



**DRAFT MINUTES**  
**TOWN OF NAGS HEAD**  
**BOARD OF COMMISSIONERS**  
**REGULAR MEETING (COVID-19)**  
**WEDNESDAY, SEPTEMBER 2, 2020**

*(PLEASE NOTE: In accordance with State and County Regulations due to COVID-19, Face Coverings must be worn in indoor and outdoor public spaces where social distancing cannot be maintained)*

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, September 2, 2020 at 9:00 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley

Board members Absent: None

Others present: Interim Town Manager Greg Sparks; Attorney John Leidy; Andy Garman; Amy Miller; Michael Zehner; Kelly Wyatt; Roberta Thuman; Michelle Gray; Phil Webster; Randy Wells; Mike Norris; Bobby Hooper; Kerry Oaksmith-Sanders; Peggy Saporito; Chris Carroll; Ginny Flowers; Samantha Lock; Margaret Cooley; Valerie Netsch; William Barrett; David Elder; Karen Brown; Chris Sawin; Lauren Nelson; Lisa Brickhouse-Davis; Rob Richardson; Willie Barrett; Craig Hurd; Winnie Wiseman; Sumit Gupta; and Town Clerk Carolyn Morris

### **CALL TO ORDER**

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

### **ADOPTION OF AGENDA**

**MOTION:** Comr. Fuller made a motion that agenda item E-6 entitled: *Request for Public Hearing to consider text amendments to the UDO pertaining to nonconforming hotels and accessory uses in association with preexisting fishing piers* be removed from the agenda. The motion was seconded by Comr. Brinkley which passed unanimously.

**MOTION:** Comr. Fuller made a motion to approve the September 2<sup>nd</sup> agenda as amended. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

## **RECOGNITION**

Facilities Maintenance Supervisor Mike Norris introduced Stormwater & Streets Technician Bobby Hooper who was congratulated for five years of service.

## **PUBLIC COMMENT**

Attorney John Leidy conducted the Public Comment session. All speakers commented on Dowdy Park and the Town's Event Coordinator part-time position. The following submitted written comments which are attached to and made a part of these minutes as shown in Addendum "A": Kerry Oaksmith-Sanders, Peggy Saporito, Chris Carroll, Samantha Lock, Ginny Flowers, Valerie Netsch, Denise Turner, Leslie Erickson, Ann Wunderly, C. Mark Slagle, Abby Carey, Joe Patton, Sharon Serine, and Sara Mawyer. The following spoke during the Public Comment Session:

### PUBLIC COMMENT – KERRY OAKSMITH-SANDERS

Kerry Oaksmith-Sanders is a member of the Arts & Culture Committee - She read from the Dowdy Park Master Plan purpose as well as completed surveys of what community members wanted for the Park activities; the Farmers Market was the first activity requested. The Farmers Market has been very successful and the coordinator has the specialized skill set necessary; scheduling the market for funding on a month-to-month basis does not provide good community service; she questioned why Dowdy Park can't be continually funded especially when the amount is only \$16,000 per year; she respectfully requests that the Board continue to fund the Dowdy Park Event Site Coordinator part-time position; she also asked that a copy of her comments be included in today's record.

### PUBLIC COMMENT – PEGGY SAPORITO

Peggy Saporito is a member of the Arts & Culture Committee; the committee was established by the Board of Commissioners to promote, encourage and increase support of the Town's artistic community and to work to integrate arts and culture into community life; it has been working to build successful activities such as the Farmers Market events; all pandemic guidelines have been followed; why would funds be approved and then the event not funded; she would like her comments included in today's record.

### PUBLIC COMMENT – CHRIS CARROLL

Chris Carroll is owner of Sweater Box Confections – vendor in the Farmer's Market – this year has been the best for sales – she is familiar with how Farmer's Markets run and she loves what the Events Coordinator has done as she is very talented; as a vendor the pandemic has provided a lot of challenges but feels the appropriate guidelines have been followed; Farmers Market is not her primary revenue stream but it is a very important part; she asked that the Board continue the event.

### PUBLIC COMMENT – SAMANTHA LOCK

Samantha Lock is a member of the Arts & Culture Committee; she is a business owner and property owner in Nags Head – values established by the Town of Nags Head include parks and recreation – the Town's vision is to create a town where there are funded activities that are essential to the Town and to provide recreational opportunities; dissolving the Event Coordinator position would not be in the best interest of the Town; the Town's community core values should be invested in.

