AGENDA
TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX – BOARD ROOM
WEDNESDAY, MARCH 4, 2020; 9:00 A.M.
REGULAR SESSION

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

B. **ADOPTION OF AGENDA**

C. **RECOGNITION** *(Attachment C)*
NEW EMPLOYEE – Information Technology Assistant Karen Snyder – February 5, 2020

TEN YEARS – Dep Police Chief Perry Hale – March 2, 2010

PROCLAMATION IN SUPPORT OF SAFETY WEEK – March 9–13, 2020

PRESENTATION - Dowdy Park Review of 2019 Season and Plans for 2020 Season

PRESENTATION – 2nd Annual Community Clean Up – March 28, 2020

D. **PUBLIC COMMENT**

E. **CONSENT AGENDA**

1) Consideration of Budget Adjustment #9 to FY 19/20 Budget *(Attachment E-1)*

2) Consideration of Tax Adjustment Report *(Attachment E-2)*

3) Report of Tax Delinquent List to be advertised *(Attachment E-3)*

4) Approval of minutes *(Attachment E-4)*

5) Consideration of resolution clarifying Dare County Control Group / Town Memorandum of Agreement of Oct 2015 *(Attachment E-5)*

6) Consideration of resolution authorizing an installment finance direct borrowing contract to finance the vehicles and equipment identified in the fiscal year 2019/2020 Budget *(Attachment E-6)*

7) Request for Public Hearing to consider the adoption of a resolution authorizing the Town to enter into an Installment Purchase contract in an amount not to exceed $1,449,793 to finance the cost of the Sidewalk Pedestrian Path, Fuel Tank Conversion, and Dowdy Park improvements as identified in the fiscal year 2019/2020 Budget *(Attachment E-7)*

8) Request for Public Hearing to consider a text amendment 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 *(Attachment E-8)*

9) Request for Public Hearing to consider a text amendment to the Unified Development Ordinance to correct identified errors *(Attachment E-9)*

F. **REPORTS AND RECOMMENDATIONS FROM THE PLANNING BOARD AND THE PLANNING AND DEVELOPMENT DIRECTOR**

1) Update from Planning Director *(Attachment F-1)*
   - Flood Map ordinance overview

G. **OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS**

1) From Jan 8, 2020 Board meeting – Consideration of Southridge Subdivision
   Coastal Villas Subdivision Preliminary Plat
   THE APPLICANT HAS REQUESTED A CONTINUANCE TO MAY 6, 2020 BOC MEETING
   (Attachment G-1)

2) From Jan 8, 2020 Board meeting – Consideration of a Major Site Plan for Gone Coastal Shopping Center, 7531 S. Virginia Dare Trail, submitted by Jim and Stephanie Selckmann
   THE APPLICANT HAS REQUESTED A CONTINUANCE TO APRIL 15, 2020 BOC MEETING
   (Attachment G-2)

H. **NEW BUSINESS**

1) Committee Reports *(Attachment H-1)*

2) Consideration of recommendations for services: *(Attachment H-2)*
   - Beach Surveying Services
   - Coastal Engineering and Design Services

3) Discussion/Consideration of proposed Municipal Services Districts *(Attachment H-3)*

4) Consideration of Board/Committee appointments *(Attachment H-4)*
   - Board of Adjustment
   - Personnel Grievance Panel

I. **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY**

J. **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER**

1) Sanitation and Recycling – Consideration of trash cart rollback ordinance *(Attachment J-1)*

2) Consideration of contract for beach sprigging and sandfencing *(Attachment J-2)*

3) Discussion/Consideration to request NC DOT reduce the speed limit on NC 1243 from Juncos Street Beach Access south to NC Hwy 12 from 45 mph to 35 mph *(Attachment J-3)*

K. **BOARD OF COMMISSIONERS AGENDA**

L. **MAYOR'S AGENDA**

1) Future Town Vision (from Jan 2020 Board Retreat) *(Attachment L-1)*

2) Request for Closed Session in accordance with GS 143-318.11(a)(6) re: Town Manager's Review *(Attachment L-2)*

M. **OTHER BUSINESS**

N. **ADJOURNMENT**

Agenda Item Summary Sheet

Item No: **C**
Meeting Date: **March 4, 2020**

Item Title: Recognition

Item Summary:

Recognition at the March 4th Board meeting includes the following:

NEW EMPLOYEE – Information Technology Assistant Karen Snyder – February 5, 2020

TEN YEARS – Dep Police Chief Perry Hale – March 2, 2010

SAFETY WEEK PROCLAMATION – March 9–13, 2020 – Fire Chief Randy Wells will present the **attached** proclamation declaring March 9-13 as Safety Week. Safety Committee members will also be present.

PRESENTATION – Deputy Planning Director Kelly Wyatt will present the Dowdy Park 2019 Year in Review and plans for the 2020 Season (please see **attached** memo). Arts and Culture Committee members are expected to be present.

PRESENTATION – Community Clean Up – March 28, 2020. Public Works will invite all to participate in the 2nd Annual Community Clean Up event at Dowdy Park (please see **attached** poster).

Number of Attachments: 3

Specific Action Requested:

Provided for Board recognition.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

ACCIDENT PREVENTION WEEK
PROCLAMATION

WHEREAS, the Town of Nags Head Board of Commissioners, employees and citizens are committed to the maintenance of a safe and healthful workplace; AND

WHEREAS, the Town has assumed an active role in the promotion of a safe and healthful work environment by a program of regular occupational worksite evaluations and employee safety education; AND

WHEREAS, the Town strives to stimulate and maintain the interest in loss control and accident prevention and recognizes past and future services to the employees and citizens of Nags Head; AND

WHEREAS, the Town seeks to guide and encourage the adoption and institution of safe work practices by all employers and employees in Nags Head.

NOW, THEREFORE, the Nags Head Board of Commissioners does hereby proclaim

March 9 - 13, 2020 as

ACCIDENT PREVENTION WEEK

in the Town of Nags Head, and commends this observance to our citizens.

FURTHERMORE, in recognition of this proclamation, I invite all Nags Head employees to attend the annual Nags Head Safety Luncheon on Thursday, March 12, 2020 from 12:00 Noon to 2:00 p.m. at the Douglas A. Remaley Fire Station 16.

This the 4nd day of March 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST

_____
Carolyn F. Morris, Town Clerk

STAFF REPORT
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Kelly Wyatt, Deputy Director of Planning & Development

Date: February 24, 2020

Subject: Art and Culture Committee Update

Planning Staff and members of the Nags Head Art and Culture Committee will be providing a brief presentation to the Board of Commissioners at their March 4, 2020 meeting. The intent of the presentation is to highlight efforts by the Committee during the 2019 Season, and to provide information on what the Committee would like to achieve during the upcoming 2020 Season.

2019 Season

Of note, the 2019 Dowdy Park Farmers Market consisted of 50 vendors of which approximately 23 provided consumables (fresh fruit, vegetables, cheeses, baked goods, fermented foods, jellies, sauces, etc.). Many vendors were local, however, it is important to note that many of the farmers came from as far as Currituck, Swan Quarter, Columbia, and Edenton, making their participation in the market very valuable.

The Market's visitation peaked in July, with approximately 740 in attendance at one market. The lowest number of attendees to the Market came in September with approximately 480 at one market. Event Coordinator, Paige Griffin, takes great care and pride in her role with the Town and strived to make connections with patrons at each market noting from where they were visiting, what they enjoyed about the market and any constructive comments that they may have. Visitors were primarily from Virginia, Delaware, Maryland, Washington D.C, Ohio, Pennsylvania, New Jersey, New York, Michigan, Indiana, Tennessee, Florida, Oklahoma, Arizona and Illinois. Visitors expressed how enjoyable the experience was, citing the variety and quality of vendors, the friendly atmosphere, and the ease of strolling the aisles. While criticism was minimal, there were two comments routinely heard, 1) it is difficult for locals to attend, and 2) it is not held weekly such that vacationers would have an opportunity to attend each week.

The Dowdy Park Farmers Market social media presence increased tremendously from the 2018 season to the 2019 season with our "engagements" (meaning how often the market is "talked" about, shared or tagged) up by 800%. Additionally, the number of community partnerships increased significantly in 2019 including:

- Village Realty – Weekly Fitness Program, Yoga
- SPCA – Pet Adoptions and Information

- YMCA – Weekly Fitness Program, Tai Chi
- First Flight Society – Celebrate 50th Anniversary of Lunar Landing
- Outer Banks Hospital – Diabetes & Nutrition Information
- Dare Health and Human Services – Free Diabetes Screenings
- Trillium Health – Nutrition and Housing Assistance Programs
- NC Works – Job Search Information
- Lost Colony Children's Theatre – Characters from Wanda's Monster Play
- Outer Banks Center for Wildlife Education – Education on Bats & Bat Boxes
- North Carolina Aquarium on Roanoke Island – Education on Local Marine Life and Reptiles

Dowdy Park was also the location for a successful concert series in 2019. There was a total of eleven concerts over the months of June, July and August with a variety of genres including beach music, oldies, country, folk and bluegrass. Attendance varied based on the band and weather conditions but on average there was 125 people at each event.

2020 Season

Plans for the 2020 Season are already in development. In terms of the Market, while there is consensus to keep the number of vendors at or around 50-60, the most significant change would be to change the frequency of the market from once every two weeks (from June through September) to holding it weekly during the months of July and August only, with a kick-off event in late June and possibly a Fall Festival in October and a Holiday Market in December. This would provide farmers with an opportunity to sell more produce during the primary growing season, it would offer weekly visitors an opportunity to experience the market, and the markets proposed outside of July and August would likely be held on a weekend so locals could attend. The Committee is also interested in exploring evening markets, also making it more conducive for locals to attend. It is also important to note that market dates in September for the last two seasons have been impacted, if not cancelled, because of weather.

With regard to the concert series, the Committee would seek to continue these events, focusing on scheduling a concert every Wednesday night through the months of June, July and August. Ms. Griffin has already been coordinating with other organizations offering concerts such as the Dare County Arts Council and the Town of Duck to try to maximize efforts for summer entertainment at Dowdy Park. Having observed attendees of the concerts often times bringing in food, and with the consensus of the Committee, Staff would like to pursue an option of having a food truck onsite during these Wednesday evening concerts (it should be noted that events held by entities other than the Town at Dowdy Park are able to include food trucks, but regulations currently preclude this as an option for the concert series). This opportunity would be extended locally and limited to one truck per event; if the Board is supportive of this as an option, changes to the Town Code would be necessary.

In addition to the Dowdy Park Farmers Market and the concert series, Committee continues to work on the Art Mast Project, of which one art panel has been completed and four are currently being painted by local artists. The Little Red Mailbox of Hope

continues to be utilized by the community and there is interest by the Outer Banks Women's Club to donate a Little Free Library. The Committee is currently discussing other initiatives throughout the Town, including but not limited to offerings at Whalebone Park, Barnes Street Park, the Gallery Row area, and the Dog Park.

Planning Staff and members of the Committee will be available for questions and input from the Board of Commissioners following the presentation.

THE 2ND ANNUAL TOWN OF NAGS HEAD

COMMUNITY CLEAN UP

Join your neighbors in helping to keep the town clean

SATURDAY | 8AM-12PM

MARCH 28

RAIN DATE: APRIL 4, 2020

CHECK IN:

Dowdy Park
3005 South Croatan Highway

AREAS TO BE CLEANED:

Dowdy Park and right of ways along Wrightsville and Memorial Avenues and South Virginia Dare Trail

COMMUNITY CLEAN UP DAY
TOWN OF NAGS HEAD

We will have food and beverages afterwards as well as a free t-shirt for participants.

Agenda Item Summary Sheet

Item No: **E-1**
Meeting Date: **March 4, 2020**

Item Title: Consideration of Budget Adjustment #9 to FY 19/20 Budget

Item Summary:

Budget Adjustment #9 to the FY 19/20 Budget is provided for Board review and approval at the March 4th Board of Commissioners meeting – and is in accordance with the FY 19/20 Budget Ordinance, adopted at the June 5, 2019 meeting. The worksheets associated with Budget Adjustment #9 are attached.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached budget amendment #9.

Submitted By: Administrative Services Date: February 26, 2020

Finance Officer Comment:

Request Board approval of attached budget amendment.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Cliff Ogburn Date: February 26, 2020

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 9
AMENDMENT 9.1

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenues				**Police Forfeiture**	
10-499000	Appropriated Fund Balance (Fund Balance Restricted for Public Safety)	400.00		615-544000	Professional Fees	400.00
TOTAL CHARGES		$ 400.00		TOTAL CREDITS		$ 400.00

JUSTIFICATION

Clerical error for ventilation contract - should be $3,770, not $3,370, per budget adjustment 5.3 in December.
Use state funds for ventilation system design - evidence room.

ADMINISTRATIVE SERVICES 2/25/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 9
AMENDMENT 9.2

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditures**	
					Planning	
10-491000	Financing proceeds	860,192.00		490-577500	Capital outlay vehicles	26,152.00
					Police	
				610-577500	Capital outlay vehicles	137,715.00
					Facilities Maintenance	
				530-577500	Capital outlay vehicles	32,746.00
				530-577400	Capital outlay equipment	163,501.00
					Sanitation	
				580-577500	Capital outlay vehicles	416,218.00
				580-577400	Capital outlay equipment	83,860.00
	Water Fund				**Water Fund**	
	Revenue				**Expenditures**	
					Distribution	
61-491000	Financing proceeds	30,837.00		818-577500	Capital outlay vehicles	30,837.00
TOTAL CHARGES		$ 891,029.00		TOTAL CREDITS		$ 891,029.00

JUSTIFICATION

Financing proceeds for fiscal year 2020 vehicle and equipment purchases approved in the fiscal year 2020 budget.

ADMINISTRATIVE SERVICES 2/25/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 9
AMENDMENT 9.3

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditures**	
					Planning	
10-491000	Financing proceeds	1,412,048.00		490-577407	Capital outlay infrastructure	1,121,068.00
					Public Works Admin	
				500-577350	Capital outlay improvements	150,980.00
					Facilities Maintenance	
				530-566300	Capital outlay Dowdy Park	140,000.00
	Water Fund				**Water Fund**	
	Revenue				**Expenditures**	
					Admin	
61-491000	Financing proceeds	37,745.00		720-577350	Capital outlay improvements	37,745.00
TOTAL CHARGES		$ 1,449,793.00		TOTAL CREDITS		$ 1,449,793.00

JUSTIFICATION

Financing proceeds for fiscal year 2020 real property improvements approved in the fiscal year 2019/2020 budget. This financing will be approved by the LGC. The Public Works property will be used as collateral.

ADMINISTRATIVE SERVICES 2/25/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 9
AMENDMENT 9.4

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	Capital Reserve Fund Revenue				**Capital Reserve Fund Expenditure**	
49-499000	Fund balance appropriation (FEMA/Beach Nourishment)	16,552,918.00		949-590081	Contribution to General Fund	16,552,918.00
	General Fund Revenue				**General Fund Expenditure**	
10-492100	Contrib. from Capital Reserve Fund	16,552,918.00		416-578100	SOB 2019B principal payment	16,233,838.00
				416-578200	SOB 2019B interest payment	319,080.00
TOTAL CHARGES		$ 33,105,836.00		TOTAL CREDITS		$ 33,105,836.00

JUSTIFICATION

Record FEMA/NC Emergency Management reimbursement funds.

Special Obligation Bond (SOB) revenue will be recorded in the Beach Nourishment Capital Project Fund.

Reimbursements and debt payments will be recorded in the General Fund
and flow through to the Capital Reserve Fund where funds will be accumulated
and transferred to the Beach Nourishment Capital Project fund and Special Obligation Debt in the General Fund as needed.
Since the SOB 2019B debt was budgeted for interest only payments in fiscal year 2019/2020, now that the project is complete,
the Town is awaiting final close out payment (25%) in order to pay off SOB 2019B.

Seventy-five percent has been paid down on SOB 2019B debt, thus a budget amendment is required.
This records the debt payments made from the sweep account where the FEMA NCDEM grant
reimbursement funds are deposited.

ADMINISTRATIVE SERVICES 2/25/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 9
AMENDMENT 9.5

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	Capital Reserve Fund Revenue				**Capital Reserve Fund Expenditure**	
49-492000	Contribution from General Fund	14,884,525.00		949-590087	Contribution to Fund Balance (FEMA Beach Nourishment)	14,884,525.00
	General Fund Revenue				**General Fund Expenditure**	
10-430204	FEMA Matthew reimbursement	5,428,663.00		900-590082	Contrib. Capital Reserve Fund	7,238,217.00
				900-590082	Contrib. Capital Reserve Fund	7,646,308.00
10-430205	NC DEM Matthew reimbursement	1,809,554.00				
10-499000	Fund balance appropriation	7,646,308.00				
TOTAL CHARGES		$ 29,769,050.00		TOTAL CREDITS		$ 29,769,050.00

JUSTIFICATION

Record remaining revenue received for fiscal year 2019/2020 from FEMA and the NCDEM for beach nourishment.

Fund balance will be used for the remaining $7,646,308 as indicated in the fiscal year 2018/2019 CAFR.

These funds are attributed to revenue recognized (accrued as a receivable) as June 30, 2019.
These funds could not be transferred to the capital reserve funds as they were recorded as a receivable (revenue earned but not received as of June 30, 2019). This resulted in restricted portion of fund balance (reserved by state statute) of $11,990,789 at June 30, 2019. This fund balance appropriation is needed as part of the $11,990,789 restricted fund balance.

ADMINISTRATIVE SERVICES 2/25/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

Agenda Item Summary Sheet

Item No: **E-2**
Meeting Date: **March 4, 2020**

Item Title: Consideration of Tax Adjustment Reports

Item Summary:

Attached please find the list of adjustments to the 2019 Tax Levy (per information received from Dare County) for Property and for MSD valuations.

These reports are submitted for your approval at the March 4th Board of Commissioners meeting.

Number of Attachments: 2

Specific Action Requested:

Tax reports provided for Board review and approval.

Submitted By: Linda Bittner, Tax Collector Date: February 26, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Cliff Ogburn Date: February 26, 2020

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 MSD TAX LEVY
As of February 25, 2020 for the March 4, 2020 BOC Mtg

	BEACH NOURISHMENT DISTRICT				
	MSD Valuation	Rate	Total Levy	MSD Excluding Registered Motor Vehicles	Registered Motor Vehicles
Original MSD Levy:					
MSD Beach Nourishment at current year's rate	809,869,299	0.00175	1,417,272.90	1,417,272.90	
Registered Motor Vehicles at current year's rate	994,488.00	0.00175	1,736.44		1,736.44
Registered Motor Vehicles at 2018 year's rate	754,172.00	0.00175	1,319.80		1,319.80
Registered Motor Vehicles at 2017 year's rate	66,748.00	0.00175	116.81		116.81
Penalties			0.00	0.00	
Total	**811,684,707**		**1,420,445.95**	**1,417,272.90**	**3,173.05**
Discoveries & Adjustments:					
Current year discoveries & adjustments	0.00		0.00	0.00	
Town wide beach nourishment			0.00	0.00	
Penalty Discoveries			0.00	0.00	
Total			**0.00**	**0.00**	
Releases & Adjustments:					
Current year releases & adjustments	0.00		0.00	0.00	
Town wide beach nourishment			0.00	0.00	
Penalty Releases			0.00	0.00	
Total			**0.00**	**0.00**	
Write-offs or Adjustments:			0.00	0.00	
Total MSD Valuation	**811,684,707**				
Net levy		**1,420,445.95**		**1,417,272.90**	**3,173.05**
TOTAL UNCOLLECTED MSD AS OF 02/25/20:		**(6,740.04)**		**(6,740.04)**	**0.00**
CURRENT YEAR MSD COLLECTED:		**1,413,705.91**		**1,410,532.86**	**3,173.05**
CURRENT MSD COLLECTION PERCENTAGE:		**99.525%**		**99.524%**	**100.000%**

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 TAX LEVY
As of February 25, 2020 for the March 4, 2020 BOC Mtg

	Town-Wide Tax			Total Levy	
	Property Valuation	Rate	Total Levy	Property Excluding Registered Motor Vehicles	Registered Motor Vehicles
Original levy:					
Property taxed at current year's rate	2,383,436,490	0.00317	7,555,496.64	7,555,496.64	
Registered Motor Vehicles at current year's rate	18,228,565.00	0.00317	57,167.27		57,167.27
Registered Motor Vehicles at 2018 year's rate	9,401,209.00	0.00307	28,861.71		28,861.71
Registered Motor Vehicles at 2017 year's rate	69,970.00	0.00297	207.81		207.81
Registered Motor Vehicles at 2015 year's rate	(2,011.00)	0.00267	(5.37)		(5.37)
Penalties			5,460.81	5,460.81	
Total	**2,411,134,223**		**7,647,188.87**	**7,560,957.45**	**86,231.42**
Discoveries & Adjustments:					
Current year discoveries & adjustments tax	1,686,283.00		4,309.89	4,309.89	
Town wide beach nourishment tax			455.29	455.29	
Corporate Utilities discoveries & tax	22,078,064.00		64,026.38	64,026.38	
Corporate Utilities beach nourishment tax			5,961.09	5,961.09	
Penalty Discoveries			2,075.47	2,075.47	
Total	**23,764,347**		**76,828.12**	**76,828.12**	
Releases & Adjustments:					
Current year releases & adjustments	(302,577.00)		(877.48)	(877.48)	
Town wide beach nourishment			(81.68)	(81.68)	
Penalty Releases			(574.94)	(574.94)	
Total	**(302,577)**		**(1,534.10)**	**(1,534.10)**	
Write-offs or Adjustments:			0.00	0.00	
Total Property Valuation	**2,434,595,993**				
Net levy		**7,722,482.89**		**7,636,251.47**	**86,231.42**
Uncollected Taxes		(68,333.06)		(68,333.06)	0.00
Uncollected Town Wide Beach Nourishment		(6,342.35)		(6,342.35)	0.00
TOTAL UNCOLLECTED TAXES AS OF 02/25/20:		**(74,675.41)**		**(74,675.41)**	**0.00**
CURRENT YEAR TAXES COLLECTED:		**7,647,807.48**		**7,561,576.06**	**86,231.42**
CURRENT LEVY COLLECTION PERCENTAGE:		**99.033%**		**99.022%**	**100.000%**

Agenda Item Summary Sheet

Item No: **E-3**
Meeting Date: **March 4, 2020**

Item Title: Report of preliminary tax delinquent listing

Item Summary:

At the February 5th Board of Commissioners meeting, Board approval was received to advertise tax liens in the newspaper on March 18, 2020 in accordance with NCGS 105-369.

Attached please find preliminary tax delinquent listing as of February 27, 2020.

(Property owners have up to March 1, 2020 to pay to be removed from delinquent list before advertisement is posted.)

Number of Attachments: 1

Specific Action Requested:

Provided for Board information.

Submitted By: Linda Bittner, Tax Collector Date: February 26, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

2019 DELINQUENT REAL PROPERTY TAX LIST FOR ADVERTISEMENT ON 03/18/20

Total Principal Balance Due Over $1.00 as of February 25, 2020

(This List Does NOT Include Personal Property Parcels, Previous Tax Years or Interest Due)

(Property Owners Have Up to March 13, 2020 to Pay Balance to be Removed from List Before Ad is Posted)

Property Parcel #	Owner Name	Owner Name Line 2	Property Location in Nags Head	Property Tax Principal Balance Due
005648001	ALL COUNTY BUILDERS LLC		W CAROLINIAN CIR	$89.39
005949000	AUSTIN, KAREN K		3309 S BUCCANEER DR	$700.89
016551089	BOYCE, JERRY L		3427 S MEMORIAL AVE	$5.55
005855005	CARLSON, ELIZABETH D.		205 W LOST COLONY DR	$570.60
007325006	COUNCIL, JULIAN H JR TTEE		9702 S OLD OREGON INLET RD	$68.90
026824000	DEAN, CLARENCE E JR		452 W VILLA DUNES DR	$2,872.02
006571000	DEVLIN, ROBERT E	DEVLIN, ELEANOR A	6913 S VA DARE TRL 3	$1,378.00
005515001	DUNCAN, GARY S	DUNCAN, TRICIA E	3212 S VA DARE TRL	$32.72
006248000	GARD, KATHERINE ANN TTEE		4631 S BLUE MARLIN WAY	$932.17
006277000	GENDRON, MARK D	GENDRON, CARL; GENDRON, MICHAEL	205 W SANDPIPER TER	$454.36
007513000	GRAY, MATTHEW WICKLIF		10424 S COLONY SOUTH DR	$860.97
006430000	GRIFFITH, PRISCILLA T		4708 S POMPANO CT	$8.05
005657000	HANDSOME FATHERS, LLC		2407 S CROATAN HWY	$4,878.63
012217003	HARKRADER, PAUL D. JR.		8023 S OLD OREGON INLET RD	$4,654.35
006383000	HARRELL, JENNIFER LYNN		4614 S BLUE MARLIN WAY	$1,589.76
027839086	HATCHELL, SHARON G	HATCHELL, DEREK A	5002 S VA DARE TRL	$2,235.20
030781000	HUSE, NANCY R		219 W WOODHILL DR	$5.63
007256000	KING, JAMES L JR	KING, VENICE N	9519 S OLD OREGON INLET RD	$4,926.89
027266001	KNIGHT, MONTGOMERY JR TRUSTEE	OF THE VIRGINIA B CAMPBELL ESTATE	S VA DARE TRL	$9.83
028842000	LFC HOLDINGS, LLC		4013 W SOUNDSIDE RD	$12.56
005789000	LOWE, KEELY JEFFERS	JEFFERS, MICHAEL FRANKLIN	2913 S PAMLICO AVE	$502.02
007970208	MARYNOWICZ, STEPHEN M.	MARYNOWICZ, MICHAEL; NELSON, STEPHANIE	9010 S OLD OREGON INLET RD	$1,164.34
011405000	MCMILLAN, MARY ALICE		500 W VILLA DUNES DR #P-2	$401.49
024961573	MICHIELS, RYAN CHRISTOPHER		103 W SOUND BREEZE LN	$681.55
005276002	MOSS, KIMBERLY ANNETTE		2810 S VA DARE TRL	$398.90
030759000	NORTH BANKS PROPERTIES		106 W WOODHILL DR	$2,807.67
030760000	NORTH BANKS PROPERTIES		110 W WOODHILL DR	$2,889.77
030764000	NORTH BANKS PROPERTIES		119 W WOODHILL DR	$3,598.90
030767004	NORTH BANKS PROPERTIES		103 W WOODHILL DR D	$552.53
030767005	NORTH BANKS PROPERTIES		103 W WOODHILL DR E	$598.18
030770000	NORTH BANKS PROPERTIES		125 W WOODHILL DR	$348.07
030791000	NORTH BANKS PROPERTIES		3100 S OCEAN VIEW CT	$345.53
005623007	NUNEMAKER, KAREN CHRISTINE		2229 S WRIGHTSVILLE AVE	$1,030.57
005640000	OBX QUALITY FOODS INC		2217 S CROATAN HWY	$2,287.13
970767000	OWENS MOTEL AND RESTAURANT INC	OWENS, SHANNON	7114 & 7115 S. VA. DARE TRAIL	$906.51
006633000	OWENS-SHANNON LLC		7106 S VA DARE TRL	$868.58
006634000	OWENS-SHANNON LLC		7108 S VA DARE TRL	$865.09
006635000	OWENS-SHANNON LLC		7110 S VA DARE TRL	$865.09
008867000	OWENS-SHANNON LLC		7122 S VA DARE TRL	$5,086.27
009216000	OWENS-SHANNON LLC		7114 S VA DARE TRL	$5,185.80
009220000	OWENS-SHANNON LLC		7115 S VA DARE TRL	$4,572.16
007858016	POND ISLAND INVESTORS, LLC		7813 S NORTH SHORE RD	$851.15
006121006	PURCELL, JO ANN WALDO TRUSTEE	FOR TINA R ONETO	110 W NORTHPORT LN	$640.97
007061000	ROCHKOVSKY, GRETCHEN		8232 S OLD OREGON INLET RD	$923.56
005521000	SANDERS, RICHARD E		3200 S VA DARE TRL	$824.33
007769000	SCHMIDT, ALLEN J	SCHMIDT, HELEN A	508 S HESPERIDES DR	$200.00
027561000	SINGLETON, GAY WILSON		4905 S VA DARE TRL #B-5	$1,724.39
005918000	SPRUILL, WILLIAM L	SPRUILL, MICHELLE P	207 W MORNING DOVE ST	$220.00
000380161	STINGONE PROPERTIES, INC		100 E OCEANWATCH CT	$2,447.40
007536000	STOSS, RICHARD P		215 W BARRACUDA DR	$583.28
934697000	STOSS, RICHARD P			$29.98
006234000	STRACHAN, RONDA C		4730 S PAMLICO WAY	$433.45
007718000	TWINE, LAURA D		104 E SOUNDSIDE RD	$201.78
005788001	UNKNOWN OWNER		S PAMLICO AVE	$11.10
005788002	UNKNOWN OWNER		W MORNING DOVE CT	$1.90
005948001	UNKNOWN OWNER		S OLD NAGS HEAD WOOD RD	$3.49
008658001	UNKNOWN OWNER		S VA DARE TRL	$4.43
029065001	UNKNOWN OWNER		S LOST COLONY DR	$10.14
028276001	UNKNOWN OWNER (CONFLICT)	JAMES L JACKSON JR - WILLIAM J STINSON	W SOUNDSIDE RD	$8.24
030490000	UNKNOWN OWNER (CONFLICT)	THE VILLAS ASSOC INC VS NORTH BANKS PROP	S CROATAN HWY	$1.59
026837111	UNKNOWN OWNER(CONFLICT)	LFC HOLDINGS LLC CON ELIZABETH HALL; LUCY FERRIS	W SOUNDSIDE RD	$9.83
029104126	WARD, ALYSON	WARD, JOHN	2600 S COMPASS LN	$1,034.69
008628000	WRIGHTON, JESSIE N		109 B W DANUBE ST	$431.75
			TOTAL	$72,840.07

Agenda Item Summary Sheet

Item No: **E-4**
Meeting Date: **March 4, 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:

February 5, 2020 Regular Session

Number of Attachments: 1

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Carolyn F. Morris, Town Clerk Date: February 26, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, FEBRUARY 5, 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, February 5, 2020 at 9:00 a.m.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Michael Siers
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Phil Webster; Perry Hale; Randy Wells; Shane Hite; Michael Zehner; David Ryan; Amy Miller; Brie Floyd; Roberta Thuman; Terrence Flaugher; Nehmias Cortez; Brooke Norris; Keefe White; Craig Leonard; John Costulis; Mike Remige; Jim Morris; Cathleen Saunders; Susie Walters; Al Friedman; Cheri Pain; John Perkins; Dave Masters, Jr; and Town Clerk Carolyn Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9:00 a.m. A moment of silent meditation was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Brinkley made a motion to approve the February 5th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

RECOGNITION

Police Chief Phil Webster introduced Police Officer Terrance Flaugher who was welcomed by the Board to Town employment.

