTAL CREDITS		$667,283.00

JUSTIFICATION

Allocate General Fund Cost allocation reimbursement to each department.
FY 20/21

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.5

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund Expenditures Public Work Facilities				**General Fund Revenues**	
530-577300	Capital outlay other	$ 80,000.00		10-434000	Grant-CAMA	$ 48,000.00
				10-430400	Grant-Outer Banks Visitors Bureau	32,000.00
TOTAL CHARGES		$ 80,000.00		TOTAL CREDITS		$ 80,000.00

JUSTIFICATION

The Huron Street beach access walkover grant will not be funded by CAMA.

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.6

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund Revenues				**General Fund Expenditures Police**	
10-431302	NC Governor's Crime Commission Grant	$ 24,500.00		610-577500	Capital Outlay vehicles	$ 22,500.00
				610-543300	Supplies	2,000.00
TOTAL CHARGES		$ 24,500.00		TOTAL CREDITS		$ 24,500.00

JUSTIFICATION

NC Governor's crime commission grant award to purchase three in-car cameras and two body cameras.

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2020-2021

BUDGET AMENDMENT NO. 1
AMENDMENT 1.7

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue					
10-434000	Grant-CAMA	$ 122,226.00		10-499000	Fund Balance Appropriated	$ 122,226.00
TOTAL CHARGES		$ 122,226.00		TOTAL CREDITS		$ 122,226.00

JUSTIFICATION

This is to re-budget revenues budgeted but not received in FY 2020 from CAMA.
Jacob Street beach access grant of $122,226 was not completed in FY 2019/2020, so funds will be carried over to FY 2020/2021.
A grant extension request letter has been submitted to CAMA.

ADMINISTRATIVE SERVICES 6/23/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

Agenda Item Summary Sheet

Item No: **F-2**
Meeting Date: **July 1, 2020**

Item Title: Write-off of old business licenses/registration fees

Item Summary:

In June 2013 the Board adopted a Town Code text amendment allowing the write-off of business license debt more than three (3) years old.

Attached please find a memo from Tax Collector Linda Bittner requesting business licenses and registrations to be written off for the year 2017 in accordance with Town Code Sec. 12-33 (also attached).

Number of Attachments: 2

Specific Action Requested:

Request formal Board approval to write-off of business licenses/registrations for the year 2017.

Submitted By: Linda Bittner, Tax Collector Date: June 24, 2020

Finance Officer Comment:

Every effort has been made to collect this debt; I concur with the Tax Collector's request to write off $1,000 of business licenses/registrations.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Greg Sparks Date: June 24, 2020

Administrative Services
Finance

Town of Nags Head

Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
Fax 252-441-4680
www.nagsheadnc.gov

Amy Miller
Finance Officer

To: Mayor and Commissioners

From: Linda Bittner, Tax Collector

Date: July 1, 2020

Subject: Business License and Registration Fee Debt Owed More Than Three Years

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As per section 12-33 of the Town of Nags Head Code of Ordinances (copy attached), the current outstanding balance for the following year has been written off:

2017 Business Licenses/Registration Fees	$ 1,000.00

Sec. 12-32. - Collection of deficiency or delinquent taxes.

(a) The tax collector may use any of the following methods to collect a deficiency or delinquent taxes:

(1) A civil penalty with subsection 1-6(c);

(2) Equitable relief in accordance with subsection 1-6(d);

(3) The remedies of levy and sale and attachment and garnishment, in accordance with G.S. 160A-207;

(4) The remedies of levy and sale of real and personal property of the taxpayer within the town in accordance with the provisions of G.S. 105-109.

(b) Any person who commences or continues to conduct a business taxed under this chapter without payment of the tax is liable for the additional tax of five percent each 30 days, imposed by G.S. 105-109.

(c) Any business/privilege license or registration invoice older than three years, regarding a business that the town no longer regards as active, may be removed from the list of receivable accounts in the town's financial statement. At least annually, the tax collector will present the board of commissioners with a list of uncollectible accounts, requesting the board's approval for a formal write-off of such accounts. The town will use all available means to collect these accounts to include but not be limited to: bank attachment and payroll garnishment where applicable, debt set-off, etc.

(Ord. No. 15-07-025 , Pt. I, 7-1-2015; Ord. No. 16-07-018 , Pt. I, 7-6-2016; Ord. No. 18-11-016 , Pt. I, 11-7-2018)

Sec. 12-33. - Releases.

If it is determined that upon the issuance date of a renewal license or registration the business has been discontinued, the finance director may release a tax of less than $100.00. The tax collector shall annually report to the board of commissioners releases made pursuant to this section and the tax collector's annual report shall be recorded in the minutes of the board of commissioners. This report will be included with the annual request to the board to write off uncollectible accounts pursuant to section 12-32.

(Ord. No. 15-07-025 , Pt. I, 7-1-2015; Ord. No. 16-07-018 , Pt. I, 7-6-2016; Ord. No. 18-11-016 , Pt. II, 11-7-2018)

Agenda Item Summary Sheet

Item No: **F-3**
Meeting Date: **July 1, 2020**

Item Title: Approval of minutes from Board of Commissioners meetings/workshops

Item Summary:

Attached for Board review and approval are the following Board of Commissioners meeting minutes:

May 27, 2020 Budget Workshop

June 3, 2020 Regular Session

June 9, 2020 Budget Workshop

June 17, 2020 Recessed Session

Number of Attachments: 4

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Carolyn F. Morris, Town Clerk Date: June 24, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks Date: June 24, 2020

DRAFT **MINUTES**
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING ***(COVID-19)***
WEDNESDAY, JUNE 3, 2020

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, June 3, 2020 at 9:00 a.m. The following instructions were provided to the public for meeting participation – in response to the COVID-19 pandemic:

In order to view and listen to the Board meeting remotely, please register here:
https://nagsheadnc.zoom.us/webinar/register/WN_fwSm-NDdTH6NMcr5oibp2Q

Please email your comments for the Public Comment portion or for the Public Hearings here:
publiccomment060320@nagsheadnc.gov
(Emailed comments will also be accepted during the Board meeting until the end of the Public Comment portion of the meeting ***AND*** *up to 24 hours after each Public Hearing is concluded for comments related to any of the Public Hearings)*

Comments should include your name and address and
Should be limited to five minutes when read aloud.

If you would like to participate in any of the Public Hearings, please contact Carolyn F Morris at carolyn.morris@nagsheadnc.gov or at 252-449-2009 until 9 am on June 3, 2020

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley (all present in the Board Room)
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Amy Miller; Karen Snyder; and Town Clerk Carolyn Morris (all present in the Board Room)
Present Electronically:	Dep Planning Director Kelly Wyatt; Principal Planner Holly White; Town Engineer David Ryan; Chief Building Inspector Cory Tate; Johnny Martin and Brian Joyner of Moffat & Nichol; Kim Cowen; Megan Dixon; Attendee list provided as Addendum "A"

CALL TO ORDER
Mayor Cahoon called the meeting to order at 9:00 a.m. A moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Renée Cahoon made a motion to approve the June 3rd agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

PUBLIC COMMENT
Mayor Cahoon confirmed with the Town Clerk that there were no items submitted for public comment.

CONSENT AGENDA

The Consent agenda consisted of the following items:

- Consideration of Tax Adjustment Report
- Approval of minutes
- Consideration of resolution authorizing water payment plans resulting from State Exec Order #124
- Request for Public Hearing to consider UDO amendments re: outdoor stands

Town Manager Ogburn summarized the changes in Executive Order #142 which modified the dates (extended to July 29, 2020 for water payment plan) in item D-3 Water Payment Plan resolution.

MOTION: Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented with the amendment to the resolution in item D-3 Water Payment Plan per the Governor's Executive Order #142. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The Tax Adjustment Report, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

The summary sheet for the resolution authorizing water payment plans read in part as follows:

"Governor Cooper's Executive Order #124 authorized local government to assist water customers during the COVID-19 pandemic re: past due accounts and reconnection fees. Reconnection fees may be waived and water service will not be disconnected due to non-payment until June 2, 2020.

'In accordance with the Governor's Executive Order #124, the attached resolution is provided for your consideration on June 3rd."

The resolution authorizing water payment plans, in accordance with the Governor's Executive Order #142, as adopted, read in part as follows:

"WHEREAS, on March 10, 2020, Roy Cooper, Governor of North Carolina, issued Executive Order No. 116 which declared a State of Emergency to establish the State's response and protective actions to address the Coronavirus Disease 2019 (COVID-19) public health emergency and to provide for the health, safety, and welfare of residents and visitors located in North Carolina; AND

'WHEREAS, on March 13, 2020, the President of the United States declared that the COVID-19 pandemic in the United States constitutes a national emergency, retroactive to March 1, 2020; AND

'WHEREAS, on March 19, 2020, the North Carolina Utilities Commission issued an Order Suspending Utility Disconnections for Non-Payment, Allowing Reconnection, and Waiving Certain Fees; AND

'WHEREAS, on March 31, 2020, Executive Order No. 124 issued by Governor Roy Cooper, prohibits shut-offs, late fees, and reconnection fees of utilities; AND

'WHEREAS, on April 15, 2020 in accordance with the Governor's Executive Order No. 124, the Town of Nags Head authorized fees related to water past due accounts and reconnection fees be waived and water service will not be disconnected due to non-payment until June 2, 2020; AND

'WHEREAS, on May 30, 2020, Executive Order No. 142 issued by Governor Roy Cooper, states that Executive Order No. 124 shall remain in effect until 11:59 pm on July 29, 2020 and utility service providers shall reasonably inform their customers of this extension; AND

'WHEREAS, if a delinquency occurred between March 31, 2020 and July 29, 2020, the Town of Nags Head authorizes a 6-month repayment plan of 6 equal monthly installments for past due water account balances caused during the COVID-19 pandemic only; AND

'WHEREAS, any water service balance that became delinquent between March 31, 2020 and July 29, 2020 must be paid in full by February 5, 2021; AND

'WHEREAS, if the water service balance isn't paid according to the payment plan terms, the whole amount under the payment plan becomes due, the payment plan becomes void, and the Town of Nags Head has the right to disconnect the service and apply a late fee penalty; AND

'WHEREAS, all water service account balances that become delinquent after July 29, 2020 must be paid within noted due dates or the Town of Nags Head has the right to disconnect the service and apply a late fee penalty; AND

'WHEREAS, all payments received by the Town of Nags Head will be applied to the oldest outstanding balance first in accordance with existing policies.

'NOW THEREFORE BE IT RESOLVED that the Nags Head Board of Commissioners hereby authorizes a 6-month repayment plan of 6 equal monthly installments for water balances that became delinquent between March 31, 2020 and July 29, 2020 and must be paid in full by February 5, 2021."

The Request for Public Hearing re: text amendment to the UDO for outdoor stands, as approved, read in part as follows:

"The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). A public hearing on the request was held at the Board of Commissioners meeting on May 6, 2020. The Board of Commissioners voted to table consideration of the proposed amendments and refer the matter back to the Planning Board for further review, with consideration of issues pertaining to location, visual impact, signage, and parking. The Planning Board has recommended further changes to the proposed amendment, which are considered substantive and therefore require an additional public hearing to be held.

'Planning Board/Staff Recommendation
Initially, Staff recommended to the Planning Board that the amendment be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow

a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, maximum stand area and time limits were also suggested, as well as amendment of the definition of Outdoor Stand for consistency. Based on discussion by the Board of Commissioners, Staff further recommended to the Planning Board that consideration be given to limiting the option for two stands to sites greater than a certain size, limiting signage to a total of fifteen (15) square feet for all outdoor stands, and clarifying where stands may be located on a site, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

'Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area."

PUBLIC HEARINGS

Public Hearing to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2020 – June 30, 2021 and the updated Consolidated Fee Schedule

Town Attorney John Leidy introduced the Public Hearing to consider citizen comment on the Town Manager's proposed budget for FY 20/21. The time was 9:05 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 20, 2020 and on Wednesday, May 27, 2020 as required by law.

Town Manager Cliff Ogburn provided an update to the proposed budget per last week's budget workshop. He provided the following details, as proposed:

- No tax rate increase
- No water rate increase
- No use of Fund Balance
- Add back to the proposed budget:
  Part-time bath house cleaner; Public Works sprayer, Replacement residential trash truck, Facility Maintenance Pickup truck; Three police vehicles; Part-time Office Assistant
- Employee Cost of living allowance
- Dowdy Park Special Events
- Two HVAC maintenance contracts for Fire Stations 16 and 21

There being no one present who wished to speak and no comments submitted, Attorney Leidy closed the Public Hearing. The time was 9:09 a.m.

Comr. Fuller asked that this meeting be extended to next week's Budget Workshop so that the Board may take action if desired.

Public Hearing to consider a text amendment to the UDO submitted by Kim Cowen and Megan Dixon to allow "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District

Town Attorney John Leidy introduced the Public Hearing to consider a text amendment to the Unified Development Ordinance (UDO) to allow "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District. The time was 9:10 a.m.

Dep Planning Director Kelly Wyatt summarized her memo which read in part as follows:

"OVERVIEW & BACKGROUND
Megan Dixon and Kim Cowen have submitted the attached text amendment request to the Unified Development Ordinance, which, if adopted would permit "Tutoring Facility/Learning Center" as a permitted use within the C-2, General Commercial Zoning District.

'The applicants have provided a detailed explanation of the nature and reason for their request. They would like to offer tutoring, both part- and full-time, to registered homeschooled children, ages 6 and up. Ms. Cowen has spoken with both me and the Senior Building Inspector, Steve Szymanski, about the proposed business use. In looking at the current UDO, similar uses include Child Care Facility and School, however, by definition, the proposed use would not meet either of these use classifications. Therefore, it was recommended to Ms. Cowen that a text amendment request to consider establishing this new use would be necessary.

'POLICY CONSIDERATIONS
Planning Staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire to encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community.

'PLANNING BOARD RECOMMENDATION
At their April 21, 2020 meeting the Planning Board voted unanimously to recommend adoption of the text amendment as recommended by Staff.

'STAFF RECOMMENDATION:
Staff recommends adoption of the proposed amendment as presented, with the use listed under the *Service* category in the Table of Uses and Activities and be defined as follows:

Tutoring Facility/Learning Center means a private, for profit or non-profit, use for the instruction of students in subjects and materials commonly taught in primary and secondary schools, for test-preparation, or the teaching of music and visual arts."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 20, 2020 and on Wednesday, May 27, 2020 as required by law.

Applicant Kim Cowen said that they are excited to begin this new service to help families.

There being no one else present who wished to speak and no comments that had been submitted, Attorney Leidy concluded the Public Hearing at 9:15 a.m.

MOTION: Comr. Brinkley made a motion to adopt the ordinance amendment to allow Tutoring Facility/Learning Center as a permitted use in the C-2 General Commercial zoning district as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "C".

Public Hearing to consider a text amendment to the UDO pertaining to temporary uses or temporary alteration of uses related to declared emergencies

Town Attorney John Leidy introduced the Public Hearing to consider a text amendment to the Unified Development Ordinance (UDO) pertaining to temporary uses or temporary alteration of uses related to declared emergencies. The time was 9:16 a.m.

Planning Director Michael Zehner summarized his memo which read in part as follows:

"The proposed text amendment is intended to enact provisions within the Unified Development Ordinance allowing for temporary uses or the temporary modification of uses to address conditions during declared states of emergency or resulting from such emergencies. As the Board may be aware, Dan Lewis, President of the Outer Banks Restaurant Association, had emailed the mayors of the towns of Nags Head, Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores (attached) requesting the towns' consideration of regulatory changes that would allow for flexibility in restaurant operations in response to the COVID-19 Pandemic. This proposed text amendment is in response to that request, but has also been informed by further discussions between Staff and Mr. Lewis, Mark Ballog (owner of Lucky 12), and John Harris (owner of Kitty Hawk Kites); additionally, while in response to this immediate emergency, Staff believes that this provision will have application during other emergencies.

'In short, this text amendment would allow for the issuance of a Temporary Use Permit only during an emergency declared by the Mayor (pursuant to Town and State laws) or due to impacts associated with a declared emergency. In these instances, Temporary Use Permits would be authorized to be issued jointly by the Town Manager and UDO Administrator for temporary uses or the temporary modification of uses; the drafted provisions allow for broad latitude in their application, however, there are limitations on eligible uses and modifications, and ultimately, a Permit could be rejected for any activity or accommodation, in the opinion of the Town Manager and UDO Administrator, that would be contrary to the purposes of the emergency declaration and/or the interests of the public health, safety, and welfare.

'Obviously, the Town of Nags Head and the other Outer Banks' municipalities are not unique in the need to address this issue. Please find attached a blog post from the American Planning Association titled *7 Ways to Respond to Regulation Rollbacks*, intended to present perspectives and options for municipalities to address the Pandemic, while complying with applicable regulations and statutes.

'The Planning Board reviewed the proposed text amendment at their meeting on May 19, 2020 and forwarded their recommendation in support to the Board of Commissioners. The Board of Commissioners discussed the proposed text amendment at their meeting on May 20, 2020, in consideration of scheduling a public hearing. The Board voted to schedule a public hearing for June 3, and requested that Staff incorporate changes into the proposed text amendment that would allow for parking to be reduced by up to 25%, and make changes to proposed Section 4.11.5.3. to improve clarity consistent with intent.

'POLICY CONSIDERATIONS
The most direct policy in the Comprehensive Plan pertaining to the proposed text amendment and the basis for the amendment is policy NR-11, as follows:

NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.

In Staff's opinion, the proposed amendment is consistent with the intent of this policy, despite a lack of expectation for the current circumstances.

'PLANNING BOARD RECOMMENDATION
The Planning Board reviewed the proposed text amendment at their meeting on May 19, and voted 6-0 (with one abstention) to recommend adoption as proposed.

'One member of the Board did request, without objection from other members, that Staff verify that appropriate allowances were in place for businesses to display menu signs, and if not, request consideration of this aspect by the Board of Commissioners. The proposed text amendments allow for provisions of the Sign Ordinance to be waived, but limit additional temporary signs to no more than one. Additionally, the Sign Ordinance does not require a permit for signs less than 3 square feet in area. Staff believes these two provisions appropriately accommodate menu signage.

'STAFF RECOMMENDATION
Staff recommends approval of the text amendments as provided in the attached ordinance. As requested, Staff has made the following modifications of the text amendments:

- Generally, the allowed maximum parking reduction within Section 4.11.5.2. has been increased from 20% to 25%; however, Staff recommends that it be an allowed reduction of existing parking versus required parking. Given parking requirements for some use categories, particularly shopping centers, administration and compliance could prove difficult. The attached ordinance includes the following amended provision:

  - The reduction of ~~required~~ existing parking by greater than ~~twenty (20%)~~ twenty-five percent (25%);
- Section 4.11.5.3. of the attached ordinance has been amended as shown to improve clarity consistent with intent:

  - 4.11.5.3. Duration and Extension. Temporary Use Permits shall be issued with an expiration date, not to exceed ninety (90) days from the date of issuance. Generally, at the discretion of the Town Manager and UDO Administrator, such temporary use permits shall expire upon the termination of the declaration of emergency, the end of the circumstances under or impacts associated with the declaration causing the need for the accommodations, or upon the timeframe set by the Mayor, whichever is ~~sooner~~ later. Upon expiration, all temporary accommodations shall cease or otherwise be considered violations of the UDO, as applicable. Subject to the same limitations and discretion, the expiration date of a Temporary Use Permit may be extended, with such requests submitted no later than ten (10) business days prior to the pending expiration date.

'With regard to the Board of Commissioners' review and action, Staff recommends consideration of the following UDO provisions:

3.5.3. Action by the Planning Board.

3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.

3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.

3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.

3.5.4. Action by the Board of Commissioners.
Action upon an UDO text amendment or zoning map amendment, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.

3.5.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 30 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board. However, the Planning Board may request the Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations. No such limitations shall apply to applications or requests submitted by Town staff or any Town Board.

3.5.4.2. After receiving a recommendation from the Planning Board on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

3.5.4.3. The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time. Final action on an UDO text amendment or zoning map amendment submitted by third parties will be taken within a reasonable time. Final action taken within 90 days of the public hearing before the Board of Commissioners shall be presumptively reasonable.

3.5.4.4. No member of the Board of Commissioners shall vote on any zoning map amendment or UDO text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact.

3.5.4.5. Prior to adopting or rejecting any UDO text and/or map amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review.

3.5.4.5.1. A statement approving the amendment and describing its consistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.2. A statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.3. A statement approving the amendment and containing at least all of the following:

3.5.4.5.3.1. A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.

3.5.4.5.3.2. An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.

3.5.4.5.3.3. Why the action was reasonable and in the public interest.

3.5.4.6. In deciding whether to adopt a proposed amendment to this UDO, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. When considering proposed map amendments:

3.5.4.6.1. The Board of Commissioners shall consider the entire range of permitted uses in the requested classification."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 20, 2020 and on Wednesday, May 27, 2020 as required by law.

Planning Director Zehner suggested that the Board may want to consider waiving the temporary permit fee for 45 days (as being done with other permit fees) if the amendment is adopted.

Comr. Fuller confirmed with staff and Attorney Leidy that a temporary permit would be for 30 days but could not be longer than 90 days.

There being no one present who wished to speak and no comments that had been submitted, Attorney Leidy concluded the Public Hearing at 9:33 a.m.

MOTION: Comr. Brinkley made a motion to adopt the ordinance amending the Unified Development Ordinance pertaining to temporary uses or temporary alteration of uses related to declared emergencies as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

MOTION: Comr. Renée Cahoon made a motion to waive the fees that are associated with the Unified Development Ordinance amendment re: temporary uses or temporary alteration of uses related to declared emergencies for the next 45 days. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR

Update from Planning Director

Planning Director Michael Zehner presented his memo which read in part as follows:

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on June 3, 2020.