### PUBLIC COMMENT – GINNY FLOWERS

Ginny Flowers is a member of the Arts & Culture Committee; she is also a Nags Head resident and business owner; she spoke of the importance of keeping the Events Coordinator position which is a very specialized position that should be part of the investment of the Town; she read from the Town's

Land Use Plan which notes the importance of small businesses in the Town; please keep the Events Coordinator position; she asked that her comments and other correspondence re: the position be included in today's record.

PUBLIC COMMENT – CHRIS SAWIN

Chris Sawin, Dare County Arts Council Director; he applauded the Town's commitment to the arts to include the long-term support of the arts whether it is collection of artwork or in partnership with the Dare County Arts Council for the grand opening of Dowdy Park and other events; when it comes to arts programming it is a very specific skillset which he has been unable to get others to do in Manteo; when outdoor events have been postponed or cancelled they have found other avenues for the Events Coordinator person; as an advocate for the arts he thanked the Town for its support and hopes to work with the Town in the future.

PUBLIC COMMENT – VALERIE NETSCH

Valerie Netsch thanked the Board for Dowdy Park – she read her email which she had forwarded to the Board last night. She asked that the Board keep the Event Coordinator position in place as there is much more to be done at Dowdy Park.

PUBLIC COMMENT – DAVID ELDER

David Elder stated that he has been involved in the process of Dowdy Park; transparency by the Town gave a clear line/guidance for the park; the corona virus pandemic was a surprise and no one knew what to expect; the process of transparency in government needs to be there for everyone and he asked the Board to stay on course by keeping the Event Coordinator position.

PUBLIC COMMENT – KAREN BROWN

Karen Brown is a resident of Nags Head; she read an email on behalf of artist, Denise Turner; Ms. Turner wrote in favor of the Dowdy Park Farmers Markets; the markets operate smoothly and the one person who stands out is the Town's Event Coordinator; she asked that the position be kept; she would like her comments to be included in today's minutes.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:47 a.m.

**CONSENT AGENDA**

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #3 to FY 20/21 Budget

Consideration of Tax Adjustment Reports

- Consideration of New Year (FY 20/21) Tax Adjustment Reports
- Consideration of Monthly Tax Adjustment Reports

Approval of minutes

Consideration of request from Fraternal Order of Eagles to conduct 2020 bonafide fishing tournament

Consideration of approval of a Health Reimbursement Arrangement Plan Maintenance Agreement and a Business Associate Agreement effective September 1, 2020 for the Town Manager

Request for Public Hearing to consider text amendments to the UDO pertaining to nonconforming hotels and accessory uses in association with preexisting fishing piers *(this item was removed)*

Request to modify Consolidated Fee Schedule for Post-Season Per Farmers Market Vendor fee

**MOTION:** Comr. Brinkley made a motion to approve the Consent Agenda as amended (with the removal of item E-6 re: Request for Public Hearing). The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Budget Adjustment #3 to FY 20/21 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

The Tax Adjustment Reports, as approved, are:

- New Year (FY 20/21) Tax Adjustment Reports
- Monthly Tax Adjustment Reports

And are attached to and made a part of these minutes as shown in Addendum "C".

The resolution authorizing the Fraternal Order of Eagles to conduct the 2020 bonafide fishing tournament, as adopted, read in part as follows:

"WHEREAS, the Fraternal Order of Eagles, Aerie #4506 is sponsoring its annual Surf Fishing Tournament October 24, 2020; AND

'WHEREAS, in accordance with Section 8-83 (b) (3) of the Nags Head Code of Ordinances, the Fraternal Order of Eagles, Aerie #4506 submitted a request on August 7, 2020 for the Town of Nags Head to issue 25 (two permits per each team of six) short-term beach driving permits to the Fraternal Order of Eagles, Aerie #4506 to be distributed to participants in its annual surf fishing tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue 25 short-term beach driving permits to be distributed to participants in its annual Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament to be held Saturday, October 24, 2020. These special permits will be valid for Saturday, October 24, 2020. Only six (6) persons shall be allowed per team fishing in the tournament.

'The Fraternal Order of Eagles, Aerie #4506 is responsible for the distribution of all short-term beach driving permits for the 2020 Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament. No short-term permits for the tournament will be issued by Staff.

'The name of the team and town to whom a permit is issued shall appear on each permit.

'Prior to the start of the tournament, the Fraternal Order of Eagles, Aerie #4506 shall provide the Nags Head Town Clerk with a list showing the team name or tournament official and the numbers of the

permits issued to each. A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed.

Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed. The short-term beach driving permit MUST be in the possession of the team at all times. The permit is not transferable.