Public Works Director Ralph Barile introduced Facilities Maintenance Technician Nehmias Cortez who was welcomed by the Board to Town employment.

Finance Director Amy Miller introduced Dep Finance Officer Brooke Norris who was welcomed by the Board to Town employment.

Public Works Director Ralph Barile introduced Sanitation Supervisor Keefe White who was congratulated by the Board for 25 years of service to the Town.

Town Manager Cliff Ogburn introduced Town Clerk Carolyn F Morris who was congratulated by the Board for 25 years of service to the Town.

Jennette's Pier Annual Update
Jennette's Pier Executive Director Mike Remige presented the annual update on Jennette's Pier, a part of the North Carolina Aquarium Society, in the form of a powerpoint presentation. His presentation is attached to and made a part of these minutes as shown in Addendum "A".

Director Remige reported that one of the major renovations in 2019 was to their Pier Shop which has made their concessions and souvenir area much more customer friendly. He also reported that visitation is up 5% from the previous year. His presentation was well-received by Board members.

PUBLIC COMMENT

PUBLIC COMMENT – SUSIE WALTERS
Susie Walters, Nags Head resident; spoke concerning recyclables which are now being incinerated by the contractor; she encouraged the Board to allow the incineration to continue in order to gather more information to make an informed decision about recycling; she asked that the Board wait for a ruling from the State Dept of Environmental Quality (DEQ) before determining the fate of recycling for the Town's citizens. She asked that her comments be included in their entirety in the minutes of this meeting. Ms. Walters' comments are attached to and made a part of these minutes as shown in Addendum "B".

PUBLIC COMMENT – AL FRIEDMAN
Al Friedman, Nags Head resident; stated that he participates in volunteering at the Special Olympics each year; closest polar bear plunge to this region is in Virginia Beach and asked the Board to consider bringing the event to this area as well; it would raise funds for the Special Olympics and also help the Outer Banks commerce in the off season.

PUBLIC COMMENT – CHERI PAIN
Cheri Pain, Nags Head resident; she has operated a homeowners association management business for 30 years in the Town; she very much appreciates the Town which is shaped by the hard work of the Board of Commissioners and many individuals; she appreciates beach nourishment, sidewalks, multi-use paths, adopt-a-beach, Citizen Watch programs, the Town's stricter architectural standards, and Dowdy Park and all its events; the Town's recycling program is just a small part of what they teach their children and she doesn't see how we can go back now; she asked the Board to continue the Town's recycling program.

PUBLIC COMMENT – DAVID MASTERS, JR.
David Masters, Jr., Nags Head resident; he mentioned the possibility of the Board rescinding the roll-back trash carts ordinance and is aware there are a lot of issues with this subject; he asked why the Board would consider rescinding this ordinance and is it because it is not enforceable; he urged the Board to take another look at this issue rather than striking the ordinance.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:46 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #8 to FY 19/20 Budget
Consideration of Tax Adjustment Report
Request to advertise delinquent taxes
Approval of minutes
Resolution authorizing Town Mgr to execute DEQ grant contract for Islington Beach Access
Amendments to Consolidated Fee Schedule
Resolution updating Town officials with banking authority
Resolution clarifying Dare County Control Group / Town October 2015 Memorandum of Agreement
Ratification of actions from Board of Commissioners January 23-24, 2020 Retreat

Comr. Fuller asked to move agenda item #E-8 re: Resolution to clarify the Dare County/Town of Nags Head October 2015 MOA to the mid-month meeting so he can obtain additional information.

MOTION: Comr. Fuller made a motion to approve the Consent Agenda as presented – with the removal of agenda item #E-8 entitled "Consideration of resolution clarifying Dare County Control Group/Town of Nags Head October 2015 Memorandum of Agreement" – for consideration at the February 18th mid-month meeting. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Consideration of Budget Adjustment #8 to FY 19/20 Budget
Budget Adjustment #8, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

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

The memo re: the request to advertise delinquent taxes, as approved, read in part as follows:

"In accordance with NCGS 105-369 advertisement of tax liens on real property for failure to pay taxes … "The municipal tax collector shall advertise municipal tax liens by posting a notice of the liens at the city or town hall and by publishing each lien at least one time in one or more newspapers having general circulation in the taxing unit. Advertisements of tax liens shall be made during the period of

March 1 thru June 30… The posted notice and newspaper advertisement shall set forth the following information: The name of the record owner as of the date the taxes became delinquent for each parcel on which the taxing unit has a lien for unpaid taxes, in alphabetical order; a brief description of each parcel of land to which a lien has attached and a statement of the principal amount of the taxes constituting a lien against the parcel; a statement that the amounts advertised will be increased by interest and costs and that the omission of interest and costs from the amounts advertised will not constitute waiver of the taxing unit's claim for those items; …a statement that the taxing unit may foreclose the tax liens and sell the real property subject to the liens in satisfaction of its claim for taxes."

'With your approval, staff intends to advertise the liens in the newspaper on March 18, 2020 in accordance with NCGS 105-369 for all amounts outstanding as of end of business on March 13, 2020.

'Request for Authorization to Begin Foreclosures on 2019 Taxes:
In accordance with NCGS 105-374, "foreclosure of the tax lien on real property by means of an action in the nature of a mortgage foreclosure is a civil action..." and/or NCGS 105-375, In Rem method of foreclosure "docketing certificate of taxes as judgment - in lieu of following the procedure set forth in NCGS 105-374, the governing body of any taxing unit may direct the tax collector to file with the clerk of superior court, no earlier than 30 days after the tax liens were advertised…"

'With your direction, staff will begin the foreclosure process where necessary on the 2019 delinquent taxes thirty days after advertising."

<u>The resolution authorizing the Town Manager to execute grant contract with DEQ for Islington Beach Access Improvements, as adopted, read in part as follows:</u>

"WHEREAS: The Town of Nags Head (the "Town") was advised that a proposed contract between the Town and the North Carolina Division of Coastal Management (DCM) for Public Beach and Coastal Waterfront Access grant funds was presented for the project known as Islington Street Public Access and discussed; that, under the terms of the said contract, the Town will pay a total local cash contribution of $31,488.40 and local in-kind contribution of $4,189.00 as its local share of the total project costs.

'BE IT THEREFORE RESOLVED, as follows:

'That a contract between the Town and the North Carolina Department of Environmental Quality be and the same is hereby approved.

'That the Manager is hereby authorized to sign and execute the said contract for and on behalf of the Town and forward the same to the North Carolina Department of Environmental Quality.

'That upon final execution, a copy of said contract be filed with the minutes."

The agenda summary sheet re: consideration of amendments to Consolidated Fee Schedule, as approved, read in part as follows:

"The following modifications/housekeeping changes to the Consolidated Fee Schedule are requested for Board consideration at the February 5th Board of Commissioners meeting:

- Addition of late fee/penalty charges for Delinquent Taxes, Business License/Registration, and Water Rate billing if payment is not received by due date.

- Move *Short-term Rental Registration* from Administrative Services to Planning Miscellaneous Permit Fees

'The affected pages to the Fee Schedule - with changes highlighted in red - are attached for your review."

The resolution updating Town officials with banking authority, as adopted, read in part as follows:

"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;
- CLIFF OGBURN, 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."

The actions from the Board of Commissioners January 23-24, 2020 Retreat, as approved, read in part as follows:

"Dare County Control Group MOU – It was Board consensus to prepare a resolution to clarify the Dare County Control Group MOA - after conversation with Dare County – for consideration at the Feb 5th Board meeting.

'Working with Planning Board – Representatives of the Planning Board and the Board of Commissioners agreed that the Planning Board would 1) generally continue the practice of reviewing development proposals based on code, land use plan, and technical compliance, 2) be proactive in raising awareness of land use issues to the Board of Commissions, 3) solicit input and feedback from the Board of Commissioners before expending too much time and effort on investigating matters, 4) be an advisor to the Board of Commissioners raising awareness of issues and intended impacts, 5) develop recommendations for fiscal year work plan on land use matters, 6) be on top of emerging issues with a recognition of the Board of Commissioner's long-term goals, 7) and develop a regular line of communication between the leadership of both boards.

'Cart Rollback – Rescind the ordinance requiring cart rollback – for consideration at the Feb 5th Board meeting; Inform all homeowner associations of this change (NH Village and NH Cove).

'Recycling – It was Board consensus to direct staff to bring back a proposal at the Feb. 5 meeting to modify the trash/recycling pickup schedule during the off season (Oct through Apr) for the west side of US 158 to: one day/week trash/recycle pickup using one truck; Beach Road trash/recycle pickup is to remain as is.

'Reduce carbon footprint – Reduce carbon footprint starting with the Town by adding to the Town's goals to reduce fuel/power/plastic consumption - Utilize Town staff committee to review and come up with ideas for energy savings.

'Pavement Condition – The Board agreed to move forward with budget recommendations for streets and stormwater which would combine Powell Bill Funds, stormwater capital reserve funds, and additional revenue into one streets and stormwater fund. This would allow the town to adequately budget for a 20-year street maintenance plan and incorporate drainage system maintenance projects into the plan. The plan included projects that would be completed this year (Year 00) as well as over the next five years. The Board agreed conceptually with a neighborhood by neighborhood approach to street paving that is less disruptive and more adequately addresses pavement needs over a 20 year timeframe.

'Residential Stormwater Ordinance - The Board discussed the following as guiding principles for further review and consideration of the residential stormwater ordinance:
- 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

'The Board agreed to refer the ordinance, and potential options, to the Planning Board for review and consideration, requesting that the Planning Board report back with any feedback. The Board is to ratify the list at the Feb 5th Board meeting.

'Future Revenue for Beach Nourishment Projects - MSD creation discussion to take place at the Feb 5th Board meeting along with the MSD Schedule for Board review with the goal of a Board vote to take place at the Jun 2020 meeting.

'Beach Nourishment Funding - Upcoming Legislative Breakfast would be a good time to speak with Sen. Steinburg re: State funds for Beach Nourishment; Mayor Cahoon said that he will get the ball rolling re: Beach Nourishment Funds from the State; other Towns east of I-95 and the County are in the same boat as Nags Head and may be able to join in with this effort. An additional step may include speaking with the restaurant/lodging associations to get more funds in this area. In addition the Board needs to discuss what we can AFFORD to nourish or what we CAN'T afford to lose.

'Visioning exercise – Envisioning our legacy for the Town – Mayor Cahoon will present paper on Feb 5th."

PUBLIC HEARINGS

Public Hearing to consider a Vested Right Site Plan for the Outer Banks Hospital, 4923 & 4927 S. Croatan Highway, 4922, 4926 & 4928 Passage Way, submitted by Quible and Associates P.C. on behalf of Outer Banks Hospital; the application involves the demolition of the Urgent Care Facility and construction of a 10,400 square foot addition (Infusion Facility) to the existing Radiation Therapy building. As part of the application, the applicant is seeking a Conditional Use Permit to reduce the number of required parking spaces and modify certain parking requirements, and to rezone the properties at 4922, 4926 & 4928 Passage Way from the SPD-C Single-Family Two District to the SPD-C Hotel District

The agenda summary sheet read in part as follows:

"A Vested Right Site Plan, Conditional Use Permit, and Rezoning for the Outer Banks Hospital Cancer Center; the scope of the application includes the following:

- Demolition of the existing Urgent Care Facility and construction of a 10,400-sf addition to the existing Radiation Therapy building, along with parking, stormwater, and related improvements.
- A rezoning request for three (3) lots along S. Passage Way from SPD-C/SF-2 to SPD-C/Hotel.
- Consideration of reduced loading zone berth dimensions and reduction of required parking based upon Medical Office use

'Staff Recommendation/Planning Board Recommendation
Based upon the analysis presented in the Staff Report, Staff recommends approval of the requested rezoning of parcels located at 4922, 4926 and 4928 S. Passage Way from the SPD-C/SF-2 District to the SPD-C/Hotel District; and, based upon the analysis presented in the Staff Report, and recommended conditions, Staff recommends approval of the proposed Vested Right/Site Plan and Conditional Use Permits.

'At their December 17, 2019 meeting the Planning Board voted unanimously to recommend approval of both the Rezoning Request and Conditional Use/Vested Right/Site Plan Amendment application, with conditions, as presented."

Town Attorney John Leidy introduced the Public Hearing to consider a Vested Right Site Plan for the Outer Banks Hospital, 4923 & 4927 S. Croatan Highway, 4922, 4926 & 4928 Passage Way, submitted by Quible and Associates P.C. on behalf of Outer Banks Hospital; the application involves the demolition of the Urgent Care Facility and construction of a 10,400 square foot addition (Infusion Facility) to the existing Radiation Therapy building. As part of the application, the applicant is seeking a Conditional Use Permit to reduce the number of required parking spaces and modify certain parking requirements, and to rezone the properties at 4922, 4926 & 4928 Passage Way from the SPD-C Single-Family Two District to the SPD-C Hotel District.

Attorney Leidy explained that the Board sits as a quasi-judicial body and must make its decision: 1) based on competent material and substantial evidence - and those presenting must be sworn in 2) based on information presented, and 3) Board members must be recused if there is basis for believing that they would not be able to be an impartial decision maker - to include a commissioner having a fixed opinion not susceptible to change. He verified that Board members had no potential conflict and nothing to disclose at this time. The time was 9:45 a.m.

The following were sworn in by Town Clerk Carolyn Morris: Dep Planning Director Kelly Wyatt, Public Works Director Ralph Barile; Outer Banks Hospital Sr. Administrator Amy Montgomery, Quible & Associates Cathleen Saunders, East Group architect Craig Leonard, and property owner John Costulis.

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

"GENERAL INFORMATION
Applicant: Quible & Associates, P.C. on behalf of Outer Banks Hospital, Inc.

'Application Type: Conditional Use/Vested Right/Site Plan Review and Rezoning Application.

'Purpose/Request: The scope of work associated with this project request is denoted below:

- Demolition of the existing 3,000 square foot urgent care building at 4923 S. Croatan Highway, the construction of a 10,400 square foot addition to the existing 4,500 square foot radiation therapy building located at 4927 S. Croatan Highway, to house an infusion center, and the development of parking and stormwater improvements.

- The applicant has requested consideration be given to a Conditional Use Permit request to allow a reduced loading zone berth based on the anticipated deliveries to this facility being by cargo van. The applicant has noted that medical supplies and linens will be the primary deliveries to the location and do not require the specified loading zone outlined in Section 10.17 of the UDO, Off-Street Loading. The applicant is seeking to reduce the loading zone berth from 12' x 60' to 20' x 23'.

- The applicant has requested that consideration be given to a reduction of required parking, based on a Medical Office use, as allowed by Conditional Use Permit under Section 10.15.5 and 10.15.6 of the Unified Development Ordinance. The proposed use of an infusion center is unique and not currently covered within Section 10.16 of the UDO, Required Parking by Use.

- In addition to the Site Plan application, a rezoning of three (3) lots along S. Passage Way from SPD-C/SF4 (Special Planned Development – Community District, specifically the Village at Nags Head SPD-C Zoning Ordinance, and Single-Family Four District) to SPD-C/Hotel District is also being requested to accommodate the use of the site, and specifically the provision of requisite parking to support the use.

'Property Location: 4923 and 4927 S. Croatan Highway and 4922, 4926 and 4928 S. Passage Way, Nags Head.

'Existing Land Use: Medical Offices and Vacant Lots.

'Zoning Classification of Property: 4923 and 4927 S. Croatan Highway is zoned SPD-C/Hotel and 4922, 4926 and 4928 S. Passage Way is zoned SPD-C/SF-2.

'Zoning Classification of Surrounding Properties: Properties to the north of the proposed site is zoned SPD-C/Hotel (Outer Banks Center for Women). Properties to the south of the proposed site is zoned SPD-C/Hotel (La Fogata Restaurant). Properties to the east, directly across S. Passage Way is zoned SPD-C/SF-2 and developed residentially. Properties to the west, directly across US Highway 158 is zoned SPD-C/Commercial-1 and is developed with the Outer Banks Mall.

'Flood Hazard Zone of Property: The entire project area is located within an AE 9 Flood Zone. The existing Radiation Therapy Facility has a compliant first floor elevation above the regulatory flood protection elevation of 10 feet msl. All new construction will be required to have a first-floor elevation compliant with the regulatory flood protection elevation.

'POLICY AND PLAN CONSIDERATIONS
Land Use Plan Map/Policies: The 2017 Comprehensive Plan Future Land Use Map classifies the properties at 4923 and 4927 S. Croatan Highway as General Commercial and they are additionally located within the General Commercial Activity Node. Descriptions of these classifications are below:

'General Commercial: General Commercial designation is located throughout the town paralleling US 158 and US 64. The General Commercial designation is intended to foster a thriving commercial business community with a variety of uses, activities, and scales. Form is as important as use within this designation and there should be a high degree of design quality for the building facade. Planned, mixed use developments are encouraged. Best practices for all types of corridors include: driveway consolidation, bicycle/pedestrian accommodations, traffic calming, and buffering/landscaping.

'General Commercial Activity Node: General Commercial Activity Nodes are focal points of activity and higher intensity development in the town. These are areas that are anticipated to have future concentrations of uses that serve as destinations or hubs of activity for the town and are appropriate for shopping centers or larger footprint retail stores. General Commercial Activity Nodes are envisioned to be planned commercial development with a range of uses including retail, office, restaurant, banking, personal service establishments, gymnasium, indoor entertainment, gallery/museum, hotel (boutique/small scale), institutional uses, and multi-family. Future development is characterized by compact development patterns, walkability, and a higher standard of architectural and site design. Multiple, smaller structures are preferred over large strip development. Future development should accommodate pedestrian access from existing pedestrian infrastructure to storefronts. Further, adequate pedestrian infrastructure should be provided to safely traverse and interconnect commercial sites.

'The 2017 Comprehensive Plan Future Land Use Map classifies the properties at 4922, 4926 and 4928 S. Passage Way as Planned Unit Development Residential. The description of this classification is below:

'The Planned Unit Development (PUD) residential designation is intended to accommodate residential development in the Village at Nags Head Planned Unit Development.

'These properties are also located within the Village Municipal Service Character Area and the Village Municipal Service Activity Node. Table 2.4.2.A of the 2017 Comprehensive Plan, Appropriate Land Uses in the Village Municipal Service Character Area lists "Hospital/Medical Care Facilities" as an appropriate and desirable use in this character area.

'When determining if the proposal is consistent with the Land Use designation, staff considered the following excerpts and policies as being relevant:

- Page 3-14, LU-5 reads, "Promote contiguous and cohesive nodes of commercial development of appropriate size and massing for the surrounding area".

- Page 3-20, LU-9 reads, "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".

- Page 3-25, LU-15 reads, "Promote architectural standards for commercial development in keeping with the Nags Head style architecture".

- Page 3-31, LU-23 reads, "Require sufficient parking for commercial businesses with parking area design regulations that limit impacts on neighbors and surrounding land uses". LU-23b further reads, "Monitor the use of parking and utilize this information to evaluate changes in parking standards".

- Page 3-117, EC-3 reads, "Meet the infrastructure and service needs of the community at appropriate levels as the community continues to grow".

'Staff finds that the expansion of medical services to include a cancer center, as well as the rezoning associated with the request, to be consistent with the land use classification and stated Land Use Policies.

'SPECIFIC INFORMATION

Applicable Zoning Regulations:

- Use Regulations: Section 9.36, Table of Uses and Activities for the SPD-C District, lists 6.6, Table of Uses and Activities lists "Medical Office" as a Permitted Use within the SPD-C/Hotel District, no supplemental standards are provided.

'Note that Staff recommends that the Board first make a recommendation on the rezoning request as the use will not be permissible should the rezoning not occur.

- Lot Coverage: If the parcels are rezoned, they will be combined into one parcel. The SPD-C/Hotel District sets forth maximum allowable coverages based upon area encumbered with specific uses as noted below:

'Maximum Allowed Building Coverage: 25%; Proposed: 19% - Compliant.
Maximum Parking Lot Coverage: 45%; Proposed: 31% - Compliant.
Minimum Landscaped Area: 30%; Proposed: 49% - Compliant
Min. Interior Parking Lot Landscaping Required: 1,174 sf. Proposed:1,491 sf.

- Height: The maximum allowable building height within the Town is 35 feet; however, pursuant to Section 8.2.1, Dimensional requirements, total height may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The applicant has proposed a structure with an overall height of 33.3 feet therefore height is compliant. Note that the roof pitch meets the desired pitch as well with the use of 9:12 roof pitch.

- Architecture Design Standards: Section 10.82, Applicability, of the UDO, states that Commercial Design Standards shall apply to all building construction or remodeling projects requiring a conditional use permit or site plan review. Section 10.83, Design Standards, of the UDO, states that projects adding a total habitable building area of 10,000 square feet or less may elect to comply with the building design requirements by achieving 150 points based on the criteria outlined in the Town of Nags Head Residential Design Guidelines. Projects that elect to comply in this manner shall, in addition to the 150 architectural design points, incorporate specific standards into the design (attached). The proposed architectural design satisfies the minimum standards required by Section 10.83 and additionally achieves 160 architectural design points with the use of a first-floor porch, dormers, minimum 8:12 pitched roof, combination base form, simulated wood shingle siding, single hung windows and other miscellaneous architectural details.

'Note that the existing Radiation Therapy Building is compliant at 125 architectural design points as that was the requirement within the Town Code at that time. The 10,400 square foot addition must meet the current code requirements of 150 architectural design points. Staff determined compliance with the UDO based upon the proposed new construction.

- Parking: As noted above under "Purpose/Request" the applicant is requesting that consideration be given to a parking reduction as allowed by Sections 10.15.5 and 10.15.6, of the UDO, *Reduction of Required Parking for Commercial Uses with the Use of Bicycle Racks* and *Modification of Parking Requirements by Conditional Use Permit* respectively. As previously noted, the proposed Infusion Center/Cancer Center use is not specifically addressed within Article 10, Table 10-2, Required Parking by Use, of the UDO, and, while a Dialysis Center use is provided and is likely more consistent with the proposed use, the proposed use more closely meets the definition of Medical Office use.

'When applying the Code, a "medical office" shall provide parking at the rate of one parking space for every 300 square feet of gross floor area of each building or portion thereof devoted to medical use, plus one parking space for each employee and for each doctor. The existing Radiation Therapy Building site provides 22 onsite parking spaces. Applying this standard would require an additional 50 parking spaces for an overall parking count of 72 parking spaces.

'In support of their request for a parking reduction, the applicant has provided an article from the ITE (Institute of Transportation Engineers) Parking Generation Manual, which has evaluated anticipated parking rates for Outpatient Cancer Centers and supports a rate of 3.5 to 4.5 spaces per 1,000 square feet of floor area. If applying this standard, the proposed site would require between 52 and 67 parking spaces. The applicant is proposing to provide 57 parking spaces. Specifically, the applicant is seeking a reduction of one (1) parking space with a bike rack pursuant to Section 10.15.5 and an additional 14 parking space reduction under Section 10.15.6, and justified by the number of employees, the number of patient/treatment rooms available, the waiting room capacity, and the availability of Dare County Transit services for many of the patients receiving treatment at this facility. With the requested reduction, a total of 57 onsite parking spaces is consistent with the recommended parking ratio for this use in the ITE Manual. Staff recommends approval of the requested parking reduction, however, would recommend a condition that a parking study/assessment be conducted by a third-party, at 6 months and one-year after the issuance of a Certificate of Occupancy, to ensure onsite parking is adequate; if parking is determined to be insufficient, the applicant would be required to install up to12 additional parking spaces along the shared drive leading to the site.

'Additionally, Section 10.92.14.4 requires a minimum of 20% of the surface area of the parking area and drive aisles to be constructed using permeable surface materials. An excess of 20% has been provided and is therefore compliant.

'Section 10.17 of the UDO sets forth Off-street Loading Requirements. Commercial structures shall provide at least one loading space with minimum plan dimensions of 12 x 60 feet and a 14-foot overhead clearance. If a reduction in berth of a loading space is requested the Town Engineer shall determine the sufficiency of the proposed loading space.