'Monthly Activity Report
Attached for the Board's review is the *Planning and Development Monthly Report for April 2020*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Wednesday, April 1 - Planning Board Meeting
- Monday, April 6 - Munis - CSS Training
- Tuesday, April 7 - Technical Review Committee Meeting
- Wednesday, April 8 - Arts & Culture Committee Meeting
- Wednesday, April 15 - Board of Commissioners Meeting
- Tuesday, April 21 - Planning Board Meeting
- Wednesday, April 29 to Friday, May 1 - American Planning Assoc Virtual National Conf

'Impact of Coronavirus on Permitting
As previously reported, a total of 67 building permits (non-trade) were applied for in both March 2020 and March 2019. For April, 48 building permits were applied for in both 2020 and 2019. Finally, between May 1 and May 28, a total of 53 building permits were applied for in 2020, compared to 39 in 2019. With regard to permits applied for since March 16 through May 28, 114 permits were applied for in 2019 and 136 were applied
for in 2020.

'With regard to trade permits, a total of 363 were issued in March, April, and May of 2019; from March 1 through May 28 of 2020, a total of 182 trade permits have been applied for.

'We will continue to monitor and report any impacts to permitting.

'Online Permitting
As of May 8, 2020, online permitting has been activated for all residential and commercial building and trade permit types, with the exception of permits for moving of residential or commercial structures; moving permits are expected to be added when updated fees are approved. Staff will continue to work to make improvements to the platform, publicize the availability of the resource, and refine documents providing guidance to the Town's customers.

'Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan
As discussed at the Board of Commissioners retreat in January, Staff has prepared a Work Plan for the next fiscal year, the *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan* ("Plan"; attached). The Plan was discussed with the Planning Board, and while there were delays due to the Pandemic, the Board indicated their support for the Plan at their meeting on May 19, 2020, with a request that an Electric Vehicle Action Plan be added; the attached Plan has been updated

to include this project.

'Based upon this Plan, Staff prepared consistent budget narratives for the Department and Septic Health Division (with the Electric Vehicle Action Plan needing to be added), which are helpful to review in conjunction with the Plan, as well as the most recent memo to the Planning Board (attached) which provides an overview of the considerations in developing the Plan. As noted in the memo, Staff is cognizant that this Plan will be affected by the Coronavirus Pandemic and impacts to the Town's budget.

'However, for those projects most dependent on funding, Staff is actively exploring and applying for grants and assistance to offset budget shortfalls, and looking for opportunities to phase certain projects with initial tasks being performed internally.

'Hazard Mitigation Plan Update
As noted in my last Report, we were notified on April 28, 2020, that the final Hazard Mitigation Plan received approval from the State and would soon be reviewed by FEMA. Based upon the State's review, minor changes were necessary (an updated draft is available here: http://www.obx-hmp.com/draftDocuments.html), and the Plan will be sent to FEMA for review soon. Due to a backlog of reviews, the project consultant expects FEMA's approval to be delayed beyond June/July. Therefore, given the June 11, 2020 expiration of the Plan currently covering the Town, it would be prudent to consider adoption of the Plan by resolution at the Board's July 1 meeting.

'Planning Board - Pending Applications and Discussions
The May 19, 2020 meeting of the Planning Board was held virtually on the Zoom platform (as were the April 1 and April 21 meetings of the Board). The agenda included reconsideration of a text amendment regarding the allowed principal sale items from outdoor stands, consideration of a text amendment regarding temporary uses related to declared emergencies, continued consideration of options and recommendations pertaining to legacy establishments/structures and residential stormwater regulations, and review of the *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan*.

'In addition, the Planning Board did express their willingness to assist the Board of Commissioners in developing a plan to address recycling within Town, if the Board of Commissioners determined that further consideration was necessary.

'The Planning Board's next meeting is scheduled for June 16, 2020. At this time, the agenda is expected to include continued consideration of legacy establishments/structures, residential stormwater regulations, the regulation of events within residential dwelling units, and the regulation of large occupancy homes, as well as reconsideration of the preliminary plat for the Coastal Villas subdivision.

'Additional Updates

- 2020 Census - The 2020 Census is open and collecting responses. As of April 13, 2020, the self-response rate for the Town of Nags Head was 13%; as of April 28, the self-response rate for the Town was 14.5%; as of May 27, the self-response rate for the Town was 16.7%.

'As previously indicated, the number/percentage of vacant vacation/rental homes in Town would skew the response rate, as the rate is not adjusted at this time to account for those homes. Dare County has begun releasing the information on the rate depicting more accurate response rates based upon the number of occupied homes in the various communities.

- Town Workforce Housing Study & Plan -
Phase 1 Report
presented to the Board of Commissioners for the February 5, 2020 meeting. Further action on this project is on hold pending direction from the Board of Commissioners; however, it is important to note that funds associated with this project have been liquidated due to budgetary constraints associated with the Covid-19 Pandemic.

- Skate Park Renovation - Phase 1 - Staff is working to prepare a survey and other outreach methods to determine community preferences for any future renovation of the Skate Park. Staff has also discussed the project with the Arts & Culture Committee, who are supportive of incorporating public art within the Park. Finally, Staff is working to identify funding opportunities to support the project.

- CAMA Land Use Plan Update - Staff has prepared and submitted responses and proposed draft revisions responding to comments issued by DCM staff. A determination of Plan completeness is pending, which is required before further review is initiated.

- UDO Reference Manual & Permitting Workflow - Staff continues to develop Reference Manual materials, including identifying and refining workflows, to be brought to the Board of Commissioners for approval at a later date.

- Art Masts - The Art Mast project, coordinated with the Arts & Culture Committee, has resulted in three completed art panels. Kerry Sanders completed her mast last summer, depicting lifeguards and thus it was displayed at Bonnet Street Beach House; it is hoped to be reinstalled soon. Rob Snyder completed an Art Mast this month depicting a Bodie Island Lighthouse Rescue scene that we also hope to have displayed soon. James Melvin also completed his Art Mast this month, it is in honor of the work of Glenn Eure including references to his "Stations of the Cross", "Clowning Around", "Monument to a Century of Flight," and his boat paintings. Artist Taylor Williams is currently working on completing a fifth Art Mast. The Arts & Culture Committee will soon be discussing where best to locate the new Art Masts, and is excited for the community to get to see and enjoy the beautiful pieces that have been created.

- Decentralized Wastewater Master Plan - Staff intends to prepare and present a draft project scope for the update of the Decentralized Wastewater Plan to the Commissioners at an appropriate meeting in June.

- Islington Street Beach Access - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting, with the review process expected to be initiated in July 2020.

- Legacy Establishments/Structures - Staff continues to discuss options with the Planning Board. Draft options are expected to be presented to the Planning Board in June 2020.

- Review of Residential Stormwater Regulations - Staff continues to work with the Planning Board. At the Planning Board's May 2020 meeting, the Board requested that Staff return with some explicit actions for improved education surrounding the regulations, as well as additional or altered incentives.

- NC Marine Debris Action Plan - Kate Jones, Engineer Technician, will be participating on a Public and Local Government Subcommittee to advance strategies and actions laid out within Goal 2 of the NC Marine Debris Action Plan (https://www.nccoast.org/wp-content/uploads/2020/03/N.C.-Marine-Debris-Action-Plan-FINAL.pdf)

- Dowdy Park Farmer's Market - The Arts & Culture Committee has completed their selection of vendors for the 2020 Dowdy Park Farmers Market. The Market is scheduled to run every Thursday in the months of July and August with a wide range of vendors including fresh produce, local honey, seafood, wood carving, ceramics, pottery and other handmade crafts. Staff is working to determine and establish appropriate protocols related to social distancing and general measures to ensure the public's health and safety.

- Permitting - Staff had previously contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. However, given current circumstances, this effort will be placed on hold.

Staff has begun an email distribution to contractors registered with the Town to provide updates on changes to permitting and inspection procedures associated with the Coronavirus Pandemic and response. Staff sent a further update in early May to publicize the new online permitting options.

- Grants and Assistance
  - Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff recently learned that funding under that event was no longer being considered, but that the request was being considered under funding decisions related to Hurricane Dorian,

  - Staff submitted a Letter of Interest ("LOI") under the Hazard Mitigation Grant Program related to Hurricane Dorian for the acquisition of property, and assisted Fire Chief Wells in the submission of an LOI for replacement of a generator; we have been notified that the generator request has been selected for further consideration, and have also learned that the request for funds for property acquisition also continues to be considered.

  - An LOI has been submitted for a National Fish and Wildlife Foundation – National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan. Additionally, a preapplication was submitted for the 2020 North Carolina Attorney General Environmental Enhancement Grant for the same project, for which the Town was approved to submit a full application, which was submitted on May 28, 2020.

  - Staff submitted a CAMA Access Grant preapplication for improvements to the Huron Street Beach Access on May 15, 2020.

  - Staff is reviewing additional grant and assistance opportunities for prioritized projects, including NCDOT's CASSI Autonomous Shuttle Pilot and the National Endowment for the Arts Our Town Grant.

Upcoming Meetings and Other Dates
- Wednesday, June 3 - Board of Commissioners Meeting
- Monday, June 8 - P&D Staff Meeting
- Wednesday, June 10 - Board of Commissioners Budget Workshop
- Wednesday, June 10 - Arts & Culture Committee Meeting
- Tuesday, June 16 - Planning Board Meeting

- Wednesday, June 17 - Board of Commissioners Budget Meeting"
-

Planning Director Zehner's report was well received by the Board.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From May 6th Board meeting - Consideration of numerous text amendments to the Unified Development Ordinance as it pertains to updated Flood Maps; Consideration of update to the Flood Damage Prevention Ordinance (Public Hearing held May 6, 2020)

The agenda summary sheet was presented and read in part as follows:

"The proposed text amendments serve to adopt the updated Flood Insurance Rate Maps and Flood Insurance Study by amendment of the Flood Damage Prevention Ordinance; additionally, amendments are included to Article 4, Development Review Process, Section 8.6.4., Building Height, Section 11.5.3. Standard for Depth or Elevation of Fill, and Appendix A. Definitions. The Board continued consideration of these amendments from the meeting on May 6, 2020.

'Planning Board/Staff Recommendation
Staff recommended to the Planning Board that the text amendments be adopted as proposed, with changes requested by the State's NFIP Office. The Planning Board recommended unanimous approval at their meeting on April 1, 2020, with the incorporation of those requested changes. The attached draft of the Ordinance includes these changes."

Comr. Renée Cahoon stated that she does not like the flood maps and does not want to see the consequences from them; she encouraged everyone to keep their flood insurance as, if cancelled, it will be expensive to renew.

Director Zehner emphasized that the ordinance changes only affect the ordinance - they do not affect the flood maps.

MOTION: Comr. Renée Cahoon made a motion to modify the Flood Damage Prevention Ordinance by removing "by 25%" from Section 11.44.2.7.9.2. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

MOTION: Mayor Pro Tem Siers made a motion to adopt the ordinance with the Local Elevation Standard (LES) modified from 10' to 9' for areas west of NC 12 and SR 1243. The motion was seconded by Comr. Fuller.

Comr. Renée Cahoon asked if the Homebuilders Association would be interested in giving a presentation at an upcoming Board meeting.

CONTINUATION OF MOTION: The motion passed unanimously.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "E".

From May 6th Board meeting - Discussion of scope of work from Moffat & Nichol - Beach Nourishment Project Coastal Engineering and Design – and McKim and Creed Beach Surveying Services

Dep Town Manager Andy Garman summarized the agenda summary sheet which read in part as follows:

"Attached please see professional service proposals from Moffat & Nichol related to the Beach Nourishment Coastal Engineering and Design Services and McKim & Creed for Beach Surveying Services. The fee proposals are being provided in response to the Request for Qualifications the Town had recently advertised. The Beach Monitoring Surveys, Summer 2020 submitted by McKim & Creed encompasses services necessary to complete the annual beach condition survey in accordance with the Town's Beach Monitoring and Maintenance Plan. The scope of work includes the base project data acquisition of 126 profiles in conjunction with additional transect information data acquisition north of the project area, south of the project area and within reaches 3 and 4. Acquisition of the additional survey information will provide a more comprehensive data set for modelling and planning of future nourishment projects.

'The Year 1 (2020) Coastal Engineering and Consulting Proposal submitted by Moffat & Nichol divides the proposal into four main tasks: Task 1- Annual Beach Monitoring and Analysis (Year 1), Trask 2-Beach Nourishment Master Plan (Year 1), Task 3-Coastal Storm Damage Mitigation Grant Application support and Task 4-Post-Dorian Beach Restoration Engineering Services.

'Available funding can support the 2020 Beach Monitoring Survey and Tasks 1-3 of the Coastal Engineering Proposal. Task 4 will be considered at a later date, once the new Beach Nourishment Capital Budget Ordinance has been established."

In response to Comr. Fuller, Dep Town Manager Andy Garman stated that additional areas were added to test some north and some south of the testing area to determine more erosion areas. Comr. Fuller asked why the Town would be doing extra surveys on Park Service property and Mayor Cahoon answered that it helps to know where sand goes south of the project.

MOTION: Comr. Brinkley made a motion to authorize the Town Manager to enter into professional service contracts with Moffat & Nichol for Tasks 1 (Beach Monitoring/Analysis), 2 (Master Plan), and 3 (Coastal Storm Damage Mitigation Grant application support) at a cost not to exceed $279,499; and with McKim & Creed for the Annual Beach Condition Survey in accordance with the Town's Beach Monitoring and Maintenance Plan at a cost not to exceed $63,100 - upon review by the Town Attorney. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

CONTINUANCES

Mayor Cahoon noted the continuance to the July 1, 2020 Board of Commissioners meeting of the following:

- Consideration of a Major Site Plan for Gone Coastal Shopping Center, 7531 S Virginia Dare Trail, submitted by Jim and Stephanie Selckmann

- Continued consideration of a Preliminary Plat for a Major Subdivision, known as Coastal Villas, for an approximately 9.86 acre property, zoned R-2, Medium Density Residential, owned by Nags Head

Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158; the revised Preliminary Plat proposes to create 17 lots, along with an associated street and other required improvements

NEW BUSINESS

Committee Reports

Comr. Brinkley - Jennette's Pier - He reported that Jennette's Pier is ready to open; Director Mike Remige has no specific date yet.

Mayor Cahoon - Dare County Control Group - He reported that the Control Group now meets as necessary.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy - Request for Closed Session

Attorney Leidy requested a Closed Session, at the appropriate time, to discuss with the Board the Blackburn lawsuit against the County/Towns re: no entry for non-resident property owners during the COVID-19 emergency.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - From May 20, 2020 Board meeting – Recycling

The agenda summary sheet was presented and read in part as follows:

"At the May 20th Board of Commissioners meeting, Town Manager Ogburn was asked to look into response to the Board's recycling inquiries – from the Board actions:

'Comr. Fuller – Recycling subscription – The Board unanimously passed a motion that staff:

a) Look into facilitating subscriptions for a curbside recycling service for residents that are interested – equivalent to that being done in the Towns of Kitty Hawk, Kill Devil Hills, and Manteo and in mainland Dare County,

b) Develop an information campaign to further describe the decision-making process and what's currently available as well as all the conditions around recycling and,

c) Develop a program (or at least an outline) to encourage reduction, re-use, and recycling as well as other environmentally-friendly approaches to waste to be brought back to the Board.

'Attached please find Town Manager Ogburn's memo in response to the Board's inquiries on May 20th."

Town Manager Ogburn summarized his memo which read in part as follows:

"Subscription Service
At the May 20, 2020 Board of Commissioners meeting, the Board discussed the recent decision to suspend the Town's curbside recycling program. At the request of the Board, we have been working to determine if it is feasible to initiate a subscription recycling service within the Town. We have learned that Bay Disposal would consider but has not committed to a subscription program if the Town can compile a list of at least 300 potential subscribers. The cost for this service is estimated at $15-$25 per month per household. Property owners and residents would contact the Town to be placed on a list. Once we reach the minimum number of subscribers, the list would be provided to the vendor and they would reach out to each subscriber directly to create an account and establish service. The day of the week is yet to be determined. Bay Disposal would provide their own cart to provide the service. The Town may need to enter into a franchise agreement with Bay Disposal before the service can begin. This program will take time to initiate and the Town will need to make a concerted effort to advertise the service and solicit subscribers. It is unlikely that this program could be initiated by the end of the summer season; however, this will depend on the time required to generate the list of subscribers and establish accounts.

'Information on Decision to Suspend Curbside Recycling
Below is information that staff has compiled to educate Town residents and property owners on the Board's decision to suspend the curbside recycling program. After the Board's review, staff will continue to work to develop this into a format for public consumption and distribution.

'Included below is a timeline that shows the progression of recycling services in the Town from initiation of the original subscription service in 2011 through the decision in May of 2020 to suspend the curbside program. Numerous changes have occurred over the years; many of these changes were made to enhance the Town's services and improve the recycling collection rate within the community. After the Town initiated the curbside program in 2016, there were several changes that led to cost increases, some of which were done deliberately to provide desired service levels; others were the result of changing market conditions associated with the increased cost to process materials.

'While the budgetary conditions associated with COVID were a consideration in the decision to suspend the Town's recycling service, contractual issues, rising costs since the program began, uncertainty in the recycling market, and the lack of processing options were all factors in the decision. In the timeline and data provided on the following pages, you will note that the cost per ton for trash has remained relatively fixed since FY 2017 ($143 and $157 per ton respectively). The cost for recycling has increased during this same time frame from $297 to $439 per ton (see table on page 4; the cost per ton for the vendor only portion of this service went from $221 per ton to $604 per ton from FY 2017 to FY 2019). This is largely due to a change in 2019 to move the schedule on the Beach Road to Monday as well as the increase in cost for processing materials from $0 per ton to $70 per ton. An important consideration in the decision, which is reflected in the timeline, is the rapidly changing conditions that affect the ability to establish predictable costs.

'The Board has received numerous comments from residents and property owners recently and over the last several years regarding recycling. Some comments reflect a strong desire to maintain the Town's curbside program and continue to absorb the costs within the town-wide tax base. Others believe that, largely because of the problems that the Town has experienced associated with costs and lack of bona fide processing options, the program should be offered on a subscription basis with the costs borne solely by those who wish the service.

'The Board may wish to consider a process after the summer season to collect further input on the future of the recycling program. The process would assist the Board in determining community values related to recycling to establish a balance between cost, benefits, and service levels. The Board's decision has been to temporarily suspend the program. This still leaves opportunity to consider a wide range of options based on the Town's values refined by community input.

'Recycling Timeline
April 2011 – Town initiates a franchise agreement for recycling subscription services.

'May 2014 – Town initiates Beach Road pilot program that provides curbside services to all residences along NC 12 and SR 1243.

'January 2016 – Town initiates town-wide curbside recycling service which supersedes the pilot and subscription programs – initial cost = $88,480 for collection; the Town was paying $0 per ton for processing the material. This cost does not include internal costs for hauling by town forces or the cost of recycling carts.

'January 2017 – Town modifies schedule to Friday only – cost was reduced to $77,980. Again, this does not include internal costs for hauling by town forces or any cart costs.

'January 2019 – Town modifies schedule to Monday and Friday – cost was increased to $195,000. This cost included the tonnage collected by the hauler. The cost for tonnage collected by the Town increased from $0 to $70 per ton. With 522 tons collected by the Town, this increased the cost to $231,540 ($195,000 + $36,540). The increased tonnage price was a result of failing market conditions for recycling.

'December 2019 – Hauler notifies Town that materials are being incinerated rather than recycled due to market conditions. Hauler offers to continue recycling at $130 per ton or incinerate at $70 per ton. The Town amends its contract to allow for incineration on a temporary basis rather than paying for the increased processing cost.

'Spring of 2020 – Town and NC DEQ continue to search for a vendor to process rather than incinerate recycling materials. The Town learns that a new vendor, RDS of Portsmouth, VA, can process recycling for $70 per ton. The Town would now need two agreements, one for hauling and one for processing. The processing contract would require the Town to pay an additional $121 per ton for contaminated loads. Based on discussions with the processor and hauler, it was estimated that up to 18% of tonnage could be considered contaminated. The Town's hauler and RDS continued negotiations to allow for the hauler to contract directly with the Town for both hauling and processing at a fixed price. As of May 2020, these negotiations were ongoing, and the Town was unable to secure favorable terms that would provide a predictable fixed rate for service.

'In May of 2020, the Town temporarily suspends the recycling program prior to the summer season as well as the commencement of the annual vendor service contract."

Comr. Fuller asked staff to move quickly and get the word out as soon as possible with one point of contact at the Town identified – the public/customers can then call the Town and get the information they need concerning recycling.

Town Manager Ogburn agreed; he also stated that a recycling roll-off trailer is being placed at Public Works in addition to the one at Town Hall. His presentation was well received.

Mayor Cahoon asked that staff get the portal at the Town opened as soon as possible and as this is a big issue for a lot of people in the Town, he would like to see a group of interested citizens serve on a committee. The Clerk is to advertise for volunteers to serve on a committee of interested citizens with the charge, as described in Town Manager Ogburn's memo, as follows: "… to collect further input on the future of the recycling program. The process would assist the Board in determining community values related to recycling to establish a balance between cost, benefits, and service levels".

Comr. Brinkley wants to make sure staff is transparent with the public re: costs, etc. to include that while recycling is being suspended, it is not being cancelled. He wants the public to be aware of all associated recycling costs; he also thanked Town Manager Ogburn for the additional co-mingled roll-off trailer at the Public Works site (staff is to advertise this site) and he appreciated the information Town Manager Ogburn provided.

It was Board consensus to authorize the Town Manager to take appropriate action as necessary to accommodate the Board's request that a point of contact for recycling be identified and that a request for volunteers to serve on a Recycle Committee be advertised. Staff is also to make sure the public is informed re: actual costs of recycling and the reasoning behind the Board's decisions. The public is to be notified of the placement of the additional recycle co-mingle trailer at Public Works.

Town Manager Ogburn – Request from tent vendor

Town Manager Ogburn stated that the Town's ordinance requires tent vendors to remove their items from the beach by 6 p.m. He has been contacted by a tent vendor to be allowed another hour, until 7 p.m., in order to sanitize their tent equipment before removing it from the beach.

It was Board consensus that a proposed ordinance be prepared for Board consideration at the June 17th mid-month meeting to allow an additional hour for tent vendors to remove their equipment from the beach.