The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

With regards to COVID-19, the Fraternal Order of Eagles, Aerie #4506 shall abide by any order in place issued by Governor Roy Cooper for the duration of the tournament held on Saturday, October 24, 2020.

Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach."

Consideration of approval of a Health Reimbursement Arrangement Plan Maintenance Agreement and a Business Associate Agreement effective September 1, 2020 for the Town Manager - the agenda summary sheet, as approved, read in part as follows:

"Formal approval is being requested of the Board on September 2<sup>nd</sup> to establish a Health Reimbursement Account to cover Medicare Supplement expenses for the Interim Town Manager and his spouse. The attached documents are a Health Reimbursement Arrangement Plan Maintenance Agreement and a Business Associate Agreement - both to become effective September 1, 2020."

The agenda summary sheet re: the request to modify Consolidated Fee Schedule for Post-Season Per Farmers Market Vendor fee, as approved, read in part as follows:

"Due to the popularity of the Dowdy Park Farmers Market, staff is requesting that it be extended through September 2020. In order to help with the unbudgeted expense, a post-season vendor fee of \$15 is being requested.

The proposed amendment to the Consolidated Fee Schedule would read as follows and is attached: Post-Season Per Farmers Market Vendor fee - \$15 per vendor"

**MAYOR PRO TEM SIERS - Present Dominion Energy agenda item**

Mayor Pro Tem Siers suggested that the Dominion Energy agenda item be presented at this time as it was 9:50 a.m. and their item was time specific for 10:00 a.m. Mayor Cahoon agreed.

**Presentation by Dominion Energy re: installation of electric transmission line on US 158  
Time Specific - 10:00 a.m.**

The agenda summary sheet read in part as follows:

"At the September 2<sup>nd</sup> Board of Commissioners meeting, Ms. Katherine "Winnie" Wiseman, External Affairs, Representative III, with Dominion Energy, will provide a presentation summarizing Dominion's project to install new electric transmission lines on US 158.

'An update on the Nags Head/Manteo Causeway pole replacements is expected to also be provided.

'Attached slides were provided by Ms. Wiseman. This item is time specific for 10:00 a.m."

Rob Richardson from Dominion Energy introduced the Dominion Energy representatives who were also present: Willie Barrett, Craig Hurd, and Winnie Wiseman, External Affairs. With a powerpoint presentation, Mr. Richardson reported that he and his staff are in the early stages of researching a Feasibility Study of installation of electric transmission lines on US 158; the purpose is to establish alternative electric transmission lines to be used in case of outages due to storms, etc. His presentation is attached to and made a part of these minutes as shown in Addendum "D".

Mayor Cahoon questioned the location of the Colington tap - Mr. Richardson said that the Colington tap is on US 158. Willie Barrett, Project Manager, said that the Colington tap is perpendicular to US 158.

When asked about the Nags Head/Manteo Causeway electric pole replacement project, Mr. Richardson reported that they are missing easements from Oceans East and Kitty Hawk Kites. The poles are galvanized steel, the same height as the existing poles, but are on dead-end poles with no guy wires – underground cable is to be installed sometime after Labor Day.

Comr. Renée Cahoon asked about the transmission line poles indicating that she would like to see the US 158 poles installed underground. She also asked for a map clarifying exactly where the lines from the Colington tap will be located.

Ms. Wiseman addressed the circuits on the Nags Head/Manteo Causeway – there are two circuits, one will remain overhead and one will be underground with construction scheduled to begin shortly after Labor Day. Both lines go to Roanoke Island but both cannot go underground due to a lot of utilities located underground and the required separation cannot be maintained.

Comr. Renée Cahoon asked about the underground poles on US 158 and Mr. Richardson said that this will be included as part of the Feasibility Study; as will underwater installation when asked by Comr. Fuller.

Mayor Cahoon asked about the schedule/timing of the project; Mr. Richardson stated that the Feasibility Study is expected to be done by early 2021.

## **PUBLIC HEARINGS**

Public Hearing to consider a text amendment to the UDO that would allow for lots west of NC12 and SR1243 which have a Base Flood Elevation (located in an AE zone) to have fill added up to a height required by the Dare County Health Department for onsite wastewater

Town Attorney Leidy introduced the Public Hearing to consider a text amendment to the UDO that would allow for lots west of NC12 and SR1243 which have a Base Flood Elevation (located in an AE zone) to have fill added up to a height required by the Dare County Health Department for onsite wastewater.

The time was 10:20 a.m.