- Buffering/Landscaping: Several sections of the UDO address Buffering and Landscaping as it applies throughout this proposed site:

    - Section 9.24.10 of the UDO, SPD-C Hotel District, Landscaping requires that all commercial and office uses install a 20-foot wide landscaped or natural buffer area when a commercial use abuts a residential use or designation. A compliant buffer has

been shown along the rear property line that abuts a residential subdivision (Moongate Subdivision).

- Section 10.92.6.2 of the UDO, Parking and Drive Aisle Setbacks, requires that where off-street parking is provided between the building and the street right-of-way line, a parking lot buffer of at least ten (10) feet in width shall be provided between the parking lot and the street right-of-way. This buffering has not been shown however, it will be a continuation of the existing buffering provided for the Radiation Therapy Facility to the south. work with planning staff to identify the proper plantings prior to the Board of Commissioners review.

- Section 10.93.3.7 of the UDO, Interior Parking Lot Landscaping, requires parking landscaping be provided at a minimum rate equal to ten percent of the total area of parking spaces. The minimum area necessary for compliance is 1,174 square feet of vegetation. The applicant has proposed 1,491 square feet therefore interior parking lot landscaping is compliant.

- Section 10.93.3.8.2 of the UDO, Vegetation Preservation Requirements, requires that a minimum of 10% of the lots total area be preserved with existing natural vegetation. Approximately 11.5% of the vegetation throughout the site will be maintained therefore this proposal is compliant.

- Lighting: The proposed lighting plan and fixtures are compliant with the requirements of UDO. A light audit will be required prior to issuance of occupancy permits.

- Signage: No additional signage is being proposed at this time.

'Water and Sewage Disposal: This development will be served by Carolina Water Service due its location within the Village at Nags Head SPD-C District. Included in your packet is a letter from Carolina Water Service stating their commitment to serve the development as proposed (Appendix D).

'Traffic Circulation: Vehicle pathing exhibits have been provided, internal traffic circulation approval is contingent upon the Public Works/Fire Department approval for access of sanitation and emergency vehicles. See memorandum from Town Engineer dated December 13, 2019 (attached).

'Stormwater Management: The proposed development plan has been determined to be in accordance with Article 11, Environmental Regulations of the Unified Development Ordinance. A NCDEQ high-density stormwater management permit shall be acquired and submitted to the Town upon issuance and the project shall be designed, constructed, operated and maintained in accordance with Article 11, Environmental Regulations of the UDO. See memorandum from Town Engineer dated December 13, 2019 (attached).

'Fire: The project will be required to comply with all applicable NC Fire Prevention Code requirements as part of the building permit application review and issuance.

'Public Works: The Public Works Director has reviewed the proposed plan and expressed general concern about the location of the dumpster with regard to the pathing of the refuse truck. The applicant has discussed pick-up at the proposed location with the private carrier that currently serves the hospital and confirmed that this vendor would be able to provide services to the site if necessary. In addition, the plans have been revised to allow for mountable curb to help alleviate the concern for backing onto the curbing.

'ANALYSIS

Analysis of Rezoning Request: Staff supports the request to rezone the parcels located at 4922, 4926 and 4928 S. Passage Way from SPD-C/SF-2 to SPD-C/Hotel. This area was originally zoned SPD-C/Hotel however in 2009 the area was rezoned to SPD-C/SF-2 to accommodate the Moongate Subdivision. The applicant has been in communication with the Village at Nags Head Architectural Control Committee, as well as the adjoining property owners, all of whom have expressed support for the development and associated rezoning. Additionally, staff finds that the rezoning is supported by the 2017 Comprehensive Plan with the land area being located within the Village Municipal Service Character Area where medical facilities are considered appropriate uses.

'Analysis of Vested Right/Site Plan Application: Staff finds that the proposal is consistent with the applicable use and development standards, as well as relevant land use policies. As required by the UDO, the procedures for consideration of a site-specific, vested right, site plan are those applicable to the issuance of a Conditional Use Permit as outlined in Section 3.8, Conditional Use Permits; therefore, with regard to the affirmative findings of fact for Conditional Use Permits, pursuant to Section 3.8.4.6, Staff is of the opinion that:

1. The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.

2. The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.

3. The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.

4. Adequate utilities, access roads, drainage, parking or necessary facilities have been or are being provided.

'Analysis of Parking Conditional Use Permit Requests: In addition to the findings noted above, applicable to all Conditional Use Permits, Section 10.15.6. provides specific findings applicable to the requested Conditional Use Permits to reduce required parking and loading zone dimensions; consistent with these findings, Staff is of the opinion that the reduction and parking and loading zone dimensions, with conditions as recommended:

1. Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety.

2. Will not create parking impacts for adjacent properties or within Town rights-of-way.

3. Will not be contrary to the objectives specified in the Comprehensive Plan.

4. Is necessary to permit the reasonable use of the subject property.

5. Will not adversely impact adjacent property or the surrounding area.

'With regard to the reduction of parking, these findings are based upon the information provided identifying a methodology for determining the appropriate ratio of parking for Outpatient Cancer

Treatment uses, and a recommended condition requiring the sufficiency of parking to be verified following operation and additional parking to be provided if determined to be necessary. With regard to the reduction of dimensions for the loading zone, these findings are based upon the anticipated type and frequency of deliveries, as well as a recommended condition requiring signage directing deliveries by larger vehicles to the main Outer Banks Hospital.

'PLANNING BOARD RECOMMENDATION

At their December 17, 2019 meeting the Planning Board voted unanimously to recommend approval of the Rezoning Request and Vested Right/Site Plan and Conditional Use Permit applications, with conditions, as presented. It is important to note that the Planning Board reviewed a preliminary Sketch Plan for the project, including three concepts for the site based on different parking counts; ultimately, the Planning Board found that providing less parking based on the Outpatient Cancer Treatment use, with the potential to assess and provide more parking if necessary, was the ideal scenario.

'STAFF RECOMMENDATION

Recommendation on Rezoning Request: Based upon the analysis above, Staff recommends approval of the requested rezoning of parcels located at 4922, 4926 and 4928 S. Passage Way from the SPD-C/SF-2 District to the SPD-C/Hotel District.

'Recommendation on Vested Right/Site Plan Request and Conditional Use Permits: Based upon the above analysis, and the following recommended conditions, Staff recommends approval of the proposed Vested Right/Site Plan and Conditional Use Permits:

1. The site shall be developed in compliance with the plans dated December 05, 2019, revised as necessary to comply with conditions of approval; modifications to the project prior to the issuance of a Certificate of Occupancy shall be considered and processed as Minor Site Plans or Major Site Plans pursuant to Article 4 of the Unified Development Ordinance.

2. At 6 months and 12 months following the issuance of a Certificate of Occupancy, an assessment of the sufficiency of parking shall be conducted by a third-party traffic engineer, engaged and costs borne by the owner/developer of the property, with qualifications acceptable to the Town of Nags Head Director of Planning and Development. This assessment shall determine whether the parking provided on-site is sufficient and does not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety, and/or does not create parking impacts for adjacent properties or within Town rights-of-way; further, this assessment shall recommend whether the provision of additional parking spaces is necessary if on-site parking is determined to be deficient. This assessment shall be presented to the Director of Planning and Development for acceptance and final determination as to whether additional parking is required to be provided, with any determination to be made within eighteen (18) months of the issuance of a Certificate of Occupancy, and any additional parking to be provided within twenty-four (24) months of the issuance of a Certificate of Occupancy.

3. Signage shall be installed on-site, to be approved by the Director of Planning and Development or his/her designee, directing deliveries by vehicles larger than the reduced loading zone can accommodate to the main Outer Banks Hospital located at 4800 S. Croatan Highway.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, January 22, 2020 and on Wednesday, January 29, 2020 as required by law.

The Board asked if there was any direction from the Town's Land Use Plan concerning this type of rezoning.

Planning Director Michael Zehner was sworn in by Town Clerk Carolyn Morris.

Director Zehner stated that there is nothing in the Town's Land Use Plan that would preclude this type of action.

Comr. Fuller confirmed with Ms. Kelly that the Village Architectural Standards Committee has reviewed and approved the site plan.

Amy Montgomery, Sr. Administrator of Operations at Outer Banks Hospital; she spoke of the hospital as a Critical Access Hospital – the Cancer Center is accredited and the new facility will allow for treatment in one location instead of several different locations; this is more compassionate for cancer patients; she has contacted property owners of Passage Way and they were supportive of the vision with some minor concerns such as more traffic on Passage Way.

Comr. Renée Cahoon questioned if there was a reason not to pursue the architectural look of the hospital to the cancer center.

Craig Leonard of the East Group – some elements are consistent and where it would not impede patients they will keep the shutters which is consistent, there is a tie to across the street to the hospital and the new addition will be the same elements just made a little bigger.

Comr. Siers asked about parking for employees; Ms. Montgomery said that employees are directed to park furthest from the doors.

Comr. Brinkley asked about parking for the employees at the Radiation Center; Ms. Montgomery said that the Radiation Center which has 11 employees park at 11 parking spaces next door at the La Fogata Restaurant – spaces that the hospital rents – this will continue with the new building as well.

Cathleen Saunders Quible & Associates; 57 parking spaces are provided for this facility.

John Costulis, he and his wife own property on Passage Way; he is very concerned about their property from a rental standpoint; he and his wife are very supportive of the planned project; they were concerned that there has been no follow-up to the residents from the hospital and no feedback from the Town either; they received notice just a few days ago that this site plan review was happening; he recommended that the Board do a traffic flow analysis before approving the site plan; currently and then later after approving the project; a lot of children are in this area in the summer time because of the vacation rentals in the area during the summer and there are also trucks dropping off materials/supplies.

Comr. Siers asked about the possibility of a cul-de-sac in the residential neighborhood; Ms. Wyatt said that this would require a lot of changes to the subdivision plat. He also mentioned the possibility of a one-way street on Passage Way. Director Zehner suggested a traffic analysis six months after the certificate of occupancy being done first.

Comr. Fuller confirmed with Attorney Leidy that any adverse impact to La Fogata with regard to parking and compliance with the Town's ordinance is another discussion.

Mayor Cahoon asked Planning Director Zehner to address public notice; Director Zehner said that no notice beyond the notice for today's Public Hearing was required by law.

Ms. Saunders of Quible & Associates pointed out that the hospital will have signage indicating to not use Passage Way for exiting; the offsite parking at La Fogata Restaurant was not used when configuring parking standards for this application.

There being no one else present who wished to speak, Attorney Leidy concluded the Public Hearing at 10:45 a.m.

MOTION #1: Comr. Fuller made a motion to approve the request to rezone parcels located at 4922, 4926 and 4928 S. Passage Way from the SPD-C/SF-2 District to the SPD-C/Hotel District as presented. The motion was seconded by Comr. Siers.

Comr. Renée Cahoon clarified with staff that the rezoning was from SPD-C/SF-2 to SPD-C/Hotel.

CONTINUATION OF MOTION: The motion passed unanimously.

MOTION #2: Comr. Renée Cahoon made a motion to approve the vested right site plan/application with the following findings of fact for conditional use permits:

1) The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.2.

2) The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.

3) The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.

4) Adequate utilities, access roads, drainage, parking or necessary facilities have been or are being provided.

The motion was seconded by Comr. Fuller which passed unanimously.

MOTION #3: Comr. Fuller made a motion to approve the conditional use permit to reduce required parking and loading zone dimensions with the following findings and recommended conditions:

1) Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety.

2) Will not create parking impacts for adjacent properties or within Town rights-of-way.

3) Will not be contrary to the objectives specified in the Comprehensive Plan.

4) Is necessary to permit the reasonable use of the subject property.

5) Will not adversely impact adjacent property or the surrounding area.

6) The site shall be developed in compliance with the plans dated December 05, 2019, revised as necessary to comply with conditions of approval; modifications to the project prior to the issuance of a Certificate of Occupancy shall be considered and processed as Minor Site Plans or Major Site Plans pursuant to Article 4 of the Unified Development Ordinance.

7) At 6 months and 12 months following the issuance of a Certificate of Occupancy, an assessment of the sufficiency of parking shall be conducted by a third-party traffic engineer, engaged and costs borne by the owner/developer of the property, with qualifications acceptable to the Town of Nags Head Director of Planning and Development. This assessment shall determine whether the parking provided on-site is sufficient and does not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety, and/or does not create parking impacts for adjacent properties or within Town rights-of-way; further, this assessment shall recommend whether the provision of additional parking spaces is necessary if on-site parking is determined to be deficient. This assessment shall be presented to the Director of Planning and Development for acceptance and final determination as to whether additional parking is required to be provided, with any determination to be made within eighteen (18) months of the issuance of a Certificate of Occupancy, and any additional parking to be provided within twenty-four (24) months of the issuance of a Certificate of Occupancy.

8) Signage shall be installed on-site, to be approved by the Director of Planning and Development or his/her designee, directing deliveries by vehicles larger than the reduced loading zone can accommodate to the main Outer Banks Hospital located at 4800 S. Croatan Highway.

The motion was seconded by Comr. Renée Cahoon.

Comr. Fuller emphasized that his motion addressed the concerns that were discussed re: parking, delivery, and traffic flow on Passage Way. Director Zehner suggested expansion of one of the conditions listed but Comr. Fuller felt his motion adequately addressed all concerns.

CONTINUATION OF MOTION: The motion passed unanimously.

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

Update from Planning Director

Planning Director Michael Zehner presented his monthly report to the Board; he specifically addressed several items to include:

1) The Flood Prevention Ordinance will be forwarded by the end of today to Board members – for discussion at the Joint Workshop with the Planning Board on February 18th

2) Planning Board requests feedback on regulation of large occupancy/event homes

3) The Blue Heron Motel has asked staff to consider legacy options in the UDO and staff will be presenting options to the Planning Board for discussion

Comr. Renée Cahoon asked if there was one point person handling the Permitting software; Director Zehner stated that Permitting Coordinator Lily Nieberding and Code Compliance Officer Ed Snyder are his contacts.

Discussion of Workforce Housing

Planning Director Michael Zehner summarized his Workforce Housing report with Board members. The agenda summary sheet read in part as follows:

"Attached is a Report on *Phase 1 - Inventory & Assessment; Establish Goals* for the Town Workforce Housing Study & Plan. The Report presents the findings associated with the completed tasks under Phase 1.

'Staff Recommendation
Staff recommends that the Board review and discuss the Report and findings. As noted in the Report, Staff encourages discussion on several questions, based upon the findings presented, that will inform the Board's decision to proceed to Phase 2."

The Workforce Housing report provided to the Board is attached to and made a part of these minutes as shown in Addendum "E".

Mayor Cahoon said that he would like to review this information further before making a decision.

Comr. Brinkley asked if there were anything new and/or unexpected that came out of the review; Director Zehner said that it was a good exercise for staff; Comr. Brinkley stated he did not get much out of the report.

Comr. Renée Cahoon agreed with Comr. Brinkley's comments and said that additional funds should not be expended until there is more extensive direction.

Comr. Siers agreed with both Comr. Brinkley and Comr. Renée Cahoon and suggested not moving forward with Phase 2 until more of a scope is defined.

Mayor Cahoon said that he would like to see this pushed to the March Board meeting and he would like to see more of what is feasible.

Comr. Fuller noted that the DCTB site is missing from the list and that competitive wage is an important aspect.

Mayor Cahoon suggested that the Board take this report into consideration and come back with recommendations at a future meeting.

RECESS AND RECONVENE
The Board recessed for lunch at 11:55 a.m. and reconvened at 1:00 p.m.

NEW BUSINESS

Consideration of Audit Contract

Finance Director Amy Miller summarized her memo concerning recommendation for auditor which read in part as follows:

"Staff is recommending Potter & Company out of Mooresville, NC, to perform the annual fiscal year end 2020 audit for the Town for a minimum of three years, with up to three additional years as a renewal option. The partner assigned to this audit, Bob Taylor, has earned the *Certificate of Educational Achievement in Governmental Accounting and Auditing.* Bob will keep us informed on new regulations and will be available throughout the year to provide assistance as needed. Bob is also an instructor for the Local Government Commission. Potter & Company has committed to providing a successful and timely audit of the Town's CAFR, internal controls, and grants as required by the federal and state Single Audit Acts.

'In selecting an accounting firm, it is important to select the firm which will provide the very highest level of service. Potter & Company will utilize all their resources necessary to assure prompt and professional service. Their staffing permits allocation of necessary time and resources to ensure the Town of Nags Head will be a highly valued client to their firm. Their firm policy is to assign staff members who have previous experience on the engagement each year. The professionals assigned are expected to be on-site 85-95% of the time. Normally there will be two staff (one a manager level), in addition to the partner in charge, assigned to the audit. Their experience and familiarity with numerous governmental audits allow for a comprehensive and efficient audit with minimal distraction to staff.

'One important aspect of the audit that sets Potter & Company apart is the amount of partner and manager involvement in all phases of the audit, including field work, as well as the staff and time commitment allocated to the engagement. Their position is that a large on-site commitment from the partner and manager in charge of the engagement increases the efficiency and understanding in the audit process. Potter & Company has built in 250 hours of audit time for our engagement. Of these hours, 96%, or 240 hours, will be performed by the partner and senior staff. One additional item to consider is their familiarity with the Outer Banks and challenges experienced by the local governments in this region.

'Potter & Company's great degree of experience in governmental accounting allows them to understand the Town's needs and provide answers to unique situations. They audit several clients that receive the GFOA Certificate of Achievement for Excellence in Financial Reporting including Dare County (25 years), Cabarrus County (15 years), City of Monroe (22 years), and Town of Mooresville (18 years), to name a few. These examples demonstrate what a knowledgeable resource Potter & Company would be for the Town, as well as exemplify the value they place on long term relationships."

Board members discussed the costs and the benefits of each of the proposed auditors who responded to the Town's RFQ.

MOTION: Mayor Cahoon made a motion to select Johnson, Mizelle, Straub & Murphy of Kitty Hawk as the Town's auditor. The motion was seconded by Comr. Siers which passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney Leidy – Congratulations to Town Clerk Carolyn F. Morris

Town Attorney Leidy congratulated Town Clerk Carolyn F. Morris on her 25th anniversary with the Town.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - Beach Nourishment

Discussion of proposed Municipal Service District (MSD)

Town Manager Ogburn summarized the agenda summary sheet which read in part as follows:

"The Town has recently completed its second beach nourishment project and is underway preparing for future shoreline management efforts. Staff is currently interviewing consultants to provide coastal engineering and surveying services to conduct annual shoreline monitoring and begin preliminary work towards the town's next project, which is anticipated in 2025. The Board of Commissioners held a workshop in November of 2019 to discuss beach nourishment, including how the town might work with Dare County and other towns to coordinate project activities and funding. Part of this discussion included anticipating the town's future costs, available revenue sources, and how the town should distribute its share of project expenses within the community. Currently, the town levies a town wide tax of 2.7 cents per $100 of assessed value to fund a portion of its share of the project. The remainder of the funds are collected utilizing a municipal service district which includes properties east of NC 12 and SR 1243 within the previous project areas. These properties are currently taxed at 17.5 cents per $100 of assessed value.

'A municipal service district (MSD) is a defined area within a town where additional property tax is levied in order to provide projects or extra services that benefit the properties in that district. The town has established a number of benefits in conducting beach nourishment and shoreline management activities, including protection of properties on the oceanfront and directly adjacent to the ocean, protection of infrastructure such as roads, waterlines, sewage systems, electrical services, and beach accesses, and maintaining a recreational beach that is attractive and usable by the public, free of structures and debris. These benefits can be assigned to different parts of the community at different levels, with oceanfront properties having the greatest benefit. Properties adjacent to but not directly on the ocean also benefit from reduced flooding and impacts to infrastructure, as well as increased property values due to their proximity to a well-maintained recreational beach. The entire town also receives a series of benefits, but to a lesser extent than these other areas. The Board will discuss the merits of creating additional MSDs to fund future nourishment activities, which would be designed to create an equitable distribution of project costs to property owners based on the benefits they receive. Primarily what is being proposed are two additional MSDs, one north of Whalebone Junction to include all properties east of US 158, and one south of Whalebone Junction to include all properties in South Nags Head. It is conceived that these areas could be taxed at a nominal rate to pay for current planning activities, which would increase once a contract for construction is executed prior to the next project. Attached is a map showing the current and proposed MSD boundaries. Also included is a presentation describing the proposal and the process for creating an MSD. The first step would include the Board directing staff to prepare a report depicting the boundaries of the proposed MSD, a statement identifying the services to be provided, and plan for providing those services."

MOTION: Comr. Siers made a motion to direct staff to prepare the Municipal Services District Report (includes map, statement, and plan) to include the north end of Town (to the Kill Devil Hills Town line) for discussion at the March 4th Board of Commissioners meeting. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

The MSD powerpoint presentation is attached to and made a part of these minutes as shown in Addendum "F".

Town Manager Ogburn - Sanitation/Recycling

Consideration of modification to contract with Bay Disposal dated Feb 5, 2019 re: curbside recycling

The agenda summary sheet concerning this issue read in part as follows:

"Due to changes in the recycling market, we have been notified from our contractor that our material is being incinerated at a plant in Portsmouth, Va. rather than being recycled. We have received a three-month approval from the NC Department of Environmental Quality and the Executive Director of the Albemarle Solid Waste Authority has agreed to allow us to temporarily divert our recycling materials to an incinerator. The state DEQ is working to provide a solution for communities in North Carolina to continue recycling and providing markets for recycling materials. However, those solutions will likely take time.

'Consideration of changes to the contract - In the meantime, the Board will need to decide if it wants to amend our contract with Bay Disposal as they are currently in violation of the following section:

> Disposition of Recyclable Materials
> The CONTRACTOR shall be responsible for all recyclables collected in accordance with this CONTRACT. No more than 10% by weight of all collected recyclable materials is to be land filled and/or incinerated without the express, written permission from the Town.

'We could either amend the contract, write the letter granting permission for 100% of the materials to be incinerated, or cancel the contract.

'Consideration of changes to the winter sanitation/recycling schedule – Please see Attachment 1.

'Consideration of ordinance to rescind Town Code Sec. 30-6(e) *Storage and removal of trash and recycling carts* - Please see Attachment 2."

After introduction by Town Manager Ogburn, Mayor Cahoon noted that Kill Devil Hills is also concerned about the issue; he feels that it will take some time for a resolution and all potential issues need to be reviewed before curbside recycling is finalized.

Comr. Renée Cahoon feels that a final decision need to be made by the end of the summer – probably by July 1st.

Comr. Fuller wants to make sure the public is aware of what is happening with recycling – he questioned if the town wants to leave a bigger carbon footprint before we have analysis; he does not want to spend the Town's money telling people we are recycling when we are not.

Board members asked staff to prepare a letter granting permission for 100% of the recyclable materials to be incinerated.

MOTION: Comr. Renée Cahoon made a motion to continue the contract with Bay Disposal authorizing them to divert the recyclable materials to be incinerated until the end of this fiscal year. The motion was seconded by Comr. Siers which passed unanimously

Consideration of changes to winter sanitation/recycling schedule

It was Board consensus to make no changes to the recycling schedule at this time.

Consideration of ordinance to rescind Town Code Sec. 30-6 (e) Storage and removal of trash and recycling carts

Town Manager Ogburn asked for additional time to evaluate/research the rescinding of the ordinance requiring the roll back of trash carts – for review at the March 4th Board of Commissioners meeting.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon – Workforce Housing

Comr. Renée Cahoon thanked staff for all the work done on their end; she suggested that no more funds be expended until additional details are known concerning how the money will be spent.

Comr. Brinkley – Thank you to today's speakers

Comr. Brinkley thanked Ms. Susie Walters and Ms. Cheri Pain who spoke today concerning recycling and their interest in maintaining the recycling program.

Comr. Brinkley also thanked Mr. Al Friedman for speaking about the Special Olympics and Town Manager Ogburn agreed to follow-up on this.

Comr. Fuller – Outer Banks Hospital facility site plan

Comr. Fuller asked staff to follow-up on the issue mentioned during today's discussion on the Outer Banks Hospital facility site plan to make sure La Fogata Restaurant has adequate parking after renting 11 parking spaces to the Hospital.

MAYOR'S AGENDA

Mayor Cahoon - Consideration of dates for CIP/Budget Workshops
The agenda summary sheet with the proposed schedule read in part as follows:

"The schedule below is being proposed for upcoming CIP/Budget Workshops – for discussion at the February 5th Board of Commissioners meeting:

'Capital Improvement Program Workshop Wed, March 25, 2020; 9 am

- If continuation is needed	Wed, April 8, 2020; 9 am
'Presentation of Managers Recommended Budget	Wed, May 6, 2020; 9 am
'Budget Workshop	Wed, May 13, 2020; 9 am
- If continuation is needed	Wed, May 27, 2020; 9 am
'Public Hearing	Wed, June 3, 2020; 9 am
'Budget Workshop - Will incorporate comments from Public Hearing	Wed, June 10, 2020; 9 am
'Adoption of Budget (mid-month meeting)	Wed, June 17, 2020; 7 pm"

The proposed dates for CIP/Budget Workshops, as presented, were acceptable to Board members although Comr. Brinkley noted that he will not be available for the March 25th CIP Workshop and Comr. Renée Cahoon noted that she will not be available for the April 8th CIP Continuation Workshop.

Comr. Fuller mentioned the DCTB wanting a soundside boardwalk; Town Manager Ogburn stated that DCTB Director Lee Nettles has reached out to him on this; Mayor Cahoon asked that this be included on a Board meeting agenda for discussion prior to the CIP Workshop.

Mayor Cahoon - Discussion of "actionable" items from Envisioning Exercise – Future of Nags Head from Jan 23-24, 2020 Board Retreat

Mayor Cahoon reported that at the recent Board Retreat "envisioning" the future of Nags Head was an item of discussion; he said that he would like to have a discussion at each Board meeting that the Board can build on. Town Clerk Carolyn Morris is to include this item under the Mayor's agenda as a standing item for each upcoming Board meeting.

Mayor Cahoon – Demolition of Urgent Care building

Mayor Cahoon mentioned that the Urgent Care Building that is to be demolished – from today's site plan discussion on the Outer Banks Hospital facility. He noted that this was one of the buildings he worked on as architect many years ago.

Mayor Cahoon – Out of Town

Mayor Cahoon shared with Board members that he would be out of town tomorrow and Friday (February 6-7, 2020). Mayor Pro Tem Siers would be available as needed.

Mayor Cahoon – Schedule for next week – February 9-15, 2020

Mayor Cahoon reported that next week (week of February 9-15, 2020) he may be in Puerto Rico assisting Emergency Management with hurricane damage inspection.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to recess to the Joint Workshop with the Planning Board on Tuesday, February 18th at 9:00 a.m. The workshop will be followed by a Board mid-month meeting at 1:00 p.m. The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 2:11 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

Agenda Item Summary Sheet

Item No: **E-5**
Meeting Date: **March 4, 2020**

Item Title: Consideration of resolution clarifying Dare County Control Group/Town of Nags Head October 2015 Memorandum of Agreement

Item Summary:

Attached for Board review and adoption is a resolution that would ratify the Memorandum of Agreement between Dare County and the Town, dated October 19, 2015, that was never considered/approved by the entire Board of Commissioners. The MOA, also attached, recognizes the collaboration and cooperation between each municipality and the Dare County Control Group in an emergency situation.