Comr. Fuller complimented staff as conversations between lifeguards and police on the beach have been very positive.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon - Multi-use path Update

Town Manager Ogburn responded to Comr. Renée Cahoon's request for an update on the US 158 multi-use path construction. He stated that he, Deputy Town Manager Garman and Town Engineer Ryan met yesterday with the contractor, RPC Contracting, and discussed completion dates and traffic patterns. With the contractor providing some additional resources to the project, the substantial completion date of June 19th still stands.

MAYOR'S AGENDA

Mayor Cahoon – Moment of silence

Mayor Cahoon held a moment of silence for former Town firefighter Ryan Dodson who died tragically in an accident and for Kill Devil Hills residents Ravann and her son, Sebi, who died tragically in a house fire.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session to discuss a personnel matter in accordance with GS 143-318.11(a)(6) and to consult with the attorney and protect attorney/client privilege (re: Blackburn litigation) in accordance with GS 143-318.11(a)(3). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 11:48 a.m.

OPEN SESSION

The Board re-entered Open Session at 12:48 p.m.

ADJOURNMENT

MOTION: Comr. Fuller made a motion to recess to a Budget Workshop on Tuesday, June 9th at 10 am in the Board Room. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:49 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT **MINUTES**
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
BUDGET WORKSHOP
TUESDAY, JUNE 9, 2020

The Nags Head Board of Commissioners met in a Budget Workshop in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Tuesday, June 9, 2020 at 10:00 a.m.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Andy Garman; Amy Miller; and Town Clerk Carolyn F. Morris

Call to order
Mayor Cahoon called the Budget Workshop to order at 10:10 a.m.

Town Manager Ogburn briefly reviewed the items for discussion:

- Planning Department discussion
- Cost analysis: Engineer vs Engineering Consulting Services
- Catamaran rack at the Harvey Sound Access site
- Firing Range funds

Firing Range Funds
Comr. Brinkley confirmed with Town Manager Ogburn that if the Resolution to commit firing range funds in the Fund Balance is adopted at the June 17th Board meeting, then the Police Dept will have access to those funds in their budget.

Planning Department discussion
Planning Director Michael Zehner was present; his memo entitled FY 20-21 Proposed Budget – Planning & Development Department Staffing Levels & Structure - read in part as follows:

"At the Board of Commissioners May 27, 2020 Budget Workshop, Staff was asked to consider the structure and staffing levels of the Planning & Development Department ("the Department"; for the purposes of this memo, this includes the Septic Health Division). Specifically, based upon concerns regarding project funding, members of the Board inquired about the workload of the Department's Principal Planner position; additionally, members asked whether the Department was overstaffed, and whether there was an opportunity to combine positions.

'BACKGROUND, CURRENT, AND PROPOSED STAFFING LEVELS
As far back as FY03-04, the Department (again, including the Septic Health Division) was comprised of 10 positions, as follows:

1. Director of Planning & Development
2. Deputy Director of Planning
3. Planner
4. Chief Building Inspector
5. Building Inspector
6. Building Inspector
7. Code Compliance Officer
8. Zoning Administrator
9. Planning Technician
10. Septic Health Coordinator

'Within the current FY, the Department includes the following 13 positions:

1. Director of Planning & Development
2. Deputy Director of Planning & Development
3. Principal Planner
4. Chief Building Inspector
5. Senior Building Inspector
6. Code Enforcement Officer
7. Zoning Administrator
8. Permitting Coordinator
9. Environmental Planner
10. Engineering Technician
11. Administrative Assistant
12. Part-Time Building Inspector
13. Part-Time Event Coordinator

'Comparing staffing in FY03-04 to the current FY, it is important to note that the 10 positions in FY03-04 were full-time, whereas, in the current FY, 11 are positions are full- time and 2 are part-time. Additionally, as the Board is aware, in the current FY one position, the Engineering Technician, was moved from the Town Manager's Office to the Department. Further, the Part-Time Building Inspector was not utilized during the current FY.

'For FY20-21, the proposed budget would eliminate the Part-Time Building Inspector position, with the 12 other positions to remain. With respect to funding, it is important to note that 50% of the funds for the Environmental Planner position and 25% of the funds for the Engineering Technician position are appropriated from the Town's Water Fund.

'STRUCTURE
The current organization chart for the Department, the same included in the proposed budget, demonstrates that the Director of Planning & Development and Deputy Director of Planning & Development have supervisory responsibility for all Department personnel. The only other position with supervisory responsibility is the Chief Building Inspector, who supervises the Senior Building Inspector. Alternatives to the current organizational structure of the Department have been considered, and would be supported; these alternatives would likely focus on functional areas (discussed further below). If the Board

wishes, Staff can present a proposed alternative for consideration.

'While the current organizational chart is hierarchical, focusing on supervisory responsibility, administration and management of the Department responds to the Department's functions. As noted in the Department's Budget Narrative (attached):

> *"The Planning and Development Department implements Town goals related to the growth, development, environment, and quality of life in Nags Head. The Department is responsible for zoning and subdivision administration, code compliance, floodplain management, erosion and sedimentation control, long- range planning activities, and Planning Board, Board of Adjustment and Arts & Culture Committee staffing. Additionally, the Department provides building permitting and inspection services to enforce state and local regulations relating to the construction, renovation, or alteration of structures to ensure a safe, sanitary, and healthy community. As part of the building inspections function, the Department is responsible for storm damage assessment and repair permits."*

'In fact, in addition to regular Department-wide staff meetings, the Department has regular team meetings for the *Permitting & Inspections; Code Enforcement Team* and *Planning & Zoning; Environmental Planning; Hazard Planning Team*. There is overlap in staff between both Teams, with 6 positions attending meetings of both Teams.

'Additionally, depending on projects and initiatives, any Staff person within each of the Teams has the opportunity to be responsible for tasks, managing, relying upon, and directing the work of other Staff.

'It is important to note that the *Permitting & Inspections; Code Enforcement Team* generally focuses on current development and the administration and enforcement of regulations, whereas the *Planning & Zoning; Environmental Planning; Hazard Planning Team* focuses on current planning and the implementation of plans and initiatives, and long-range planning.

'ROLES AND RESPONSIBILITIES, GENERALLY; PRINCIPAL PLANNER, SPECIFICALLY
Generally, each position within the Department has functions and responsibilities for which they are solely accountable. With respect to some functions, there are opportunities for cross-training, and regardless, Staff communication is encouraged so that there is a general awareness of assigned functions and responsibilities.

'Additionally, where feasible, some functions and responsibilities are able to be shifted between positions to support professional growth and increased knowledge and experience. Given assigned responsibilities, actual workloads, and the *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan* ("Work Plan"; attached), a reduction in or combining of positions would have a negative effect on Department performance. If this decision were to be made, Staff would want the opportunity to revisit the Department's proposed Work Plan and Budget Narrative.

'With respect to the Principal Planner position, this position is solely responsible for focusing on the Department's long-range planning efforts, administration of the Town's N.F.I.P. and Community Rating System obligations, and grants administration, with support from and coordination with other Department and Town Staff, along with other duties and responsibilities as assigned. At least due to the budget constraints, and therefore potential impacts to projects, there was an expressed concern that the workload of the Principal Planner would be impacted, reducing the need of the position. However, in FY20-21, CIP funds were only being sought for the Estuarine Shoreline Management Plan and Skate Park project, the later intended to be a design/build project with minimal, if any, involvement by the Principal Planner.

'Furthermore, the Principal Planner has spearheaded applications for two grants to fund the Estuarine Shoreline Management Plan, totaling $225,000; the Town has been approved to proceed to further review for each, and there is a potential that this project could be executed at no potential cost to the Town. In addition, the Principal Planner has also led the application for pending grants (in addition to the two mentioned) totaling approximately $400,000, and would be expected to serve as a significant resource to the update of the Town's Decentralized Wastewater Plan, a currently funded project.

'Regardless of the above, eliminating the Principal Planner position would remove the Department's only position focused on proactive long-range planning, including the implementation of the Town's various plans. Budget constraints certainly make these functions more complex, but not impossible."

Comr. Fuller said that if Nags Head/activities is compared with a similar sized Town/activities, Nags Head has a higher number of employees no matter what matrix is viewed.

Mayor Cahoon said that an outside consultant could be hired to review and make recommendations re: streamlining Planning processes.

Comr. Fuller expressed concern that some progressive tasks in the Septic Health Initiative program are not being done anymore.

Planning Director Michael Zehner explained that streamlining their workload is done every day; his employees are responsible and are accountable to him. If the Board has concerns about any of his employees, it is his issue and he should be held accountable.

Mayor Cahoon stated that fill regulations have been in place for about a year – and still needs work.

Director Zehner stated that after discussions with local engineers and homebuilders a stormwater Best Management Practices (BMP) document and a new stormwater ordinance were adopted in January 2014. Mayor Cahoon questioned if the Town is well served with the tweaking of ordinances.

Director Zehner said that there would be merit in having an engineer come in and review procedures, etc. to determine what improvements can be made and to improve incentives associated with the ordinance. He feels that the program is working in 90% of the projects.

- Mayor Cahoon suggested having someone from the outside look at the stormwater regulation ordinance starting with whole premise of what is being done fundamentally.

- Planning Director Zehner would like to be able to continue to show progress before having someone come in and question him and his management – he would look for ways to formalize the workflow and to make sure staff improves their levels of communications and does more documenting. He also noted staff taking over in-house water quality testing of the Septic Health Initiative Program.

Mayor Pro Tem Siers pointed out that Director Zehner knows his departments and what his staff are doing; Director Zehner also pointed out that the Planning Board has some good recommendations still to come forward.

Cost Analysis: Engineer vs Engineering Consulting Services

Dep Town Manager Andy Garman summarized the memo entitled Cost Analysis: Staff Engineer vs Engineering Consulting Services which read in part as follows:

"At the Board's May 27, 2020 workshop, Staff was asked to compare the cost of utilizing a staff Engineer vs. funding this as a contracted service. For the purposes of this analysis, we broke the engineering function down into three primary components:

1. Discreet Single Projects
2. Consulting Services and Access
3. Development Review

'Discreet Single Projects
These projects would typically involve new capital assets and infrastructure. Projects normally include design, permitting, bidding, and construction administration. Fees for these services would range from 8-12 percent of the estimated project cost. For smaller projects, the fees would be on the higher end of the range. In some cases, the percentage can be higher than 12 percent based on the complexity of the project. For most projects, there would be a minimum fee of at least $5,000.

'Last year, the Town Engineer completed the following projects in-house (see below). In most cases, we estimated the fee at 10 percent of the construction cost estimate. In one instance, the fee is an actual cost based on two separate proposals received by outside consultants.

'FY 2019/20

Title	Estimated Cost	Estimated Fee
Multi-Use Path	$1,600,000	$160,000
Jacob Street Beach Access	$180,000	$18,000
Kipper Court Drainage (design only)	$45,000	$25,000*
Dowdy Phase III	$50,000	$5,000
Soundside Road Pipe Replacement	$30,000	$5,000

*Based on cost proposal received

'As you will note, the fees for these projects total $213,000. Currently, including benefits, our Town Engineer's annual salary is $143,912. It is important to note that the Town Engineer's project workload varies from year to year. In the three years prior to the current fiscal year, the Town Engineer has handled the following projects from design through construction:

1. Dowdy Park Phase I
2. Dowdy Park Phase II
3. Bonnett Street Bathhouse
4. South Nags Head Drainage Improvements

'In total these projects cost approximately $2.9 million with engineering and construction phase services estimated at $290,000 if a consulting engineer were required.

'Over the same time period, there were several other projects the Town Engineer handled that involved bidding and planning/construction phase services but did not include design services. These include:

1. Debris monitoring (40 hours)
2. Beach nourishment design and surveying RFQ (2016) (80 hours)
3. Stormwater master plan (80 hours)
4. Stormwater projects 1-3 as part of the stormwater master plan (120 hours)
5. Sand fencing/sprigging; several phases (20 hours)
6. Pavement condition survey (30 hours)
7. On-call architecture services (30 hours)

'After speaking with several consulting engineers, hourly rates for engineering services typically range from $120 per hour for a licensed PE up to $170 per hour for a senior engineer. Using an estimate of $145 per hour and based on the hourly estimates shown above, the fee for these services would be $55,100.

'The combined total for discreet single projects over a four-year period is $558,100 ($213,000+$290,000+$55,100).

'Consulting Services/Access
This work involves providing technical expertise as a service to town citizens and to other departments. This could include meeting with citizens to discuss flooding or infrastructure concerns, coordinating projects or solutions to be designed by outside firms, managing programs that require engineering expertise and judgement, drafting ordinances and standards, and responding to complaints. Many communities who hire a consulting engineering firm for these services use a retainer which allows for a certain number of hours/meetings per year. Kill Devil Hills uses this format and pays an average of $20,000 per year as a base rate. Hours are added to the base rate for additional services and discreet single projects are handled on a per project fee.

'Development Review
The Town has a Technical Review Committee that includes the Town Engineer. The Town Engineer typically provides review of stormwater management, traffic circulation and turning movements, ingress and egress, curb cuts, and coordinates with NCDOT and other agencies on technical matters. Fees for this work would be similar to the hourly rates described above for consulting services/access. The amount of this work varies from year to year based on the number of projects being submitted to the town. This work would be performed using the retainer arrangement described above.

'A four-year snapshot of these costs favors continued use of a staff Town Engineer. The discreet single projects ($558,100) combined with the minimum retainer estimate of $20,000 per year totals $638,100 over a four-year period. The internal salary cost to the Town over four years would be $575,648.

'Other considerations:
1. The Town still requires outside engineering assistance to meet its project workload.
2. Kill Devil Hills paid American Engineering the following for the last two years:
- 2019 Fiscal year – $349,538
- 2020 Fiscal year to date – $339,504 – plus another $50,000 by July 1

3. Project work has been increasing in recent years, particularly in light of stormwater, parks, pedestrian, and beach related projects the town is undertaking.
4. The water department is using an outside engineer for its projects.
5. To supplement the Town's internal capacity, we would recommend that the Town consider an on-call services contract with an outside engineering firm.
6. The Town will likely be hiring a Public Works Director in the next six months. The Town may want to consider the structural relationship between the Town Engineer and the Public Works Director since the Public Works Director has general responsibility for infrastructure and needs the authority to coordinate projects across all Public Works Divisions.

7. Although the Public Works Director may have the skills to perform some of the work described herein, given the operational demands of the department, the projects not listed in this analysis, and other assigned responsibilities, the Public Works Director position would likely only be able to assume a small portion of this workload."

Comr. Fuller questioned if the Town was getting its money's worth and he questioned who is supervising the Town Engineer and his workload; both Town Manager Ogburn and Dep Town Manager Garman emphasized how ethical the employee is and that they have complete faith in his work habits and work quality. Dep Town Manager Andy Garman also noted that it is his responsibility to supervise this employee and that supervision is in place to make sure Town projects are being done during work hours.

The Board also expressed concern about the multi-use path project not being done and businesses not wanting to lose their summer business as they lost their spring business; the substantial completion date of the path is July 3, 2020.

It was questioned if the Town Engineer keeps track of how much of his time is spent on each project - separate from the multi-use path project. Dep Town Manager Garman said that he is not required to do this but may do it anyway. He noted that there is now a project tracking list for all departments; 70 plus projects are being tracked.

Catamaran rack application for Harvey site

Town Manager Ogburn summarized catamaran regulations staff prepared for the Harvey sound access site. The regulations read in part as follows:

"This year, we will begin accepting applications June 1, 2020, and the season will run from June 8, 2020 to November 1, 2020. Please call the above number to make your reservation.

'Rental racks are first come first serve, and you must contact the town to be placed on the list.

'Racks #1 and #2 will be able to be reserved monthly, and #3 will be available for weekly rental. Consecutive rental periods are allowed if no one else is signed up on the waiting list.

'All boats MUST be removed by November 1, 2020.

'Boat storage rental spaces are nonrefundable and are nontransferable.

'It is highly recommended that you lock your catamaran to your assigned rack.

'No other personal items should be attached to the rack.

'Catamarans must be removed by the owner in advance of any significant weather system including but not limited to any named storms.

'I hereby signify that the above information is true and that I have read and agree to abide by the attached boating regulations for the Town of Nags Head.

'The undersigned acknowledges that the Town of Nags Head (hereinafter called TOWN) is extending a special privilege in allowing him or her to store his or her catamaran. In consideration of the privilege to store their catamaran at the TOWN, the undersigned, for himself or herself and any personal

representative, heirs, and next of kin, hereby acknowledges, agrees and represents the following:

'RELEASE I agree to release, waive, discharge, and covenant not to sue the TOWN, its commissioners, officers, employees, and agents from all liability to me, my personal representative, heirs, and next of kin for any loss, theft, or damage, and any claim or demands therefore on account of injury to my property or any bodily injuries, whether caused by the TOWN or otherwise during the rental period.

'INDEMNIFICATION I agree to indemnify and save and hold harmless the TOWN from any loss, liability, theft, damage, injury or cost that may incur due to my storing my catamaran, upon or about the TOWN premises whether caused by the TOWN or otherwise.

'ACCEPTANCE OF RISK I agree to assume full responsibility for and risk of property damage caused by the TOWN or otherwise while my catamaran is stored during the rental period.

'The undersigned further expressly agrees that the foregoing RELEASE, INDEMNITY AND ACCEPTANCE is intended to be as broad and inclusive as North Carolina law allows and that, if any portion is held invalid, it is agreed that the balance shall continue in full legal force and effect."

Board members spoke in favor of the catamaran racks which have already been installed and noted that they will need to be monitored closely.

<u>Items requested to be put back into the FY 20/21 Budget</u>

Town Manager Ogburn asked about the items staff had listed to be put back into the FY 20/21 Budget; Comr. Renée Cahoon said that she would not be comfortable with all of the items to be put back.

Town Manager Ogburn noted that the other towns/Dare County are including cost of living allowances (COLA) in their upcoming budgets; he is concerned about getting too far behind other municipalities if this is not included in the budget.

It was Board consensus to put both COLA and within-grade back into the budget; in addition, there was no mention of eliminating other items listed for inclusion back into the budget.

Adjournment
The Board adjourned at 12:02 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, JUNE 17, 2020; 9:00 A.M.

The Nags Head Board of Commissioners met in Recessed Session in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, June 17, 2020 at 9:00 a.m.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Amy Miller; Roberta Thuman; and Town Clerk Carolyn Morris

CALL TO ORDER
Mayor Cahoon called the recessed meeting of the Board of Commissioners to order at 9 am.

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to adopt the June 17th agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

PUBLIC COMMENT

Attorney John Leidy announced Public Comment open; there being no one present who wished to speak, he concluded Public Comment at 9:02 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #12 to FY 19/20 Budget
Consideration of revised Septic Health Initiative Program Policy
Annual write-off of uncollectible water accounts
Consideration of Town-wide copier contract
From Jun 3rd Board meeting - Consideration of resolution authorizing additional hour for tent vendors
Consideration of resolution to commit firing range funds in Fund Balance

Consideration of storm debris removal/monitoring contracts

MOTION: Comr. Brinkley made a motion to approve the Consent Agenda as presented. The motion was seconded by Mayor Pro Tem Siers.

Comr. Brinkley clarified with Town Manager Ogburn that the firing range account funds were earmarked in the General Fund - and with the adoption of the budget they move directly into the line item for the Police Firing Range beginning July 1, 2020.

CONTINUATION OF MOTION: The motion passed unanimously.

Budget Adjustment #12, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The Septic Health Initiative Program Policy, as approved, read in part as follows:

"Septic Tank Inspection and Pumping Program - Staff is to contract with independent inspectors to perform septic tank inspections. The inspection form will document the condition of the septic system. Staff will contact the homeowner and advise them of the results of the inspection and the need to pump the tank.

'Staff is to "open up" the program to all septic tank pumpers and expand the pumping program from 8 months (September - April) to an 11 month program (July - May). In order to receive a $45 ~~30~~.00 water credit, the homeowner is only to send to the Town proof that the tank was pumped. Water credits are valid for 90 days from issuance.

'Repair/Replacement Loan Program - The cost for repair/replacement loans is increased to $7,500. For both owner occupied homes and non-owner occupied homes, the loan rate is prime less 2.5% but the resultant loan rate shall not be less than 2.50%. Loans are to be repaid at least monthly and for up to three (3) years. Loans shall only be made to homeowners who have no delinquent debts to the Town.

'Septic system repairs under the Loan Program - Upon request from the Deputy Director of Planning and Development, or his or her designee, the Town shall issue the loan repair check made out to the contractor who performed the work.

'It shall be a policy of the Town of Nags Head not to offer loans to homeowners for the repair or replacement of septic systems on oceanfront or estuarine properties where the septic system has been storm damaged or damaged as a result of erosion."

The summary sheet re: the annual write-off of uncollectible water accounts, as approved, read in part as follows:

"The annual write-off of water accounts is being requested at this time; these accounts are considered to be uncollectible. A detailed list of these accounts is attached. Total amount requesting to be written off for FY 19/20 is $18.36. Request Board approval of the write-off of all water accounts currently considered to be uncollectible - as shown in the attached list. Every effort is made to recover the bad debt - Currently, the balance in allowance for doubtful accounts is more than enough to cover the requested write-off amount of $18.36."

The summary sheet for the Town-wide copier contract, as approved, read in part as follows:

"Attached please find a proposed Town-wide five-year copier contract with Ricoh. It mirrors the Town's existing contract with updated pricing and switch outs/upgrades. There will not be any printer reductions."

The Town-wide five-year copier contract, as approved and executed, is on file in the Town Clerk's office.

The Resolution authorizing additional hour for tent vendors during times of declared emergencies, as adopted, read in part as follows:

"WHEREAS, pursuant to applicable provisions of Chapter 14, Emergency Management, of the Nags Head Town Code, and N.C.G.S. § 166A, the Town, through the Mayor, has the authority to declare the existence of state of emergency; AND

'WHEREAS, a State of Emergency was declared by the Mayor on March 16, 2020 in order to limit the spread of the Coronavirus Disease 2019, and such State of Emergency continues to be in effect; AND

'WHEREAS, the Board of Commissioners finds that it is necessary and consistent with the intent of the declared State of Emergency to afford beach equipment concierge services additional time to remove and sanitize equipment during the duration of the declared State of Emergency.

'NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners directs staff during the duration of the declared State of Emergency to not enforce the removal of beach equipment by 6:00 pm, pursuant to Section 12-226 (1), unless such equipment has not been removed by 7:00 pm of the same day, and further, to not enforce the removal of trash and debris by 6:00 pm, pursuant to Section 12-226 (6), unless such trash and debris has not been removed by 7:00 pm of the same day."

The Resolution to commit firing range funds in Fund Balance, as adopted, read in part as follows:

"WHEREAS, the Government Standards Accounting Board (GASB) has issued Statement No. 54 establishing a hierarchy clarifying the constraints that govern how a government entity can use amounts reported as fund balance; AND

'WHEREAS, the Board of Commissioners is the highest level of decision-making authority, and has the authority to commit, assign, or evaluate existing fund balance classifications and identify the intended uses of committed or assigned funds; AND

'WHEREAS, the committed fund balance classification reflects amounts subject to internal constraints self-imposed by the Board of Commissioners; AND

'WHEREAS, once the committed fund balance constraints are imposed, it requires the constraint to be removed by the Board of Commissioners prior to redirecting the funds for other purposes; AND

'WHEREAS, the Board of Commissioners has determined it will annually budget cumulative excess firing range contributions above expenditures in the firing range maintenance and repair line item for the sole

purpose of necessary purchases, repairs, or any items required to maintain upkeep of the firing range; AND

'WHEREAS, the Board of Commissioners has determined each fiscal year it will commit additional fund balance after fiscal year end, representing excess firing range contributions above expenditures that fiscal year for the sole purpose of necessary purchases, repairs, or any item required to maintain upkeep of the firing range."

The storm debris removal/monitoring contracts summary sheet, as approved, read in part as follows:

"Debris Removal Services: On May 13, 2020 Town staff issued Requests for Proposals (RFP's) to provide disaster debris management/removal services for the period from July 2, 2020 through June 30, 2021. An evaluation of the proposals submitted was conducted to determine the proposal deemed to be the most advantageous to the Town.

'Attached, please find a memorandum discussing the Request for Proposals submissions, subsequent evaluation and recommendations for disaster debris management/removal services. The proposed staff recommendation is to proceed with an agreement with Santee Modular Homes, Inc. (Santee, SC), the vendor with the lowest submitted cost proposal. The proposed contract term shall be for the initial one-year period with an option to renew the contract for up to three (3) additional (1) year periods at the same terms, conditions and rates. These contracts will only activate once a "Notice to Proceed" has been issued by the Town.

'Debris Monitoring Services: The Town has an active agreement with Tetra Tech, Inc of Maitland, FL. Under the agreement, staff requests to extend Tetra Tech Inc monitoring services for FY 20-21."

The storm debris removal/monitoring contracts memo, as approved, read in part as follows:

"On May 13, 2020, the Town of Nags Head Department of Administration issued Requests for Proposals (RFP's) to provide disaster debris management and removal services for the initial period of July 2, 2020, through June 30, 2021. Advertisements for RFP's were placed in the Coastland Times, on the Town of Nags Head website, on the North Carolina Department of Administration Interactive Purchasing website, North Carolina Historically Underutilized Business website in addition to being forwarded to North Carolina's Small Business and Technology Development Center. Two (2) addenda were issued for the Debris Removal RFP to clarify proposal requirements.

'Proposals for Disaster Debris Management/Removal Services were received from nine firms. The firms submitting proposals for debris removal included Santee Modular Homes. (Santee, SC), Crowder Gulf, (Theodore, AL), Custom Tree Care Disaster Response, (Topeka, KS), DRC Emergency Services, LLC (Mobile, Alabama), Southern Disaster Recovery, (Simpsonville, SC), TFR Enterprises, Inc. (Leander, TX), KDF Enterprises, Springville, AL, Graham County Land Company, (Robbinsville, NC) and Ceres Environmental, (Sarasota, FL).

'Once the lowest responsive, responsible bidder is determined, the Town will enter into an initial 1-yr agreement in the form of a pre-positioned contract for the provision of disaster debris removal services as needed. This approach eliminates the need for an emergency procurement and permits an expedited process to commence with debris services immediately after a storm generating event. This contract does not guarantee any amount of work or cost with the contractor and will be activated via a Notice to Proceed with a defined scope of work should the need arise.

'Disaster debris clearance and removal services are divided into several categories; Phase 1-initial 70-hour period for roadway clearance which is referred to as the "push and shove" period and Phase 2-which is the long-term debris removal and management services. Phase 1 work is performed to eliminate the immediate threat to lives, public health, and safety. This work usually occurs immediately after the disaster event. This work is generally done within the public right-of-way and performed on a time and materials basis. Unit prices for hourly wage and equipment rates are requested to project anticipated costs.

'Once the roads are open and passable, debris operations shift to Phase II recovery for loading, hauling, reduction, and disposal. These debris removal operations should not be performed by a time-and-materials contract, but instead should be based on unit prices (e.g., per cubic yard, per ton, per leaning tree, per hanging limb, per stump extracted, per unit of white goods, etc.)

'The bid form provided in the RFP included a list of all anticipated services, equipment, material, and labor costs that would be necessary for the Phase II portion post-storm disaster recovery work.
Estimated quantities provided in the bid form reflect the anticipated amount of debris expected to be generated for the associative storm event category. Debris estimates from a Category Three storm event were calculated utilizing the U.S. Army Corps of Engineers Debris Estimating Model for each of the municipalities. Bidders were required to provide unit pricing for the individual service line items and multiply by the estimated debris estimates to calculate a total price for each item.

'According to FEMA procurement guidelines, a cost analysis is required as part of the procurement process to determine a fair and reasonable price for a contract. One of the different methods in accomplishing this is through a comparative analysis of costs proposed by contractors. A copy of the Unit Price Cost Analysis Matrix is attached for your reference which summarizes the unit prices noted in the Bid Form to assist in the evaluation of submitted fees. The Unit Price Cost Analysis Matrix is separated into four separate parts; (1) Schedule 1- removal hauling and reduction unit prices, (2) Schedule 2- equipment hourly rates, (3) Schedule 2-labor hourly rates and (4) an aggregate pricing summary.

'To complete the evaluation process, each proposal was reviewed, scored, and ranked according to the four main Evaluation Criteria: Pricing, Qualifications/Resources, Technical, and other weighted criteria. Of the nine proposals submitted, the top two ranked offerors score totals were equal; Santee Modular Homes Inc. (Santee, SC) and Custom Tree Care Inc. (Topeka, KS). Each contractor has recent experience with post-disaster responses in southeastern North Carolina with positive references from those communities/agencies they have provided services for. Each contractor has indicated a mobilization time of 24-48 hrs. from Notice to Proceed.

'The main difference between the two proposals is that Santee Modular Homes Inc. provided a lower cost proposal when considering the aggregate of bid proposal items. This is consistent with FEMA guidance which indicates that the contract shall be secured based upon the vendor that provides the most advantageous and reasonable cost proposal.

'For post-storm debris monitoring services, the Town has an active agreement with Tetra Tech, Inc. of Maitland, FL. Tetra-Tech, Inc. was the selected vendor for Debris Monitoring and Recovery Services advertised in May 2019. The terms of the agreement indicated an initial (1) year period and may be extended annually under its existing terms, conditions, and rates for up to (3) additional one-year periods. Staff would request to extend Tetra Tech Inc. services under this agreement.

'If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute in two (2) separate agreements; one (1) with Santee

Modular Homes, Inc. for Debris Removal Services and one (1) with Tetra Tech Inc. for FY 20/21."

NEW BUSINESS

FY 20/21 Budget

- Adoption of Budget Ordinance
- Resolution for Committed Fund Balance LEO Separation Allowance
- Resolution - Amendment #1 - to the Water Capital Reserve Fund
- Consideration of Consolidated Fee Schedule

The summary sheet presenting the FY 20/21 Budget and associated documents read in part as follows:

"At the May 20th Board of Commissioners meeting, Town Manager Ogburn presented highlights of his recommended FY 21 Budget via a powerpoint presentation. At that time the proposed budget was distributed to Board members. A Public Hearing was subsequently held at the June 3rd Board meeting; Budget Workshops were held on May 27th and June 9th.

'For Board consideration at the June 17th Board of Commissioners meeting are the following:
- Staff memo
- FY 20/21 Budget Ordinance
- Resolution for Committed Fund Balance for Law Enforcement Officer (LEO) Separation Allowance for FY 21
- Resolution - Amendment #1 - to the Water Capital Reserve Fund (Established by Resolution No. 18-08-018)
- Consolidated Fee Schedule

'Request Board consideration of attached FY 20/21 Budget Ordinance, Resolution for Committed Fund Balance for LEO, Resolution for Water Capital Reserve Fund Amendment #1, and Consolidated Fee Schedule."

Town Manager Ogburn presented this item reporting on two budget workshops and a public hearing that were held. The original budget focused on conservative cuts made in response to COVID-19 – funds are being recommended to be put back into the budget – items are in the packet.

Comr. Brinkley confirmed with Town Manager Ogburn that the budget still contains conservative figures used for this summer and no Fund Balance is being utilized.

Comr. Renée Cahoon asked for clarification of the funds for Dowdy Park. Town Manager Ogburn explained that the amount of $5,000 is used for procuring bands and different events for Dowdy Park but no personnel. He noted that the part-time staff employee funds come from a different fund in the amount of $16,000. Comr. Renée Cahoon confirmed that the Town can require masks which may be appropriate even if events are allowed on Town property. She also emphasized that she would prefer this task to be in-house and to not hire part-time staff.

Comr. Fuller confirmed with Town Manager Ogburn that underperforming employees will not receive the 2.5% increase to get to mid-grade nor the 1.25% if already at mid-grade.

MOTION: Comr. Fuller made a motion to add a within grade increase of 2.5% or 1.25% for employees whose salaries fall below, or above, the mid-point of their grade range. The motion was seconded by Comr. Renée Cahoon.

Attorney Leidy explained differences between permanent (no longer temporary) and full-time employees.

WITHDRAWAL OF MOTION: Comr. Fuller and Comr. Renée Cahoon withdrew their motion/second to the motion.

MOTION: Mayor Cahoon made a motion to approve adding within grade increases of 2.5% to those below mid-point range and 1.25% to those above mid-point range in accordance with the applicable Pay and Classification Study. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

MOTION: Comr. Brinkley made a motion to adopt the FY 20/21 Budget Ordinance as presented. The motion was seconded by Comr. Fuller.

Some points were made:
Comr. Renée Cahoon questioned the need for the $16,000 part-time employee for Dowdy Park events.
Mayor Pro Tem Siers questioned firing range funds being added back; Comr. Brinkley explained that the funds were moved and now are being put back into the correct line item.
There was also some discussion re: the budget ordinance not being the same as the budget.

WITHDRAWAL OF MOTION: Comr. Brinkley/Comr. Fuller withdrew their motion/second to the motion.

MOTION: Comr. Renée Cahoon made a motion to adopt the FY 20/21 Budget Ordinance with the freezing of the $16,000 for the part-time Dowdy's Park employee in the Planning Department. The motion died for lack of a second.

MOTION: Comr. Renée Cahoon made a motion to freeze the $16,000 line item in the Planning Dept until further action is taken. The motion was seconded by Comr. Fuller which passed unanimously.

MOTION: Comr. Renée Cahoon made a motion to adopt the FY 20/21 Budget Ordinance as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The FY 20/21 Budget Ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "B".

MOTION: Comr. Renée Cahoon made a motion to adopt the Committed Fund Balance for Law Enforcement Officer Special Separation Allowance Resolution as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The Resolution, as adopted, read in part as follows:

"WHEREAS, the Government Standards Accounting Board (GASB) has issued Statement No. 54 establishing a hierarchy clarifying the constraints that govern how a government entity can use amounts reported as fund balance; AND

'WHEREAS, the Board of Commissioners is the highest level of decision-making authority, and has the authority to commit, assign, or evaluate existing fund balance classifications and identify the intended uses of committed or assigned funds; AND

'WHEREAS, the committed fund balance classification reflects amounts subject to internal constraints self-imposed by the Board of Commissioners; AND

'WHEREAS, once the committed fund balance constraints are imposed, it requires the constraint to be removed by the Board of Commissioners prior to redirecting the funds for other purposes; AND

'WHEREAS, the Board of Commissioners has determined it will commit $69,017 of fund balance from the Law Enforcement Officer Special Separation Allowance committed fund balance for the year ending June 30, 2021 for the purpose of funding the Law Enforcement Officer Special Separation Allowance."

MOTION: Comr. Renée Cahoon made a motion to adopt the Resolution with Amendment #1 to the Water Capital Reserve Fund as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The Resolution, as adopted, read in part as follows:

"WHEREAS, There is a need in the Town of Nags Head, North Carolina to set aside funds for future capital projects related to its water system, and to make debt service payments on existing and future debt related to past and future capital projects for is water system; AND

'WHEREAS, NCGS 159-18 authorizes the creation of a capital reserve fund; AND

'WHEREAS, NCGS 162A, Article 8 requires that all system development fee proceeds be accounted for in a capital reserve fund; AND

'WHEREAS, Within the Town of Nags Head, various fees and funds are generated and used as follows:

'System development fees are generated by construction occurring within the Town and are transferred from the Water Fund and designated by the Board to be spent for future capital projects related to its water system and for debt service payments and existing and future debt relating to past and future capital needs; AND

'WHEREAS, These fees and funds generated are to be set aside / accumulated in a Water Capital Reserve Fund.

'NOW THEREFORE BE IT RESOLVED that pursuant to NCGS 159-18 the Town of Nags Head Board of Commissioners hereby establishes a Water Capital Reserve Fund for the purpose of accumulating ~~approximately $50,000 each fiscal year in revenues~~ system development fee revenues each fiscal year as listed above by direct appropriation from the Water Fund, which revenues shall then be spent for future capital projects related to the Town of Nags Head's water system and for debt service payments and existing and future debt relating to past and future capital needs of said water system.

'The Water Capital Reserve Fund is to remain operational for a period not to exceed ten years (beginning August 1, 2018 and ending June 30, 2028), and unless terminated sooner, shall automatically renew for each succeeding year following June 30, 2028 until terminated by the Nags Head Board of Commissioners."

MOTION: Comr. Brinkley made a motion to approve the Consolidated Fee Schedule (CFS) as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney Leidy - Request for Closed Session

Mayor Cahoon noted Town Attorney Leidy's request for a Closed Session which will take place at the end of today's meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - Discussion of removal of crosswalk located at the Melvin Daniels Bridge

Town Manager Ogburn summarized his information concerning the crosswalk at the Melvin Daniels Bridge on his summary sheet which read in part as follows:

"At the June 17th Board of Commissioners meeting, Town Manager Ogburn will discuss with Board members the removal of the crosswalk located at the Melvin Daniels Bridge.

'Attached you will find a letter from Division 1 Engineer, Sterling Baker, outlining NCDOTs plans for removing the pedestrian crossing. Part of DOT's plan is to remove the flashing light pedestrian sign that the Town cost shared in the amount of $10,000. These lights can be relocated to another crosswalk. Also attached is a map depicting the change in speed limit along this section of US 64."

He wanted to share this information from NCDOT so that the public would be aware.

It was Board consensus to relocate the lights to the crosswalk at the Whalebone Junction/Jennette's Pier access.

Comr. Renée Cahoon pointed out that people will still do what they want to do which includes parking and fishing from the north side of the bridge even if DOT closes it; the Town can only offer as much safety as possible. Comr. Brinkley pointed out that the issues on that roadway all occurred after the crosswalk was installed.

Mayor Cahoon stated that there was no action to take today and Town Manager Ogburn agreed saying that he wanted to make sure residents/visitors were aware of the upcoming changes at the Melvin Daniels Bridge site. He also said that staff will be alerting NCDOT with any issues that may arise.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon - Suggestion to Outer Banks Visitors Bureau

MOTION: Comr. Renée Cahoon made a motion, in light of the Outer Banks visitors here this summer and the fact that the Outer Banks is still in the middle of a health crisis, to ask that the Outer Banks Visitors Bureau use their advertising funds to have face coverings/masks made up with the Outer Banks logo to be provided to hotels/rental businesses in the area; this would hopefully encourage people to

wear the face coverings/masks and would be a souvenir for visitors to take back home with them which would then act as advertisement for the Outer Banks. The motion was seconded by Comr. Fuller which passed unanimously.

MAYOR'S AGENDA

Presentation to Town Manager Cliff Ogburn

On behalf of the Board, Mayor Cahoon thanked Town Manager Ogburn for his years of service and presented him with a plaque of appreciation.

Town Manager Ogburn thanked this and previous Boards for giving him the opportunity to serve the Town for the past 12 years stating that he has appreciated the patience, guidance, and direction given to him. Town Manager Ogburn said that working as Town Manager of Nags Head has been a very proud part of his life with a great town and great staff and many exciting opportunities. He said that he looks forward to being a citizen of the Town.

CLOSED SESSION

MOTION: Mayor Cahoon made a motion to enter Closed Session to discuss a personnel matter in accordance with GS 143-318.11(a)(6) and an attorney/client privilege matter in accordance with GS 143-318.11(a)(3). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 9:55 a.m.

OPEN SESSION
The Board re-entered Open Session at 10:45 a.m. Attorney Leidy reported that during Closed Session the Board did confer with the attorney re: a personnel matter but no actions were taken.

APPOINTMENT OF INTERIM TOWN MANAGER
MOTION: Comr. Brinkley made a motion to appoint Mr. Greg Sparks as Interim Town Manager effective Friday, June 19, 2020 at 10:00 a.m. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

ADJOURNMENT
MOTION: Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Comr. Brinkley which passed unanimously. The time was 10:48 a.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

Agenda Item Summary Sheet

Item No: **F-4**
Meeting Date: **July 1, 2020**

Item Title: Consideration of agreement with Dare County for Coronavirus Relief Fund Allocation

Item Summary:

North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The attached agreement with Dare County allocates $31,636 to the Town based on the Town's submitted proposal.

Number of Attachments: 1

Specific Action Requested:

Request authorization for the Town Manager to execute attached agreement with Dare County in order to receive its allocation as a result of the Federal CARES Act.

Submitted By: Administrative Services Date: June 24, 2020

Finance Officer Comment:

Request authorization to execute attached agreement so the Town can receive its allocation from the Coronavirus Relief Fund - received in response to the COVID-19 emergency.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with the request.

Signature: Greg Sparks Date: June 24, 2020

REIMBURSEMENT CONTRACT

NORTH CAROLINA
DARE COUNTY

THIS REIMBURSEMENT CONTRACT, made and entered into this ___ day of _____ 2020, by and between the County of Dare, a body politic and corporate organized and existing under the laws of the state of North Carolina (hereinafter referred to as "County") and Nags Head, a North Carolina municipality organized and existing under the laws of the state of North Carolina (hereinafter referred to as "Sub-Grantee");

WITNESSTH

WHEREAS, North Carolina counties are receiving funding for local governments as part of the Coronavirus Relief Fund (CRF) established under the federal CARES Act. The CRF allocation for Dare County totals $852,149;

WHEREAS, local municipalities have been critical partners in our emergency response to the COVID-19 pandemic, accordingly, Dare County will distribute funds as sub-grants to these entities; and

WHEREAS, the County and Grantee mutually desire to establish the means and method for the allocation of Grantee's portion of these funds through a reimbursement agreement contract.

NOW THEREFORE, in consideration of the promises and further consideration of the mutual agreements contained herein, as well as the financial consideration, the parties hereto agree as follows:

1. The Recitals set forth above, along with the definitions of certain terms are incorporated herein by reference as if fully restated.

2. Amount of Sub-Grant. The County shall provide Sub-Grantee a sub-grant in the maximum amount of $31,636 based on the proposed budget submitted by Sub-Grantee as its share of the CRF funding.

3. Certification. Any sub-grant to be disbursed to Sub-Grantee will only be made as a reimbursement. Prior to any such disbursement, the Sub-Grantee shall make a report and certify to the County that the funds being reimbursed:

- Were necessary expenditures incurred due to the public health emergency with respect to Coronavirus Virus 2019 (COVID-19) and were not accounted for in the budget most recently approved by Sub-Grantee as of March 27, 2020 (the date of enactment of the CARES Act) for the State or government;
- Were incurred during the period that began on March 1, 2020 and ends on December 30, 2020 in accordance with the budget proposal submitted to County by Sub-Grantee;
- Were spent in a manner consistent with terms for the CRF set forth by the North Carolina Pandemic Recovery Office and in accordance with all applicable State and federal laws; and;
- County reserves the right to reasonably request additional documentation to demonstrate compliance with the CARES Act and North Carolina Session Law 2020-4, the "2020 COVID-19 Recovery Act.

4. Reimbursement Process. Following receipt of the report and certification requesting reimbursement of the Sub-Grantee the County shall review for compliance. County will notify Sub-Grantee of its approval or denial within thirty (30) days of receipt of Certification and request for reimbursement. A denial will include a reasonable description of the reason for denial and offer an opportunity to cure any deficiencies.

Approved reimbursements will processed and disbursed by County to Sub-Grantee within thirty (30) days of approval.

5. Repayment of Appropriated Funds. Any funds appropriated by the County and distributed to the Sub-Grantee that are found to have been utilized by Grantee for uses in violation of CRF regulations shall be repaid by Sub-Grantee to the County upon demand and Sub-Grantees shall indemnify and hold harmless County from, any liability, including reasonable attorney's fees, arising from Sub-Agent's violation of CRF requirements.

6. Maintain Records. The Sub-Grantee shall maintain records documenting each expenditure that is subject for reimbursement under CRF and will provide that documentation to the County upon request or make such documentation available should there be an audit of expenditures of these CARES Act sub-grant funds.