The agenda summary sheet read in part as follows:

"Following the adoption of the Flood Damage Prevention Ordinance on June 3, 2020, Staff identified two necessary amendments to the text related to fill regulations applicable to properties west of NC 12 and SR 1243 and subject to a Base Flood Elevation. The first, a simple re-numbering to correct a typographical area. The second involves Section 11.5.3 of the Unified Development Ordinance, where properties located west of NC 12 and 1243 for which the Flood Insurance Rate Map (FIRM) provides a Base Flood Elevation, fill shall not be permitted to exceed the Base Flood Elevation. As written, this section of the UDO does not adequately address the scenario where fill required for the wastewater permit would exceed the established Base Flood Elevation. Generally, this is the result of the significant change in the Base Flood Elevations and did not present issues previously. The proposed amendment would remedy this situation by allowing fill height up to the Base Flood Elevation or as required by the Dare County Health Department, whichever is greater.

'Staff Recommendation/Planning Board Recommendation

Planning staff recommends that the amendments be adopted as proposed. At their August 18, 2020 meeting the Planning Board voted unanimously to recommend adoption of the text amendment as proposed."

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

"Following the adoption of the Flood Damage Prevention Ordinance by the Board of Commissioners on June 3, 2020, Staff identified two necessary amendments to the text related to fill regulations applicable to properties west of NC 12 and SR 1243 and subject to a Base Flood Elevation. The first, a simple re-numbering to correct a typographical area. The second, a more substantive change to the regulations to address an unintended consequence associated with the significant reduction of the Base Flood Elevation, whereby fill is currently limited to not exceed the Base Flood Elevation but it may be necessary for the Dare County Health Department to require fill in excess of the Base Flood Elevation.

'Section 11.5.3 of the Unified Development Ordinance addresses limitations on the utilization of fill based upon a property's location being either east or west of NC 12 and SR 1243. For properties west of NC 12 and SR 1243 for which the Flood Insurance Rate Map (FIRM) provides a Base Flood Elevation, fill shall not be permitted to exceed the Base Flood Elevation. It has been brought to our attention for one property currently the subject of planning for development, and will likely affect other westside properties, that the Dare County Health Department requirements for fill placement for the wastewater facilities will exceed the newly established Base Flood Elevation. The situation that Staff is aware of is as follows:

- The parcel was in an AE-11 (Base Flood Elevation of 11') flood zone and is now in an AE-4 flood zone.
- The average ground elevation on this lot is approximately 2.5'.
- The ordinance allows fill to be placed to the Base Flood Elevation, therefore, pursuant to current regulations, fill could not exceed 4'.
- The Dare County Health Department evaluation for wastewater improvement requires the septic field to be elevated 30 inches, bringing the lot elevation up to 5 feet, 1 foot greater than what the UDO would permit.

'As written, this section of the Unified Development Ordinance does not adequately address the scenario where fill required for the wastewater permit would exceed the established Base Flood Elevation. Generally, this is the result of the significant change in the Base Flood Elevation and did not present issues previously. The proposed amendment would remedy this situation by specifically allowing lots to fill to the Base Flood Elevation or the minimum amount of fill required by the Dare County Health Department, whichever is greater. Additionally, this will be consistent with fill requirements in areas where the FIRM provides no Base Flood Elevation.

**'STAFF RECOMMENDATION**

Staff recommends that the amendments be adopted as proposed.

**'PLANNING BOARD RECOMMENDATION**

At their August 18, 2020 meeting the Planning Board voted unanimously to recommend adoption of the text amendments as presented."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, August 19, 2020 and on Wednesday, August 26, 2020 as required by law.

Comr. Fuller entered the email into the record from Builder Jay Overton of September 1, 2020 – which is attached to and made a part of these minutes as found in Addendum "E".

Mayor Cahoon said that he would like to keep the fill discussion on the table; this is one step to take to rectify situations so those lots can be developed.

Attorney Leidy noted that no one else present wished to speak and he concluded the Public Hearing at 10:43 a.m.

**MOTION:** Comr. Fuller made a motion to adopt the ordinance amending the UDO that would allow for lots west of NC12 and SR1243 which have a Base Flood Elevation (located in an AE zone) to have fill added up to a height required by the Dare County Health Department for onsite wastewater, as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

Public Hearing to consider numerous minor text amendments to the Unified Development Ordinance for clarification and to correct errors

Town Attorney Leidy introduced the Public Hearing to consider numerous minor text amendments to the Unified Development Ordinance for clarification and to correct errors. The time was 10:46 a.m.