Number of Attachments: 2

Specific Action Requested:

Request Board adoption of attached resolution to ratify the 2015 MOA with the county.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

Attorney Leidy has provided input on this issue.

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

I concur with the resolution and encourage its adoption.

Signature: Cliff Ogburn Date: February 26, 2020

Resolution to Clarify Dare County/Town of Nags Head Memorandum of Agreement

WHEREAS, the document entitled *Memorandum of Agreement Between Dare County Municipalities And The County Of Dare Concerning Emergency Coordination* was presented to municipalities for execution in 2015; AND

WHEREAS, The Memorandum of Agreement (MOA) between the Town and Dare County was signed by the Mayor on October 19, 2015 but was never presented to the Board at a Board meeting for consideration or approval; AND

WHEREAS, The Town Attorney has suggested that, even if not authorized or approved by the governing Board, the Town can consider the MOA and particularly the Emergency Management Plan referenced in the MOA as a guideline and statement of the how Dare County, the Town, other municipalities are expected to cooperate and collaborate in addressing various emergencies including natural disasters as well as describing the organizational structure for emergency operations; AND

WHEREAS, As noted by Norma Houston of the UNC School of Government, the MOA does not mandate partner municipalities to surrender any legal authority to the County but recognizes that "all municipalities have the authority to declare and manage an emergency independently …"; AND

WHEREAS, The MOA encourages "cooperation and coordination" among the local municipalities and the county through the Control Group which is described as a "collaborative body that convenes to facilitate decision-making …to achieve unity of effort...."; AND

WHEREAS, The town finds this collaboration between local municipalities and the county to be extremely important when dealing with evacuation and re-entry since this impacts everyone.

NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head Board of Commissioners recognizes that the MOA dated October 19, 2015 is a useful guideline and the Town further resolves to operate in the spirit of cooperation with all municipalities, the county and the Dare County Control Group.

Adopted this 4th day of March 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **E-6**
Meeting Date: **March 4, 2020**

Item Title: Consideration of resolutions authorizing vehicle and equipment financing contracts

Item Summary:
Attached please find a memo from Administrative Services requesting RFP for financing equipment vehicles – there are two separate resolutions attached for Board adoption for two separate financing guidelines. One is for a three-year loan and one is for a five-year loan.

In addition, please find two separate payment proposal contracts - one is for a three-year loan and one is for a five-year loan. Amortization schedules are also included.

Number of Attachments: 5

Specific Action Requested:

Request Board adoption of attached resolutions on March 4th.

Submitted By: Finance Officer Amy Miller Date: February 26, 2020

Finance Officer Comment:

A reimbursement resolution for these items was adopted July 3, 2019 in accordance with the fiscal year 2019-2020 budget ordinance.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

I concur with the Finance Officer's request.

Signature: Cliff Ogburn Date: February 26, 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 Director

MEMORANDUM

TO: Cliff Ogburn, Town Manager

FROM: Amy Miller, Finance Director

DATE: February 26, 2020

RE: Recommendation for 2019/2020 equipment financing

Admin Services has obtained financing quotes from the following financial institutions:

	Interest Rate	**Fees**
Southern Bank & Trust	**1.74%, 1.74%**	**$100**
Towne Bank	1.79%, 1.81%	$0
BB&T	1.91%, 1.94%	$0
PNC	2.11%, 2.11%	$500
SunTrust	Unable to bid	
Wells Fargo	Unable to bid	
First National Bank	Unable to bid	

Staff has included the proposal sent out as well as the proposal and amortization schedules from Southern Bank & Trust Company. The lowest total bid in aggregate has been selected. Staff is recommending accepting the proposal received from Southern Bank & Trust, which offered the most competitive financing bid within the requested financing guidelines.

February 24, 2020

INSTALLMENT PURCHASE CONTRACT PROPOSAL FOR:
Town of Nags Head
PO Box 99
Nags Head, North Carolina 27959
ATTN: Brooke Norris, Deputy Finance Officer

OFFERED BY:
Southern Bank & Trust Company
121 East Main Street
PO Box 729
Mount Olive NC 28365

TYPE OF CONTRACT: A municipal installment purchase contract structure with the Town responsible for all expenses related to the use of the vehicle/equipment/facility including taxes, insurance, and maintenance.

LOAN PURPOSE: To finance the purchase of vehicles and equipment for various departments as outlined in the Request for Proposal dated February 12, 2020.

LOAN AMOUNT: $584,701.

TYPE OF LOAN: Term Loan

INTEREST RATE: Interest will accrue on the outstanding principal balance of the loan at the rate of 1.74% per annum.

TERMS OF REPAYMENT: The loan will be payable in three (3) annual principal and interest payments of $198,278.07. The first payment will be due at origination, and each subsequent payment will be due on that same day every year until the loan matures at which time all unpaid principal and accrued interest will be due and payable.

LOAN ORIGINATION FEE: At closing you will be required to pay a loan origination fee of $100.00.

PREPAYMENT PENALTY: The loan may be prepaid in part or in full at any time without penalty.

LATE CHARGES: We will assess a late payment charge of 4% of the unpaid balance of any payment which is at least 15 days past due.

ESCROW FUNDING: Advance funding is available to allocate funding for the Vendors/Contractors before the delivery of equipment or as progress payments on construction projects. The Bank would pay the proceeds to an escrow and appoint Southern Bank as Escrow Agent to invest installment proceeds at money market rates. Interest proceeds would be paid to the Town monthly, quarterly, semiannually or annually by the Escrow Agent or accumulated in escrow.

NON-APPROPRIATION/EARLY TERMINATION: The Town shall exercise its best efforts to obtain annual appropriations to meet fiscal year installment sale payments. The contract may be terminated without penalty, in the event of non-appropriations.

QUALIFIED TAX EXEMPT OBLIGATION: The Town will certify that the contract will be designed as a qualifying obligation under the $10,000,000 small issue exemption as described within Section 265b3 of the Tax Reform Act of l986.

NORTH CAROLINA GENERAL STATUTE: The contract / installment sale will conform to the requirements of North Carolina General Statute 159, article 8, 160A-20.

LOAN DOCUMENTS: The closing of the loan is contingent upon the proper execution and delivery of all of the loan documents the Bank believes are reasonably appropriate or required for this loan transaction (the "Loan Documents"). The Bank, in its sole discretion, will determine the form, terms and conditions of the Loan Documents. The Loan Documents routinely used in connection with loan closings include the note, security instruments (to include deeds of trust, security agreements, pledges, assignments, financing statements, etc.) and various verifications/certifications. At the present time, the Bank has not identified all of the Loan Documents which it may require in connection with this loan transaction.

FEES AND EXPENSES TO TOWN: All attorneys' fees including local counsel, bond counsel and Bank's counsel, stamps, taxes, recording fees, survey, appraisal, environmental impact certification and expenses will be the Town's responsibility.

LOAN CLOSING COSTS: The Town will be responsible for the payment of all costs and expenses incurred in connection with the closing of this loan, regardless of whether the loan actually closes.

PROPOSAL AND CONDITIONS: This is a proposal and not a commitment to provide funding. The closing of the transaction must occur on or before April 30, 2020. If the transaction is not closed on or before that date, our obligation to fund the transaction will terminate. If, prior to the closing of the transaction, there is a material adverse change in your financial condition, or if we discover adverse circumstances of which we are currently unaware, we may rescind this proposal and will have no obligation to fund the transaction. Final and full approval is subject to the approval of the Executive Management of Southern Bank & Trust Company.

This proposal will expire unless it is accepted in writing and the acceptance is received by the undersigned on or before March 5, 2020.

Southern Bank & Trust Company

By: Suzanne M. Burrows
Suzanne M. Burrows, Vice President

The foregoing proposal is accepted and approval of rate and funding is requested:

Town of Nags Head

By: _____

Title:_____

Date:_____

February 24, 2020

INSTALLMENT PURCHASE CONTRACT PROPOSAL FOR:
Town of Nags Head
PO Box 99
Nags Head, North Carolina 27959
ATTN: Brooke Norris, Deputy Finance Officer

OFFERED BY:
Southern Bank & Trust Company
121 East Main Street
PO Box 729
Mount Olive NC 28365

TYPE OF CONTRACT: A municipal installment purchase contract structure with the Town responsible for all expenses related to the use of the vehicle/equipment/facility including taxes, insurance, and maintenance.

LOAN PURPOSE: To finance the purchase of a residential truck for the Sanitation Department as outlined in the Town's Request for Proposal dated February 12, 2020.

LOAN AMOUNT: $306,328.00

TYPE OF LOAN: Term Loan

INTEREST RATE: Interest will accrue on the outstanding principal balance of the loan at the rate of 1.74% per annum.

TERMS OF REPAYMENT: The loan will be payable in five (5) annual principal and interest payments of $63,399.68. The first payment will be due at origination, and each subsequent payment will be due on that same day every year until the loan matures at which time all unpaid principal and accrued interest will be due and payable.

LOAN ORIGINATION FEE: None

PREPAYMENT PENALTY: The loan may be prepaid in part or in full at any time without penalty.

LATE CHARGES: We will assess a late payment charge of 4% of the unpaid balance of any payment which is at least 15 days past due.

ESCROW FUNDING: Advance funding is available to allocate funding for the Vendors/Contractors before the delivery of equipment or as progress payments on construction projects. The Bank would pay the proceeds to an escrow and appoint Southern Bank as Escrow Agent to invest installment proceeds at money market rates. Interest proceeds would be paid to the Town monthly, quarterly, semiannually or annually by the Escrow Agent or accumulated in escrow.

NON-APPROPRIATION/EARLY TERMINATION: The Town shall exercise its best efforts to obtain annual appropriations to meet fiscal year installment sale payments. The contract may be terminated without penalty, in the event of non-appropriations.

QUALIFIED TAX EXEMPT OBLIGATION: The Town will certify that the contract will be designed as a qualifying obligation under the $10,000,000 small issue exemption as described within Section 265b3 of the Tax Reform Act of l986.

NORTH CAROLINA GENERAL STATUTE: The contract / installment sale will conform to the requirements of North Carolina General Statute 159, article 8, 160A-20.

LOAN DOCUMENTS: The closing of the loan is contingent upon the proper execution and delivery of all of the loan documents the Bank believes are reasonably appropriate or required for this loan transaction (the "Loan Documents"). The Bank, in its sole discretion, will determine the form, terms and conditions of the Loan Documents. The Loan Documents routinely used in connection with loan closings include the note, security instruments (to include deeds of trust, security agreements, pledges, assignments, financing statements, etc.) and various verifications/certifications. At the present time, the Bank has not identified all of the Loan Documents which it may require in connection with this loan transaction.

FEES AND EXPENSES TO TOWN: All attorneys' fees including local counsel, bond counsel and Bank's counsel, stamps, taxes, recording fees, survey, appraisal, environmental impact certification and expenses will be the Town's responsibility.

LOAN CLOSING COSTS: The Town will be responsible for the payment of all costs and expenses incurred in connection with the closing of this loan, regardless of whether the loan actually closes.

PROPOSAL AND CONDITIONS: This is a proposal and not a commitment to provide funding. The closing of the transaction must occur on or before April 30, 2020. If the transaction is not closed on or before that date, our obligation to fund the transaction will terminate. If, prior to the closing of the transaction, there is a material adverse change in your financial condition, or if we discover adverse circumstances of which we are currently unaware, we may rescind this proposal and will have no obligation to fund the transaction. Final and full approval is subject to the approval of the Executive Management of Southern Bank & Trust Company.

This proposal will expire unless it is accepted in writing and the acceptance is received by the undersigned on or before March 5, 2020.

Southern Bank & Trust Company

By: Suzanne M. Burrows
Suzanne M. Burrows, Vice President

The foregoing proposal is accepted and approval of rate and funding is requested:

Town of Nags Head

By: _____

Title:_____

Date:_____

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 Director

Memo to: Suzanne Burrows

From: Brooke Norris, Deputy Finance Officer

Date: February 12, 2020

RE: Bank Qualified, Tax Exempt Financing

The Town of Nags Head would like to receive your proposal for bank qualified tax-exempt financing for various new vehicles and equipment included in this fiscal year's 2020 adopted budget and Capital Improvement Program. Please respond by Monday, February 24th, 2020, by 9:00 am. All repayment terms are for fixed annual payments and are detailed below:

Three-year fixed annual up-front payment in advance:

Pickup Truck-Planning	$	26,152
Three (3) Police vehicles and related equipment		137,715
Pickup Truck-Facilities Maintenance		32,746
Excavator-Facilities Maintenance		137,888
Roller-Facilities Maintenance		25,613
Dump Truck-Sanitation		109,890
Loader-Sanitation		83,860
4X4 Pickup-Water Distribution		30,837
Total financed at a three-year fixed annual payment in advance term	**$**	**584,701**

Five-year fixed annual up-front payment in advance:

Residential Truck-Sanitation	$	306,328
Total financed at a five year fixed annual payment in advance term	**$**	**306,328**

Grand total being financed	**$**	**891,029**

Please include any additional applicable fees and amortization schedules for each. The Board adopted a financing resolution at their meeting Wednesday, July 3, 2019. The staff will make their recommendation at the March 4, 2020 Board meeting. Money borrowed for items not purchased by closing date will be placed in an escrow. The mailing address is listed above or you may e-mail your bid to brooke.norris@nagsheadnc.gov. Proposals that do not meet these requirements will be considered non-responsive.

If you have any questions regarding the proposal, please feel free to email me or give me a call at 252-449-6055. Thanks in advance for your consideration.

Southern Bank and Trust Company
Amortization Schedule 2 Yrs - 3 Payments
Town of Nags Head

Loan amount	584,701.00	Total Interest	10,133.21
Interest rate	1.740%		
Term in months	24		
Payment amount			
Loan date	2/24/2020		
First payment date	2/24/2020		

Payment #	Payment date	Number of days interest	Interest amount	Principal amount	Total payment	Principal balance
						584,701.00
1	2/24/2020	-	-	128,292.48	198,278.07	386,422.93
2	2/24/2021	366	6,742.18	191,535.89	198,278.07	194,887.04
3	2/24/2022	365	3,391.03	194,887.04	198,278.07	(0.00)
			10,133.21	514,715.41	594,834.21	

Southern Bank and Trust Company
Amortization Schedule 4 YR - 5 PMTS
Town of Nags Head

Loan amount	306,328.00	Total Interest	10,670.40
Interest rate	1.740%		
Term in months	48		
Payment amount			
Loan date	2/24/2020		
First payment date	2/24/2020		

Payment #	Payment date	Number of days interest	Interest amount	Principal amount	Total payment	Principal balance
						306,328.00
1	2/24/2020	-	-	93,800.54	63,399.68	242,928.32
2	2/24/2021	366	4,238.53	59,161.15	63,399.68	183,767.17
3	2/24/2022	365	3,197.55	60,202.13	63,399.68	123,565.04
4	2/24/2023	365	2,150.03	61,249.65	63,399.68	62,315.39
5	2/24/2024	365	1,084.29	62,315.39	63,399.68	0.00
			10,670.40	336,728.86	316,998.40	

Resolution Approving Financing Terms

WHEREAS: The Town of Nags Head (the "Town") has previously determined to undertake a project for the financing of vehicles and equipment, (the "Project"), and the Town Manager has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Southern Bank & Trust Company, in accordance with the proposal dated February 24, 2020. The amount financed shall not exceed $584,701.00 the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed two (2) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the Southern Bank & Trust Company financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

5. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately

ADOPTED this the 4th day of March 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Resolution Approving Financing Terms

WHEREAS: The Town of Nags Head (the "Town") has previously determined to undertake a project for the financing of vehicles and equipment, (the "Project"), and the Town Manager has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Southern Bank & Trust Company, in accordance with the proposal dated February 24, 2020. The amount financed shall not exceed $306,328.00 the annual interest rate (in the absence of default or change in tax status) shall not exceed 1.74%, and the financing term shall not exceed four (4) years from closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to such officer's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the project that is to be financed from the proceeds of the Southern Bank & Trust Company financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the project, for project costs may be reimbursed from the financing proceeds.

5. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

ADOPTED this the 4th day of March 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **E-7**
Meeting Date: **March 4, 2020**

Item Title: Request for Public Hearing to consider the adoption of a resolution authorizing the Town to enter into an Installment Purchase contract in an amount not to exceed $1,449,793 to finance the cost of the Sidewalk Pedestrian Path, Fuel Tank Conversion, and Dowdy Park improvements as identified in the fiscal year 2019/2020 Budget

Item Summary:

Staff is requesting that a Public Hearing be scheduled for the April 15th Board of Commissioners meeting for the adoption of a resolution authorizing the Town to enter into an Installment Purchase contract in an amount not to exceed $1,449,793.

These funds are to finance the cost of the following items as identified in the 2019/2020 budget:

- Sidewalk Pedestrian Path
- Fuel Tank Conversion, and
- Dowdy Park improvements

Number of Attachments: 0

Specific Action Requested:
Schedule public hearing.

Submitted By: Administrative Services Date: February 26, 2020

Finance Officer Comment:
A public hearing on the financing contract is a requirement by the Local Government Commission (LGC) for real property improvements. This financing contract will be approved by the Town of Nags Head Board of Commissioners as well as the LGC.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

Agenda Item Summary Sheet

Item No: **E-8**
Meeting Date: **March 4, 2020**

Item Title: Request for Public Hearing to consider proposed a text amendment 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). The original 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; the applicant had explained 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. Based upon input from the Planning Board, the original proposal was revised to the current version. The attached adoption ordinance and markup are as prepared by the applicant.

Planning Board/Staff Recommendation
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, it is 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 definition of Outdoor Stand be amended consistent with the amendment of Section 7.76.1.

The Planning Board, at their February 18, 2019 meeting, voted 6-0 to recommend amendments to 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.

Number of Attachments: 2

Specific Action Requested:
Schedule public hearing.

Submitted By: Planning and Development Date: February 26, 2020

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:
N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:
N/A

Signature: Cliff Ogburn Date: February 26, 2020

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO THE REGULATION OF OUTDOOR STANDS, ACCESSORIES 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 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 **Section 7.76.1 and 7.76.2,** 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~~ Two outdoor stands shall be allowed per site. The stands shall not be required to be a permanent structure and may be located upon a trailer.

.

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

SECTION 7.76 OUTDOOR STANDS, ACCESSORY TO SHOPPING CENTERS & GROUP DEVELOPMENT.

Outdoor stands, accessory to shopping centers and group development, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.76.1. The principal 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. The sale of any other items shall be incidental and limited to no more than ten percent of the display area or ten percent of sales.

7.76.2. ~~Only one~~ Two outdoor stands shall be allowed per site. The stands shall not be required to be a permanent structure and may 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 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.

7.76.4. Produce stands shall be temporary and may be operated for a period of time not to exceed 180 days annually. 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.

7.76.5. All stands shall comply with applicable Dare County Health Department regulations and permitting requirements.

7.76.6. When located on a site with fifty (50) or more existing parking spaces, no additional parking spaces will be required. When located on a site with less than fifty (50) parking spaces a minimum of three (3) off-street parking spaces in accordance with parking regulations of this UDO shall be provided.

7.76.7. When the regulations contained in the subsection are in conflict with the general regulations of Town Code Section 12 Article III, Peddlers and Itinerant Merchants, the provisions of this UDO shall prevail.

Agenda Item Summary Sheet

Item No: **E-9**
Meeting Date: **March 4, 2020**

Item Title: Request for Public Hearing to consider a text amendment to the Unified Development Ordinance to correct identified errors

Item Summary:

Since the adoption of the Unified Development Ordinance (UDO) on August 7, 2019, Staff has located minor numbering, punctuation, grammatical, consistency and contextual errors within the document; this amendment is intended to correct these identified errors. It is anticipated that Staff will periodically propose similar amendments in the future to correct any further errors identified through the administration of the UDO. Staff recommends that the amendment be adopted as outlined in the attached adoption ordinance, and the Planning Board agreed at their February 18th, 2020 meeting.

Number of Attachments: 1

Specific Action Requested: Schedule public hearing

Submitted By: Planning and Development Date: February 26, 2019

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2019

Town Attorney Comment:

Signature: John Leidy Date: February 26, 2019

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: February 26, 2019

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO CORRECT IDENTIFIED ERRORS

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, following adoption of the Unified Development Ordinance, Planning Staff has identified several unintended errors within the text of the Ordinance, necessitating amendment to correct; and

WHEREAS, the Town of Nags Head 2017 Comprehensive Plan includes goals and policies aimed at maintaining a well-run and efficient government that provides high quality and cost-effective services through good governance in order to advance the Town's vision; 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 Towns Unified Development Ordinance as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (<u>underline</u>) 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 ellipses ("...") 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 **Article 2, Administrative, Legislative, & Quasi-Judicial Authority, Section 2.4 Planning Board**, be amended as follows:

2.4.4. Powers and Duties.

2.4.4.1. It shall be the duty of the Planning Board to prepare plans and to coordinate the plans of the Town and those of others to bring about a coordinated and harmonious development of the area. The Planning Board is hereby designated as the planning agency for the preparation of a zoning plan for the Town under the authority of NCGS 160A-387. In addition, the Planning Board is empowered to:

2.4.4.1.1. Acquire and maintain in current form such basic information and materials as are necessary to understand past trends, present conditions and forces at work to cause changes in these conditions.

2.4.4.1.2. Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical development of the area. The Comprehensive Plan shall be the Planning Board's recommendations to the Board of Commissioners for the development of the Town including, among other things, the general location, character and extent of streets, bridges, parkways, playgrounds, parks and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals; and the most desirable pattern of land use within the area.

~~***2.4.4.1.4.***~~ ***2.4.4.1.3.*** Prepare and recommend ordinances promoting orderly development of the Town as recommended by the Comprehensive Plan including the ordinances contained within the UDO. The Planning Board may initiate proposals for amendment of the UDO based upon its studies and Comprehensive Plan. In addition, the Planning Board shall review and make recommendations to the Board of Commissioners concerning all proposed amendments to the UDO and zoning map.

~~***2.4.4.1.5.***~~ ***2.4.4.1.4.*** Determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the Comprehensive Plan for the area and to make recommendations concerning them.

~~***2.4.4.1.6.***~~ ***2.4.4.1.5.*** Keep the Board of Commissioners and the public informed and advised as to these matters.

~~*2.4.4.1.7.*~~ *2.4.4.1.6.* Make any other recommendations which it sees fit for improving the development of the area.

~~*2.4.4.1.8.*~~ *2.4.4.1.7.* Perform any other duties which may lawfully be assigned to it.

PART II. That **Article 2 Administrative, Legislative, & Quasi-Judicial Authority, Section 2.6 Board of Commissioners** be amended as follows:

SECTION 2.6 BOARD OF COMMISSIONERS.

2.6.1. The Board of Commissioners has the authority to initiate, review, and decide applications for the following: UDO text amendments, zoning map amendments, and conditional use permits in accordance with Article 3, Legislative/Quasi-Judicial Procedures, as well as major site plans, major subdivision preliminary plats, and subdivision waivers in accordance with Article 4, Development Review Process.

2.6.2. The Board of Commissioners, in considering conditional use permit applications, acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural requirements set forth in Section 3.13, Procedures for Quasi-Judicial Hearings.

~~*2.6.2.*~~ *2.6.3.* In considering proposed changes in the text of this UDO or in the zoning map, the Board of Commissioners acts in its legislative capacity and must proceed in accordance with the requirements of Section 3.5, UDO Text Amendments/Zoning Map Amendments.

~~*2.6.3.*~~ *2.6.4.* Unless otherwise specifically provided in this Article, in acting upon conditional use permit requests or in considering amendments to this Ordinance or the zoning map, the Board of Commissioners shall follow the regular voting and other requirements as set forth in other provisions of the Town ~~c~~Code, the Town ~~c~~Charter, Rules of Procedure, or general law as applicable.

~~*2.6.4.*~~ *2.6.5.* The Board of Commissioners, in considering the approval of a site-specific development plan (as defined in Section 3.6, Establishment of Vested Rights), shall follow the procedural requirements set forth in Section 3.8, Conditional Use Permits for the issuance of a conditional use permit.

~~*2.6.5.*~~ *2.6.6.* A failure to vote by a Board member who is physically present in the Commissioners chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an abstention, not an affirmative vote.

PART III. That **Article 3 Legislative/Quasi-Judicial Procedures, Section 3.13 Procedures for Quasi-Judicial Hearings**, be amended as follows:

3.13.3. Modification of Application at Hearing.

~~***3.13.2.1.***~~ ***3.13.3.1.*** In response to questions or comments made in sworn testimony at the hearing, the applicant may agree to modify the application, including the plans and specifications submitted.

~~***3.13.2.2.***~~ ***3.13.3.2.*** Unless such modifications are so substantial or extensive that the decision-making board cannot reasonably be expected to perceive the nature and impact of the proposed changes without revised plans before it, the decision-making board may approve the application with the stipulation that the permit will not be issued until plans reflecting the agreed upon changes are submitted to the UDO Administrator.

PART IV. That **Article 4 Development Review Process, Part II. Development Review Process**, **Section 4.2 Purpose and Intent**, be amended as follows:

PART II. DEVELOPMENT REVIEW PROCESS~~.~~

SECTION 4.2 PURPOSE AND INTENT.

The formal development review process is designed for non-residential development (i.e., projects other than one- and two-family dwellings) applications that require review by the Planning Board and Board of Commissioners. The permitting process for one- and two-family dwellings is provided in Part III, Development Permitting ~~Process~~ Requirements.

PART V. That **Article 4 Development Review Process, Section 4.10 Permits Required**, be amended as follows:

SECTION 4.10 PERMITS REQUIRED.

4.10.1. No use of land shall be initiated or modified and no building or other structure shall be erected, moved, added to or structurally altered without having either a conditional use permit approved by the Board of Commissioners as provided for under Section 3.8, Conditional Use Permits, or the necessary permits identified in Section 4.11, Permit Types, approved and issued by the UDO Administrator.

4.10.2. Furthermore, no building permit shall be issued except in conformity with the provisions of this UDO, the state building code, and applicable federal, state and local regulations.

~~***4.10.4.***~~ ***4.10.3.*** A fee for conditional use permits, zoning permits and building permits is required, which shall be in accordance with a regularly adopted fee schedule of the Town.

PART VI. That **Article 4 Development Review Process, Section 4.13 Certificate of Compliance Required**, be amended as follows:

SECTION 4.13 CERTIFICATE OF COMPLIANCE REQUIRED.

4.13.1. No land shall be used or occupied, and no building hereafter structurally altered, erected, moved, be used or have its use changed, until a certificate of compliance shall have been issued by the UDO Administrator stating that the building and/or the proposed use thereof complies with the provisions of this UDO.

4.13.2. A certificate of compliance shall be applied for coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this UDO.

4.13.3. A record of all certificates shall be kept on file in the office of the building inspector, and copies shall be furnished on request to any person wishing to review such records.

~~4.13.5.~~ 4.13.4. In instances where a change of use or other development is proposed that triggers permits or approvals under this UDO, but no building permit is required, then only those UDO permits or approvals required to verify that the proposed use and requirements pertaining thereto comply with the provisions of this UDO.

~~4.13.6.~~ 4.13.5. Prior to issuance of a certificate of compliance for any new construction project or for any non-residential project which involves an increase in lot coverage, the UDO Administrator shall inspect the entire site to determine if the development complies with the Town approved site plan. The applicant shall also furnish the Town with a final, original, sealed and signed as-built survey of the entire site. In cases where the proposed building is within six inches of the height limit for the district in which it is located, the UDO Administrator may require a height certificate prepared by a licensed surveyor.