7. Failure to make Timely Reimbursement Requests. Funds must be used for eligible expenditures between March 1, 2020 and December 30, 2020 for purposes that were not accounted for in the Grantee's most recently approved budget as of March 27, 2020. Qualifying requests for reimbursements of sub-grant funds must be delivered to Dare County Finance, attention Finance Director, by not later than December 28, 2020. Any portion of the maximum amount of sub-grant funds listed as available for reimbursement uses by Sub-Grantee that are not properly and timely requested for disbursement by Sub-Grantee shall be retained by Dare County and may be expended by Dare County for any CARES Act eligible expenses as determined in its sole discretion.

MISCELLANEOUS

Governing Law. The parties intend that this Agreement shall be governed by the law of the State of North Carolina as follows:

Mediation

- Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Dare County Resident Superior Court Judge shall name a mediator to hear the matter.
- The parties shall equally share the mediator's fee. The mediation shall be held in Dare County at a location designated by the mediator selected to hear the matter.

Legal Proceedings

- Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Manteo, Dare County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Dare County, North Carolina.

Notices. Any notice permitted or required under this Agreement from one party to the other must be in writing and will be effective (a) on the date it was actually delivered to the addressee if delivered personally, or sent by a nationally recognized courier (such as FedEx or United Parcel Service) or sent by facsimile, or (b) three days after having been deposited in the United States mail, if sent by certified mail, return receipt request, in each case to the respective addresses of Sub-Grantee and the County listed below, or those other addresses of which either party gives the other party written notice:

If to Sub-Grantee, to:

Amy Miller, Finance Director
Town of Nags Head
P. O. Box 99
5401 South Croatan Highway
Nags Head, NC 27959

If to the County, to:

David Clawson, Finance Director
Dare County Finance
P.O. Box 1000
Manteo, NC 27954-1000

Any addressee may designate additional or different addresses for communications by notice given under this Section to each of the others.

Non-Business Days. If the date for making any payment or the last day for performance of any act or the exercising of any right shall not be a Business Day, such payment shall be made or act performed or right exercised on or before the next preceding Business Day.

Severability. Each provision in this Agreement is severable. If any provision of this Agreement will be determined to be invalid or unenforceable by a court of competent jurisdiction, then: (a) such determination will not invalidate or render unenforceable any other provision of this Agreement; (b) such provision will be construed as closely as possible to the parties' original intent in order to render such provision valid or enforceable, as applicable; and (c) the remaining terms of this Agreement, together with such reconstructed provision, will constitute the parties' entire agreement.

Entire Agreement; Amendments. This Agreement constitutes the entire contract between the parties, and this Agreement shall not be changed except in writing signed by both parties.

Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Time. Time is of the essence in this Agreement and each and all of its provisions.

Liability of Directors, Officers and Agents. No director, officer, agent or employee of the County or Sub-Grantee shall be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents, or employees shall be deemed to execute such documents in their official capacities only, and not in their individual capacities. This Section shall not relieve any such officer, agent or employee from the performance

of any official duty provided by law.

Confidentiality. The County will keep confidential and will not disclose or publish any of Sub-Grantee's trade secrets as defined in Section 132-1.2(1) of the North Carolina General Statutes, will keep all records evidencing such trade secrets marked as "confidential trade secrets", and will keep all such records segregated in the County's files. If the County receives a request, subpoena or court order to disclose any information or records Sub-Grantee or its representatives have provided or provide in the future relating to this Agreement or the project described in this Agreement, the County will give Sub-Grantee prompt written notice of the request, subpoena or court order and will discuss any proposed disclosure of such information or records with Sub-Grantee (and, to the extent possible, give Sub-Grantee the opportunity to contest any disclosure of information or records Sub-Grantee believes should not be disclosed) before making any such disclosure.

E-Verify. Grantee shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Contractor shall also require any and all of its subcontractors to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

Counterparts. The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

IN WITNESS WHEREOF, the parties hereto have caused this Reimbursement Agreement to be duly executed pursuant to authorization obtained in a duly adopted resolution or has otherwise been duly authorized to sign on behalf of their respective organization.

Town of Nags Head	County of Dare
By _____	By _____
(authorized signer)	County Manager

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act

_____

144600-560095-28077

Agenda Item Summary Sheet

Item No: **F-5**
Meeting Date: **July 1, 2020**

Item Title: Consideration of FY 20/21 Reimbursement Resolution declaring the intention to reimburse the cost of certain expenditures

Item Summary:

Staff is requesting Board consideration of the attached resolution indicating that vehicles and equipment (as listed in the FY 21 Budget) will be financed via an installment purchase contract.

Number of Attachments: 1

Specific Action Requested:

Attached resolution is provided for Board adoption at the July 1st Board of Commissioners meeting.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Expect to reimburse itself for expenditures from the General Fund and the Water Fund within 60 days of adoption of this resolution.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Greg Sparks Date: June 24, 2020

Resolution No. 20-07-XXX
Tax exempt financing
Vehicles and equipment
BOC Meeting July 1, 2020

REIMBURSEMENT RESOLUTION – FISCAL YEAR 2020-2021
OF THE TOWN OF NAGS HEAD
DECLARING THE INTENTION TO REIMBURSE
THE COST OF CERTAIN EXPENDITURES

WHEREAS, The Town Manager and the Finance Director have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on tax exempt financing.

BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

Section 1. The project is the financing of the acquisition of vehicles and equipment as identified in the fiscal year 2020-2021 budget.

Section 2. The project is to be financed. The currently expected type of financing (which is subject to change) is an installment purchase contract. The currently expected maximum amount to be contracted for the project is $900,000.

Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund and Water Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

Section 4. This Resolution shall become effective immediately upon the date of its adoption.

THIS THE 1st DAY OF JULY 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **F-6**
Meeting Date: **July 1, 2020**

Item Title: Consideration of resolution to update Town banking signatures

Item Summary:

Attached please find a resolution authorizing an updated list of names/signatures for banking services with Southern Bank. All deposits, checks, drafts, notes or orders from the Town must be signed by one of those listed in the resolution.

Number of Attachments: 1

Specific Action Requested:

Request Board adoption of attached resolution with updated signatures for Town banking.

Submitted By: Amy Miller, Finance Officer Date: June 24, 2020

Finance Officer Comment:

Request adoption of attached resolution updated authorizing signatures for Town banking.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Greg Sparks Date: June 24, 2020

RESOLUTION AND AGREEMENT
FOR DEPOSIT ACCOUNT AND BANK SERVICE
WITH SOUTHERN BANK

BE IT RESOLVED by the Town of Nags Head Board of Commissioners that Southern Bank be, and hereby is, designated as a depository institution for the Town of Nags Head and that funds so deposited may be withdrawn upon a check, draft, note or order of the Town of Nags Head, AND

BE IT FURTHER RESOLVED that all checks, drafts, notes or orders drawn against said account be signed by any one of the following:

- AMY MILLER, FINANCE DIRECTOR; and countersigned by any one of the following:

- BROOKE NORRIS, DEPUTY FINANCE OFFICER;
- BENJAMIN CAHOON, MAYOR;
- GREG SPARKS, INTERIM TOWN MANAGER;
- ANDREW GARMAN, DEPUTY TOWN MANAGER;
- CAROLYN F MORRIS, TOWN CLERK;

whose signatures shall be duly certified to said Bank, and that no checks, drafts, notes or orders drawn against said Bank shall be valid unless so signed, AND

BE IT FURTHER RESOLVED that said Bank is hereby authorized and directed to honor and pay any checks, drafts, notes or orders so drawn whether such checks, drafts, notes or orders be payable to the order of any such person signing and/or countersigning said checks, drafts, notes or orders, or any of such persons in their individual capacities or not, and whether such checks, drafts, notes or orders, or to the individual credit of any of the other officers or not. This resolution shall continue in force and said Bank may consider the facts concerning the holders of said offices, respectively, and their signatures to be and continue as set forth in the certificate of the Finance Director or Town Clerk, accompanying a copy of this resolution when delivered to said Bank or in any similar subsequent certificate, until written notice to the contrary is duly served on said Bank.

Adopted this the 1st day of July 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **F-7**
Meeting Date: **July 1, 2020**

Item Title: Consideration of updated Cashier Policy

Item Summary:

Attached please find an updated Cashier Policy provided for your review and approval at the July 1st Board of Commissioners meeting. The following modifications are being requested:

1) The name was changed to Cashier, not Central Cashier, to reflect the job description.

2) Removed requirement that only cashier could accept payments in order to provide coverage when cashier is away from desk.

3) Included different forms of payment accepted by the cashier including debit and credit cards and e-checks. The Town is PCI compliant in accepting these types of payments.

Number of Attachments: 1

Specific Action Requested:

Updated Policy provided for Board review and approval.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Greg L. Sparks
Interim Town Manager

Town of Nags Head
Post Office Box 99
Nags Head, NC 27959
Telephone 252-441-5508
Fax 252-441-0776
www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Board of Commissioners Policy

~~Central~~ Cashier Policy

(Adoption Date: January 5, 2005)
Amended July 1, 2020

The ~~central~~ cashier will accept all payments for the Town of Nags Head including ~~in the form of~~ cash, credit or debit card, check, e-check, or money order. These payments will be deposited daily in accordance with NCGS 159-32. All payments must be accompanied with documentation needed to determine the application of the payment to the correct Town account including but not limited to water or tax bill stub, planning permitting receipt, attorney letter, or other appropriate documentation. Payment will not be accepted without documentation. ~~**Payment in any form will not be accepted by any Town employee other than the central cashier**~~**.** No permits are to be issued without receiving the required payment and appropriate documentation to the ~~central~~ cashier. ~~The only exception to this policy is the acceptance of payments by~~ Water Plant Operators may accept payments during the hours the Town is not open for business from water customers whose water service has been discontinued due to non-payment of amounts due.

Violation of this policy may result in disciplinary action up to and including dismissal.

Agenda Item Summary Sheet

Item No: **F-8**
Meeting Date: **July 1, 2020**

Item Title: Request for Public Hearing to consider a revised Preliminary Plat for a Major Subdivision known as Coastal Villas, for an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel# 006749004; PIN# 989108886987 and Parcel# 006749039; PIN# 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

Item Summary:
The subject application is a Preliminary Plat for a Major Subdivision known as Coastal Villas, revised from the previous version considered by the Board in January 2020. The revised Plat now proposes the new street from US 158 (as opposed to Sea Bass Court) and incorporates a parcel owned by Dare County, planned for a future well site, determined to have not been properly subdivided in 2004. The proposed layout of the Dare County parcel necessitates waivers from provisions of the Subdivision Regulations concerning street access, access to US 158, and frontage; similar waivers were considered and approved in 2004.

Planning Board/Staff Recommendation
Staff recommends approval of the Preliminary Plat, with conditions, and recommends approval of the requested waivers.

The Planning Board, at their June 16, 2020 meeting, voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissioners, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.

Number of Attachments: 0

Specific Action Requested:

Consider scheduling public hearing.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks

Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **July 1, 2020**

Item Title: Public Hearing to consider text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

Item Summary:
The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). A public hearing on the request was held at the Board of Commissioners meeting on May 6, 2020. The Board of Commissioners voted to table consideration of the proposed amendments and refer the matter back to the Planning Board for further review, with consideration of issues pertaining to location, visual impact, signage, and parking. The Planning Board has recommended further changes to the proposed amendment.

Planning Board/Staff Recommendation
Initially, Staff recommended to the Planning Board that the amendment be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, maximum stand area and time limits were also suggested, as well as amendment of the definition of Outdoor Stand for consistency. Based upon discussion by the Board of Commissioners, Staff further recommended to the Planning Board that consideration be given to limiting the option for two stands to sites greater than a certain size, limiting signage to a total of fifteen (15) square feet for all outdoor stands, and clarifying where stands may be located on a site, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

Number of Attachments: 3

Specific Action Requested:
Conduct the public hearing.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Department of Planning and Development

Michael Zehner
Director of Planning and Development

Town of Nags Head
Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-7016
Fax 252-441-4290
www.nagsheadnc.gov

NOTICE OF PUBLIC HEARING
TOWN OF NAGS HEAD BOARD OF COMMISSIONERS

NOTICE IS HEREBY GIVEN that the Nags Head Board of Commissioners will conduct a public hearing on **Wednesday, July 1, 2020** beginning at 9:00 am in the Board Room of the Municipal Complex, 5401 S. Croatan Highway, Nags Head, NC to consider and take action upon the following request:

> Public Hearing to consider text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

A copy of the application request is available for public inspection at the Nags Head Planning and Development Department and the office of the Town Clerk, Town Municipal Complex, 5401 S. Croatan Hwy, Nags Head, NC 27959, telephone (252) 441-5508 during normal business hours.

As a result of this hearing substantial changes may be made in the proposal as advertised to reflect objections, debate and discussion at the hearing. Any person desiring to be heard on the proposal as stated above should appear at the time and place specified above.

This the 21st day of June 2020.

Kelly Wyatt
Deputy Planning Director

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Michael Zehner, Director of Planning & Development

Kelly Wyatt, Deputy Director of Planning & Development

Date: June 24, 2020

Subject: Text amendments to the Unified Development Ordinance submitted by a property owner to expand the principal sale items from outdoor stands to include reservations and tickets for events/activities

OVERVIEW

The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). Initially, as discussed with the Planning Board on January 21, 2020, the proposal sought to amend the UDO to allow "outdoor kiosks" for the sale of tickets and reservations for on-site and off-site recreational facilities. Mrs. Creef had explained to the Board that a vendor had approached the Outlets about the idea of having a kiosk located on the property to allow patrons to book charter fishing excursions, a concept which was believed would enhance the customers' shopping experience. Mrs. Creef indicated that there would be a preference to allow two outdoor stands (where the regulations only allow for one) and confirmed for the Board that the plan was to locate the kiosk in the terrace area.

Based upon the discussion and feedback provided by the Planning Board, the applicant modified the original proposal (consistent with the version before the Board) and returned to the Planning Board meeting on February 18, 2020. The Planning Board recommended approval, with changes recommend by Staff, detailed as part of Staff's recommendation.

The Board of Commissioners held a public hearing and considered the proposed amendment at their meeting on May 6, 2020. Ultimately, the Board voted unanimously to table consideration and refer the amendment back to the Planning Board for review and recommendation, requesting that the Planning Board consider the issues raised by the Board. The following excerpts are from the minutes of the Board of Commissioners' meeting:

> *Applicant Kate Creef spoke electronically on behalf of the Outlet Center Nags Head; they had been asked about interest in providing a space for displaying fishing photographs and taking reservations for inshore and offshore fishing trips; they felt this would be a great opportunity to enhance the offerings at the Outlet*

Center and could also apply to other recreational activities that would appeal to their shoppers such as dolphin tours.

Comr. Fuller confirmed with Planning Director Zehner that 11 shopping centers would be affected/eligible for the outdoor stands under this ordinance modification. It was noted that in 2013 the Planning Board turned down a similar request it was believed because it was related to multiple food stands. Comr. Fuller also confirmed with staff that currently some items can be sold in the requested manner in accordance with current ordinance.

Attorney Leidy confirmed that there were no other public comments on this text amendment, and he concluded the Public Hearing at 9:23 a.m.

Comr. Fuller spoke in opposition to the request as he feels the service being requested already exists and has for years; he expressed concern that it in effect only adds more signage – signage for these types of businesses tend to look carnival-like and additional signage is not what the town is after right now. He also feels that the building itself would be used as signage.

Comr. Brinkley spoke indicating that he does not share the same concerns as Comr. Fuller and in addition he does not feel that it would create an increase in traffic or trash.

Comr. Siers said that he looks on it as an opportunity for others to experience more about the Outer Banks that they may not be aware of – he has no issues with the request.

Comr. Renée Cahoon discussed parking and Director Zehner stated that no additional parking spaces will be needed if 50 spaces are already provided.

Mayor Cahoon said that he had one reservation and that is adding another freestanding sign unit to the parking lot.

In response to a question from Comr. Renée Cahoon re: removal of the outdoor stands, Director Zehner said that the structure would essentially be permanent but would not be able to operate year-round.

Mayor Cahoon summarized some modifications as discussed such as location on site, visual impact, signage, and parking.

<u>MOTION:</u> Comr. Fuller made a motion to deny the request for outdoor stands as presented. Comr. Renée Cahoon seconded the motion with the friendly amendment (accepted by Comr. Fuller) that the proposal be sent back to the Planning Board for review and recommendation re: today's comments made by Board members.

<u>WITHDRAWAL OF MOTION:</u> Comr. Fuller withdraw his motion; Comr. Renée Cahoon withdrew her second.

<u>MOTION:</u> Comr. Brinkley made a motion to table the discussion and refer the outdoor stands proposal, along with the issues expressed today by Board members [re: location on site, visual impact, signage, and parking] back to the Planning Board for review and recommendation. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The proposed ordinance returned to the Planning Board on May 19, 2020. Based upon discussion by the Board of Commissioners, and the Board's motion, Staff further recommended to the Planning Board that consideration be given to limiting the option for two stands to sites greater than a certain size, limiting signage to a total of fifteen (15) square feet for all outdoor stands, and clarifying where stands may be located on a site, in terms of being located within parking areas or needing to be located no closer to a property line than the distance from a principal building on a site or within a certain maximum distance from a principal building.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

BACKGROUND

The current version of the allowances and standards for *Outdoor Stands, Accessory to Shopping Center & Group Development* are the result of numerous changes over the course of the last ten (10) years; actions of note are as follows:

- The allowance of outdoor fresh produce stands as an accessory use to shopping centers was first established in mid-2009;
- In late-2009, an amendment was adopted to allow hotdog vending stands as an accessory use to shopping centers;
- In early-2010, an amendment was adopted to allow coffee vending stands as an accessory use to shopping centers;
- In mid-2010, recognizing that one of each of the aforementioned stands could be permitted at any given shopping center, an amendment was adopted to limit the number of accessory outdoor stands at any shopping center site to one (1); additionally, the various stand uses were consolidated under a single use (Outdoor Stands);
- In late-2010, the Ordinance was amended to allow Italian ice and fudge sales;
- In early-2013 ice cream was added as an allowed sale item; additionally, in 2013, a request to expand the allowable number of stands from one (1) to (2) was denied; and
- The provisions were last amended in 2014 when the allowed locations for outdoor stands were expanded to allow as accessory to Group Development (aka Office/Retail Group Development).

Beyond comments made by the Commissioners concerning the necessity of the service proposed and the proposal to allow up to two outdoor stands on a property, concerns raised with respect to location, parking, and signage are relevant under current regulations. Currently, outdoor stands are 1) allowed to be located on a site in compliance with minimum district yard regulations for principal use structures, 2) are allowed to be located on a site with fifty (50) or more existing parking spaces without providing additional parking spaces, or provide a minimum of three (3) additional parking spaces for sites with less than fifty (50) parking spaces, and 3) install a temporary sign with an area up to fifteen (15) square feet.

POLICY CONSIDERATIONS

There are no direct policies concerning outdoor stands. However, certainly economic development objectives and policies encouraging and supporting small businesses and the viability of existing commercial properties are applicable, and need to be balanced with objectives and policies focused on maintaining the Town's character.

Generally, Staff believes that the request to allow the sale of tickets and reservations is consistent with applicable policies; however, Staff would suggest that the standards be clarified to require that the sale and advertisement of items be confined to stands. With respect to the number of allowed stands on any particular site, Staff would support a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge.

PLANNING BOARD RECOMMENDATION

Previously, the Planning Board, at their February 18, 2019 meeting, voted 6-0 to recommend amendments to the UDO as recommended by Staff. In making their recommendation, the Planning Board acknowledged their opinion that the proposed amendments were consistent with the relevant policies contained in the Comprehensive Plan.

Upon reconsideration at their meeting on May 19, the Planning Board voted 6-0 to recommend, in addition to those modifications previously recommended, that two stands only be allowed on sites with an area of ten (10) acres or greater, that signage for all stands be limited to a total of fifteen (15) square feet, and that stands used for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

STAFF RECOMMENDATION

Staff previously recommended that the amendments be adopted with modifications to the standards to require that the sale and advertisement of items be confined to stands and to allow a maximum of two (2) stands, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. Additionally, it was suggested that Sections 7.76.3 and 7.76.4. also be amended to provide for a

maximum stand area and any time limitations, respectively, for the sale of tickets and reservations; a limitation of 150 square feet and a time limitation consistent with produce stands are likely sufficient. Finally, Staff recommended that the current definition of Outdoor Stand, as follows, be amended consistent with the amendment of Section 7.76.1.:

> *Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, and fudge occurs from a cart or structure.*

Staff supports and recommends those additional modifications recommended by the Planning Board. Both the original modifications recommended by Staff and the Planning Board, as well as the additional modifications recommended upon reconsideration, have been incorporated into the attached adoption ordinance and markup of Section 7.76, highlighted to differentiate from the applicant's proposal. It is important to note that the limitation on sites ten (10) acres or greater in area would, currently, only apply to one (1) of the eleven (11) properties previously identified by Staff; if the limit were five (5) acres, the allowance would apply to three (3) of the eleven (11) sites.

With regard to the Board of Commissioners' review and action, Staff recommends consideration of the following UDO provisions:

> *3.5.3. Action by the Planning Board.*
>
> > *3.5.3.1. Every proposed amendment, UDO text amendment or zoning map amendment, shall be referred to the Planning Board for its recommendation and report. The Board of Commissioners is not bound by the recommendations, if any, of the Planning Board.*
> >
> > *3.5.3.2. Prior to the consideration by the Board of Commissioners of a proposed UDO text amendment or zoning map amendment, the Planning Board shall advise and comment on whether the proposed amendment is consistent with the Comprehensive Plan. The Planning Board shall provide a written recommendation, certified by the UDO Administrator, to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the Comprehensive Plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners.*
> >
> > *3.5.3.3. Members of the Planning Board shall not vote on recommendations regarding any UDO text amendment or zoning map amendment where the outcome of the mater being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member.*
>
> *3.5.4. Action by the Board of Commissioners.*

Action upon an UDO text amendment or zoning map amendment, including the scheduling of a public hearing, will be at the discretion of the Board of Commissioners.