The agenda summary sheet read in part as follows:

"Since the Board of Commissioners meeting on May 6, 2020 where the first iteration of post-Unified Development Ordinance adoption typographical errors was adopted, Staff has identified several additional areas for correction and/or improvement of the UDO. These proposed amendments include: correction to the Post-Firm Definition, correction of various mis-spelled words, amending the UDO with the updated information from the December 5, 2018 approval of stormwater management amendments, correction to clarify that there are no supplemental standards for the use of Government

Administrative Office, and to include “flag (non-advertising, non-informational)” regulations that were inadvertently omitted from the adopted UDO.

Staff Recommendation/Planning Board Recommendation  
Planning staff recommends that the amendments be adopted as proposed.

At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the proposed text amendments as proposed.”

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

“Since the Board of Commissioners meeting on May 6, 2020 where the first iteration of post-Unified Development Ordinance adoption typographical errors was adopted, Staff has identified several additional areas for correction and/or improvement of the UDO. The proposed amendments and a brief description of each is included below.

Correction to the Post-Firm Definition

The Flood Damage Prevention Ordinance, adopted by the Board of Commissioners on June 3, 2020, contained an incorrect date within the definition of “Post-FIRM”. The Post-FIRM date is cited as being December 31, 1974, and the Pre-FIRM date is cited as being November 10, 1972; both dates should be November 10, 1972. The December 31, 1974 date had previously been provided to the Town as the correct Post-FIRM date from FEMA, however, we have since been directed to utilize the November 10, 1972 date. We have received direction that the November 10, 1972 is relevant for floodplain purposes; the December 31, 1974 date is relevant for insurance purposes.

Correction to Section 3.5.3.3, Action by Planning Board, to correct a typographical error: “matter”.

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

Correction to Section 4.12.2.1, Specific Site Plan Requirements Based on the Proposed Activity, Stormwater Management.

This section of the UDO had not yet been revised with the updated information from the December 5, 2018 approval of various stormwater management amendments.

Correction to Section 6.2.4.1, Zoning Districts, Commercial Districts, to correct a typographical error, “as”.

The second to last sentence should read, “It is also the intent of this C-1 district to encourage the development of unique, locally owned businesses that are designed to be reflective of the community’s heritage and lifestyle both in scale and massing as well **as** site layout”.

Correction of strike-through typo’s in Section 6.6, Table of Uses and Activities as well as to clarify no supplemental standards listed for Government Administrative Office use.

Two (2) uses within Section 6.6 Table of Uses and Activities contain strikethrough of unnecessary text, this was unintentional and simply a carry over from a “mark-up” version.

Additionally, the use of “Government Administrative Office” contains a notation that supplemental standards are required and located within Section 7.42 of the UDO. This is an error, this use does

not have supplemental standards associated with it and as such we are recommending the Table of Uses and Activities be amended to reflect that.

Correction to Section 8.3.1.5, Special Development Standards, C-3 Commercial Services District, to correct a typographical error, "pollution as".

The first sentence should read, "No outside storage of processed materials, which may be a possible source of **pollution as** determined by the NC Department of Environmental Quality, shall be allowed".

Correction to Section 10.24.2, Signs Permitted in Commercial Districts and the Commercial/Residential District, to include flag (non-advertising, non-informational) regulations that were inadvertently deleted during the adoption of the UDO.

Prior to the adoption of the Unified Development Ordinance, Chapter 48, *Zoning*, of the Code of Ordinances, contained various use regulations within the definition of the use. Listing use regulations within the definition of the use is not considered to be an ideal regulatory practice, and as such, during the drafting of the UDO, Staff attempted to move those regulations into the Supplemental Standards for the appropriate use. In the process, the spacing requirement for "Flag (non-advertising, non-informational)" which had previously been part of the definition, was not carried into the appropriate section of the UDO. This was inadvertently lost during the drafting process; this amendment would simply add the spacing requirement back into the use requirements.

**STAFF RECOMMENDATION**

Staff recommends that the amendments be adopted as proposed.

**PLANNING BOARD RECOMMENDATION**

At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the proposed text amendments as proposed."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, August 19, 2020 and on Wednesday, August 26, 2020 as required by law.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 10:50 a.m.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the ordinance providing clarification changes and correcting errors in the Unified Development Ordinance, as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

Public Hearing to consider a text amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of Commercial Mixed-Use uses

Town Attorney Leidy introduced the Public Hearing to consider a text amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of Commercial Mixed-Use uses. The time was 10:52 a.m.

Attorney Leidy pointed out that Mayor Cahoon of Cahoon & Kasten is representing the applicant for this item; it would be appropriate for him to recuse himself from the discussion.