~~4.13.7.~~ 4.13.6. Prior to issuance of a certificate of compliance for any remodel, addition, or accessory structure, the UDO Administrator shall inspect the entire site to determine if the development complies with the Town approved site plan. If the UDO Administrator finds that the site or a structure on the site has deviated from the approved site plan, or in cases where the project is close to exceeding lot coverage, height, or directly adjacent to a setback, the UDO Administrator may require a final, original, sealed and signed as-built survey and/or height certificate.

PART VII. That **Article 6 Zoning Districts, Section 6.2 Zoning District**, **Special Districts** be amended as follows:

6.2.5.4. O&S Ocean and Sound Waters District. The Ocean and Sound Waters District encompasses the ocean and sound waters and is established to provide for the proper use of these waters, including islands that adjoin the Town, to ensure the continued scenic, conservation and recreational value that these waters provide to the Town, its residents, visitors and the surrounding area. Regulations in this district shall not prohibit or regulate commercial fishing and navigation. The Ocean and Sound Waters District shall encompass and be applied to the area defined as the extraterritorial zoning area as referenced in Town Code ~~Article~~ Section 2-1 Zoning; boundary extension; establishment; application.

PART VIII. That **Article 6. Zoning Districts, Section 6.6, Table of Uses and Activities**, be amended as follows:

		Residential Districts			**Commercial Districts**				
Use Category/Class	**Use Type**	**R-1**	**R-2**	**R-3**	**CR**	**C-1***	**C-2**	**C-3**	**C-4**
Residential	Dwelling, Large Residential	PS	PS	PS	PS		PS		
Residential	Dwelling, Multi-Family				~~CS~~	CS	CS		

PART IX. That **Article 7. Supplemental Regulations, Section 7.21 Massage and Bodywork Therapy**, be amended as follows:

SECTION 7.21 MASSAGE AND BODYWORK THERAPY.

Massage therapy centers, are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.21.1. General Requirements.
These requirements apply to massage therapists and massage and bodywork therapy business operators. No person permitted under this article shall allow or permit any person to massage or treat any person unless the person giving such massage or treatment has complied with all requirements of this article.

7.21.1.1. Permits required.

7.21.1.1.1. All massage and bodywork therapists and owner/operators of massage and bodywork therapy establishments shall possess and provide proof of a North Carolina license to practice massage and bodywork therapy in accordance with NCGS Chapter 90, Article 36 Massage and Bodywork Therapy Practice.

7.21.1.1.2. A zoning permit is required, in accordance with Article 4, Development Review Process of this UDO, for both the practice of massage and bodywork therapy and owner/operators of massage and bodywork therapy establishments.

~~***7.21.1.2.3.***~~ ***7.21.1.1.3.*** An annual Town of Nags Head Business Registration shall be completed by massage and bodywork therapists and/or owner/operators of massage and bodywork therapy establishments. At the time of registration, any fees associated with the registration shall be paid.

7.21.1.2. The following information shall be submitted and considered as part of the application for a permit from the Town:

7.21.1.2.1. The name of the business and location of the business.

7.21.1.2.2. List of North Carolina certified massage therapists and contact information for massage therapists working in massage therapy and bodywork establishments.

7.21.1.2.3. A certificate of insurance indicating that the applicant has professional liability insurance for the practice of massage therapy/bodywork.

7.21.1.2.4. A description of the services to be provided and any other business to be operated on the same premises or on adjoining premises owned or controlled by the applicant.

7.21.1.2.5. If an applicant is to work under the supervision of a licensed physician, applicant must show scope of services from the licensed physician.

7.21.1.2.6. Verification of criminal history through investigative report by the Nags Head Police Department. Submission of the following information is necessary to complete this investigative report:

7.21.1.2.6.1. A complete statement of all convictions of any person involved in the operation of the business for any felony, or prostitution or any violation of any law relative to prostitution;

7.21.1.2.6.2. A complete statement of any revocation, by any governmental unit, of any license to operate a massage business or to engage in the business or profession of massage by the applicant or any persons associated with or employed by the operation of the massage therapy business~~.~~;

7.21.1.2.6.3. A complete statement of any conviction for violation of any statute, law, ordinance or regulation of any government

concerning the operation of a massage business or the business or profession of massage by the applicant or anyone employed with the business.

7.2.1.1.2.7 The Town reserves the right to request submission of any additional information deemed necessary to process the permit application.

7.21.1.3. The applicant or any person having a legal or beneficial ownership interest in the applicant shall not, for the three-year period preceding the application, have a previously issued license revoked for engaging in the business or profession of massage.

7.21.1.4. The applicant or any person having any legal or beneficial ownership interest in the applicant, shall not in the last ten (10) years have been convicted of any crime involving sexual misconduct including but not limited to, NCGS 14-177 – 14-202.1 and NCGS 14-203 – 14-208, any federal statutes relating to prostitution, or of any violation of any law or ordinance of any governmental unit related to the business or profession of massage.

7.21.1.5. It shall be unlawful for any person, corporation, partnership, or association to employ any person under the age of eighteen (18) years in the operation of a massage business.

7.21.1.6. Hours of operation:

7.21.1.6.1. No person shall massage or treat any person, or engage in the business or profession of massage, before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.2. No person shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.6.3. No person in charge of managing a massage business shall allow, permit or condone any massage or treatment of any person before 8:00 a.m. or after 12:00 midnight, prevailing time.

7.21.1.7. Posting of license:

7.21.1.7.1. Every massage therapist shall post a copy of their North Carolina license to operate in their work area or on their person.

7.21.1.7.2. Every person, corporation, partnership, or association licensed under this article hereof shall display their business registration and their North Carolina license to operate in a prominent place or on their person.

7.21.1.8. A permit issued pursuant to this article is void if the licensee moves or ceases operating a massage business.

7.21.2. Massage of Private Parts for Hire.

It shall be unlawful for any person to massage or to offer to massage the private parts of another for hire. The term "massage," as used in this section, means the manipulation of body muscle or tissue by rubbing, stroking, kneading or tapping, by hand or mechanical device. The term "private parts" means the penis, scrotum, mons veneris, vulva, or vaginal area. The provisions of this section shall not apply to licensed medical practitioners, osteopaths or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic or osteopathy.

7.21.3. Revocation of Permit.

7.21.3.1. Violation of any part of this article shall be grounds for revocation of the permit.

7.21.3.2. A permit issued pursuant to this section shall be revoked by the UDO Administrator or designee upon the determination that:

7.21.3.2.1. The permit holder violates any building or fire prevention ordinances or any provision of this UDO.

7.21.3.2.2. The permit holder, or the legal or beneficial owner of any interest in the permit holder is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14-202.4, and NCGS 14-203 – 14-208 in the last ten years.

7.21.3.2.3. Any employee of the permit holder is convicted of any felony in connection with his employment, or is convicted of any crime involving sexual misconduct including, but not limited to, NCGS 14-177 – 14.202.4 and NCGS 14-203 – 14-208 or of this article.

PART X. That **Article 7. Supplemental Regulations, Section 7.30 Restaurant, Neighborhood**, be amended as follows:

SECTION 7.30 RESTAURANT, NEIGHBORHOOD.

Restaurant, neighborhood, is permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.30.1. To be classified as a neighborhood restaurant, the indoor customer service area shall be less than 1,000 square feet.

7.30.2. An on-site outdoor customer service area in an amount up to 50% of the indoor customer service area is also permitted.

7.30.3. A restaurant site may contain more than one principal restaurant building, or one principal restaurant building in combination with another principal drive-in restaurant, drive-through restaurant, or takeout restaurant building.

7.30.4. Uses qualifying as a restaurant shall meet the following criteria:

> ~~***7.30.2.1.***~~ ***7.30.4.1.*** A food preparation area that is at least twenty (20) percent of the gross building square footage of the principal building. The square footage of food preparation area located in an on-site accessory restaurant use building or a second on-site drive-in, drive-through, or takeout restaurant may be applied when calculating this minimum 20% requirement. But when calculated together (principal and accessory or second principal buildings), in no event shall the food preparation area of the principal building be permitted to be less than ten (10) percent of the principal building gross square footage; and~~,~~
>
> ~~***7.30.2.2.***~~ ***7.30.4.2.*** At least seventy-five (75) percent of all customer seats shall be designated for full-service, full-menu dining; and~~,~~
>
> ~~***7.30.2.3.***~~ ***7.30.4.3.*** No more than fifteen (15) percent of the total building square footage shall be devoted to accessory entertainment uses including but not limited, to dance floor, lounges, bars, stages, live performance, and disc jockey areas. Accessory entertainment uses referenced in this section shall be permitted in a restaurant establishment provided these uses are clearly subordinated in area, extent, hours of operation, and purpose to areas designated for food and/or beverage preparation, service, and consumption.

PART XI. That **Article 7. Supplemental Regulations, Section 7.33 Commercial with Accessory Residential (Attached or Detached),** be amended as follows:

SECTION 7.33 COMMERCIAL WITH ACCESSORY RESIDENTIAL (ATTACHED OR DETACHED).

Accessory residential units are single-family attached or detached units that may be allowed on the same property and in conjunction with a commercial use. These are distinctly different than accessory dwelling units, which are accessory uses designed to be subordinate to and located on the same property as a single-family dwelling. Commercial with Accessory Residential, is permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.33.1. Commercial uses may have up to two (2) accessory residential units that are attached or detached.

7.33.2. Accessory residential uses must be located above or to the rear of the primary commercial use and must meet the setbacks for the principal structure within the zoning district.

7.33.3. Individual accessory residential units may not exceed 1,500 square feet in area.

~~***7.33.4.*** Parking shall be provided for the accessory residential units using the same parking standard applicable to single-family dwellings.~~

PART XII. That **Article 7. Supplemental Regulations**, **Section 7.39 Fire Stations/Public Works Facilities**, be amended as follows:

SECTION 7.39 FIRE STATIONS/PUBLIC WORKS FACILITIES.

Fire stations and public works facilities are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.39.1. Fire Stations.
Fire stations are permitted in accordance with Section 6.6, Table of Use and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.39.1.1. No open storage is allowed.

~~***7.39.2.***~~ ***7.39.1.2.*** Lighting shall be prohibited except for minimum lighting that may be required for security purposes.

PART XIII. That **Article 7. Supplemental Regulations, Section 7.50 Fishing Piers,** be amended as follows:

SECTION 7.50 FISHING PIERS.

Fishing Piers are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided that the following conditions are met:

7.50.1. Fishing piers, which may include accessory restaurant or retail uses, are permitted in the R-2 and CR districts in accordance with Section 6.6, Table of Uses and Activities, subject to other requirements of this UDO and provided the following conditions are met:

7.50.1.1. Parking lot lighting shall be prohibited except for minimum lighting which may be required for security purposes.

7.50.1.2. The maximum total height of the pier house structure shall be thirty-five (35) feet.

7.50.1.3. Lot coverage shall not exceed fifty (50) percent. Coverage may be increased to a maximum of sixty (60) percent if open-space paving blocks are used in place of surfaces such as concrete or asphalt. The use and installation of open-face paving blocks shall be in accordance with the requirements of Section 8.6.6.6., Special Requirements for the Use of Permeable Pavement.

7.50.1.4. Restaurants associated with a fishing pier shall not exceed 1,500 square feet of combined indoor and outdoor customer service area.

7.50.1.5. In the CR district only, if the pier house contains multiple accessory or principal uses, including but not limited to, retail sales, arcade, restaurant, wind turbines, educational and recreational programming, and indoor public assembly uses, with a parking requirement greater than one parking space per 200 square feet of gross floor area, the overall parking requirement may be reduced by fifteen (15) percent. In utilizing this provision, at no time shall the total number of parking spaces provided be less than 100.

~~7.50.1.5.~~ ***7.50.1.6.*** In the CR district only, the location and installation of wastewater treatment facilities and required repair areas to serve the principal use may be located off-site provided that all off-site properties are undeveloped and are zoned for commercial use. Off-site wastewater treatment facilities shall be exempt from the requirements of Section 7.47, Wastewater Treatment Plants (Accessory to Pier). Above ground structures of the treatment facility shall be deemed principal use structures and shall comply with the dimensional height and yard requirements of the zoning district in which they are located. When off-site wastewater treatment facilities are utilized in conjunction with a fishing pier, restaurants are not permitted as a principal or accessory use to the fishing pier.

~~7.50.1.6.~~ ***7.50.1.7.*** In the CR district only, up to fifty (50) percent of the required parking for the site may be located at an off-site location. Off-site parking must be located in the C-2 zoning district.

PART XIV. That **Article 7. Supplemental Regulations, Section 7.55 Municipal Parks,** be amended as follows:

SECTION 7.55 MUNICIPAL PARKS.

Municipal parks are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to the following limitations and conditions:

7.55.1. Municipal Parks in the R-2 Zoning District.

Municipal parks which may include, but not be limited to, tennis courts, multi-purpose recreation fields, concession areas, and picnic areas, are permitted in accordance with

Section 6.6, Table of Uses and Activities, subject to the other requirements of this UDO and provided the following conditions are met:

~~***7.55.1.***~~ ***7.55.1.1.*** All multi-purpose recreation fields or tennis courts shall be located no closer than one hundred (100) feet from the property line of any adjacent residential property within the R-2 district.

~~***7.55.2.***~~ ***7.55.1.2.*** All buildings or parking lots shall be located no closer than fifty (50) feet from the property line of any adjacent residential property within the R-2 district.

~~***7.55.3.***~~ ***7.55.1.3.*** All multi-purpose recreation fields, tennis courts, parking lots, or buildings shall be located no closer than thirty (30) feet from the adjacent residential property line of any property within the SED-80 district.

~~***7.55.4.***~~ ***7.55.1.4.*** A 50-foot wide buffer shall separate all multi-purpose recreation fields and tennis courts from the property line of any property within the R-2 district. This buffer shall be bermed or planted to a minimum height of five (5) feet and that will reach a height of ten (10) feet within five (5) years. There shall be a minimum of six (6) rows of plants in the buffer placed on 10-foot centers. Eighty (80) percent of all plants must be locally adaptive live evergreen species, or the equivalent of these standards that incorporate existing vegetation and topography or other landscape architecture designs that demonstrate compliance with these standards. Ornamental grass/herbaceous plants shall not be required to be included in this buffer.

~~***7.55.5.***~~ ***7.55.1.5.*** All buildings and parking areas shall be buffered from the property line of any property within the R-2 district utilizing a 10-foot wide Commercial Transitional Protective Yard as prescribed in Section 10.93, Landscaping, Buffering, and Vegetation Preservation.

~~***7.55.7.***~~ ***7.55.1.6.*** Light fixtures for multi-purpose recreation fields shall be turned off no later than 9:00 pm.

PART XV. That **Article 7. Supplemental Regulations, Section 7.58 Designated Public Events Site**, be amended as follows:

SECTION 7.58 DESIGNATED PUBLIC EVENTS SITE.

Designated public event sites are permitted in accordance with Section 6.6, Table of Uses and Activities, subject to the following regulations:

7.58.1. A special events permit is required for events held at a designated public events site for events that expect more than 100 attendees. Applications, including a site and management plan for events, must be made to the Town Manager's office no less than

fourteen (14) days prior to the initiation of any event or temporary use to take place on the site in order for the Town to:

7.58.1.1. Evaluate requests for Town assistance and costs to be charged as associated with the event;

7.58.1.2. Determine and schedule what types of site inspections may be needed;

7.58.1.3. Evaluate parking, site access and traffic controls;

7.58.1.4. Evaluate crowd controls and flow, and site requirements for bathroom, water and other facilities that may be required to protect the health and welfare of the participants;

7.58.1.5. Confirm that NC Alcohol Law Enforcement (ALE) and Dare County Health Department requirements have been met;

7.58.1.6. To assign and charge any fees associated with use of Town personnel;

7.58.1.7. Schedule repeating events~~; and~~.

7.58.2. Events site and management plan shall include:

~~***7.58.8.1.***~~ ***7.58.2.1.*** Contact information and cell phone for the person in charge of the event.

~~***7.58.8.2.***~~ ***7.58.2.2.*** A brief description of the event with an estimated number of expected participants. Ticketed events should indicate the maximum number of tickets that will be sold.

~~***7.58.8.3.***~~ ***7.58.2.3.*** A site plan map showing:

~~***7.58.8.3.1.***~~ ***7.58.2.3.1.*** The location of all temporary structures, including tents, stages, concessions, bathroom facilities, or rides.

~~***7.58.8.3.2.***~~ ***7.58.2.3.2.*** A traffic and parking plan indicating site ingress/egress, traffic flow direction, designated parking areas, and the number of parking spaces. Ticketed events must have one space for every three tickets sold. If off-site parking is anticipated, plan must indicate where off-site parking will be located and document approval from those property owners.

~~***7.58.8.3.3.***~~ ***7.58.2.3.3.*** The amount, type, and location of temporary signage, subject to the provision of Article 10, Part III, Sign Regulations of this UDO, and the following:

~~***7.58.8.3.3.1.***~~ ***7.58.2.3.3.1.*** Directional signage less than twelve (12) square feet may be located at strategic locations to direct pedestrians and motorists.

~~***7.58.8.3.3.2.***~~ ***7.58.2.3.3.2.*** Temporary advertisement, sponsorship, or commercial signage shall be directed internally to the event itself and shall not be located adjacent to or addressing adjacent properties, the US 158 right-of-way or the beach or sound.

~~***7.58.8.3.3.3.***~~ ***7.58.2.3.3.3.*** Temporary signs shall be displayed only during the actual time period of the event and shall be promptly removed at the close of such event.

~~***7.58.8.3.4.***~~ ***7.58.2.3.4.*** Notes or attachments related to any additional documentation pertinent to the planned event, including but not limited to:

~~***7.58.8.3.4.1.***~~ ***7.58.2.3.4.1.*** Approvals required from other agencies (ALE, NCDHHS).

~~***7.58.8.3.4.2.***~~ ***7.58.2.3.4.2.*** Off-site parking arrangements.

~~***7.58.8.3.4.3.***~~ ***7.58.2.3.4.3.*** Proof of insurance related to the event.

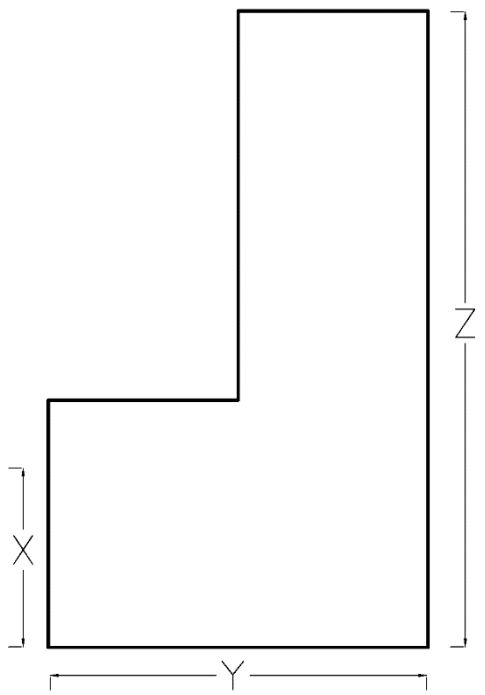
7.58.3. Failure to comply with inspection and code requirements can result in fines and/or suspension of the use of the site in accordance with Section 1.10, Violation of UDO Regulations, of this UDO and other applicable local and state regulations.

PART XVI. That **Article 8. District Development Standards, Section 8.6 Standards/Application of Dimensional Requirements**, be amended as follows:

8.6.2. Length and Width Requirements for Principal Buildings.

The following provision apply both to residential and commercial buildings, except that building erected in the C-3 commercial services district shall be exempt from these minimum dimensional requirements.

8.6.2.1. The length of a principal building shall not exceed three times the width of the building. The length shall be considered the longest dimension of the structure to include porches and open decks. The width shall be considered to be the widest consistent dimension through at least forty percent (40%) of the length of the building, which may be interrupted; for example, if a building has a width of twenty-two (22) feet for 20% of its length, reduces to a width of 18’ for 60% of its length, and then widens to a width of 20’ for 20% of its length, the building shall be determined to have a width of 20’ and shall have a length of no more than 60’.



Dimensions—Principal Buildings

(To use Y as the width, X must equal at least 40 percent of the length (Z) of the building.)

~~***8.6.2.3.***~~ ***8.6.2.2.*** The minimum width of the enclosed habitable space of a principal building shall be eighteen (18) feet measured at the first-floor level.

~~***8.6.2.4.***~~ ***8.6.2.3.*** A building shall be at least eighteen (18) feet wide along at least forty (40) percent of its length.

~~***8.6.2.5.***~~ ***8.6.2.4.*** Outside dimensions shall be used in determining length and width. This is defined as the exterior façade covering on the outside of the building (see graphic above).

8.6.3.6. Exclusions from Yard Requirements.

8.6.3.6.1. The inner edge of the front, rear, or side yard shall be measured from the building foundation and may exclude the outermost three feet of eaves, gutters, uncovered handicapped ramps, or uncovered steps. This exclusion may also apply to cargo lifts for single-family or duplex dwellings only, and built-in railing benches constructed in accordance with Appendix B, "Town of Nags Head Residential Design Guidelines".

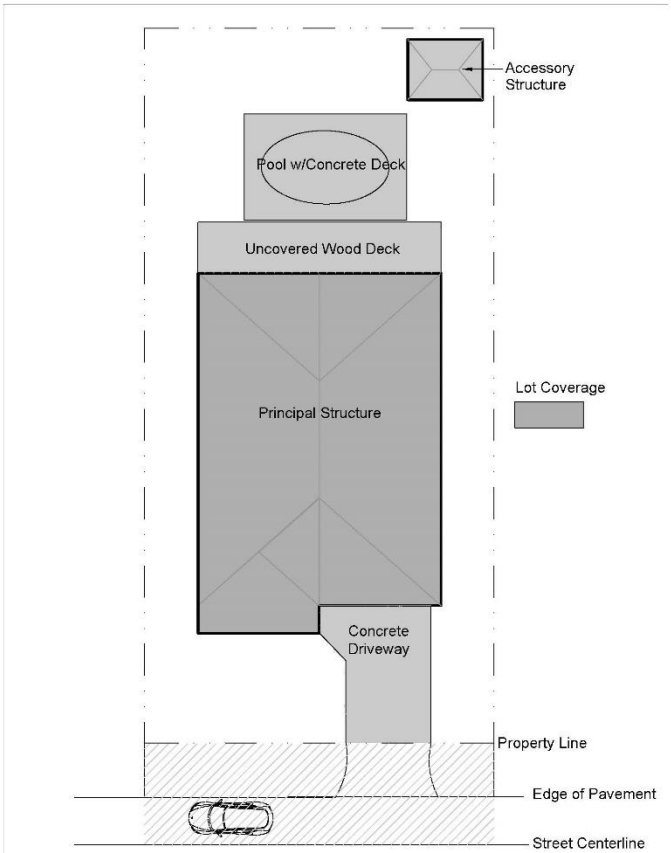
PART XVII. That **Article 8. District Development Standards, Section 8.6 Standards/Application of Dimensional Requirements**, be amended as follows:

8.6.6. Lot Coverage.

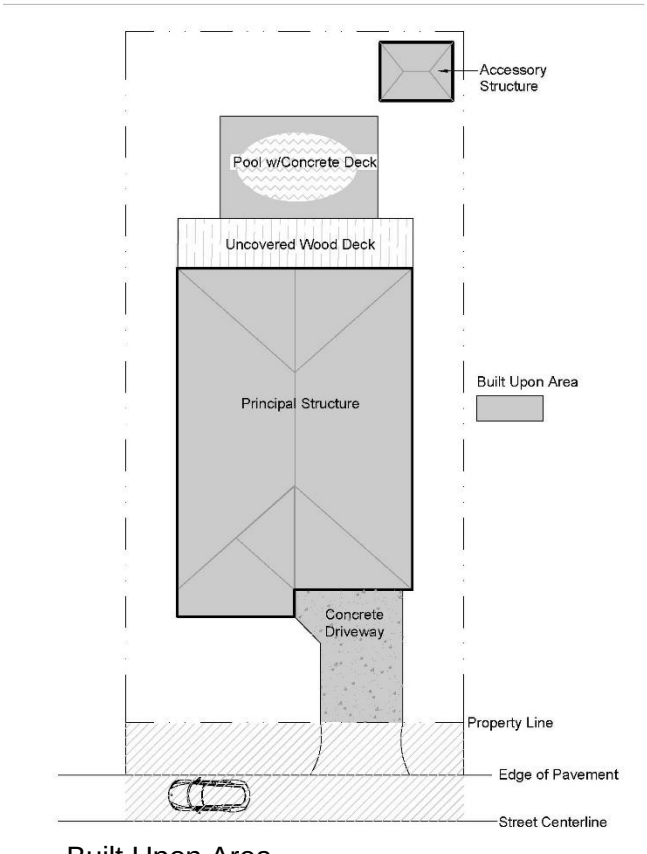
8.6.6.1. Purpose and Intent. As defined in Appendix A of this UDO, lot coverage means that portion of the lot area, expressed as a percentage, which is covered or

occupied by impervious surfaces or structures. Lot coverage is one of the primary mechanisms by which the Town regulates the development intensity of individual lots. Lot coverage limits are established for the purposes of preserving open space, limiting the amount of land disturbance necessary for development, and establishing development intensity limitations that are consistent with the Town's vision and goals for the built environment.

For the purposes of determining lot coverage, the following features shall be considered impervious – any principal or accessory use or structure located above the ground including decks, parking areas, vehicular use areas, roadways, access ways, and sidewalks or walkways that prevent the infiltration of rainwater. Lot coverage is utilized to determine zoning compliance and is distinct from the calculation of built-upon area. Built-upon area is used for the purposes of regulating stormwater management, and is described in Article 11, Part I, Buffering and Vegetation Preservation General Requirements of this UDO.



Lot Coverage



Built Upon Area

Although lot coverage is calculated based on the lot area as defined in Appendix A, in some cases portions of the lot area are excluded from the calculation. For example, for an oceanfront lot, lot coverage is calculated based on the lot area west

of the first line of stable natural vegetation or the static line, whichever is further landward of the ocean.

This section describes special provisions applicable to lot coverage calculations for certain uses/structures or districts. In some instances, certain building features or site elements are either excluded from the lot coverage calculation or count as a reduced percentage. Additionally, lot coverage may be increased with the application of additional stormwater management measures.

PART XVIII. That **Article 9., SPD-C Zoning Ordinance**, **Section 9.23 Institutional District**, be amended as follows:

9.23.5.3. Building Setback Requirements.

9.23.5.3.1. A minimum of forty (40) feet from the US 158 right-of-way.

9.23.5.3.2. A minimum of twenty (20) feet from the Seachase Drive right-of-way.

9.23.5.3.3. A minimum of fifty (50) feet from residential uses.

~~***9.23.5.2.4.***~~ ***9.23.5.3.4.*** ***Building-to-Building Separation.*** A minimum of twenty-five (25) feet.

~~***9.23.5.2.5.***~~ ***9.23.5.3.5.*** ***Building Height Limitation.*** Thirty-five (35) feet; however, for every foot above thirty-five (35) feet, there shall be an additional setback of two (2) feet from Seachase Drive, US 158, and any residential district. The maximum building height shall be forty-five (45) feet.

~~***9.23.5.2.6.***~~ ***9.23.5.3.6.*** ***Parking Required.*** Refer to Section 10.16, Required Parking by Use of this UDO.