3.5.4.1. Before an item is placed on the consent agenda to schedule a public hearing, the Planning Board's recommendation on each proposed amendment must be received by the Board of Commissioners. If no recommendation is received from the Planning Board within 30 days from the date when submitted to the Planning Board, the petitioner may take the proposal to the Board of Commissioners without a recommendation from the Planning Board. However, the Planning Board may request the Board of Commissioners to delay final action on the amendment until such time as the Planning Board can present its recommendations. No such limitations shall apply to applications or requests submitted by Town staff or any Town Board.

3.5.4.2. After receiving a recommendation from the Planning Board on a proposed amendment, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure.

3.5.4.3. The Board of Commissioners is not required to take final action on a proposed amendment within any specific period of time. Final action on an UDO text amendment or zoning map amendment submitted by third parties will be taken within a reasonable time. Final action taken within 90 days of the public hearing before the Board of Commissioners shall be presumptively reasonable.

3.5.4.4. No member of the Board of Commissioners shall vote on any zoning map amendment or UDO text amendment where the outcome of the matter being considered is reasonably likely to have a direct, substantial and readily identifiable financial impact.

3.5.4.5. Prior to adopting or rejecting any UDO text and/or map amendment, the Board of Commissioners shall adopt one of the following statements which shall not be subject to judicial review.

3.5.4.5.1. A statement approving the amendment and describing its consistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.2. A statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest.

3.5.4.5.3. A statement approving the amendment and containing at least all of the following:

3.5.4.5.3.1. A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.

3.5.4.5.3.2. An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.

3.5.4.5.3.3. Why the action was reasonable and in the public interest.

3.5.4.6. In deciding whether to adopt a proposed amendment to this UDO, the central issue before the Board of Commissioners is whether the proposed amendment advances the public health, safety, or welfare. When considering proposed map amendments:

3.5.4.6.1. The Board of Commissioners shall consider the entire range of permitted uses in the requested classification.

Attachments:

1. Zoning Amendment Application; and
2. Proposed Ordinance

Highlighted portions are intended to identify provisions recommended by Staff and/or the Planning Board, to differentiate from the applicant's proposal

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE REGULATION OF OUTDOOR STANDS, ACCESSORY TO SHOPPING CENTERS & GROUP DEVELOPMENT

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Nags Head (the "Town") may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land; pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted comprehensive zoning regulations and has codified the same within the Unified Development Ordinance, Part II of the Town Code, adopted pursuant to N.C.G.S. § 160A-363, which allows the Town to combine certain land development ordinances into a unified ordinance; and

WHEREAS, an owner of the property within the Town of Nags Head proposed the amendment of the Unified Development Ordinance to alter regulations for outdoor stands, accessory to shopping centers and group development; and

WHEREAS, the Board of Commissioners finds that these text amendments are consistent with the goals, objectives and policies of the Town's adopted Comprehensive Plan, and that this action is reasonable and in the public interest, and is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town's Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Unified Development Ordinance of the Town Code shall be amended as follows:

PART I. That **Sections 7.76.1 ~~and~~, 7.76.2, 7.76.3, and 7.76.4** of the UDO, be amended as follows:

7.76.1 The principle sale of items at an outdoor stand shall be limited to either fresh produce, hot dogs, coffee, ice cream or Italian ice, ~~and~~ fudge, and reservations or ticket sales.

7.76.2 ~~Only one~~ Sites less than ten (10) acres in area shall be allowed only one stand. Sites ten (10) acres in area and greater shall be allowed up to two outdoor stands ~~shall be allowed per site~~, with no more than one (1) stand selling fresh produce, hot dogs, coffee, ice cream or Italian ice, and/or fudge. The stands shall not be required to be a permanent structure and may, with the exception of stands for reservations or ticket sales, be located upon a trailer. When located upon a trailer, skirting shall be installed around the perimeter to screen the wheels, axles and towing hitch from view.

7.76.3. The stand area, inclusive of display counters and awnings, shall not exceed four hundred (400) square feet for produce stands and shall not exceed one hundred fifty (150) square feet for hot dog, coffee, ice cream and Italian ice, ~~and~~ fudge, and reservations or ticket sales stands. Refrigeration units may be utilized within the stand area. The location of the stand on the site shall comply with minimum district yard regulations for principal use structures, except that stands for reservations or ticket sales shall be located within shopping centers or group developments, such as within common areas or walkways, and shall not be located within any parking area.

7.76.4. Produce and reservations or ticket sales stands shall be temporary and may be operated for a period of time not to exceed 180 days annually~~.~~; the ~~The~~ dates of operation shall be limited to between May 1 and November 1 each year. Hot dog, coffee, ice cream and Italian ice and fudge stands may be operated year round but shall not be left on the property overnight and must be removed daily.

PART II. That the definition of **Outdoor Stand, as contained in Section A.4, Definitions, of Appendix A, Definitions, of the UDO,** be amended as follows:

Outdoor stand means an approved area where the sale of produce, hot dogs, coffee, ice cream or Italian ice, ~~and~~ fudge, or reservations or ticket sales occurs from a cart or structure.

PART III. That **Section 10.24.2.8., as contained in Article 10, Performance Standards, Part III, Sign Regulations**, of the UDO, be amended as follows:

10.24.2.8. Each outdoor stand ~~Outdoor stands~~ shall be allowed one (1) temporary sign attached to the stand. The total combined square foot area of all such signs ~~Such sign~~ shall not exceed fifteen (15) square feet in area ~~or~~ and such signs shall not extend above the roof of the stand. This sign area shall be exempt from the calculation of total commercial site sign area limitations imposed by this subsection.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance

amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance amendment shall be in full force and effect on the adopted effective date of the Unified Development Ordinance.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted:_____
Motion to adopt by Commissioner_____
Motion seconded by Commissioner_____
Vote:____ AYES ____ NAYS

Agenda Item Summary Sheet

Item No: **H-1**
Meeting Date: **July 1, 2020**

Item Title: Update from Planning Director

Item Summary:

Attached please find a monthly update from Planning Director Michael Zehner.

Number of Attachments: 3

Specific Action Requested:

Provided for Board information and update.

Submitted By: Planning and Development Date: June 25, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 25, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 25, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 25, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners
Planning Board
From: Michael Zehner, Director of Planning & Development
Date: June 24, 2020
Subject: Planning and Development Director's Report

This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on July 1, 2020.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for May 2020*; one important note, as of April 2020 there was a $5,505,999 deficit in the valuation of projects; as of May 2020, the deficit reduced to $4,458,310.

In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Wednesday, April 29 to Friday, May 1 - American Planning Association Virtual National Conference
- Monday, May 4 - NC State University Sustainability Studio Final Project Presentations
- Wednesday, May 6 - Board of Commissioners Meeting
- Wednesday, May 13 - Arts & Culture Committee Meeting
- Tuesday, May 19 - Planning Board Meeting
- Wednesday, May 27 - Board of Commissioners Budget Workshop

Regulations on Large Occupancy Homes

Following discussion with the Planning Board at their January 2020 meeting, and guidance from the Board of Commissioners at their February 2020 meeting, Planning Staff initiated a review of concerns expressed with regard to large occupancy homes. Both the Planning Board and the Board of Commissioners recommended staff review the Town's standards in relation to the amendments which have since been adopted by the Town of Kill Devil Hills Board of Commissioners. A copy of the most recent memo provided to the Planning Board is attached for the Board's consideration. Ultimately, it was the consensus of the Planning Board that no further action was necessary or recommended at this time.

Residential Stormwater Regulations

As requested at the Board of Commissioners January 23, 2020 retreat, the Planning Board working with Planning Staff have completed their review of the Town's residential stormwater regulations based upon the perspectives shared by the Mayor and Commissions. A separate memo is attached for consideration by the Board of Commissioners.

Planning Board - Pending Applications and Discussions

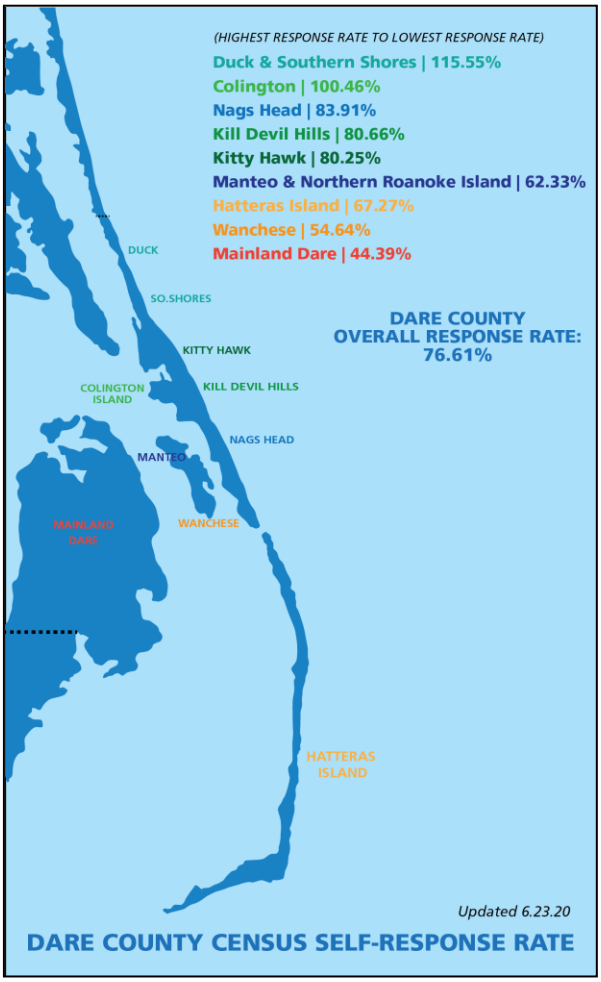
The June 16, 2020 meeting of the Planning Board was held virtually on the Zoom platform (as were the April 1, April 21, and May 19 meetings of the Board). The agenda included consideration of the revised preliminary plat for the Coastal Villas subdivision, a text amendment to permit the Real Estate Rental Management Facility use in the C-2 zoning district (subsequently withdrawn), and the draft Hazard Mitigation Plan, as well as continued consideration of options and recommendations pertaining to legacy establishments/structures, residential stormwater regulations, the regulation of events within residential dwellings, and the regulation of large occupancy homes.

The Planning Board's next meeting is scheduled for July 21, 2020. At this time, the agenda is expected to include consideration of a further housekeeping text amendment to the UDO and continued consideration of legacy establishments/structures.

Additional Updates

- **2020 Census** - The 2020 Census is open and collecting responses. As previously indicated, the number/percentage of vacant vacation/rental homes in Town would skew the response rate recognized by the Census, as the rate is not adjusted at this time to account for those homes. Dare County has begun releasing the information on the rate depicting more accurate response rates based upon the number of occupied homes in the various communities.
  Based upon this methodology, the Town's response rate as of June 23 has been determined to be 83.91%

- **Town Workforce Housing Study & Plan** - Phase 1 Report presented to the Board of Commissioners at the February 5, 2020 meeting. Further action on this project is on hold pending direction from the Board of Commissioners; however, it is



important to note that funds associated with this project have been liquidated due to budgetary constraints associated with the Covid-19 Pandemic.

- **Hazard Mitigation Plan Update** - As included on the Board of Commissioners agenda for July 1, 2020, the draft Plan has received final approval from the State and FEMA, and is now ready for the Board to consider adoption; the Planning Board recommended adoption at their meeting on June 16.

- **Skate Park Renovation - Phase 1** - Staff reviewing a draft survey to determine community preferences for any future renovation of the Skate Park. Staff has also discussed the project with the Arts & Culture Committee, who are supportive of incorporating public art within the Park. Staff is also working to identify funding opportunities to support the project.

- **CAMA Land Use Plan Update** - Staff has prepared and submitted responses and proposed draft revisions responding to comments issued by DCM staff. A determination of Plan completeness is pending, which is required before further review is initiated. Staff contacted DCM staff on June 5 to ask for the expected timeline for the completion of the current review; DCM staff responded on June 8 to indicate that the review would be completed soon.

- **UDO Reference Manual & Permitting Workflow** - Staff continues to develop Reference Manual materials, including identifying and refining workflows, to be brought to the Board of Commissioners for approval at a later date.

- **Art Masts** - The Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels: Kerry Sanders completed her mast last summer, depicting lifeguards and thus it was displayed at Bonnet Street Beach House, Rob Snyder completed an Art Mast is May depicting a Bodie Island Lighthouse Rescue scene, James Melvin also completed his Art Mast in May, it is in honor of the work of Glenn Eure including references to his "Stations of the Cross", "Clowning Around", "Monument to a Century of Flight," and his boat paintings, and artist Taylor Williams completed her Art Mast depicting beach scenes this month. The Arts & Culture Committee continues to discuss the locations for the new Art Masts, and is considering installations beginning at Bonnet Street and ending in the Gallery Row District.

- **Decentralized Wastewater Master Plan** - As included on the Board of Commissioners agenda for July 1, 2020, a draft scope has been prepared for review by the Board.

- **Islington Street Beach Access** - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting, with the review process expected to be initiated in July 2020.

- **Legacy Establishments/Structures** - Staff continues to discuss options with the Planning Board; the primary option being considered would involve a provision allowing for nonconforming restaurant, retail, and hotel uses that commenced prior to December 31, 1980 to seek a conditional use permit to modify the use

and any structure beyond what is currently allowed by the provisions of Article 5, Nonconformities, of the UDO.

- **Dowdy Park Farmer's Market** - The Arts & Culture Committee has completed their selection of vendors for the 2020 Dowdy Park Farmers Market. The Market is scheduled to run every Thursday in the months of July and August with a wide range of vendors including fresh produce, local honey, seafood, wood carving, ceramics, pottery and other handmade crafts. Staff is working to determine and establish appropriate protocols related to social distancing and general measures to ensure the public's health and safety. The first Market day is scheduled for Thursday, July 2.

- **Permitting/Online Permitting** - Staff had previously contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. However, given current circumstances, this effort has been placed on hold.

  Staff has begun an email distribution to contractors registered with the Town to provide updates on changes to permitting and inspection procedures associated with the Coronavirus Pandemic and response. Similar updates in the future are expected to be made on a more regular schedule and Staff will likely transition to using the News Flash feature on the Town's website.

  As previously reported, as of May 8, 2020, online permitting has been activated for all residential and commercial building and trade permit types, with the exception of permits for moving of residential or commercial structures; moving permits are expected to be added now that updated fees have been approved. Staff will continue to work to make improvements to the platform, publicize the availability of the resource, and refine documents providing guidance to the Town's customers.

- **Grants and Assistance**

  - Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. Staff recently learned that funding under that event was no longer being considered, but that the request was being considered under funding decisions related to Hurricane Dorian,

  - Staff submitted a Letter of Interest ("LOI") under the Hazard Mitigation Grant Program related to Hurricane Dorian for the acquisition of property, and assisted Fire Chief Wells in the submission of an LOI for replacement of a generator; we have been notified that the generator request has been selected for further consideration, and have also learned that the request for funds for property acquisition also continues to be considered.

  - An LOI has been submitted for a National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan; the final application will be submitted shortly.

Additionally, a preapplication was submitted for the 2020 North Carolina Attorney General Environmental Enhancement Grant for the same project, for which the Town was approved to submit a full application, which was submitted on May 28, 2020.

- Staff submitted a CAMA Access Grant preapplication for improvements to the Huron Street Beach Access on May 15, 2020. On June 15 the Town was notified by DCM that the application was not selected for further consideration.

- Staff is reviewing additional grant and assistance opportunities for prioritized projects, including NCDOT's CASSI Autonomous Shuttle Pilot and the National Endowment for the Arts Our Town Grant.

Upcoming Meetings and Other Dates

- Wednesday, July 1 - Board of Commissioners Meeting
- Wednesday, July 8 - Arts & Culture Committee Meeting
- Monday, July 6 - P&D Staff Meeting
- Tuesday, July 21 - Planning Board Meeting

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
MAY 2020

DATE SUBMITTED: June 7, 2020

	May-20	Apr-19	Apr-20	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	0	2	0	7	16	(9)
New Single Family, 3000 sf or >	0	1	1	6	8	(2)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	0	3	1	13	24	(11)
Miscellaneous (Total)	40	32	26	399	370	29
Accessory Structure	*5*	*3*	*1*	42	*44*	(2)
Addition	*0*	*1*	*1*	16	*17*	(1)
Demolition	*0*	*1*	*0*	2	*6*	(4)
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*11*	*7*	*11*	92	*79*	13
Repair	*24*	*20*	*13*	247	*224*	23
Total Residential	**40**	**35**	**27**	**412**	**394**	18
BUILDING PERMITS ISSUED - COMMERCIAL						
Multi-Family - New	0	0	0	0	0	0
Motel/Hotel - New	0	0	0	0	0	0
Business/Govt/Other - New	0	0	0	2	4	(2)
Subtotal - New Commercial	0	0	0	2	4	(2)
Miscellaneous (Total)	3	9	7	78	94	(16)
Accessory Structure	*0*	*1*	*0*	17	*20*	(3)
Addition	*0*	*0*	*0*	0	*1*	(1)
Demolition	*0*	*0*	*0*	4	*4*	0
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*2*	*2*	*4*	27	*27*	0
Repair	*1*	*6*	*3*	30	*42*	(12)
Total Commercial	**3**	**9**	**7**	**80**	**98**	(18)
Grand Total	**43**	**44**	**34**	**492**	**492**	0
SUB-CONTRACTOR PERMITS						
Electrical	25	65	20	385	364	21
Gas	1	6	1	19	22	(3)
Mechanical	40	65	23	314	315	(1)
Plumbing	3	17	15	84	81	3
Sprinkler	0	1	0	1	4	(3)
VALUE						
New Single Family	$0	$338,000	$0	$1,864,797	$3,346,000	($1,481,203)
New Single Family, 3000 sf or >	$0	$930,000	$150,000	$3,982,561	$5,380,460	($1,397,899)
Duplex - New	$0	$0	$0	$0	$0	$0
Misc (Total Residential)	$573,689	$456,559	$482,560	$8,798,838	$8,126,767	$672,071
Sub Total Residential	**$573,689**	**$1,724,559**	**$632,560**	**$14,646,196**	**$16,853,227**	($2,207,031)
Multi-Family - New	$0	$0	$0	$0	$0	$0
Motel/Hotel - New	$0	$0	$0	$0	$0	$0
Business/Govt/Other - New	$0	$0	$0	$1,030,000	$3,646,975	($2,616,975)
Misc (Total Commercial)	$474,000	$205,500	$678,489	$4,164,386	$3,798,690	$365,696
Sub Total Commercial	**$474,000**	**$205,500**	**$678,489**	**$5,194,386**	**$7,445,665**	($2,251,279)
Grand Total	**$1,047,689**	**$1,930,059**	**$1,311,049**	**$19,840,582**	**$24,298,892**	**($4,458,310)**

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
MAY 2020

DATE SUBMITTED: June 7, 2020

	May-20	Apr-19	Apr-20	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
ZONING						
Zoning Permits	23	26	31	292	265	27
CAMA						
CAMA LPO Permits	1	13	2	30	56	(26)
CAMA LPO Exemptions	13	5	5	108	78	0
Sand Relocations	0	N/A	46	143	N/A	N/A
CODE COMPLIANCE						
CCO Inspections	68	100	193	699	825	(126)
Cases Investigated	25	74	19	120	506	(386)
Warnings	10	13	5	229	77	152
NOVs Issued	15	60	14	54	407	(353)
Civil Citations (#)	0	0	0	0	0	0
Civil Citations ($)	$0	$0	$0	$0	$0	$0
SEPTIC HEALTH						
Tanks inspected	0	20	0	32	197	(165)
Tanks pumped	3	5	5	128	65	63
Water quality sites tested	46	23	23	167	161	6
Personnel Hours in Training/School	38	0	21	109	281	(172)

Michael D. Zehner, Director of Planning & Development

COMMENTS:

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Planning Board

From: Kelly Wyatt, Deputy Planning Director

Michael Zehner, Director of Planning and Development

Date: ~~March 13, 2020~~ June 12, 2020

Subject: Discussion of Large Occupancy Homes

Following discussion with the Planning Board at their January 2020 meeting, and guidance from the Board of Commissioners at their February 2020 meeting, Planning Staff has initiated review of the concerns expressed with large occupancy homes. Both the Planning Board and the Board of Commissioners recommended staff review the Town's standards in relation to the following amendments which have since been adopted by the Town of Kill Devil Hills Board of Commissioners.

Town of Kill Devil Hills Planning staff was given direction to draft amendments to address safety issues and options to incentivize fire suppression systems for large single-family dwelling units. At their May 27th meeting, Kill Devil Hills staff presented and the Board of Commissioners unanimously adopted an amendment which would increase side yard setbacks for single-family/duplex dwellings greater than 6,000 square feet in area, by two feet in order to provide adjacent properties and the overall community a greater safeguard from the spread of fires. Such dwellings could be exempt from this requirement, providing a fire suppression system is reviewed, approved, installed and inspected annually by the Fire Marshal. It is noted that this installation of a fire suppression system provides safeguards for the persons occupying the dwelling in addition to the adjacent properties, and overall community.

Side yard setbacks in the low- and high-density residential zoning districts within the Town of Kill Devil Hills are determined by the overall lot area. These requirements are outlined below:
Lots 5,000 sf or less = 6 ft. side yard setback
Lots greater than 5,000 sf but less than 7,500 sf = 8 ft. side yard setback
Lots greater than 7,500 square feet = 10 ft. side yard setback

Side yard setbacks in the Ocean Impact Residential zoning district within the Town of Kill Devil Hills is determined by lot width. These requirements are outlined below:
Lots less than 75 ft. in width = 10 ft. side yard setback
Lots greater than 75 ft in width = 12 ft side yard setback

It is important to note that the increased 2-foot setback applies to homes that are greater than 6,000 square feet in area. Within the Town of Nags Head no home can exceed 3,500 square feet of habitable space if on a lot less than 16,000 square feet in area. On lots greater than 16,000 square feet in area, a dwelling cannot exceed 5,000 square feet. Note, Nags Head has more stringent regulations on total allowable house

size than the Town of Kill Devil Hills. At this time, under no circumstance would a 6,000 square foot home be constructed within the Town of Nags Head. Regardless, the minimum allowable side yard setback in the Town of Nags Head would either be 8', 10', 12' or 15' depending on the zoning district.