**MOTION:** Mayor Pro Tem Siers made a motion to recuse Mayor Cahoon from the discussion. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

Mayor Cahoon left the meeting.

The agenda summary sheet read in part as follows:

“Cahoon and Kasten Architects, PC has submitted a text amendment application on behalf of Sumit Gupta of Legacy Homes, Inc. If adopted, this text amendment would amend the Unified Development Ordinance (“UDO”), Section 7.32.2., to add the “Furniture Store” use as an allowable use for all Commercial Mixed-Use designations; this designation includes the following use types: Commercial with Accessory Residential, Group Development, Mixed Use Development, Multiple Principal Uses, and Shopping Centers. Furniture Store is an allowed use within the C-2 Zoning District; therefore, it would be within that district only that a furniture store could be incorporated as part of a mixed use. With the exception of the Commercial with Accessory Residential use, all other mixed-use designations require a conditional use permit within the C-2 District.

‘Staff Recommendation/Planning Board Recommendation

Planning staff generally has no concern with listing the use of “Furniture Store” as an allowable use for all Commercial Mixed-Use designations and believes this amendment to be consistent with applicable policies. At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the proposed text amendment as proposed.”

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

“Cahoon and Kasten Architects, PC has submitted the attached text amendment application on behalf of Sumit Gupta of Legacy Home Services Inc. The requested amendment seeks to amend Section 7.32 of the UDO, and specifically Section 7.32.2., to add the Furniture Store use as an allowable use for all Commercial Mixed-Use designations; this would include the following use types: Commercial with Accessory Residential, Group Development, Mixed Use Development, Multiple Principal Uses, and Shopping Centers. Currently, and without this amendment, a Furniture Store use would not be allowed to be incorporated as part of one of the aforementioned mixed-use uses. Generally, the various mixed-use uses contemplate and allow for multiple independent entities and/or uses to occupy a single building or property.

‘It is also important to note that furniture stores are an allowed use only within the C-2 zoning district. Therefore, it would be within the C-2 district only that a furniture store could be incorporated as part of a mixed-use use. With the exception of the Commercial with Accessory Residential use, all other mixed-use use designations require a conditional use permit within the C-2 district.

‘Applicable definitions are as follows:

- *Commercial with accessory residential* means a principal commercial use with accessory single-family residences either attached or detached. This use could include single-family residential, duplex, or multiple detached single-family residential dwelling units configured in a cottage court arrangement.

- *Mixed-use development* means a single building containing more than one type of land use or single development of more than one building, and use, under common ownership, where the different types of land uses are in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. Mixed use is defined by a combination of professional offices, personal services, indoor recreation facilities, retail, and/or restaurant uses in combination with residential development.
- *Multiple principal uses* means multiple, unrelated, primary or predominate uses located within one building.
- *Shopping Center* means a single, commercial structure which includes or is designed to include two or more establishments with a combined floor area of at least 10,000 square feet planned for a single or contiguous lot.
- *Furniture store* means an establishment that sells goods and/or movable objects, intended to support various human activities such as seating, eating, and sleeping, for furnishing or improving housing units that make a room or other area ready for occupancy.

Additionally, there is a definition for furniture showroom, as follows, but this is not identified as a separate use in the UDO:

- *Furniture showroom* means a retail establishment that utilizes large, open floor areas to display furniture or mattresses.

While it is important to remember that text amendments are not site specific, this text amendment has been proposed with the intent to seek a conditional use permit to incorporate the use as part of a Multiple Principal Uses use of the existing structure located at 205 East Baltic Street (formerly His Dream Center), situated within the C-2 zoning district; this application has been filed and is expected to come before the Planning Board and Board of Commissioners respectively for review and recommendation following resolution of the proposed text amendment. The approval of the subject text amendment does not commit any future action on the subsequent conditional use permit.

#### POLICY CONSIDERATIONS

While staff has not identified policies within the Town's Comprehensive Plan specific to "Furniture Stores" in association with mixed-use uses, the following policies are generally relevant and should be taken into consideration:

LU-9; pg. 3-20 – 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.

EC-1; pg. 3-117 – Develop and promote a sustainable economy that supports a high quality of life for residents and visitors without compromising the integrity of natural and cultural resources and a sense of place.

EC-3; pg. 3-117 – Meet the infrastructure and service needs of the community at appropriate levels as the community continues to grow.

EC-8; pg. 3-123 – Enhance economic health and increase employment opportunities through business retention and expansion.