PART XIX. That **Article 9., SPD-C Zoning Ordinance**, **Section 9.26 Attached Single Family District**, be amended as follows:

9.26.5. Single-Family Four (SF#4) District Standards.
Single-family four district standards in the attached single-family district are as follows:

9.26.5.1. Maximum Density. Twelve (12) dwellings per acre.

9.26.5.2. Minimum Building Front Yard and Side Yard Setback Requirements.

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

9.26.5.3. Minimum Rear Yard. Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only

a minimum 15-foot rear yard is required when adjacent to interior open space area.

~~***9.26.5.3.***~~ ***9.26.5.4.*** ***Minimum Lot Size.*** 2,400 square feet.

9.26.6. Single-Family Five (SF#5) District Standards.
Single-family five district standards in the attached single-family district are as follows:

9.26.6.1. Maximum Density. Three (3) dwellings per acre.

9.26.6.2. Minimum Building Front Yard and Side Yard Setback Requirements.

Fronting On:	Front Yard	Side Yard
Public right-of-way	15 feet	Minimum separation between buildings 10 feet

9.26.6.3. Minimum Rear Yard. Thirty (30) feet to existing residential outside the Village at Nags Head, plus a 25-foot natural or landscaped buffer. Only a minimum 15-foot rear yard is required when adjacent to interior open space area.

~~***9.26.6.3.***~~ ***9.26.6.4.*** ***Minimum Lot Size.*** 2,400 square feet.

PART XX. That **Article 9., SPD-C Zoning Ordinance**, **Section 9.27 Multifamily District**, be amended as follows:

9.27.6. Multifamily Two (MR#2) District Standards.
Multifamily two (MF #2) district standards in the multifamily district are as follows:

~~***9.27.5.1.***~~ ***9.27.6.1.*** ***Maximum Density.*** Eighteen (18) units per acre.

~~***9.27.5.2.***~~ ***9.27.6.2.*** ***Coverage.***

Maximum Building	Maximum Parking	Minimum Landscaped	Minimum Common Area
50 percent (low-rise)	N/A	20 percent	N/A

~~***9.27.5.3.***~~ ***9.27.6.3.*** ***Minimum Building Front Yard and Side Yard Setback Requirements.***

Fronting On:	Front Yard	Side Yard
Public right-of-way	10 feet	20 feet

Side yard setbacks for developments taller than two stories between South Virginia Dare Trail and the Atlantic Ocean shall follow the ~~"~~visual window~~"~~ concept as prescribed in subsection 9.24.11.

~~***9.27.5.4.***~~ ***9.27.6.4.*** ***Rear Yard.*** Twenty (20) feet. The rear yard may be reduced to fifteen (15) feet if adjacent to dedicated open space.

~~***9.27.5.5.***~~ ***9.27.6.5.*** ***Building Cluster Separation.*** There shall be a minimum ten (10) feet building separation for each twelve (12) feet of building height or portion thereof.

~~***9.27.5.6.***~~ ***9.27.6.6.*** ***Maximum Height.*** Forty-five (45) feet.

PART XXI. That **Article 10. Performance Standards, Section 10.24 Signs Permitted in Commercial Districts and the Commercial/Residential Distric**t, shall be amended as follows:

10.24.2.5. Window signs shall be permitted to be placed only inside a commercial building and shall not exceed twenty-five (25) percent of the glass area of the pane upon which the sign is displayed. Window signs of exposed neon, argon, krypton or similar gas tube lighting shall be permittable, provided that such signs shall not exceed twenty-five (25) percent of glass pane area, and shall not exceed singly, or in combination 0.15-square-foot per lineal foot of store frontage, not to exceed twenty (20) square feet of sign area for any one store.

PART XXII. That **Article 10., Performance Standards**, **Small Wireless Facilities**, be amended as follows:

SECTION 10.103 SMALL WIRELESS FACILITIES.

10.103.1. Standards.

Small wireless facilities and utility poles installed to support small wireless facilities shall comply with the following requirements:

10.103.1.1. Small wireless facilities shall be a permitted use in all rights-of-way and on properties containing uses other than single-family dwellings. Small wireless facilities shall be a conditional use on properties developed as single-family dwellings.

10.103.1.2. Height of New Small Wireless Facilities. New small wireless facilities in the ROW may not extend (i) more than ten feet (10') above an existing utility pole in place as of the effective date of this UDO; or (ii) for small wireless facilities on a new utility pole, more than ten feet (10') above the height permitted for a new utility pole under this UDO. A new small wireless facility on private property may not exceed the applicable height limit for the district in which it is located.

Agenda Item Summary Sheet

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

Item Title: Update from Planning Director

Item Summary:

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

Number of Attachments: 4

Specific Action Requested:

Provided for Board information and update.

Submitted By: Planning and Development Date: February 26, 2019

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2019

Town Attorney Comment:

Signature: John Leidy Date: February 26, 2019

Town Manager Comment and/or Recommendation:

The report provided by the Planning and Development Director is intended to update the Board and public on items that you have prioritized, such as building permit review and turnaround time. Staff's intent is to provide you with the attached report as well as an opportunity for Board members to ask any questions or for clarifications on any of the items in the report. A verbal presentation is not planned to accompany the attached report. Ordinarily, unless there is a specific item to be heard under this agenda item, nothing takes place.

Staff would like to know if the Board would like to use this time on the agenda to ask any questions or for any clarifications on items usually found in the monthly report.

I will participate in the discussion as necessary.

Signature: Cliff Ogburn Date: February 26, 2019

MEMORANDUM
Town of Nags Head
Planning & Development Department

To: Board of Commissioners
Planning Board
From: Michael Zehner, Director of Planning & Development
Date: February 26, 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 March 4, 2020.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for January 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:

- January 8 - Board of Commissioners Meeting
- January 8 - Final Outer Banks Hazard Mitigation Plan Committee Meeting
- January 9 - Final Outer Banks Hazard Mitigation Plan Public Forum
- January 10 - Nags Head Woods Living Shoreline Discussion
- January 16 - Munis Online Permitting Meeting with Currituck County
- January 21 - Planning Board Meeting
- January 22 - N.C.G.S. 160D Workshop
- January 23 - BOC Retreat
- January 24 - N.C. State Sustainability Studio Coordination Meeting

Updated Flood Map; Update of Flood Damage Prevention Ordinance

Following up on the board's joint discussion on February 18, 2020, please find attached notes from the meeting; also included are a summary of comments made by Porter Graham, Government Affairs Director for the Outer Banks Home Builders Association during the public comment period of the Planning Board meeting, which followed the joint discussion. As noted at the joint discussion, Staff would request any comments from members of the boards, at any time, that may require consideration in the draft to be presented to the Planning Board.

Following the joint discussion on February 18, Staff participated in a meeting with Mr. Graham and Colleen Shriver, representing the Outer Banks Association of Realtors, where the updated maps and ordinance were also a topic of discussion. Staff has requested a follow up meeting with Mr. Graham and representatives of the Home Builders Association.

Moving forward, a community informational meeting to present and discuss the proposed ordinance amendments has been scheduled for March 9 at 5:30, and the Planning Board will review the proposed amendments for recommendation at their meeting on March 17. A request to schedule a public hearing is anticipated to be on the Board of Commissioners' April meeting agenda, with the public hearing and potential action scheduled for the May meeting.

Pending Applications and Discussions

Two previously submitted text amendments reported to the boards as pending, have been withdrawn by the applicant; these were amendments to allow temporary outdoor stand/farmers market in conjunction with/accessory to general retail uses (or a clarification of outdoor sales in conjunction with general retail uses) and amendments to allow beer and wine sales by the glass as a use in conjunction with/accessory to general retail uses.

The agenda for the March 17, 2020 meeting of the Planning Board is expected to include further consideration of options and recommendations (if not draft text amendments) pertaining to legacy establishments/structures, event homes, residential stormwater regulations, and the *Planning & Development Department and Septic Health FY2020-2021 Strategic Work Plan*, as well as consideration of a Major Site Plan to construct a dock at Oceans East Bait & Tackle (7405 S. Virginia Dare Trail),

Additional Updates

- Town Workforce Housing Study & Plan - Phase 1 Report presented to the Board of Commissioners for the February 5, 2020 meeting.

- Septic Health - Staff intends to prepare and present a draft project scope for the update of the Decentralized Wastewater Plan to the Commissioners in April. An offer was extended and accepted for the Environmental Planner position, with the new employee expected to begin with the Town in early March.

- Hazard Mitigation Plan - The final Plan is pending review by the State, and subsequently FEMA, with final consideration and adoption by the County and towns anticipated in June/July 2020.

- Grants - A request is pending under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. 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. Additionally, Staff is reviewing grant opportunities for a CAMA Access Grant and Clean Water Act-Section 319 (h) Nonpoint Source Grant.

- UDO - Staff continues to develop Reference Manual materials. Publishing on the Municode platform is pending; Staff has received a response to previously issued comments, and needs to return additional comments require action. Staff assessing budget for printing hardcopies of UDO.

- Permitting - Staff has contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. Staff will likely move forward with scheduling a forum in April.

  Online permitting for trade permits is expected to be active on Monday, March 2, 2020.

Upcoming Meetings and Other Dates

- Thursday, February 27, 2020 - Munis Online Permit Coordination and Training
- Wednesday, March 4, 2020 - Board of Commissioners Meeting
- Friday, March 6, 2020 - N.C. State Sustainability Studio Mid-Semester Project Review
- Monday, March 9, 2020 - Flood Maps/Ordinance Community Informational Meeting
- Wednesday, March 11, 2020 - OBX ISOP/J-1 Outer Banks 2020 Community & Employer Forum
- Wednesday, March 11, 2020 - 2020 Census Dare County Complete Count Committee Meeting
- Thursday, March 12, 2020 - Board of Adjustment Meeting
- Tuesday, March 17, 2020 - Planning Board Meeting

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JANUARY 2020

DATE SUBMITTED: February 7, 2020

	Jan-20	Jan-19	Dec-19	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
BUILDING PERMITS ISSUED - RESIDENTIAL						
New Single Family	1	0	0	4	12	(8)
New Single Family, 3000 sf or >	0	1	0	4	7	(3)
Duplex - New	0	0	0	0	0	0
Sub Total - New Residential	1	1	0	8	19	(11)
Miscellaneous (Total)	41	32	31	213	212	1
Accessory Structure	*2*	*5*	*2*	23	*24*	(1)
Addition	*0*	*0*	*5*	10	*8*	2
Demolition	*0*	*0*	*0*	2	*2*	0
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*7*	*3*	*8*	48	*47*	1
Repair	*32*	*24*	*16*	130	*131*	(1)
Total Residential	**42**	**33**	**31**	**221**	**231**	(10)
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	0	2	(2)
Subtotal - New Commercial	0	0	0	0	2	(2)
Miscellaneous (Total)	8	6	7	47	54	(7)
Accessory Structure	*4*	*1*	*1*	11	*14*	(3)
Addition	*0*	*0*	*0*	0	*0*	0
Demolition	*0*	*0*	*1*	3	*1*	2
Move	*0*	*0*	*0*	0	*0*	0
Remodel	*2*	*2*	*1*	15	*18*	(3)
Repair	*2*	*3*	*4*	18	*21*	(3)
Total Commercial	**8**	**6**	**7**	**47**	**56**	(9)
Grand Total	**50**	**39**	**38**	**268**	**287**	(19)
SUB-CONTRACTOR PERMITS						
Electrical	35	28	33	257	264	(7)
Gas	1	1	2	12	15	(3)
Mechanical	25	29	18	187	200	(13)
Plumbing	6	5	13	47	53	(6)
Sprinkler	0	0	1	1	2	(1)
VALUE						
New Single Family	$367,797	$0	$0	$892,797	$2,593,000	($1,700,203)
New Single Family, 3000 sf or >	$0	$500,000	$0	$3,082,561	$4,450,460	($1,367,899)
Duplex - New	$0	$0	$0	$0	$0	$0
Misc (Total Residential)	$836,068	$610,813	$875,075	$5,454,815	$4,705,046	$749,769
Sub Total Residential	**$1,203,865**	**$1,110,813**	**$875,075**	**$9,430,173**	**$11,748,506**	($2,318,333)
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	$0	$1,846,975	($1,846,975)
Misc (Total Commercial)	$76,800	$43,604	$82,500	$1,506,204	$2,548,593	($1,042,389)
Sub Total Commercial	**$76,800**	**$43,604**	**$82,500**	**$1,506,204**	**$4,395,568**	($2,889,364)
Grand Total	**$1,280,665**	**$1,154,417**	**$957,575**	**$10,936,377**	**$16,144,074**	**($5,207,697)**

TOWN OF NAGS HEAD PLANNING AND DEVELOPMENT
MONTHLY REPORT
JANUARY 2020

DATE SUBMITTED: February 7, 2020

	Jan-20	Jan-19	Dec-19	2019-2020 FISCAL YTD	2018-2019 FISCAL YTD	FISCAL YEAR INCREASE/ DECREASE
ZONING						
Zoning Permits	16	9	23	159	161	(2)
CAMA						
CAMA LPO Permits	4	9	5	21	24	(3)
CAMA LPO Exemptions	15	4	5	50	40	10
CODE COMPLIANCE						
CCO Inspections	45	65	36	534	576	(42)
Cases Investigated	17	51	15	255	326	(71)
Warnings	3	0	9	45	58	(13)
NOVs Issued	11	51	10	209	248	(39)
Civil Citations (#)	0	0	0	1	0	1
Civil Citations ($)	$0	$0	$0	$0	$0	$0
SEPTIC HEALTH						
Tanks inspected	0	15	0	96	147	(51)
Tanks pumped	4	9	3	14	51	(37)
Water quality sites tested	0	0	0	112	115	(3)
Personnel Hours in Training/School	14	48	7	98	256	(158)

Michael D. Zehner, Director of Planning & Development

COMMENTS:

Summary of February 18, 2020 Planning Board and Board of Commissioners Joint Discussion to Review Draft Flood Damage Prevention Ordinance Amendments

Chair Vaughan called for a motion to enter into a joint meeting with the Board of Commissioners to review and discuss the draft flood damage prevention ordinance amendments. Molly Harrison so moved, Gary Ferguson seconded, and the motion passed by unanimous vote.

Planning Director Michael Zehner introduced staff in attendance and provided a brief introduction of the preliminary flood maps and draft flood damage prevention ordinance.

Mr. Zehner indicated that the Town received maps in June 2016. There has been on-going discussion about the maps since that time with staff and the boards. The preliminary maps update the current 2006 maps. The Town received a letter of final determination in December 2019 that gives the Town until June 19, 2020 to adopt the preliminary maps, ordinance, and study. Mr. Zehner indicated that there are concerns with the preliminary maps and what is reflected in the draft ordinance addresses that. There is a tight timeline to adopt. Mr. Zehner said that much of the draft ordinance is based off of the model. However, there are other options where additional feedback is needed. Mr. Zehner stated that the goal of this meeting is to gain feedback from the Board of Commissioners and the Planning Board on the draft ordinance so that staff can bring back a refined final draft to Planning Board in March. Mr. Zehner indicated that staff is trying to avoid having more than a one meeting delay due to the adoption date on or before June 19th. Planning Director Zehner concluded and turned the presentation over to Planner Holly White.

Planner Holly White shared how the municipalities in Dare County and the County have been jointly working together to review the maps, develop the “Low Risk is Not No Risk” Outreach Strategy, and develop a local elevation standard (LES) in light of the underrepresented risk on the maps. The planners group worked with the local building and development community as well as other municipalities to ensure as much consistently in the development of the local elevation standard language as possible.

Ms. White indicated that the local elevation standard is a locally adopted elevation level that is used as the Regulatory Flood Protection Elevation (RFPE). The Town’s RFPE now is the Base Flood Elevation (BFE) plus freeboard. White said that the LES would mean regulating in Shaded X or X, AE, or AO, V flood zones. We currently do not regulate in the Shaded X or X now. The benefit of doing this is that it realizes insurance benefits to property owners, but the Town is able to regulate for known risks. White further said that adopting a higher standard would protect homeowners from building in a way that would later cause higher insurance rates (if the map changed in the future) for non-conforming structures.

Ms. White rereviewed that the Town currently has AE and VE flood zones and that is a 1% chance or 100-year flood. This means there is a 1% chance in a year for a 100-year flood. The AO flood zone is new for Nags Head on this preliminary map. This is also a 1% chance or 100-year flood but is limited to cases where there is overtopping of the dune and ponding behind the primary frontal dune. There is typically a minimum elevation above adjacent grade for AO. The Town also has Shaded X and X zones and that is a .2 chance of flood but there are currently no regulations for these areas.

Ms. White summarized the major changes in the flood maps for the board. She indicated that these included increases in the number of properties in X flood zone (even X on the oceanfront); fewer VE and AE zone properties; and reduced base flood elevations. Ms. White said that on the current maps AE flood zones have a BFE of 8-10' and the new maps have BFE's of 4-5'. Additionally, in VE the Town has a consistent VE 11' on the current maps, but the preliminary maps show BFE's ranging from 9-12 along oceanfront.

Ms. White explained to the boards that if the Town elected to adopt an LES, the Town would adopt the maps for flood insurance purposes. However, the LES would still be needed to mitigate and protect future losses. She indicated that the easiest way to explain the LES was from a geographical perspective. East of NC 12 and SR 1243 would be treated the same as the current V zone is treated. This area includes the Shaded X, X, AO, and V zone properties and would have an elevation requirement of 12'. West of NC 12 and SR 1243 would be required to meet a 10' elevation requirement. This area includes Shaded X, X, and AE flood zones. Ms. White said that in all cases the LES would be higher than the preliminary mapped flood zone. She concluded explanation of the LES by saying that the LES is consistent with the regulatory flood protection elevation (RFPE) of the currently effective flood maps.

A board member referenced the graphic in the presentation and asked where the freeboard was in the LES. White responded that the LES had been developed, to this point, without a freeboard but this may need to be amended to achieve more CRS (Community Rating System) points. Staff is still exploring how we will best be rated for purposes of CRS and whether the term freeboard is needed for CRS rating. Due the conditions present in Nags Head and past flooding, the easiest way to convey the local elevation standard to the public as been the geographic reference to east and west of 12 and 1243. She pointed out that in the referenced graphic, the freeboard is between the base flood elevation and the regulator flood protection elevation.

Ms. White referenced the map in the presentation and noted that the map depicts current X zone structures in relationship to existing elevation contours in the Town. She said that most existing X zone properties are located above 10' elevation contour. Ms. White added that there has been an increase in the number of repetitive loss properties in between the highways and in west side neighborhoods. She explained that this is notable because historically repetitive loss properties have primarily been on the oceanfront or sound front. To be considered repetitive loss, the structure must have obtained 2 or more losses in a 10-year period.

Ms. White outlined the major components of the local elevation standard, as proposed in the draft ordinance. She noted that this included:

- LES: 12' East of 12/1243 and 10' west of 12/1243
- East of 12/1243: Treat as V Zone with V zone requirements; no enclosures
- West of 12/1243: Limit enclosures 300 sq. ft. or less
- Existing structures: Areas cannot be converted for temperature-controlled space unless meets RFPE
- Section 11.44.2.7.9., Standards in Shaded X and X:
    - Substantial improvement/damage definitions do not apply
    - Lateral additions- allowed up to 10%; if greater than 10% total floor area on the level of addition- must meet RFPE
    - Remodeling/renovations existing habitable area- allowed as long as footprint does not increase.

Ms. White then outlined the major options as noted in the draft ordinance. These included:

- 11.43.5.1. Elevation Certificates
    - Can require 3 certificates- recommend 2 (after first floor and prior to CO)
- 11.43.5.6. Finished construction V zone certification
    - Require V zone certification at permitting
- 11.44.2.4. Elevated Buildings
    - Non-conversion agreement recorded with Register of Deeds for enclosed areas
- 11.44.2.7.5. Substantial Improvement/Damage
    - Utilize 365 day period
    - Repetitive Loss language optional

Board of Commissioner Webb Fuller asked what a non-conversion agreement is? Ms. White and Mr. Cory Tate, Building Inspector, responded that this is simply an agreement, signed and recorded by homeowner, that prevents areas below regulatory flood protection elevation from being covered to habitable area.

Mayor Ben Cahoon asked if the Town was creating our own certification forms or using FEMA's form. Ms. White responded that we would rely on FEMA's elevation certificate form. Mr. Tate noted that staff had discussed the possibility of creating a town specific V Zone Certification form that would include certification language unique to coastal areas for pools and fill.

Ms. White proceeded with the presentation and explained that needed modifications to the UDO and references to height. She explained that the way height is measured is not changing. Allowances are being made to not penalize the height of structures that are required to meet the LES in Shaded X and X.

Ms. White then reviewed the provisions for fill in the draft ordinance. She noted that the regulations for fill in the flood ordinance are limited to V Zones and areas east of 12 and 1243. The stormwater ordinance would need to be updated for consistency as it also addresses fill separately. Ms. White pointed out that the ordinances states:

- No alteration of sand dunes that increase potential flood damage
- Fill is limited to 2' or less
- If 2' or greater, an analysis prepared by a design professional demonstrating no diversion of floodwaters
- Minor grading and minor quantities of nonstructural fill allowed (landscaping, drainage, parking slabs, pool decks, patios, etc.)

Board members had questions about how fill was regulated. There was general discussion about the where, how much fill, and in what cases if less than 2' of fill was proposed. Ms. White and Mr. Zehner explained that fill less than 2' would only be allowed for landscaping, drainage, parking, pool decks, and patios. No structural fill is allowed in V flood zones. If fill was greater than 2', an analysis would be needed by an engineer. The boards further discussed how fill is relative to height and where height is measured from when fill is included. Staff explained that height is measured from a post fill elevation.

Ms. White concluded the presentation by reviewing the matrix that outlines what all communities are doing for the LES. How Nags Head is implementing the LES, is consistent with other communities. The main difference is that Nags Head is utilizing the 12' LES east of NC 12 and SR 1243 and 10' west of NC 12 and SR 1243. White reintegrated that is the goal of staff to bring forward a clean draft to the Planning Board at the March Planning Board meeting.

Mayor Cahoon kicked off a discussion by the boards by circling back to discuss fill and height.

Planning Director Michael Zehner referenced back to the March 4th Staff Memo titled, "Updated Flood Maps, Flood Prevention Ordinance, and Related Regulations". On page 5 and 6 of the memo, Mr. Zehner referenced,

> ***" 8.6.4.1.1.*** In any Shaded X, X, or AE special flood hazard area flood zone, height will be measured from the regulatory flood protection elevation or finished grade, whichever is higher. In cases where there is a ground floor enclosure below the regulatory flood protection elevation, height shall be measured from finished grade."

Mr. Zehner indicated that how height is measured is not changing. The proposed language does not penalize property owners for meeting flood regulations. The modifications simply apply this allowance to be applied to Shaded X and X flood zone properties. The Town has previously not regulated Shaded X and X flood zones. Board members discussed concerns over how height is measured and the potential for incredibly tall buildings if height is measured from RFPE. There was also a great deal

of discussion about whether height was measured from the finished fill height or pre-fill and whether this was good or not. Mayor Cahoon indicated that there had been a separate discussion on fill that would be concluded soon. Mayor Cahoon further noted that the maps and ordinance would be adopted ahead of the fill ordinance. Staff and the board would need to remember when the fill ordinance is adopted that the flood ordinance and height measurements would need to be consistent between the ordinances.

Mr. Zehner reviewed the regulations for the height of structures in coastal high hazard areas:

> ***"8.6.4.1.2.*** *In coastal high hazard areas ~~or,~~ VE zones, AO, and Shaded X or X special flood hazard areas east of Hwy 12 and 1243, height shall be measured from regulatory flood protection elevation. In cases where the finished grade elevation is above the regulatory flood protection elevation, height shall be measured at approximately eighteen (18) inches above the highest, undisturbed, finished grade directly beneath the structure."*

He explained that you could not use fill to elevate the building pad because fill couldn't be used for structure support in V zones. Additionally, height would be measured from the 18" above highest, undisturbed finished grade or "free of obstruction". Board members discussed how height should be measured in VE zones: was this from natural grade, fill grade, or free of obstruction (i.e. 18 inches above the highest, undisturbed, finished grade). Staff clarified that this is 18 inches above highest, adjacent grade or free of obstruction. Mayor Cahoon gave an example of how height would be measured in a V zone.

Commissioner Fuller asked when the board would be able to discuss hard edged structures, rock, and stormwater. Planning Director Zehner indicated that BOC asked them to come back to PB and the discussion would start later in the meeting.

Mayor Cahoon recapped and asked that in regard to this ordinance the major changes were:

- 2 elevations standards- 12' east of NC 12/SR 1243 and 10' west of NC 12/SR 1243
- Resolving question about freeboard and whether that was needed as part of the definition for our LES
- Lateral additions- Allowance up to 10% at same level of non-conforming structures
- Height relative to flood standards

Assistant Town Manager, Andy Garman noted that the modification of the substantial damage and improvement language was also a significant change. Currently, a property is either in or out flood zone. If a property is in a flood zone, they have to comply with the 50% language or the substantial improvement/damage definitions. Mr. Garman explained that with the adoption of the LES, if a property were in an x flood zone then

the substantial improvement rule does not apply. He noted that was a big difference than in the past. Mayor Ben Cahoon said this would help some of those structures that have not been able to make those improvements in the past and staff concurred.

Staff brought up the online preliminary maps and staff and the board examined the differences between the currently adopted and the preliminary maps. The boards looked at specific examples of commercial structures that may be positively impacted by changes to the substantial improvement language.

The boards broadly discussed how the preliminary maps were developed and why the changes were so significant in the preliminary maps. The question was raised whether the Town has to adopt the maps. Mr. Zehner responded that we are required to adopt the maps, ordinance, and study if the Town wishes to remain a participant in the National Flood Insurance Program (NFIP). At a minimum, the Town must adopt the model ordinance. Mr. Zehner suggested that the Town continue forward on the current path of adoption and if after adoption, modifications were needed, to act at that time. He noted that the regulations proposed keep development consient with the standards for development today.

The boards were concerned about the message that adopting maps would send to homeowners- that flood insurance is not needed because the FEMA maps remove you from the flood zone. The board was concerned that property owners understand they still needed to keep their flood insurance and that there could be long term implications and increases to their flood insurance if there was a lapse in coverage. A suggestion was made that the Town adopt the maps and model ordinance and take their time in reviewing the ordinance. Staff responded that this would create a “gap” in development where people could construct in a way that would put them at risk for flooding.

There was a question on the mapping of the flood zones and whether the Town would have two maps. This potentially could be confusing to property owners and developers. Mr. Zehner responded that we would only utilize the FEMA maps. He further explained that property owners would not be able to just look at the FEMA map and use it regulatory purposes for any community in Dare County. That is why the LES has been developed and the Town has recommended an LES east and west of 12

Mayor Cahoon suggested that we develop an elevation requirement map reflecting the LES. Ms. Molly Harrison, Planning Board member, asked why areas of the soundside and causeway that are at high risk for flooding seem to be regulated at a lesser standard than the oceanfront. There was general discussion again about the accuracy of the maps, the process for developing the maps, and resulting need for the local elevation standard.

The boards generally discussed the language specific to substantial improvement/damage with Fin and Feather as an example and it was noted that how the substantial improvement and damage language is applied may be misunderstood.

There was a general concern that legacy structures not be penalized for non-conformities.

Staff requested that any points that the boards wanted to be carried forward to the Planning Board's next meeting in March be submitted to staff so that there is no delay.