Additionally, the Town of Kill Devil Hills Commissioners adopted an ordinance that amends off-street parking and loading requirements as it pertains to emergency vehicle access. This amendment applies only to dwellings with eleven (11) or more required parking spaces, and incentivizes these dwellings to provide a 10-foot wide marked and unobstructed drive aisle up to within 20 feet of the front entrance of the dwelling by reducing the side yard setback for the driveway from 7 feet to 5 feet.

There are several items to note with regard to the off-street parking and loading requirements within the Town of Nags Head (Article 10, Part II attached).

- With the habitable area of a dwelling capped at 5,000 square feet, while the Town cannot regulate the number of bedrooms, it does occur that between 8 and 9 bedrooms are approved by the Dare County Health Department in the large residential dwellings. With a parking standard for single-family and duplex dwellings equal to the number of bedrooms minus 2, it is very unlikely there will be a parking scenario within the Town necessitating eleven (11) required parking spaces.
- Residential driveways are required to be minimum of 12-feet in width within the Town of Nags Head. The minimum 12-foot width must extend to the front plane of the house and no stacking of vehicles is permitted in this 12-foot drive aisle. Thus, only one 10 x 18 parking space can be provided in the main drive aisle.

In review of the Town of Nags Head's current requirements in contrast to the recently adopted amendments by the Town of Kill Devil Hills to address Large Occupancy Homes, it appears that Nags Head's requirements are already significantly more restrictive with respect to the size of homes and setbacks, and address emergency vehicle access to the front plane of the dwelling as presently written. At this time, Staff would not recommend any further action, and if the Board agrees, would report the same to the Board of Commissioners. If the Board believes that further consideration is warranted, Staff would recommend that consideration be given to programming and prioritizing this initiative within the Department's Work Plan.

Staff will be available to continue discussion and answer any questions.

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Kate Jones, Engineering Technician

Date: June 17, 2020

Subject: Discussion of Residential Stormwater Regulations

OVERVIEW

Given the continued importance and focus on stormwater, the Board of Commissioners asked the Director of Planning & Development to attend their retreat on January 23, 2020 to discuss the Town's residential stormwater regulations; these regulations can be found in Article 11, *Environmental Regulations* (https://www.nagsheadnc.gov/DocumentCenter/View/2777/Article-11_Environmental-Regulations) of the UDO, within Part I, *Stormwater, Fill, and Runoff Management*, Section 11.5, *General Standards for Residential or Duplex Development on Individual Lots*. A copy of the PowerPoint presentation (without referenced attachments) provided to the Board at the Retreat is attached. Following the Board of Commissioners' discussion, the Board directed Staff to present the Board's perspectives and the options identified by Staff (provided under CONSIDERATIONS) to the Planning Board for review and consideration of any recommended actions.

The Planning Board discussed this item at meetings on February 18, May 19, and June 16, 2020. During initial discussions, the Board provided feedback to Staff, supporting further consideration of steps intended to improve education and the availability of resources and the enhancement of ordinance incentives for preferred outcomes, and asked Staff to return with some more concrete actions related to these focus areas. For the Board's June 16 meeting, Staff provided a list of actions for the Board's consideration; additionally, as requested by the Board, prior to the June 16 meeting Staff provided a list of projects permitted under the Ordinance so that the Board could see examples of the results of the regulations (this list is also attached for the Board of Commissioners consideration[1]).

[1] The attached list includes projects that were subject to the residential stormwater regulations going back to early 2019. Some projects were minor (such as pools), so required stormwater control measures may not be visible from the street. The key at the bottom of the list explains the color-coding, with some projects subject to the former ordinance, some subject to the former ordinance but revised plans under the new ordinance, and the majority subject to the new ordinance. Please note, some sites may include culverts and rock (rip rap) near the street; these improvements would not be a result of the residential stormwater regulation, which would be located entirely on a lot.

HOW DOES THE ORDINANCE WORK?

Essentially, the regulations and ordinance requirements are triggered by the following development activities:

- The construction of new detached single-family and duplex residential properties;
- The construction of more than 500 sq. ft. of new built-upon area on properties with existing single-family and duplex residential dwellings; and
- The removal and replacement of driveways; in instances where an existing driveway and parking area not meeting the standards of this section is being removed and replaced, the new driveway and/or parking area shall be designed so as to limit the discharge of stormwater into the right-of-way or onto adjacent properties.

When triggered, a stormwater management plan meeting the standards required by the ordinance must be submitted. In general, the standards of the ordinance require stormwater control measures (SCMs) to be provided, with storage volume equal to 15 cubic feet for every 100 square feet of built-upon area. For example, 1,000 square feet of built-upon area would require SCMs with 150 cubic feet of storage volume. The regulations do provide options to reduce the calculated built-upon area, incentivizing preferred outcomes, and thereby reducing the necessary sizing (storage volume) of SCMs.

CONSIDERATIONS

During discussion at the Retreat, the Board of Commissions noted the following guiding principles for further review and consideration of the residential stormwater regulations:

- Can our rules acknowledge that there are different conditions – a system with flexibility?
- Retain form of landscape/minimize impact to landscape.
- Look for common sense solutions.
- Don’t place unjust burden on property owner.
- Can we offer a “carrot” to go with a stick?
- Do we as a Board need to define flooding – separate between “Nuisance” and “Problem Stormwater” issues.
- Should not create additional problems.
- Should define problem we are trying to solve.

In their consideration and any recommendation to the Board of Commissioners, Staff suggested that the Planning Board focus on whether the regulations and any potential changes address these perspectives and principles.

In their review, the Board of Commissioners also asked that the Planning Board consider the following options identified by Staff, to determine whether related actions may be necessary so that the regulations are more consistent with the aforementioned principles. The options presented by Staff to the Commissioners are in bold; Staff expanded on each of these items for consideration and discussion by the Planning Board.

- **Improve education and availability of resources**
    - Education:
        - In the near term, publish social media and website news flashes related to the benefits of stormwater management at the lot level.
        - Publish a brochure, similar to materials for the Septic Health Initiative, can be mailed out to homeowners focusing on the benefits of stormwater management.
        - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.
        - Coordinate with CSI, North Carolina Coastal Federation, and others to share resources and increase capacity.
    - LID Pilot Project: Look for opportunities on Town property to install pilot projects highlighting LID stormwater control measures; incorporate signage and coordinate public education opportunities.
    - Availability of Resources:
        - Is there a way to cost share or subsidize costs of required improvements? This would require a budget allocation or grants.
        - Could the stormwater ad valorem tax be expanded to include residential stormwater management funding?
        - Consider a water bill credit for installing LID stormwater measures such as cisterns and rain barrels.
- **Enhance ordinance incentives for preferred outcomes**
    - Expand available credits to reduce built upon area.
    - Do not cap tree and open space preservation credits to a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain.
    - Provide a credit for reducing site disturbance, lot clearing, or filling.
    - Offer additional credit for not filling Army Corp of Engineers wetland areas.
    - Offer an incentive for the use of native plants in the SCMs.
    - Reduce the number of required SCMs (from 3 to 2) for a built upon area credit.
- **Provide an administrative option for engineering analysis to exempt or reduce requirements**
    - This may be an option, but conditions or standards allowing for exemption would need to be identified.
    - Consideration for water quality impacts, need to be considered, not just water quantity.

- **Provide more alternatives**
    - The regulations provide a variety of options and currently allow for the approval of alternative SCMs; we should continue to defer to the State for accepted SCMs, but continue to explore new technologies.
- **Provide for administrative waiver/variance**
    - Will require conditions and circumstances that warrant waiver to be identified. Would these be soil conditions, topography, lot size, amount of disturbance?
    - Who would make this decision and what information is required to be submitted?
- **Standardize dimensions and volume of BMP's**
    - Perhaps a standard set would relate to lot size, and the lot coverage allowed by zoning.
    - May result in more predictability, but less relation to actual impacts and existing conditions.
- **Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines**
    - Needs further thought, but could be designed such that points are received for various LID components. This would open up predevelopment LID concepts for points such as siting development in lower impact portions of the site, choosing greater setbacks and smaller building footprint, retaining natural hydrological features (i.e. wetlands).
    - SCMs with greater impacts would receive more points. The BUA would determine the amount of points needed; for example, SCMs with native plants would receive more points than infiltration trenches and French drains, large cisterns would receive more points than standard rain barrels, etc.
    - Signing a maintenance agreement could also generate points.
    - May be an *overcorrection*, significantly revising a regulatory program that has been in place for only 14 months.

POLICY CONSIDERATIONS

As noted in the PowerPoint presented at the Board's Retreat, the Town's Comprehensive Plan includes the following policies and actions related to stormwater:

- LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
- MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
- MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
- MS-18: Educate and involve the public in stormwater management.

PLANNING BOARD RECOMMENDATION

At their meeting on June 16, 2020, the Planning Board voted to recommend to the Board of Commissioners that the actions and activities suggested by Staff be initiated. The Planning Board also recommended that further steps be taken to incentivize the use of less fill, if not to also limit the amount of fill so that a lot's elevation may not be increased to a height greater than that of abutting properties.

STAFF RECOMMENDATION

Based upon the Planning Board's input, Staff suggested that the Board consider support for the following actions and activities; Staff would similarly recommend the same to the Board of Commissioners. It would be helpful to receive the Board's feedback, especially on shifting to a points-based system, as that will dictate how other incentive options are approached.

- Improve education and availability of resources
    - Develop focused educational opportunities
        - In conjunction with Septic Health, develop educational videos on stormwater and water quality, to include interviews with staff, information on resources, and demonstrations.
        - Publish a brochure to be mailed to property owners discussing the importance of installing and maintaining stormwater measures, such as rain gardens, vegetative swales, and cisterns. Also focus on practices to implement at home, with or without a stormwater plan in place, such as ways to reduce irrigation with rain sensors, reduction of water consumption, rerouting downspouts to vegetated areas, vegetation of bare areas, and the use of permeable pavements.
        - Engage with stakeholders and focused groups (Green Drinks, contractors, homeowners) on Town stormwater efforts, stormwater management, and Low-Impact Development (LID) techniques.
        - Hold workshops for contractors, landscapers, and homeowners on Low Impact Development ("LID") practices and the installation and maintenance of Stormwater Control Measures.
    - Create visible projects in the community
        - Consider incorporating LID improvements within beach access areas.

        - Incorporate plantings in the current retention area at the June Street Beach Access, along with educational signage.
        - Develop a plan for LID improvements at Town Hall, to possibly include permeable paving, gutters and cistern, or rain garden with educational signage.

    - Establish financial resources to support the installation of stormwater measures:

        - Develop a program to off-set the cost of SCM installation, supported by expansion of the existing stormwater ad valorem tax.
        - Establish a water bill credit for installing SCMs that allow for water reuse, such as cisterns and rain barrels.
        - Pursue grant funding to provide funds to homeowners for the installation of SCMs.

- Enhance existing ordinance incentives for preferred outcomes

    - Expand available credits to reduce built upon area by:

        - Eliminating the cap for tree and open space preservation credits at a maximum of 30% reduction of built upon area; provide the option to eliminate the need for stormwater management if you have enough open space and sizable trees to retain;
        - Offer additional credit for not filling Army Corp of Engineers wetland areas; and
        - Reduce the number of required SCMs (from 3 to 2) for the multiple stormwater measure built upon area credit.

    - Establish storage volume methodology to count preserved trees as an SCM.

    - Consider amending the engineering calculation/storage volume basis for the regulations and develop a performance/points-based system. Potential options could include:

        - Establishing a system of pre-development site planning points that could exempt a project from the requirement of a stormwater plan; perhaps a minimum of 12 points could be required for the exemption, with the following qualifying for points:

            - Lot coverage is less than the maximum (how much less?) - 3 points
            - Minimal elevation changes to development area (less than 1' elevation change, exempt footprint of septic area?) - 3 points
            - Retain mature vegetation (trees over 6" caliper, open space equal to 30% of lot size, combination of both) - 3 points
            - Retain 100% ACOE wetlands on site - 3 points

- Establishing a system of post-development site planning points; perhaps a minimum of 12 points could be required, with the following qualifying for points:

    - Permeable Paving
        - 4 points for 100% composition of hardscape
        - 3 points for 75%
        - 2 points for 50%
        - 1 point 1-50%
    - Vegetated Swale
        - 3 points per 40’ swale, 1’ depth
        - 2 points per 40’ swale, 6” depth
    - Rain Garden
        - 2 points per garden (at least 25 SF, 6” depth)
    - Gutters with cistern of rain barrel - 2 points
    - Infiltration Trench
        - 2 points per 40’ trench, 1’ depth
        - 1 point per 40’ trench, 6” depth
    - Use native plants in stormwater measures - 1 additional point per measure
    - Signed Maintenance Agreement - 2 points

Attachments:

1. PowerPoint - Town of Nags Head Residential Stormwater Ordinance Discussion, Board of Commissioners Retreat, January 23, 2020
2. Residential Stormwater Projects, updated June 9, 2020

Town of Nags Head Residential Stormwater Ordinance Discussion

Board of Commissioners Retreat

January 23, 2020

Residential Stormwater Ordinance - Background

- The regulation of stormwater on residential lots became a consideration in the Fall of 2012, the result of excessive rainfall and flooding that occurred over the preceding late-Spring and Summer months.
- On January 8, 2014, the BoC adopted an update to Chapter 34, *Stormwater, Fill and Runoff Management*, of the Town Code (*Attachment A*) which codified a stormwater plan requirement for single-family and duplex development triggered by fill and/or grading activities; adoption of this ordinance was preceded by the work of a stormwater subcommittee and coordination with the Planning Board and BoC (*Attachment B and Attachment C*)
- Between 2014 and the end of 2018, there was continued discussion and consideration of stormwater and the Residential Stormwater Ordinance; on December 5, 2018, the BoC adopted amendments to Chapter 34 (*Attachment D*) intended to simplify the requirements and plan approval process (*Attachment E*).
- Within 2019, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements (*Attachment F*); Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. Chapter 34 was codified as Part I of Article 11, Environmental Regulations, of the UDO (*Attachment G*); the complimentary Recommended Standard Details Manual may be accessed here: https://www.nagsheadnc.gov/938/Recommended-Standard-Details-Manual--Sto

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As provided in the UDO, the purpose and intent of the overall *Stormwater, Fill and Runoff Management* Ordinance is to proactively protect, maintain and enhance the public health, safety, environment and general welfare by establishing requirements and procedures to control the adverse effects of fill, land disturbance and increased post-development stormwater runoff for the purposes of both water quantity management for flood prevention and water quality protection with the goals to:
  - Control and minimize impacts associated with stormwater runoff from all development and redevelopment.
  - Mitigate current stormwater problems and prevent future problems associated with stormwater runoff.
  - Preserve water quality through proactive management practices.
  - Facilitate public understanding of stormwater management.
  - Encourage the use of pilings and open foundations and minimize the use of fill, consistent with FEMA's coastal construction recommendations.
  - Improve stormwater management through use of low impact development techniques.
  - Establish requirements for on-going management and maintenance of stormwater management practices.
  - Establish application and enforcement procedures that address land disturbance, sedimentation and erosion control, the use of fill, and stormwater management practices consistent with associated Town ordinances and state and federal laws and regulations, to include:
    - Soil erosion and sedimentation control provisions (Article 11, Part II);
    - Excavations (Chapter 18 of the Town Code of Ordinances);
    - Flood damage prevention provisions (Article 11, Part III);
    - NCDEQ stormwater management (NCAC T15: 02H .1000);
    - NCDEQ soil erosion and sedimentation control (G.S. 113A-50 - 113A-71);
    - NCDEQ and Dare County Health Department subsurface, ground-absorption wastewater effluent disposal (NCAC T15A: 18A. 1900).
  - Establish public awareness of potential surface and subsurface water drainage problems recognizing that development potential of some land may be limited.
  - Regulate development and redevelopment which may create additional stormwater related burdens to the Town or adjacent properties.
  - Cause every development and redevelopment employing stormwater management practices to develop a maintenance plan, and place responsibility for maintenance with the property owners.

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- As established in the adoption ordinance for the 2018 Ordinance amendments, the basis for the adoption of the amendments were that:
  - the Town acknowledges that stormwater poses a threat to the public health, safety, and welfare;
  - the Town has experienced significant localized flooding during heavy and/or frequent rain events that in many cases can be attributed to stormwater and;
  - it is the Town's intent to preserve residential neighborhoods and to support local businesses;
  - the Town finds that the improper use of fill and lack of maintenance of stormwater management practices contributes to stormwater run-off;
  - the 2017 Comprehensive Plan states that the Town will "Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas (p. 205)";
  - the Town finds that to protect coastal waters we should limit non-point source pollution attributed to run-off from impervious surfaces such as parking lots and roof tops;
  - the Town finds that as more lots are developed and the built upon area is increased throughout Nags Head, stormwater collection and conveyance systems within the public rights-of-way are being overburdened and must be supplemented with additional management practices on private property;
  - the Town manages resources to protect the public infrastructure, quality of life, environment, and property of the citizens of Nags Head through fair and equitable, cost effective means, and the Stormwater Ordinance seeks to improve, enhance, and protect the quality of life for the citizens of Nags Head;

Residential Stormwater Ordinance - Purpose & Intent; Policy Goals

- The Town's Comprehensive Plan includes the following policies and actions related to stormwater:
  - LU-14b: [Review] Existing lot coverage incentives for providing engineered stormwater management.
  - MS-15: Ensure that stormwater runoff is properly managed to reduce nuisance flooding and pollution of sensitive environmental areas.
  - MS-17b: Seek additional funding opportunities from local, state and federal agencies to assist with future stormwater planning and construction efforts.
  - MS-18: Educate and involve the public in stormwater management.

Residential Stormwater Ordinance - Continued and Additional Considerations

- As noted on Slide 2, since adoption of the amendments in Dec. 2018, Staff continued to work with representative of the Outer Banks Home Builders on fill requirements; Staff committed to proposing amendments to fill requirements in conjunction with adoption of an updated Flood Prevention Ordinance. As noted in *Attachment G*, there was not consensus on all issues between Staff and the Home Builders; Staff did receive feedback from the BoC at their September 2019 Retreat that will inform the forthcoming draft amendments associated with fill and the Flood Prevention Ordinance.
- Since January 2019, there have been 25 stormwater plans submitted for residential projects (6 for pool projects); of those, 3 were prepared by a licensed engineer, compared with 8 of 8 projects active at that time under the previous iteration of the ordinance having been prepared by a licensed engineer (3 of those 8 were subsequently redesigned under the new ordinance).

Residential Stormwater Ordinance - Continued and Additional Considerations

- Options to consider:
  - Repeal the residential stormwater requirements;
  - Improve education and availability of resources;
  - Enhance ordinance incentives for preferred outcomes;
  - Provide an administrative option for engineering analysis to exempt or reduce requirements;
  - Provide more alternatives;
  - Provide for administrative waiver/variance;
  - Standardize dimensions and volume of BMP's;
  - Create a points-type program for BMP's and/or preferred outcomes, similar to design guidelines;
  - Other options?

Residential Stormwater Projects (Updated 6.9.20)

Project	Old Ordinance	New Ordinance	In Progress	Complete
511 Soundside Rd (Surles)	X E			X
112 Lone Cedar (Colson)	X E			X
4207 S. Roanoke Way (ACS Contracting)	X E			X
204 W Lost Colony (Aria)	X E			X
2517 S Bridge Ln (Aria)	X E			X
405 Bridge Ln (James)	X E	X		X
323 Ridgeview Way (Maione)	X E	X		X
4207 SVDT (Jackson)		X		X
6205 SVDT (Fulcher)		X		X
103 Sound Breeze Ln (Michiels)		X	X	
8530/8528 (CAM Realty)		X		X
9918 Sandy Ct (Soundside Pools)		X		X
203 W Outlook Ct (Caribbean Pools)		X		X
9906 SOOIR (Caribbean Pools)		X		X
3208 Salada Ln (C'ville Ventures)	X E	X		X
Marina Dr (Overton)		X E		X
209 Carolinian Circle (All County Bldrs.)		X		X
305 Soundside Rd (Amini)		X	X	
417 Ridgeview Way (Hunter Homes)		X		X
4107 S Thirteenth St (NH Construction)		X	X	
Lot 11 Ridgeview Way (NH Construction)		X		X
425 Ridgeview Way (Sandy Bottom/Soles)		X		X

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

Project	Old Ordinance	New Ordinance	In Progress	Complete
2607 SVDT (SAGA)		X	X	X
W Seawatch Ct (Overton/Haddon)		X E	X	
0 S Linda Lane (Croatan Custom Homes)		X	X	
2702 S Lost Colony Dr (Reliant Construction)		X		X
4129 Duppies Ct (Southernscape Pools)		X	X	X
6201 Baymeadow (MK Construction)		X		X
8400 SOOIR (Bluewater Construction)		X E	X	
2517 SVDT (SAGA Pool Addition)		X	X	
217 Woodhill Dr (Esnbach driveway)		X	X	
2508 S Memorial (Victor Pugh)		X	X	
8120 SOOIR (Carolina Pools)		X	X	
107 E Morningview Pl (Godfrey)		X	X	
2115 S Memorial (Downs)		X	X	
6812 SVDT (McVearry)		X	X	
0 13th St (Seal)		X	X	
Lot 13 Ridgeview Way (NH Construction)		X	X	
Danube St (Kane)		X	X	
2912 S Memorial Ave (J Duboy Cons)			X	
Lot 17 Ridgeview Way (NH Construction)		X	X	
Lot 12 Ridgeview Way (NH Construction)		X	X	

"E" = Submitted Engineered SW Plan

Old Ordinance

New Ordinance

Submitted under old ordinance, reworked under new ordinance

Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **July 1, 2020**

Item Title: Consideration of resolution to adopt Hazard Mitigation Plan

Item Summary:
Dare County and Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck, joined efforts on updating their Hazard Mitigation Plans. This effort has been referred to as the *Outer Banks Regional Hazard Mitigation Plan*. While good practice, especially given the Town's susceptibility to hazards, local governments are required to prepare and update hazard mitigation plans in order to be eligible for FEMA Disaster Assistance and Mitigation Grants. The Outer Banks Hazard Mitigation Plan can be viewed at www.obx-hmp.com under the "Review Draft Documents" tab.