#### STAFF RECOMMENDATION

In review of this text amendment application, Staff generally has no concern with listing the use of "Furniture Store" as an allowable use for all Commercial Mixed-Use designations and believes it is consistent with applicable policies. As referenced above, this would only be applicable within the C-2 zoning district, and, with the exception of the Commercial with Accessory Residential use, would require a conditional use permit. Therefore, Staff recommends adoption of the proposed text amendment.

**PLANNING BOARD RECOMMENDATION**

At their July 21, 2020 meeting the Planning Board voted unanimously to recommend approval of the requested text amendment as proposed."

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, August 19, 2020 and on Wednesday, August 26, 2020 as required by law.

Comr. Fuller confirmed with Ms. Wyatt that the furniture store, as defined, has nothing to do with repair of furniture only the sale of furniture.

Applicant Sumit Gupta spoke at the podium indicating that he will respond to any questions on request.

There being no one else present who wished to speak, Attorney Leidy concluded the Public Hearing at 10:57 a.m.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the ordinance amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of Commercial Mixed-Use uses, as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

Mayor Cahoon returned to the meeting.

**Public Hearing item F-1 – Request from Comr. Renée Cahoon**

Comr. Renée Cahoon asked Planning staff to review the email forwarded last night to Board members from Jay Overton of Albemarle & Associates concerning agenda item F-1 re: Public Hearing on the text amendment for lot fill west of NC 12 and SR 1243 - and to forward their analysis to Board members.

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

Update from Planning Director

Planning Director Zehner noted that he would be glad to expand on any item in his report. His report read in part as follows:

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on September 2, 2020.

#### Monthly Activity Report

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

- Wednesday, July 1 - Board of Commissioners Meeting
- Thursday, July 2 - Farmers Market
- Wednesday, July 8 - Arts & Culture Committee Meeting
- Thursday, July 16 - Farmers Market
- Tuesday, July 21 - Planning Board Meeting
- Thursday, July 23 - Farmers Market
- Thursday, July 30 - Farmers Market

#### Impact of Coronavirus on Permitting

The following information was contained in the Report dated July 24, 2020; at this time, unless the boards wish to be provided with continued updates, Staff will discontinue this specific reporting, focusing instead on providing the standard quarterly reports on permitting:

As previously reported, a total of 67 building permits (non-trade) were applied for in both March 2020 and March 2019. In April, 48 building permits were applied for in both 2020 and 2019. In May, 57 building permits were applied for in 2020, while 48 were applied for in 2019. Finally, in June, 48 permits were applied for in 2020, while 39 were applied for in 2019. Since March 16 through July 23, 215 permits were applied for in 2020 compared to 194 in 2019.

With regard to trade permits, a total of 469 were issued in March through June of 2019, and a total of 300 were issued during the same period in 2020.

#### Short-Term Rental Registration Update

A total of 69 properties were registered as short-term rentals in 2019; as of August 25, 2020, 32 of these properties were registered in 2020. As of the same date, 98 additional properties were newly registered in 2020. A total of 167 properties are currently registered as short-term rentals.

Properties registered in 2019 have until September 1, 2020 to register to continue to maintain compliance. Unregistered short-term rentals being rented or offered for rent would be in violation of the Town's regulations. Emails were sent on July 21, 2020 to owners of properties registered in 2019, reminding them of the need to renew registrations by September 1, 2020. Additionally, on July 27, 2020, postcards were mailed to owners of approximately 300 properties determined from Dare County records as likely qualifying as short-term rentals. Staff will continue efforts to identify and register active short-term rentals within Town. So far, 40 properties have been registered as short-term rentals that were not previously identified as rentals on Dare County's records.

Through the administration of the registration program, Staff has determined that it may be necessary to seek an amendment of the provisions to specifically exempt cottage court units managed by a single entity from being required to register as short-term rentals. Staff understands that it was the intent that these units, which operate more closely to hotels/motels, would not require registration, and has therefore not been requiring these units to be registered. However, Staff would recommend that this be clarified within the Town Code.

#### `Camping Provisions

As the Board of Commissioners may recall, amendments to the Town's camping provisions were approved on July 1, 2020 to clarify the prohibition on the use of vehicles for camping within Town. At that time, members of the Board suggested that it may be worthwhile to revisit the provisions at a later date to ensure that they were consistent with expectations. Staff will work with the Town Manager's Office to schedule a future discussion on the provisions.