Commissioner Renee Cahoon asked specifically about Section 11.43.7.7 and noted concern about the message this conveys and if this encourages people to enclose. Staff felt that with the other ordinance provisions, there would be regulation of enclosures.

Commissioner Fuller asked about Section 11.43.7.9.3. and whether this would mean you could not apply for a variance after the fact. Mr. Zehner noted that the intent of the language appears that it might preclude someone from doing that. However, staff will follow up with the state coordinator about this provision.

Staff requested that any specific comments or concerns be submitted to staff ahead of the Planning Board meeting. Mayor Cahoon requested that a memo summarizing the joint discussion be developed and provided to the Board of Commissioners at their next meeting.

The Board of Commissioners voted to recess to their afternoon meeting and the Planning Board took a brief recess at 10:15 and reconvened at 10:25 a.m.

Public Comment/Audience Response Following Joint Discussion

Porter Graham, Government Affairs Director for the Outer Banks Home Builders Association thanked the Boards for participating in the discussion of the proposed Flood Ordinance. The OBHBA is concerned about risk to homes that will be newly in the X zone. They want to ensure that property owners keep their flood insurance. Their principal concern is on the building standard element (LES) – 10 ft standard on X and shaded X offset primary vs. proposed 8 ft (Dare County - Donna Creef). Did planning staff Look a future sea level rise in addition to historical data? Lateral additions requirements – Duck is the only other municipality to not allow lateral additions at the same level. Mr. Porter thanked Mr. Zehner for communicating with the Association.

TOWN OF NAGS HEAD

FLOOD MAP & FLOOD DAMAGE PREVENTION ORDINANCE INFORMATIONAL MEETING

MONDAY, MARCH 9, 2020 | 5:30 PM - 6:30 PM

NAGS HEAD BOARD OF COMMMISSIONERS ROOM
5401 S. CROATAN HWY.

Learn more about the flood maps that will become effective June 19, 2020 and the proposed changes to Nags Head's Flood Damage Prevention Ordinance.

Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **March 4, 2020**

Item Title: From Jan 8, 2020 Board meeting – Consideration of Southridge Subdivision
Coastal Villas Subdivision Preliminary Plat

THE APPLICANT HAS REQUESTED A CONTINUANCE TO MAY 6, 2020

Item Summary:

Planning Board/Staff Recommendation

Number of Attachments: 0

Specific Action Requested:

Submitted By: Planning and Development Date: February 26, 2020

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: February 26, 2020

Agenda Item Summary Sheet

Item No: **G-2**
Meeting Date: **March 4, 2020**

Item Title: Consideration of a Major Site Plan Review for Gone Coastal Shopping Center, located at 7531 S. Virginia Dare Trail, Nags Head

THE APPLICANT HAS REQUESTED A CONTINUANCE TO APRIL 8, 2020

Item Summary:

Number of Attachments: 0

Specific Action Requested:

Submitted By: Planning and Development Date: February 26, 2020

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: February 26, 2020

Agenda Item Summary Sheet

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

Item Title: Committee Reports

Item Summary:

At the March 4th 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: February 26, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **March 4, 2020**

Item Title: Consideration of recommendations for services:
- Beach Surveying Services
- Coastal Engineering and Design Services

Item Summary:

The attached memo provides detailed recommendations for both the Beach Surveying Services as well as the Coastal Engineering and Design Services for the next Town Beach Nourishment Project.

The Town's Request For Qualifications (RFQ) for beach surveying received four (4) submissions; the RFQ for coastal engineering received three (3) submissions.

Provided for Board consideration at the March 4th Board of Commissioners meeting.

Number of Attachments: 1

Specific Action Requested:

If the Board concurs, request the following approvals at the March 4th Board of Commissioners meeting:

1) Authorize the Town Manager to enter into contractual negotiations with Moffat and Nichol for coastal engineering and design services for an agreed upon fair and reasonable compensation.

2) Authorize the Town Manager to enter into contractual negotiations with McKim and Creed for beach surveying and monitoring services for an agreed upon fair and reasonable compensation.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

I will participate in the discussion and comment as necessary.

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

Provided for Board discussion and consideration on March 4th.

Signature: Cliff Ogburn Date: February 26, 2020

Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
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M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

To: Board of Commissioners

From: Cliff Ogburn, Town Manager

Date: February 27, 2020

Re: Recommendation for Consulting Services for Coastal Engineering and Design;
Recommendation for Consulting Services for Beach Surveying and Monitoring

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The Town recently issued two separate requests for qualifications (RFQ) to solicit consulting services for the town's ongoing shoreline management efforts. The first RFQ related to coastal engineering and design services. The second RFQ related to providing surveying services to document project performance as part of the town's annual maintenance and monitoring plan.

Although the Town is not anticipating constructing another nourishment project for several (5-8) years, the Town wishes to obtain consulting assistance now as we consider refinements to our approach, including development of long-term strategies, alternative approaches and associated funding mechanisms, and revisions to the Town's maintenance and monitoring plan. The Town will also need to maintain an ongoing contract for annual shoreline maintenance and monitoring. It is anticipated that the consultants selected for these RFQs will continue working with the Town to plan and design its next nourishment project.

For the coastal engineering RFQ, the Town was particularly interested in firms that had a breadth of knowledge, experience, and demonstrated success with creating multi-pronged and adaptive shoreline management approaches considering how we may leverage other county-wide initiatives to maximize the efficiency and economy of our efforts. We are also interested in considering how legislative efforts and broader funding schemes may enhance our capacity to support future projects.

The Town received three RFQs for coastal engineering: Coastal, Science & Engineering (CSE), Applied Technology and Management (APTM), and Moffat & Nichol. The selection process involved reviewing each proposal and conducting interviews with each consultant team. Based on the criteria established in the RFQ, with a particular focus on the aforementioned capabilities, staff is recommending the consultant team of Moffat & Nichol for coastal engineering and design services. Moffat & Nichol has extensive experience in shoreline management and nourishment projects. M&N is well known for its work in Carteret County where they developed a 50-year plan for shoreline management involving the County and several municipalities. This included the development of a programmatic EIS, which has enabled the County to more efficiently navigate the planning and design stages for nourishment efforts, particularly when there is a declared disaster and they become eligible for FEMA funds. The programmatic EIS and associated permitting mechanisms have significantly reduced the timeframe

and administrative work to initiate projects. This plan also considers varying erosion rates for different parts of the County and establishes staggered nourishment thresholds for these areas as part of a maintenance and monitoring plan. We believe the skills presented to us through this RFQ are most well suited to our needs as we explore ways to evolve our nourishment strategy, considering new approaches that leverage additional resources while exploring opportunities to work with neighboring communities. Moffat & Nichol staff would support this project primarily from their Raleigh, NC and Norfolk, VA offices.

For the beach surveying RFQ, the Town received four submissions to include Coastal Science & Engineering, Precision Measurements Land Surveyors, So Deep/SAM LLC, and McKim & Creed. After conducting the proposal reviews and consultant interviews, staff is recommending the firm of McKim and Creed based on their overall qualifications, firm capacity, as well as direct experience with similar projects. McKim & Creed staff would support this project primarily from their Wilmington, NC office.

If the Board agrees with staff's recommendation, we will work with each consultant to develop an initial scope of work. We anticipate the two scopes to consider the following tasks:

- Establishing data collection protocols for the town's annual maintenance and monitoring plan.
- Establishing a schedule for annual surveys/monitoring.
- Establishing protocols and requirements for conducting assessments/surveys on an as-needed basis pre- and post-storm events.
- Examining the town's existing reports and historical data to understand past project performance.
- Analyzing data and developing/refining models that will become the basis for design criteria and future project assumptions. Adjusting reach boundaries accordingly to consider how the town aggregates areas with similar performance. Establishing protocols for and considering revisions to the town's maintenance and monitoring plan.
- Working with the Town Board of Commissioners and staff to establish preferred strategies for planning, permitting and design of future projects. This would include consideration of timing of future efforts in conjunction with other local projects, permitting strategies and timing, and providing input to assist with the development of the town's funding strategy.

Staff anticipates that these initial services would form the basis for the initial project ordinance for the next nourishment project and funding cycle. If the Board chooses to move forward with additional municipal service districts for the purpose of partially funding future projects, it is anticipated that these costs could be funded using revenue generated from these additional districts. Staff anticipates a nominal MSD tax rate would be necessary to fund these costs.

If the Board of Commissioners is in agreement with these recommendations, a motion will be in order to:

- **Authorize the Town Manager to enter into contractual negotiations with Moffat and Nichol for coastal engineering and design services for an agreed upon fair and reasonable compensation**.

- **Authorize the Town Manager to enter into contractual negotiations with McKim and Creed for beach surveying and monitoring services for an agreed upon fair and reasonable compensation**.

Upon completion of these negotiations, staff will present to the Board, for their consideration, a professional services fee proposal and draft contract for each service. It is anticipated that the scope of work may be partitioned, as necessary, so as to permit services to be initiated quickly for supporting beach surveying and monitoring services.

Agenda Item Summary Sheet

Item No: **H-3**
Meeting Date: **March 4, 2020**

Item Title: Discussion/Consideration of proposed Municipal Service Districts (MSD)

Item Summary:

At its February 5, 2020 meeting, the Board considered the establishment of proposed municipal service districts that would be utilized for future beach erosion control, hurricane protection works, and drainage projects. Three new districts were presented to the Board to include additional areas west of NC 12 and SR 1243. The Board is considering how to distribute the costs for completing these projects proportionate to the benefits received by property owners in geographically distinct areas of town. Staff presented a process and timeline for establishing these new districts. Based on the Board's direction, staff is presenting the Board with the requisite documents needed to initiate this process. Attached for Board review and discussion on March 4th are the following documents pertaining to the creation of Municipal Service Districts:

- Report on establishment of three (3) proposed Municipal Service Districts
- Municipal Service District Timeline
- Existing MSD Map
- Proposed MSD Map
- Notice of Public Hearing on proposed MSD

Number of Attachments: 5

Specific Action Requested:

Provided for Board review and discussion. To move this forward, the Board will need to schedule the Public Hearing for May 6, 2020.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

I will participate in the discussion.

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: February 26, 2020

Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

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M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

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, May 6, 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:

Public Hearing to consider establishment of proposed Municipal Service Districts for the Town's Beach Nourishment Projects and stormwater drainage projects. A report has been prepared and includes the following information:

- Map of proposed Municipal Service Districts
- Statement regarding proposed service to be provided
- Plan for providing proposed service

A copy of the report is available for public inspection at the Nags Head Municipal Complex in the Office of the Town Clerk located at 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 report as advertised to reflect objections, debate and discussion at the hearing. Any person desiring to be heard on the report as stated above should appear at the time and place specified above.

This the 4th day of March 2020.

Carolyn F. Morris
Town Clerk

For publication in the *Coastland Times* on Wednesday, March 11, March 18, March 25, and April 1.

Please use Nags Head logo and legal print

Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
Post Office Box 99
Nags Head, North Carolina 27959
Telephone 252-441-5508
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M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Report on establishment of three (3) proposed Municipal Service Districts for beach erosion control, flood and hurricane protection works, and flood control and drainage projects in accordance with GS 160A-535 – 160A-544

1) Attached map identifies three (3) proposed Municipal Service Districts

District 3 – Eighth Street (northern town line) south to Bonnett Street
(includes all properties east of Wrightsville Avenue)

District 4 – Bonnett Street south to Gulfstream Street
(from Bonnett Street to Bainbridge Street - includes all properties east of Wrightsville Avenue; from Bainbridge Street to Hollowell Street – includes all properties with frontage on and east of Memorial Avenue; from Hollowell Street to Gulfstream Street – includes all properties east of US 158).

District 5 – Gulfstream Street south to southern town line
(includes all properties south of Gulfstream Street).

Also attached is a map identifying the two (2) existing Municipal Service Districts

Existing Municipal Service Districts, Districts 1 and 2 as listed below, were created in 2011 to levy taxes and generate funds to pay for project expenses associated with beach erosion control efforts and flood and hurricane protection works. These two districts include all properties east of NC 12 and SR 1243 south of Bonnett Street. These districts were utilized for both the 2011 and the 2019 projects and are still in effect.

District 1 – Bonnett Street south to Gulfstream Street
(includes east of NC 12 and SR 1243 - oceanside and oceanfront properties)

District 2 – Gulfstream Street south to Town Line
(includes east of NC 12 and SR 1243 - oceanside and oceanfront properties)

2) Statement indicating that services are needed in the districts to a demonstrably greater extent than the rest of the town

The Town of Nags Head has been actively engaged in the planning, design and construction of beach erosion control, flood and hurricane protection works projects for more than 20 years. The Town has successfully completed the construction of two major projects related to these purposes. The first project placed 4.6 million cubic yards of beach compatible sand over 10 miles of the town's beaches starting from Bonnett Street and ending at the southern town limits. The total cost of construction was slightly greater than $36 million. The second project, which was a combined Town and FEMA public assistance project, placed 4.0 million cubic yards of sand over 10 miles of the town's beaches. The total cost of this project was $40 million. In both projects other expenses included engineering analysis, design, environmental

permitting, surveying, turtle monitoring and compliance with the requirements for the federal Endangered Species Act, vegetative sprigging and sand fencing, extension of ocean outfalls, legal expenses associated with easement acquisition, and other incidental costs. Funds have come from a variety of sources including the Dare County beach nourishment fund, FEMA public assistance funds, and town property taxes. It is anticipated in the future that the Town will be required to pay a minimum of 50 percent of the cost of each project. From the 2011 to 2019 project, unit costs (cubic yards) for sand rose greater than 35 percent. The Town must assume for planning purposes that most expenses associated with nourishment and other shoreline management activities will continue to rise in future years. As the Town continues to plan for future beach erosion control and hurricane protection works projects, refinements to the approach and coordination with other local communities is necessary to capitalize on potential economies of scale that may offset anticipated cost increases.

To date, each project has been funded utilizing property tax revenue from a town-wide tax combined with revenue from two Municipal Service Districts (Districts 1 and 2). The town wide tax has paid for approximately 25 percent of the Town's share of project expenses. The remaining 75 percent of the cost has been borne by property owners in the two Municipal Service Districts.

These projects have been successful in demonstrating clear benefits to the Town and its property owners. These benefits include the protection of properties on the oceanfront and directly adjacent to the ocean from erosion and storm damage, protection of infrastructure such as roads, waterlines, septic systems, electrical services, and beach accesses, and maintaining a recreational beach that is attractive and usable by the public, free of structures and debris. These benefits can be assigned to different parts of the community at different levels, with oceanfront properties having the greatest benefit. Properties adjacent to but not directly on the ocean also benefit from reduced overwash flooding and impacts to infrastructure, as well as increased property values due to their proximity to a well-maintained recreational beach. The entire town also receives a series of benefits, but to a lesser extent than these other areas. The taxing structure currently in place has assigned most of the benefits to the oceanfront and oceanside owners (east of NC 12 and SR 1243) with the remainder of the town receiving a reduced but important set of benefits. It has however, not captured the benefits that have accrued to the areas directly west of NC 12 and SR 1243, as there is no current MSD west of NC 12 and SR 1243. The value of these properties is also closely tied to proximity to the beach. To illustrate, properties in the proposed districts are considered to be in an area of ocean influence by the Dare County Tax Assessor's office which generally increases property values. If the access points were damaged or destroyed or if the beach in these areas becomes degraded due to erosion or storm damage and debris, the value of these properties would be reduced to a greater extent than properties further from the ocean.

The goal of proposed municipal service districts would be to offset the cost of protecting these properties through future beach erosion control, flood and hurricane protections works projects. The basis for creating these new districts would be to tie the cost of these project activities at a proportionate and reasonable share to the benefits that they receive.

It is anticipated that the existing and proposed municipal service districts would be utilized and combined to fund future projects. Property owners east of NC 12 and SR 1243 (district 1 & 2) would be located within two separate districts and would likely be assessed two MSD tax rates. Property owners in the proposed municipal service districts (3, 4, & 5) would likely be assessed one MSD tax rate. For example, an oceanfront property owner directly south of Bonnett Street would be located in districts 1 and 4 and would be assessed both rates. A property owner directly west of NC 12 and south of Bonnett Street would be in district 4 only and would be assessed one rate. The new districts combined with the existing districts would allow for a modified distribution of project costs. For example, districts 1 and 2 (east of 12 and 1243) could be utilized to fund 50 percent of the project costs, while the new MSDs (districts 3, 4, and 5) could be utilized to fund 25 percent of the project costs. The remaining 25 percent could be funded utilizing the existing town wide tax that is dedicated for beach erosion control projects. It is important to note that the aforementioned funding scenario is

merely an example of how these districts could be utilized and in no way represents a formalized plan for establishing rates.

The Town has in recent years completed a number of drainage and flood control projects in areas east of 158. An example of this includes the extension of the ocean outfalls and the redesign and reconstruction of the conveyance system connecting to the Red Drum ocean outfall. The Town anticipates continuing to address this work in future years and is therefore including this as an established purpose of the proposed MSDs.

3) Plan for Providing in the Municipal Service Districts One or More of the Services Listed in 160A-536

Statutory Authority:
Section 160A-536 of the North Carolina General Statutes authorizes the Town to create one or more Municipal Service Districts (MSDs) to finance, provide, or maintain for the district(s) beach erosion control and flood and hurricane protection works as well as drainage projects; the work described herein is planned for the purpose of providing these services in the proposed MSDs. Section 160A-537(a) of the North Carolina General Statutes allows the Town to establish, by ordinance, service districts upon a finding that the proposed districts are in a demonstrably greater need than other areas of the Town for services authorized by §160A-536. In order to establish an MSD or MSDs, the Board of Commissioners must hold a public hearing on the proposed district(s). Prior to this public hearing, a report must be prepared that includes: 1. a map of the proposed district(s), showing its proposed boundaries; 2. a statement showing the proposed district(s) meet or meets the standards set out in §160A-537(a); and, 3. a plan for providing in the district(s) one or more of the services listed in §160A-536. This report is intended to provide the foregoing three requirements.

The Nags Head Board of Commissioners will hold a public hearing on the proposed Municipal Service Districts on Wednesday, May 6, at 9:00 a.m. in the Board of Commissioners Meeting room.

Within FY 2019-20 and FY 2020-21, the Town intends to enter into a contract with multiple consultants to conduct planning and design work for future beach erosion control and hurricane protection works projects. This work will include the following tasks:

- Establishing data collection protocols for the Town's annual maintenance and monitoring plan.
- Establishing a schedule for annual surveys/monitoring.
- Establishing protocols and requirements for conducting assessments/surveys on an as-needed basis pre- and post-storm events.
- Examining the Town's existing reports and historical data to understand past project performance.
- Analyzing data and developing/refining models that will become the basis for design criteria and future project assumptions. Adjusting reach boundaries accordingly to consider how the town aggregates areas with similar performance. Establishing protocols for and considering revisions to the Town's maintenance and monitoring plan.
- Working with the Town Board of Commissioners and staff to establish preferred strategies for planning, permitting and design of future projects. This would include consideration of timing of future efforts in conjunction with other local projects, permitting strategies and timing, and providing input to assist with the development of the Town's funding strategy.

Future work will include design, permitting and construction of the next project as well as ongoing shoreline management initiatives.

Ben Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

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

M. Renée Cahoon
Commissioner

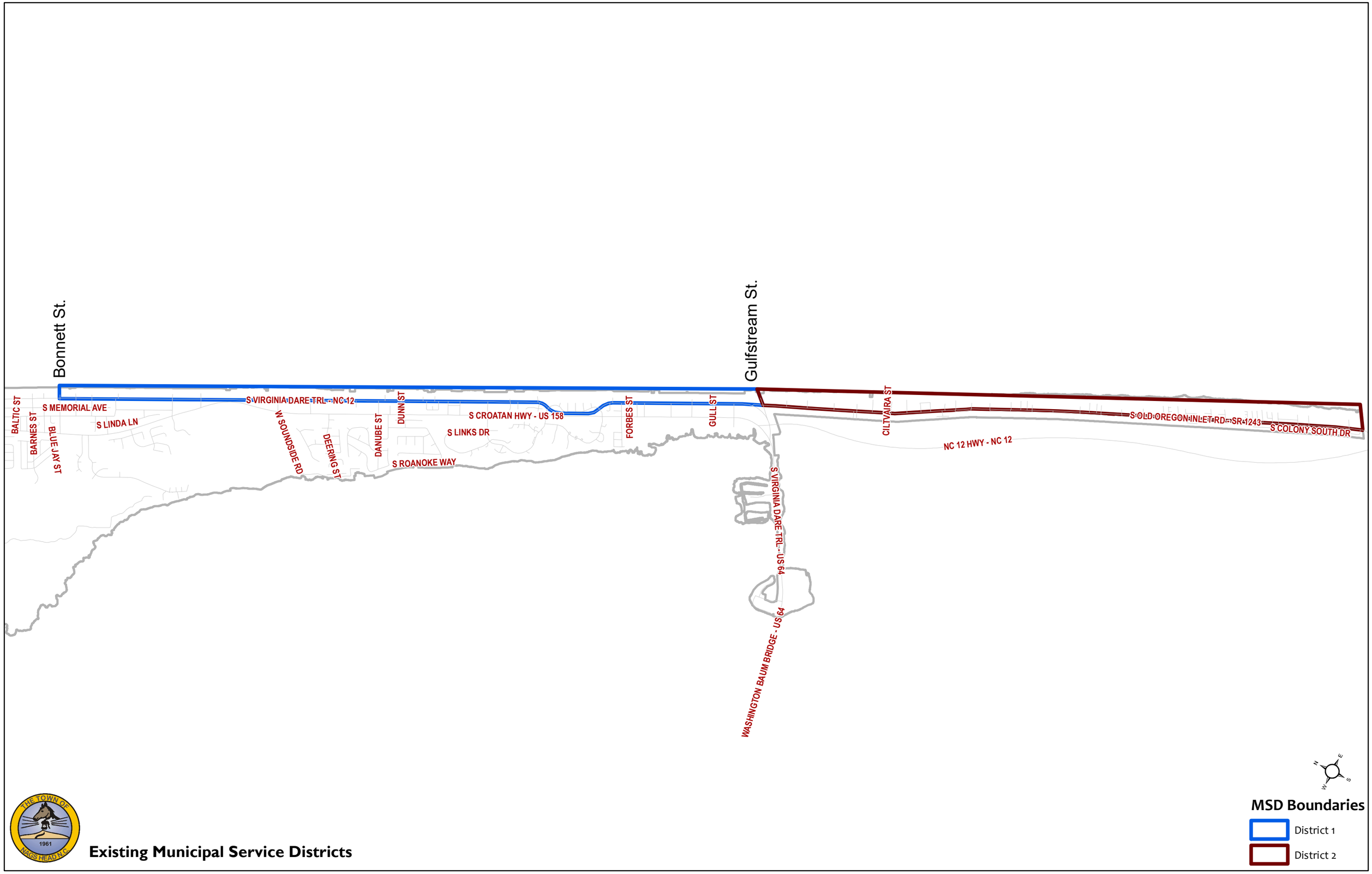
J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Municipal Service District Timeline

(In Accordance With GS 160A-535–544)

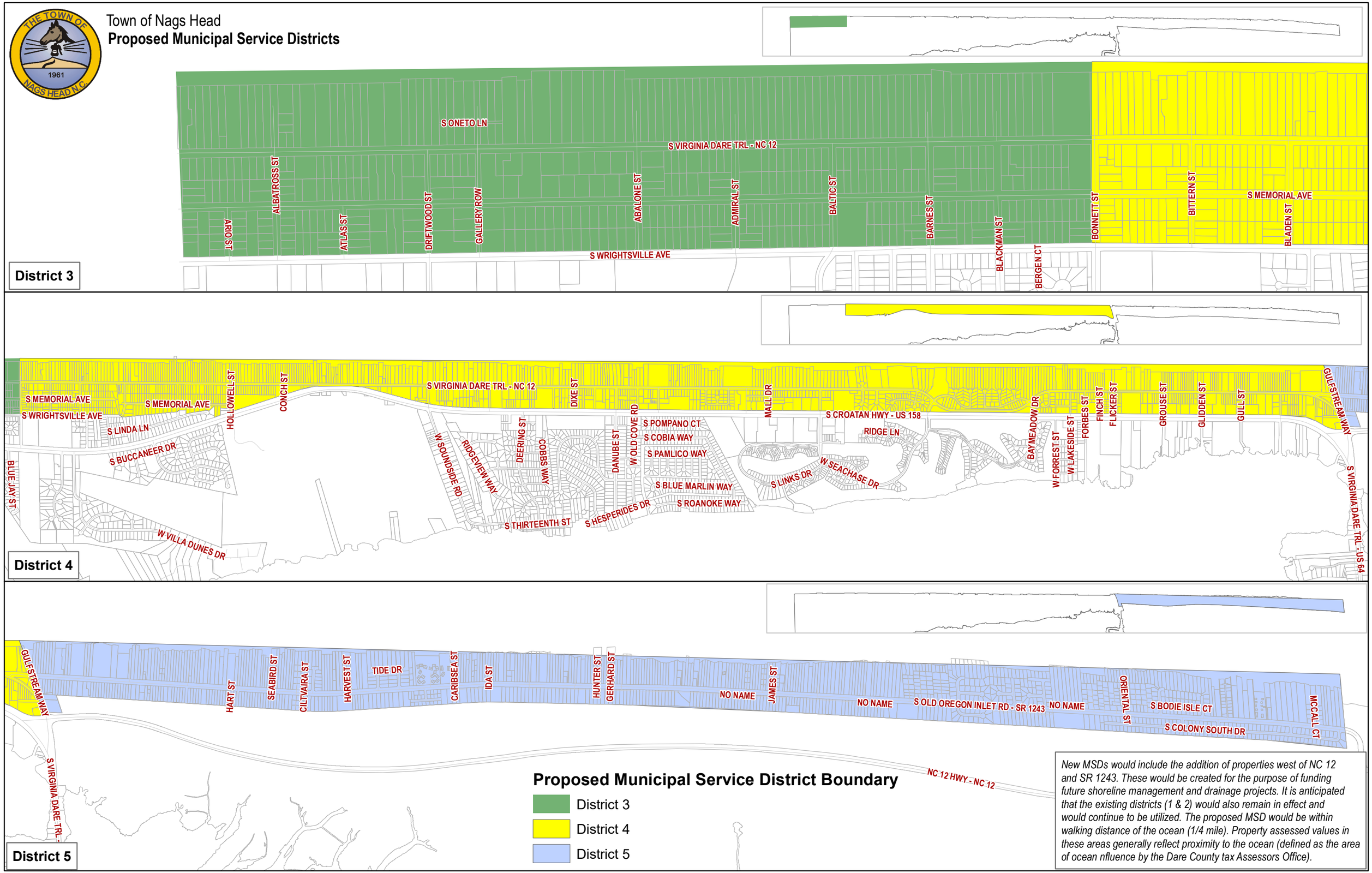
Feb 5, 2020	BOC meeting – BOC directs staff to prepare Report (map, statement, plan)
Mar 4, 2020	BOC meeting – Report presented to BOC; BOC commits to MSDs; Report available for public inspection – Four (4) weeks before Public Hearing
	BOC meeting - BOC schedules Public Hearing to consider establishing Municipal Service District(s) (MSD) for May 6, 2020
	Notice of Public Hearing mailed to all property owners in proposed districts four (4) weeks before Public Hearing; Notice of Public Hearing published at least one (1) week before
May 6, 2020	BOC meeting – Public Hearing held – Adopt ordinance creating MSD at two (2) meetings by majority vote
Jun 3, 2020	BOC meeting – Adopt ordinance creating MSD – second reading
Jul 2020	Tax Collector implements new MSD rates



Existing Municipal Service Districts

Town of Nags Head

Proposed Municipal Service Districts



New MSDs would include the addition of properties west of NC 12 and SR 1243. These would be created for the purpose of funding future shoreline management and drainage projects. It is anticipated that the existing districts (1 & 2) would also remain in effect and would continue to be utilized. The proposed MSD would be within walking distance of the ocean (1/4 mile). Property assessed values in these areas generally reflect proximity to the ocean (defined as the area of ocean nfluence by the Dare County tax Assessors Office).