Staff Recommendation/Planning Board Recommendation
Staff recommends that the Board of Commissioners consider adoption of the *Outer Banks Regional Hazard Mitigation Plan*. At the June 16, 2020 Planning Board Meeting, the Planning Board recommended approval of the *Outer Banks Regional Hazard Mitigation Plan*.

Number of Attachments: 2

Specific Action Requested:

Request adoption of attached resolution approving the Outer Banks Regional Hazard Mitigation Plan as presented.

Submitted By: Planning and Development Date: June 23, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 23, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 23, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 23, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners
From: Holly B. White, Principal Planner
Date: June 23, 2020
Subject: Outer Banks Regional Hazard Mitigation Plan

BACKGROUND

Dare County and Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck, joined efforts on updating their Hazard Mitigation Plans. This effort has been referred to as the *Outer Banks Regional Hazard Mitigation Plan*. The Town's previous Hazard Mitigation Plan was part of the *Albemarle Regional Hazard Mitigation Plan* ("Albemarle RHMP") that expires in June 2020 and can be viewed at www.nagsheadnc.gov/DocumentCenter/View/2097/Albemarle-Regional-Hazard-Mitigation-Plan. While good practice, especially given the Town's susceptibility to hazards, local governments are required to prepare and update hazard mitigation plans in order to be eligible for FEMA Disaster Assistance and Mitigation Grants.

In addition to FEMA Disaster Assistance, the Hazard Mitigation Plan is an important component of the Town's participation in the Community Rating System ("CRS") program. The CRS program recognizes and encourages community floodplain management activities that exceed the minimum NFIP standards to enhance public safety, reduce damages to property and public infrastructure, avoid economic disruption and losses, reduce human suffering, and protect the environment. Through participation in the CRS program, all Town property owners receive a 20% discount on flood insurance.

While Dare County has acted as lead on this Hazard Mitigation Plan update process, Planning Staff has been responsible for reviewing and providing feedback on the draft Plan, as well as vetting any information that was needed specifically for the Town. Public involvement has been an important part of this planning process. A Planning Team was developed to assist in gaining community feedback and participation as well as meet the criteria of the CRS program for Hazard Mitigation Plans. The Dare County Team included representatives from the County, each of the towns, and representatives of the public from each community; Nags Head's team members included staff members Shane Hite, Deputy Fire Chief; Michael Zehner, Director of Planning & Development, and Holly White, Principal Planner, as well as two citizen representatives, Meade Gwinn and Megan Lambert.

PLAN

The draft Hazard Mitigation Plan was made available to the public in January 2020 for feedback. Following this, a final draft Plan was produced and sent to the State for review. After review by the State, the draft Plan was submitted to FEMA for review.

FEMA approved the Plan as of June 10, 2020. Formal notification from FEMA will be sent upon approval of the Plan by all of the jurisdictions involved. The approval process requires that the State review and FEMA approval occur prior to the individual jurisdictional adoption. A draft resolution of adoption is attached.

The Outer Banks Hazard Mitigation Plan can be viewed at www.obx-hmp.com under the "Review Draft Documents" tab.

POLICY CONSIDERATIONS

The following 2017 Comprehensive Plan policies support the development and adoption of a hazard mitigation plan:

- NR-10 Protect the public health and safety of the town from natural and manmade hazards through proactive planning and mitigation efforts.

- NR-11 Ensure that the town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster event.

- NR-12 Support mitigation projects that reduce the potential damaging effects of hazards on the town.

STAFF & PLANNING BOARD RECOMMENDATION

Staff recommends that the Board of Commissioners consider adoption of the *Outer Banks Regional Hazard Mitigation Plan*. At the June 16, 2020 Planning Board Meeting, the Planning Board recommended approval of the *Outer Banks Regional Hazard Mitigation Plan*.

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD, NORTH CAROLINA - ADOPTING THE OUTER BANKS REGIONAL HAZARD MITGATION PLAN

WHEREAS, the Town of Nags Head is vulnerable to an array of natural hazards that can cause loss of life and damages to public and private property; AND

WHEREAS, the Town is committed to protecting the public health and safety of the Town from natural and manmade hazards through proactive planning and mitigation efforts; AND

WHEREAS, The Town of Nags Head 2017 Comprehensive Plan includes goals and policies that ensure the Town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster; AND

WHEREAS, the development and implementation of a hazard mitigation plan can result in actions that reduce the long-term risk to life and property from natural hazards; AND

WHEREAS, it is the intent of the Town of Nags Head Board of Commissioners to protect its citizens and property from the effects of natural hazards by preparing and maintaining a local hazard mitigation plan and supporting mitigation projects that reduce the potential damaging effects of hazards on the Town; AND

WHEREAS, it is also the intent of the Town of Nags Head Board of Commissioners to fulfill its obligation under North Carolina General Statutes, Chapter 166A: North Carolina Emergency Management Act and Section 322: Mitigation Planning, of the Robert T. Stafford Disaster Relief and Emergency Assistance Act to remain eligible to receive state and federal assistance in the event of a declared disaster affecting the Town of Nags Head; AND

WHEREAS, the Town of Nags Head, in coordination with Currituck County, Dare County, and the Towns of Duck, Kill Devil Hills, Kitty Hawk, Manteo, and Southern Shores has prepared a regional hazard mitigation plan with input from the appropriate local and state officials and the community; AND

WHEREAS, the North Carolina Division of Emergency Management and the Federal Emergency Management Agency have reviewed the Outer Banks Regional Hazard Mitigation Plan for legislative compliance and has approved the plan pending the completion of local adoption procedures.

NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head hereby adopts the Outer Banks Regional Hazard Mitigation Plan, and agrees to take such other official action as may be reasonably necessary to carry out the proposed actions of the Plan.

Adopted this 1st day of July 2020.

_____

Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____

Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **H-3**
Meeting Date: **July 1, 2020**

Item Title: Consideration of Town Code Sec. 26-7 amendment regarding camping

Item Summary:

This item and the draft amendment are intended to address an inconsistency in the Town Code with respect to the use of vehicles, specifically trailers and recreational vehicles, for camping.

Staff Recommendation
Staff recognizes that this amendment may require further consideration and input from the Board; while Staff believes that it addresses the identified inconsistency and the Board could adopt the amendment, further feedback and direction would be welcome.

Number of Attachments: 2

Specific Action Requested:

Consider action on draft amendment.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Michael Zehner, Director of Planning & Development

Date: June 24, 2020

Subject: Consideration of Town Code Sec. 26-7 amendment regarding camping (H-3)

OVERVIEW AND BACKGROUND

In the consideration of expected seasonal enforcement activities, Staff identified an inconsistency in the Town Code with respect to the use of vehicles, specifically trailers and recreational vehicles, for camping. Formerly the Town Code, and now the UDO, prohibit the use of trailers within the Town for sleeping or habitation; however, Section 26-7, *Camping*, of the Town Code, which has been in place since at least 1990, defines *open air camping* as "*any act of living, residing or sleeping at night, in the open air* ***or in an automobile or vehicle which does not meet the requirements of a mobile home****, as defined. The term "camping in the open air" includes, but is not limited to, sleeping out of doors in a tent, sleeping bag, blanket or hammock, or without any paraphernalia other than the clothes worn on the body*," and provides that "*No person shall engage in the act of open air camping within the town; except, that an owner or lessee of improved real property and his immediate family and any person in the company of a member of the immediate family may camp upon the property; provided, however, that sanitary facilities including a bathroom with running potable water is available on such property for the use of all persons engaged in open air camping as permitted by this exception. The total number of persons authorized shall not exceed five*."

Based upon the inconsistency, Staff has prepared a draft amendment to Section 26-7 of the Town Code which is understood to address the issue based upon past practice. The draft proposes to remove the reference to the use of automobiles or vehicles from the definition of *open air camping*, and also specifically preclude the use of vehicles for camping under the circumstances where camping is allowed.

STAFF RECOMMENDATION

Staff recognizes that this amendment may require further consideration and input from the Board; while Staff believes that it addresses the identified inconsistency and the Board could adopt the amendment, further feedback and direction would be welcome.

Attachments:

1. Draft Text Amendment, dated June 24, 2020

(DRAFT)
AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO CAMPING

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-174, the Town of Nags Head may enact and amend ordinances that define, prohibit, regulate, or abate acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the Town; and

WHEREAS, the Board of Commissioners have determined that there is an inconsistency within the Town's Code with respect to the use of vehicles for camping; and

WHEREAS, the Board of Commissioners have found that it has been the practice of the Town to prohibit the use of vehicles for camping, and that these amendments are therefore reasonable and in the public interest, and in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipsis ("...") shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of the Unified Development Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Town Code shall be amended as follows:

PART I. That section 26-7, *Camping*, of the Code of Ordinances, Town of Nags Head, North Carolina, is hereby amended as follows:

Sec. 26-7. - Camping.

(a) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Immediate family means father, mother, brother, sister, son, daughter or grandparent.

Mobile home means a modular unit built on a chassis, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities. A travel trailer is not to be considered as a mobile home.

Open air camping means any act of living, residing or sleeping at night, in the open air ~~or in an automobile or vehicle which does not meet the requirements of a mobile home, as defined~~. The term "camping in the open air" includes, but is not limited to, sleeping out of doors in a tent, sleeping bag, blanket or hammock, or without any paraphernalia other than the clothes worn on the body.

Travel trailer means a vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses, and, when factory equipped for the roads, it shall have a body width not exceeding eight feet and a body length not exceeding 32 feet.

(b) Requirements. No person shall engage in the act of open air camping within the town; except, that an owner or lessee of improved real property and his immediate family and any person in the company of a member of the immediate family may camp upon the property; provided, however, that sanitary facilities including a bathroom with running potable water is available on such property for the use of all persons engaged in open air camping as permitted by this exception. The total number of persons authorized shall not exceed five. No vehicle, including, but not limited to, a personal vehicle, mobile home, travel trailer, or recreational vehicle, shall be used for open air camping.

ARTICLE IV. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Unified Development Ordinance or Town Code of the Town of Nags Head, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This amendment shall be in full force and effect upon the date of adoption by the Board of Commissioners.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney

Date adopted: _____

Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: _____ AYES _____ NAYS

Agenda Item Summary Sheet

Item No: **H-4**
Meeting Date: **July 1, 2020**

Item Title: Consideration of scope for update of the Decentralized Wastewater Management Plan

Item Summary:
Staff has developed a draft scope for the project to update the Town's *Decentralized Wastewater Management Plan*. This project and the update of the Plan works to implement a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan.

Staff Recommendation
Staff recommends that the Board review and discuss the draft scope, suggesting any revisions deemed necessary.

Number of Attachments: 2

Specific Action Requested:

Provide direction and support for project scope.

Submitted By: Planning and Development Date: June 24, 2020

Finance Officer Comment:

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Kylie Shephard, Environmental Planner
Michael Zehner, Director of Planning & Development
Kelly Wyatt, Deputy Director of Planning & Development
Holly White, Principal Planner

Date: July 1st, 2020

Subject: Scope for Decentralized Wastewater Management Plan

Staff has developed the attached draft Scope for the project to update the Town's *Decentralized Wastewater Management Plan*, presented to the Board for review and pre-approval. This draft scope anticipates tasks to be performed by Town Staff and the yet-to-be-engaged consultant. The project will be managed by Town Staff. This project and the update of the Plan works to implement a recommended action of the Town's *Comprehensive Plan* to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's *Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report*. This project is included on the Department's FY2020-2021 Strategic Work Plan.

Staff would request any comments, questions, or suggested revisions to the scope.

Town of Nags Head
Project Scope

Decentralized Wastewater Management Plan

The Town of Nags Head is committed to protecting the environment and public health. Effective care of onsite systems is essential to keeping this commitment. The Town will enhance its oversight of these systems in a fair, reasonable and cost-effective manner to ensure they are well managed and that system owners have the information and tools necessary to protect their private investment and the public good. The Decentralized Wastewater Management Plan will be dynamic and evolving over time so that decentralized systems remain a sustainable component of Nags Head's infrastructure. - Mission Statement

Introduction & Goals

The Town of Nags Head boasts the longest oceanfront shoreline of any municipality in Dare County at 11.29 miles. The Town's 6.6 square miles Town jurisdiction is comprised mostly of single-family residential development, with an equal amount of conservation/open space (Jockey's Ridge State Park and Nags Head Woods). While the Town's year-round population is estimated to be 2,975 (as of July 2019), the seasonal population is estimated to swell to 40,000 during the peak summer visitation periods. Through time, Nags Head's desire to be a family beach community has not deviated. At the core of these desires is a healthy, well-maintained oceanfront beach that is both visually and physically accessible. The Town recognizes the value of our coastal ecosystem and the role it plays in making Nags Head a great place to live, work, and visit.

The Todd Krafft Septic Health Initiative program ("the Initiative"), developed in 2000, is a long-term strategy for protecting water quality while allowing the continued use of on-site wastewater systems in the Town. The Initiative is a voluntary program that is available to property owners consisting of 4 major focus areas. The program offers free services along with financial assistance for septic pumping, repairs, or replacements. Free services from the Town include locating your system, discussing concerns about installation and maintenance, inspections to detect problems early, and a follow-up report that outlines your system location and whether it is in need of pumping or repair. In some cases, the Town will assist as a mediator between the property owner and the contractor, or with necessary permitting. The Initiative is a one of a kind program in the Outer Banks and the State, and is one of a few in the Nation.

As a part of the Initiative, the Decentralized Wastewater Management Plan was created in 2005 ("the 2005 Plan"). The 2005 Plan states that over 85% of all developed properties (4,339 total) were using onsite systems, and of those, 95% of the properties were in residential use. These numbers continue to grow as both commercial and residential properties expand. Most homeowners in the Town of Nags Head rely on septic systems for the safe and effective treatment of their wastewater. Recycled water

from a septic system can help replenish the groundwater supply; however, if a system is not working correctly, it can in turn contaminate nearby waterbodies.

The goals of the 2005 Plan were to assess and monitor potential water quality impacts due to onsite systems and encourage and support operation and maintenance initiatives by property owners. Further, Section 2.7 of the 2005 Plan states

> "The scientific analysis completed in this Technical Report indicated a need for additional review and consideration of the impacts of stormwater on water quality, particularly in the surface water ditches. Developing an integrated approach to looking at the impacts of both stormwater and decentralized wastewater is important in assuring that the Town has developed a defensible management strategy. Much of the data collected and analyzed in this report can also be useful in stormwater management decisions."

A heavy rain event can disproportionately increase the height of the water table, even as much at five inches. Improving water quality in turn provides multiple benefits that enhances community vitality. As the Town faces growth, aging infrastructure, changing weather patterns, and increasingly complex water quality issues, new approaches are needed. Focusing on each issue individually can prove to be constraining; therefore, an integrated planning framework allows for more sustainable and comprehensive solutions.

The intent of this scope is to outline an update of the 2005 Plan, expanding it to become an integrated plan, taking into account the relationship between onsite wastewater and stormwater. This update implements a recommended action of the Town's Comprehensive Plan to "Update the Decentralized Wastewater Management Plan to evaluate the overall effectiveness of the program and recommend additional measures as necessary," (NR-26g) and advances actions recommended in the Town's Vulnerability, Consequences, Adaptation, Planning Scenarios (VCAPS) Report

Funding

$150,000 in capital funds for the update of this project.

Resources

Kylie Shephard, Environmental Planner, will serve as the primary Town Staff assigned to this project, and coordinate management of the project. Michael Zehner, Director of Planning & Development, Andy Garman, Deputy Town Manager, David Ryan, Town Engineer, Kelly Wyatt, Deputy Director of Planning & Development, Holly White, Principal Planner, and Kate Jones, Engineering Technician, will be primary staff resources, providing varying levels of assistance with the project as necessary.

A consultant will be engaged through an RFQ to execute the development of the Plan.

The Board of Commissioners may wish to consider assigning one or more members to serve as a liaison for the project. Additionally, the Board may wish to appoint a steering committee to inform and assist in directing the project.

Scope

The Scope for the project, including the principal phases and tasks, is as follows.

Phase 1 – Retain Consultant for the Integrated Plan

- Develop and release an RFQ;
- Interview respondents;
- Evaluate submissions; and
- Retain a consultant

Phase 2 – Inventory and Assessment; Establish Goals

- Develop the vision, values, and goals for the Plan;
- Develop engagement strategy for stakeholders;
- Compile existing wastewater and stormwater performance;
- Assess surface and ground water quality and quantity conditions;
- Assess potable water usage data and its impact on groundwater conditions;
- Characterize wastewater and stormwater utility performance, conditions, and programs;
- Review and assess historical changes in the climate and impact on groundwater conditions as well as wastewater and stormwater system performance;
- Develop a range of scenarios for sea level rise and assess the impact of sea level rise on wastewater management technologies; and
- Review academic studies and reports associated with wastewater management, stormwater, and groundwater; assess relevant information and incorporate appropriate findings into the draft integrated plan.

Phase 3 – Drafting of Integrated Plan and Outreach

- Consultant to draft and submit sections of Plan for review by Stakeholders, Staff, Steering Committee and Boards; and
- Consultant to make necessary changes based upon comments

Phase 4 – Adoption of Integrated Plan

Objectives & Consultant Requirements

The objectives of this project and requirements of the Consultant are as follows:

- Identify and create a method in order to ensure input from stakeholders.

- Provide a descriptive narrative of the water quality, human health, and regulatory issues addressed with the Plan, as well as an evaluation of whether The Town is presently meeting human health and water quality goals.
- Summarize and evaluation of the systems' current performances including identifying any hotspots, or problem areas, that may exist throughout the Town. Further document factors influencing problem areas and steps the Town can take to mitigate these problems.
- Review and assess current and historical water quality and quantity data throughout the Town to identify trends and problems and make recommendations for programmatic changes.
- Identify and map groundwater levels. Assess the impact of groundwater on the functionality of septic systems.
- Employ new technologies to improve tracking and management of at-risk areas related to groundwater, stormwater, and wastewater to assist with citizen reporting and for potential future Capital Improvement Project development.
- Identify new technologies, systems and alternative management approaches that could be utilized to improve the overall manage onsite wastewater in the Town.
- Identify any programmatic changes to the Todd Krafft Septic Health Initiative to improve participation in the program including but not limited to modifications to incentives, inspections, the loan program, outreach/education program, permit tracking and reporting, and data collection/analysis.
- Create a holistic and integrated public outreach program, as part of the Plan, for educating stakeholders public and allowing public involvement on water quality, water quantity, groundwater, and relationship between public health, ecosystem health, and public health advisories related to water quality.
- Summarize a process that allows for evaluation of Plan implementation; this includes measures of success for actions identified in the Plan post adoption.
- The Plan will include sufficient data to demonstrate that implementation of the Plan would be expected to achieve water quality goals.

Relevant Documents

The following documents should be studied and utilized in the creation of the updated Plan, providing background information for the consultant in the development of the Plan.

- *Town of Nags Head Comprehensive Plan*
- *Nags Head VCAPS Report*
- *NC DOT Study - Rachel Nobel Report*
- *ECU Department of Anthropology - "Evaluations and suggestions about storm water and septic tank management among residents of Nags Head Acres, Nags Head, NC"*
- *2012 Park Service Report – "Pollutant Impacts to Cape Hatteras National Seashore from urban runoff and septic leachate"*
- *UNC Outer Banks Field Site 2018 Capstone Report - Environmental Change and Septic Systems in Nags Head: Local Perspectives and Impacts on Water Quality and Quantity"*
- *UNC Outer Banks Field Site 2019 Capstone Report – "People, Water, and Septic: A Coastal Case Study"*

- *2018 Outer Banks Field Site Capstone Research Presentation*
- *2019 Outer Banks Field Site Capstone Research Presentation*
- *UNC Outer Banks Field Site – "Flushed"*

These documents can be found on the Town of Nags Head website at: *http://www.nagsheadnc.gov/935/Long-Range-Planning*

Timeline

- July 2020 - Present Scope to Board of Commissioners
- August 1, 2020 - Advertise RFQ
- October 2020 to November 2020 - Consultant interviews and selection
- December 2020 - Present consultant decision to Board of Commissioners
- December to mid-January 2021- Project kickoff
- January 2021 to Summer 2021 - Phase 2
- Summer 2021 to December 2021 - Phase 3
- January 2022 - Phase 4, consider Plan adoption
- February 2022 - Implementation; consider budget needs

Agenda Item Summary Sheet

Item No: **I-1**
Meeting Date: **July 1, 2020**

Item Title: Committee Reports

Item Summary:

At the July 1st Board of Commissioners meeting, Board members will provide reports from meetings they have attended on behalf of the Town.

Number of Attachments: 0

Specific Action Requested:

Provided for Board update.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Greg Sparks Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **L-1**
Meeting Date: **July 1, 2020**

Item Title: Comr. Kevin Brinkley - Update on recycling

Item Summary:

Comr. Brinkley has requested, and staff will provide verbally, an update on recycling to include the following:

- Property owners signing up for a subscription service
- Volunteers for a Recycling Committee
- Recycling in the off season

Number of Attachments: 0

Specific Action Requested:

Update on recycling - Staff will provide a verbal update in response to Comr. Brinkley's inquiry.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine precise fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020

Agenda Item Summary Sheet

Item No: **M-1**
Meeting Date: **July 1, 2020**

Item Title: Mayor Ben Cahoon – Future of Nags Head - from the Jan 23-24, 2020 Board Retreat

Item Summary:

One of the topics of discussion at the January 2020 Board of Commissioners Retreat concerned envisioning the future of Nags Head.

While this item will remain as a standing agenda item, discussion will continue once the Board can resume normal meetings.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: June 24, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: June 24, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: June 24, 2020

Town Manager Comment and/or Recommendation:

Signature: Greg Sparks Date: June 24, 2020