Agenda Item Summary Sheet

Item No: **H-4**
Meeting Date: **March 4, 2020**

Item Title: Consideration of appointments to Board of Adjustment and Personnel Grievance Panel

Item Summary: At the March 4th Board of Commissioners meeting, request the following:

1 - Consideration of appointments to the Board of Adjustment (BOA).
- to fill two (2) expiring terms: John Mascaro and Angelina Lowe

2 - Consideration of appointments to the Personnel Grievance Panel (PGP).
- to fill two (2) expiring terms: Perry White and Saundra Futrell

All have indicated their interest in being reappointed.

Attached please find the list of candidates interested in serving on the BOA; Also attached are tracking charts with current rosters for both the BOA and the PGP.

Number of Attachments: 4

Specific Action Requested:

Provided for Board appointment/reappointment.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020

Tracking Chart for Town of Nags Head ***CURRENT*** Board of Adjustment Meeting Date: March 4, 2020

Name of Board/Committee	***Current members***	***Contact Info***	***Last appointed date***	***Seat expires***	***Eligible for Re-appointment***	***Notes***
Board of Adjustment 2nd Thursday at 9AM as necessary 5 Regular Members 4 Alternate Members	Jack Cooper, Chair	Phone/email on file	9/5/18	9/5/21	No	
	Margaret Suppler Vice-Chair	Phone/email on file	2/06/19	2/06/22	No	
	Judy Burnette	Phone/email on file	6/05/19	6/05/22	No	
	John Mascaro	Phone/email on file	3/01/17	3/01/20	Yes	Interested in being re-appointed
	Bobby Gentry	Phone/email on file	2/07/18	2/07/21	No	
	Angelina Lowe (ALT)	Phone/email on file	3/01/17	3/01/20	Yes	Interested in being re-appointed
	Don Milbrath (ALT)	Phone/email on file	06/07/17	06/07/20	No	
	Tina Adderholdt (ALT)	Phone/email on file	2/21/18	2/21/21	No	
	VACANT Alternate					

CANDIDATES Characteristic Chart Board of Adjustment Meeting Date: March 4, 2020

Applicant Name	Bd/Comm Interested in Serving	Yrs of Residency	Location of Residency	Education	Role in Community	Attributes to offer Bd/Comm	Special Interest in Bd/Comm	Currently serving on Town Bd/Comm
Barbara Ayars (7/31/18)	BOA/ Planning Bd	5 yrs	Gallery Row	BA & Law Degree	Retired attorney	Knowledge of environmental law	Assist w/maintaining a balance between ecosystem protection and use	No
Ellen Heatwole (8/28/18)	BOA/ Planning Bd	2 yrs	SNH	Studies for ministry	Realtor	Knowledge of small business	Interested in keeping the town a great place to live, work & play	No
Al Friedman (12/27/18)	BOA/ Planning Bd	1.5 yrs	SNH	Former Engineer	Realtor	Knowledge of time mgmt. & logistics	Interested in assisting in determining the direction of the town	Community Watch
Anne Farmer (1/30/19)	BOA/ Planning Bd	Summers 18+ yrs; Full time 6 yrs	SNH	MS Economics	IT management for 35 years	Experience w/variety of bds/assoc.	Wants to be part of the voice & process to ensure town thrives	No
Marvin Demers (11/22/19)	BOA	13 yrs	SNH	MA Industrial Engineering BA Mechanical Engineering	Retired Small business owner	Knowledge of Town's UDO and former commissioner	Wants to apply experience/knowledge of town's code and UDO	No

Tracking Chart for Town of Nags Head ***CURRENT***
Personnel Grievance Panel

Meeting Date: March 4, 2020

Name of Board/Committee	***Current members***	***Contact Info***	***Last appointed date***	***Seat expires***	***Eligible for Re-appointment***	***Notes***
Personnel Grievance Panel 3 Registered Voters 3 Alternates	Tina Adderholdt	Phone/email on file	09/05/18	09/05/21	No	
	Jeanne Kramer	Phone/email on file	10/04/2017	10/04/20	No	
	Perry White	Phone/email on file	3/01/17	3/01/20	Yes	Interested in being re-appointed
	Saundra Futrell ALT	Phone/email on file	3/01/17	3/01/20	Yes	Interested in being re-appointed
	Jean Flanigan ALT	Phone/email on file	06/07/17	06/07/20	No	
	Vacant (ALT)					

Agenda Item Summary Sheet

Item No: **J-1**
Meeting Date: **March 4, 2020**

Item Title: Town Manager Ogburn – Sanitation and Recycling
– Consideration of trash cart rollback ordinance

Item Summary:
At its February 5, 2020 meeting, the Board, at the manager's request, delayed any decision on action regarding the section of town code regulating proper placement of trash and recycling until its March 4, 2020 meeting. This was done in order to facilitate a meeting with concerned citizens/neighborhood associations that have expressed opposition to this approach.

The issue of the town's ability to enforce this ordinance with available resources is the primary reason staff recommended it be rescinded. The amount of time and staff resources involved in issuing notices of violation for improperly placed trash and recycling carts seems somewhat unproductive. Complaints are primarily isolated to a few sections of town; however, if there is an expectation that the ordinance be fully enforced, more resources would be necessary and the expense associated with this effort would likely not be justified in light of other town goals. Previously, some Board members have resisted the idea that the town would act as the 'cart police' in these instances.

On February 20, 2020 staff met with residents that would like to see the ordinance remain in place for fear that removing it would cause disregard for cart placement with no mechanism for regulation. Their further concerns relate to community aesthetics, the amount of trash blown from carts left in the right-of-way, and the smell from trash as they walked through their neighborhoods. Discussion focused on the importance of increased education targeted primarily to visitors by the town and property management companies. However, there was a strong opinion that staff would have to issue violations along with civil penalties in order to affect any change towards increased compliance.

In lieu of rescinding the ordinance at this time, staff requests the ability to work towards a resolution of this matter through a combined effort of strong education and enforcement for habitual offenders. Staff would evaluate the performance of this approach and report our findings to the Board at the end of the tourist season.

Number of Attachments: 1

Specific Action Requested:
Provided for Board discussion.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:
I will participate in the discussion as necessary.

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:
Attached please find the ordinance to rescind the trash cart rollback ordinance if the Board is interested.

Signature: Cliff Ogburn Date: February 26, 2020

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA

PART I. That **Chapter 30, Solid Waste Management, Article I. IN GENERAL** be amended as follows:

Sec. 30-6. - Preparation of refuse for collection.

(a) *Generally.* The refuse collection schedule will be established by the public works director and changed as conditions warrant from season to season. Bulk containers, trash carts, or recycling carts which are obstructed or not properly positioned when the truck passes will not be collected until the next regularly scheduled pickup date. Lids must be closed when in use.

(b) *Receptacles required.* All refuse shall be placed in approved receptacles.

(c) *Access to receptacles.* Routes for access and collection of residential refuse shall be improved and maintained for the safety of refuse collectors. Access routes shall not be obstructed. Service will not be provided when dogs or other animals interfere with collectors.

(d) *Large items/bulk pickup.*

(1) *Residential collection.* Large, bulky items such as stoves, refrigerators, water heaters, sofas, box springs, etc., which cannot normally be loaded into the back of a standard refuse truck, shall be picked up with equipment designed for large, bulky items. This service does not include the pickup of building materials, roofing, soil, rock, concrete, tree stumps, etc. Tree and shrubbery trimmings must originate from a lot upon which is located a single-family or two-family dwelling unit. Tree and shrubbery trimmings must be cut in lengths of not over eight feet in length. To receive pickup of large, bulky items, an individual must make an appointment with the town from October 1 through March 31.

(2) *Commercial collection.* Large, bulky items which cannot normally be loaded into the back of a standard refuse truck shall be picked up with equipment designed for large, bulky items. This service does not include construction materials, carpet, wood, more than 25 mattresses/box springs, stumps, logs, tree and shrubbery trimmings, etc. Each pickup shall be limited to a maximum of no more than 1,500 pounds per item. To receive pickup of large, bulky items, an individual must make an appointment with the town for pickup. Pickup periods are from November 1 through December 15, and from February 15 through March 31.

(e) ~~*Storage and removal of trash and recycling carts.* Trash and recycling carts must be placed for pickup within the street right-of-way and within four feet of the improved portion of the street, but not on the improved portion of the street. Trash and recycling carts shall be placed for pickup no earlier than the day before the scheduled pickup time. Trash and recycling carts must be removed from the street right-of-way no later than the day of collection. The property owner shall be responsible for such placement and removal.~~

PART II. Effective Date.

This ordinance amendment shall be in full force and effect from and after the **4th** day of **March 2020.**

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
John Leidy, Town Attorney

Date adopted: March 4, 2020

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

Agenda Item Summary Sheet

Item No: **J-2**
Meeting Date: **March 4, 2020**

Item Title: Town Manager Ogburn – Consideration of contract for beach sprigging and sandfencing

Item Summary:

Funding request for sandfence and beach grass install:

Staff requests that the Board authorize the town manager to enter into a contract to install sandfence and beach grass in an amount not to exceed $150,000 and $75,000 respectively. Locations are determined based on staff's observation of most suitable and most vulnerable sites. Staff estimates, based on these funding amounts, the installation of 4-5 miles of sandfence and as many as 45,000 plants. Sandfence work must be completed by April 15, 2020 in advance of turtle nesting season. However, beach planting by hand can continue past this date while recognizing the window of time for plant growing success.

In addition, staff also requests the Board consider a small test project that would place hay bales in place of traditional sandfencing. Recently, Figure Eight Island used hay bales in this way and have been pleased with the results thus far. Their Administrator shared that he used them at two sites for test purposes and that they work well and did not blow away. There was nothing that was not biodegradable and nothing to clean up after storms. They are arranged in the same basic configuration as required to install sandfence. He further shared that "They are cheap. No installation, no mess, ghost crabs love them. No wire to get cut on, no entanglement hazard like sand fence and nothing for my crew to clean up." (Photos are **attached**).

Number of Attachments: 2

Specific Action Requested:
Provided for Board consideration.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:
Amendment #8 to the Beach Nourishment Capital Project Ordinance is **attached** for your consideration and reflects the beach sprigging/fencing costs. There are currently sufficient funds budgeted for the sprigging portion.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:
N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: February 26, 2020

BEACH NOURISHMENT CAPITAL PROJECT ORDINANCE
Amendment #8

BE IT ORDAINED by the Governing Board of the Town of Nags Head, North Carolina, which, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following capital project ordinance as adopted June 15, 2016, as amended February 17, 2017, as amended June 21, 2017, as amended July 1, 2018, as amended October 3, 2018, as amended March 6, 2019, as amended April 3, 2019, as amended June 5, 2019, is hereby further amended as follows:

Section 1. The project authorized is a locally funded beach nourishment project to be financed by the sale of special obligation bonds to be repaid from one of the following sources: ad valorem revenues, special assessments, grant funds committed by the Federal Emergency Management Agency (FEMA) and the North Carolina Department of Public Safety (NCDPS), supplemental contributions from Dare County, restricted sales tax created through the Municipal Service District (MSD) or other sources of revenues, as well as funded through appropriation of Beach Nourishment Capital Reserve Fund Balance, up front contributions from Dare County, and interest income.

Section 2. The officers of this unit are hereby directed to proceed with the capital project within the terms of the budget contained herein.

Section 3. The following amounts are appropriated for the project:

Engineering and construction oversight	$ 1,862,523
Pumping Costs	32,644,500
Mobilization/Demobilization	4,000,000
Professional Fees	686,000
Thirty Year Beach Study	750,000
Five Year Profile Monitoring	456,948
Surveying and monitoring	326,001
Sand Fencing	425,000~~275,000~~
Sprigging	450,000
Turtle Monitoring	81,500
Ocean Outfall	375,000
Contingency	964,779~~1,114,779~~
	$ 43,022,251

Section 4. The following revenues are anticipated to be available to complete this project:

Proceeds - Special Revenue Bonds Series A	$ 11,380,000
Proceeds - Special Revenue Bonds Series B (FEMA/NCDPS)	16,233,837
Interest Income	110,000
Contribution from Capital Reserve Fund	5,525,058
Contribution from Dare County	9,773,356
	$43,022,251

Section 5. The Finance Director is hereby directed to maintain, within the Capital Project Fund, sufficient detailed accounting records to satisfy federal, state, and local regulations.

Section 6. Funds may be advanced from the General Fund for the purpose of making payments as due.

Section 7. The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3.

Section 8. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues in this capital project in every budget submission made to this Board.

Section 9. Copies of this project ordinance shall be furnished to the Clerk of the Governing Board, and to the Budget Officer and Finance Director for direction in carrying out this project.

Section 10. The Town Manager, or in his absence his designee, is hereby authorized to execute change orders or amendments to contracts in amounts up to $50,000 appropriated from contingency when it contains sufficient funds. The Budget Officer is authorized to reallocate appropriations between contingency and the various objects of expenditures as a result. Such changes shall be reported to the Governing Body at the next regular meeting.

Section 11. In case of emergency which threatens lives, health, and safety of public, the Town manager may execute contractual documents and authorize expenditures in an amount necessary to meet the emergency so long as such amount does not exceed the amount in the contingency account not to exceed $125,000 and the expenditure is reported to the Board of Commissioners as soon as possible, and the appropriate budget amendments are submitted at the next regular meeting.

Amended this 4th day of March 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Motion to Adopt by Commissioner
Motion Seconded by Commissioner
Vote: ___Ayes ___Noes
Recorded in Minute Book _____, Page_____

5-19-14

5-11-15

4-19-15

5-11-15

Agenda Item Summary Sheet

Item No: **J-3**
Meeting Date: **March 4, 2020**

Item Title: Town Manager Ogburn - Discussion/Consideration to request NCDOT reduce the speed limit on NC 1243 from Juncos Street Beach Access south to NC Hwy 12 from 45 mph to 35 mph

Item Summary:

Attached is a NCDOT map indicating that the speed limit increases from 35 mph to 45 mph at the Juncos Street Beach Access. Staff recommends asking NCDOT to reduce the speed limit to 35 mph making the entire length of NC 1243 the same speed limit.

Also attached please find a memo from Police Chief Webster.

Number of Attachments: 2

Specific Action Requested:

For Board discussion and consideration on March 4th.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

At the Board's direction, staff will move forward on the process to request NCDOT move to one speed limit on NC 1243.

Signature: Cliff Ogburn Date: February 26, 2020

Nags Head Police Department

5401 S. Croatan Hwy.
Post Office Box 99
Nags Head, North Carolina 27959
Telephone (252) 441-6386
Fax (252) 441-7335
www.nagsheadnc.gov

Service – Professionalism – Integrity – Strength

J. Phillip Webster
Chief of Police

Perry L. Hale
Deputy Chief of Police

MEMORANDUM

TO: **Cliff Ogburn**

FROM: **Phil Webster**

DATE: **February 28, 2020**

RE: **South Nags Head Speed Zone**

South Nags Head is navigated by State Rd 1243 also known as Old Oregon Inlet Road. This stretch of roadway begins at Whalebone Junction and runs south for approximately 5 miles.

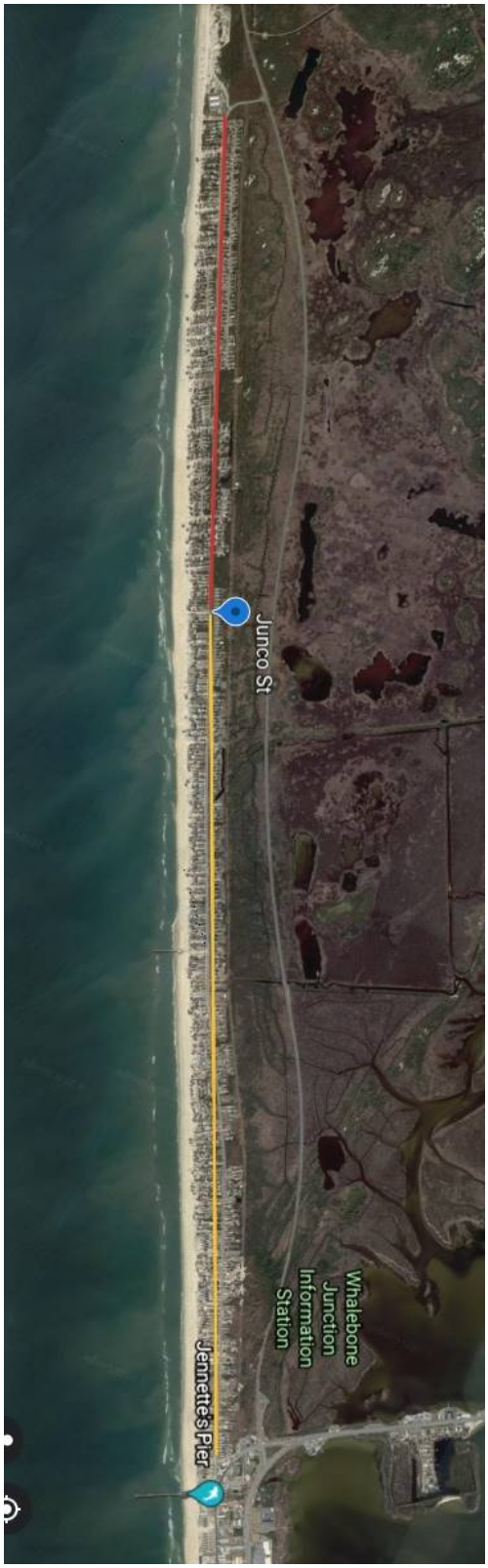
State Rd 1243 is an unlimited access road, traversing a heavily populated area. This area contains homes and cottages for both permanent residence and visitors. The roadway itself is crossed by several pedestrian crossings and entered by multiple private drives and streets.

The posted speed limit for State Rd 1243, beginning just south of Whalebone Junction, is 35 mph. This 35-mph zone continues south for approximately 3 miles ending at E Junco St. South of E Junco St. begins a 45-mph speed zone that runs south for approximately 2 miles to the south town limit. See figure A.

The access to State Rd 1243 does not materially change south of E Junco St. The road is still accessed by multiple private drives and roads.

We understand that a request has been made to lower the 45-mph zone to 35-mph. The department supports a request to lower speed limit to 35-mph. The department embraces a proactive approach to safety. Lowering the speed limit not only makes the road safer but also creates a uniform speed for the entire length. This single speed limit should lesson confusion over the posted speed zones and make citizen education easier.

Figure A



35 mph speed zone depicted in yellow, 45 mph speed zone depicted in red.

Agenda Item Summary Sheet

Item No: **L-1**
Meeting Date: **March 4, 2020**

Item Title: Mayor Cahoon – Discussion of Future Town Vision
(from January 2020 Board of Commissioners Retreat)

Item Summary:

One of the topics of discussion at the January 2020 Board of Commissioners Retreat concerned envisioning the future of Nags Head. Staff has been directed to include this item as a standing agenda item under Mayor Cahoon's agenda for Board discussion.

Attached please find the following:

- Memo from Mayor Cahoon with his list of Legacy Goals and specific actions to move toward each goal as an attachment
- List of Legacy Goals from all Board members from the January 23-24, 2020 Board Retreat

Number of Attachments: 2

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

I will participate in the discussion as necessary.

Signature: Cliff Ogburn Date: February 26, 2020

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
Post Office Box 99
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www.nagsheadnc.gov

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

MEMORANDUM

TO: Board of Commissioners

FROM: Ben Cahoon

DATE: January 27, 2020

RE: Vision for Future of Nags Head

At the Board's January 2020 Retreat there was a robust discussion about our shared vision for Nags Head. It was a forward-looking exercise with more consensus than many towns might hope for, and was the kind of exercise towns too seldom undertake. I was personally excited by what the Board generated and felt inspired to put down specific actions (as specific as I could make them) to move in the indicated direction. Too often such visionary aspirations remain non-specific and not actionable, and boards never return to them. I didn't want that to happen.

However, *this is only my own self-generated list*. The specific items do not have Board consensus, and I don't mean to indicate that they do. I hope instead that you will find more specific actions to add, so that we have a big "shopping list" for future discussions. And, as Commissioner Cahoon suggested at the February Board Meeting, this list should remain open so that new ideas can be a topic at the end of every meeting.

This list also has no priority. Priorities can only be set by the Board and might be set at a future time, if and when we take action on some items.

And finally, this list does not include the "measurements" that would indicate positive movement or success. Those would also be determined at a future time in collaboration with staff.

With those caveats the attached list is offered for your consideration.

Nags Head Legacy Goals
(from Mayor Cahoon)

Provide Superior Service-whatever we do, we do really well!

Implement a budget process that addresses levels of service and capital improvement, so Board understands what result will look like
Board members challenge themselves to raise levels of service and capital improvement when appropriate
Measure public/customer satisfaction and identify improvements
Implement identified customer service improvements, quickly when low-no cost
Benchmark acceptable levels of service so we know what exceeding them looks like (even if it's a clean garbage truck!)
Motivate staff to do the "best" within the time and resources available, rather than simply accomplish the task/install the improvement

Be creative when dealing with natural hardships like sea level rise.

Revisit risks listed in the VCAPS report.
Prioritize a set of those risks for further study and recommendations.
Engage with student groups like the current NCSU Sustainability Studio to visualize responses
Invest in a buyout/relocation fund for the distant future
Continue to implement drainage projects and seek grant funding for more

Enhance our status as a visitor destination and outdoor recreation economy

Improve remaining unimproved beach and sound accesses
Improve sound accesses for a broader range of sailing/kiting uses
Identify and mitigate potential pollution sources to prevent beach closures
    Stay ahead of septic health, clean groundwater, alternative approaches
Maintain control of beach activities that distract from the experience
Survey small recreation product manufacturers and support their needs
Spotlight interesting, unusual or historic outdoor recreation businesses
    Board shaping exhibition/festival
    Awards program for innovative businesses
    Recognition for historic recreation businesses/pioneers
Maintain and enforce barriers to disruptive "party houses"

Enhance traffic and pedestrian safety and encourage walkability with pathways, greenways and a US 158 Greenway

Identify US 158 business leaders who will see the benefits and advocate for a greenway
Meet with our NCDOT representative and our legislative representatives to press for the greenway option
Petition NCDOT, at every opportunity, to consider the greenway option
Develop images and messages to develop public support for the greenway option
Continue to identify locations and build multiuse paths
Use MUP construction to connect assets in the Whalebone area

Maintain our wide non-commercial beaches

Expand funding to guarantee capacity for the next project
Meet with legislators to press for groin or reef options to slow erosion
Monitor and act quickly on commercial encroachments

Become More Diverse
Encourage, and when possible develop, diversity of housing, lifestyles, social characteristics, and people

Identify sites for multifamily housing, set parameters, and conduct non-binding design competitions (to illustrate creative options at low-no cost)
Survey or undertake other mechanism to understand housing needs in detail
Create a small summer multi-cultural festival for visiting workers
Educate business owners on commercial site housing options in UDO
Consider an ADU ordinance for the commercial zone only
Maintain barriers to larger houses

Maintain and further develop solid infrastructure including roads, stormwater, health care, the internet, and cultural features/settings/events

Identify champions/monitors for key assets like parks, pathways, etc.
Install signage with contact info for reporting problems/maintenance needs
Create/maintain/monitor work plans for maintaining assets
Conduct regular meetings with hospital leadership to discuss plans and needs
Convene a meeting of remote/tech workers to discuss their tech/internet needs
Maintain farmer's market and summer concert schedule
Maintain partnership with DCAC for events like Artrageous
Expand Artrageous, Roll 'n' Stroll, or another event to include street art
Complete and install a number of art masts

Become home to a creative year-round workforce
(Relates to diversity and outdoor economy goals)

Challenge the Art and Culture Committee to further define creative workforce
Develop a list of target workers and businesses appropriate to Nags Head's scale and capacity
Identify channels to promote the town to those businesses and workers
Identify barriers to creative work and identify measures to eliminate them
(*Read "Cities and the Creative Class")*
Complete other goals outlined above which will make the town very attractive to workers who have the option to live here and work remotely

Nags Head Wow Factors

Be the leader.
Coastal town model that other towns model themselves after.

Publicize the locations where we have better amenities, more beautiful spaces, or the times when we have innovated in policy or action.
Host events on coastal and small town issues, like recycling/reduction

Be innovative.
Creative thinking.

Cross-disciplinary teams brainstorm solutions to problems (quick strike)
Identify and emulate forward-leaning communities from around the world
Quickly implement low cost ideas

Be competitive among municipal workforces.

Maintain pay and benefits near the top of the range
Offer superior training opportunities
Maintain high-quality management, perceived as fair and supportive

Cool food and art scene.

Challenge the Art and Culture Committee to define this
Modify ordinances to allow more food option experimentation.
Create an annual restaurant awards program, or an award for the Seafood Festival (most creative dish)

Nags Head Legacy Goals – from January 2020 Retreat
(from Board members)

Leader Innovative
Creative Thinking
Competitive in Workforce
Coastal town model that all others model after
"Cool" Food and Art

Visitor destination – Outdoor recreation economy

Creative ways to deal with natural hardships (sea level rise) – *managing flooding*

Superior service – what we do, we do really well, funded, committed
Garbage truck is the cleanest vehicle in town
Well-maintained parks and infrastructure

Home to a creative workforce year-round

Solid infrastructure – Quality of living – internet – cultural – health care
- Be ahead of septic
- Supporting primary, secondary, or tertiary care (Facilities and Doctors)

Public Art
- Gallery Row
- Draw people in
- Implement
- Cool place to live

Diverse – housing, social, people, lifestyle
- Not 1000 8+ bedroom houses used only 4/months/year
- Encourage multi-family housing understand current situation/numbers
- affordable
- Not just old people
- artists, dogwalkers
- limited party houses (size and offsite outside impact)

Wide Beaches – Not commercial
- Get ahead of it – not every year
- Maintained – not groomed – no trash

158 Greenway w/Spurs
- Greenways / Outdoors
- Pathways (well-maintained parks and paths)
- Walkable and Bikes ("uptown Nags Head" and Whalebone)
- People out
- Antithesis of a gated community

There were four (4) "WOW" ideas:
- Being the leader again among Dare County towns
- Money is no issue
- To be the Coastal Town that the rest (coastal towns) model themselves after
- There's even a cool food and art scene

Agenda Item Summary Sheet

Item No: **L-2**
Meeting Date: **March 4, 2020**

Item Title: Mayor Ben Cahoon – Request for Closed Session in accordance with GS 143-318.11(a)(6) re: Town Manager's Review

Item Summary:

A Closed Session will be requested, in accordance with GS 143-318.11(a)(6), at the March 4th Board of Commissioners meeting to discuss the Town Manager's Review.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: February 26, 2020

Finance Officer Comment:

N/A

Signature: Amy Miller Date: February 26, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: February 26, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: February 26, 2020