#### `Update of Decentralized Wastewater Management Plan

As part of the project to update the Town's Decentralized Wastewater Management Plan, it is contemplated that an Advisory Team or steering committee would be formed to assist in guiding the project and the work of the consultant. If the Board of Commissioners agree, Staff would like to begin seeking volunteers for consideration by the Board at a future meeting. The RFQ seeking qualified consultants was released on August 14, 2020, with responses due September 30, 2020.

#### `NFIP Community Rating System Audit

For the last several months, Staff has been preparing information in advance of the 5-Year Cycle audit for the Town's participation in the Community Rating System. The Community Rating System (or CRS) is part of the National Flood Insurance Program (NFIP), and is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum program requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

1. Reduce flood damage to insurable property;
2. Strengthen and support the insurance aspects of the National Flood Insurance Program; and
3. Encourage a comprehensive approach to floodplain management

#### `Planning Board - Pending Applications and Discussions

The August 18, 2020 meeting of the Planning Board was held in person without use of the Zoom platform as the meeting was not considered an electronic meeting pursuant to the Town's policy and applicable State statutes. The agenda included consideration of a text amendment to address nonconforming hotels and preexisting uses in conjunction with fishing piers, and a text amendment to address fill regulations for properties west of NC 12 and/or 1243 and subject to a Base Flood Elevation.

The Planning Board's next meeting is scheduled for September 15, 2020. At this time, the agenda is expected to include consideration of a conditional use permit application for the Dream Center property contingent upon the text amendment regarding Furniture Stores as an allowable use as part of Commercial Mixed-Use uses.

As the Board is aware, a request has been submitted from the Outer Banks Realtors asking that consideration be given to allowing live broadcast and/or remote participation in Planning Board meetings. Staff will be working with the Town Manager's Office, the Planning Board Chair, and the Town Attorney to determine how best to accommodate this request.

#### `Additional Updates

- 2020 Census - As previously indicated, the number/percentage of vacant vacation/rental homes in Town would skew the response rate recognized by the Census, as the rate is not

adjusted at this time to account for those homes. Dare County has begun releasing the information on the rate depicting more accurate response rates based upon the number of occupied homes in the various communities. Based upon this methodology, the Town's response rate as of August 17, 2020 has been determined to be 87.39%, up from 85.46% on July 20, 2020, and up from 83.91% on June 23.

As previously reported, Census enumerators will be working within the community to seek completion of the Census from nonresponse addresses. Collection of Census responses will cease on September 30, 2020.

- Town Workforce Housing Study & Plan - Phase 1 Report presented to the Board of Commissioners at the February 5, 2020 meeting. Further action on this project is on hold pending direction from the Board of Commissioners; however, it is important to note that funds associated with this project were liquidated due to budgetary constraints associated with the Covid-19 Pandemic.
- Skate Park Renovation - Phase 1 - Staff is working to finalize a survey to determine community preferences for any future renovation of the Skate Park. Staff has also discussed the project with the Arts & Culture Committee, who are supportive of incorporating public art within the Park. As previously reported, Staff finalized submission of an application for the National Endowment for the Arts Our Town Grant on August 18, 2020, seeking funds to design and develop plans for a future renovation of the Skate Park.
- CAMA Land Use Plan Update - As previously noted, on July 15, 2020, Staff received further comments on the revised submission pertaining to the completeness of the Plan based upon CAMA requirements. Staff submitted a further revised Plan in response to the comments on August 20, 2020. A determination of Plan completeness is required before further review is initiated.
- UDO Reference Manual & Permitting Workflow - Staff continues to develop Reference Manual materials, including identifying and refining workflows, to be brought to the Board of Commissioners for approval at a later date.
- Art Masts - As previously noted, the Art Mast project, coordinated with the Arts & Culture Committee, has resulted in four completed art panels. The Arts & Culture Committee continues to discuss the locations for the new Art Masts, and is considering installations beginning at Bonnet Street and ending in the Gallery Row District. Staff is awaiting a proposal from a sign company to identify the best way to install the masts.
- Decentralized Wastewater Master Plan - As noted above, an RFQ seeking proposals from consultants was released on August 14, 2020, with responses due September 30, 2020.
- Islington Street Beach Access - Subject to DCM/CAMA and CIP funds to improve the access, Staff will be working to prepare plans for permitting. Staff anticipates the site plan to be reviewed initially at the September or October Planning Board meeting.
- Jacob Street Beach Access - Construction of this project is complete and Staff is working with DCM staff to close out the grant.

- Legacy Establishments/Structures - As previously noted, Staff had been working with the Planning Board on this initiative, with the focus narrowed to pertain to nonconforming hotels, as well as fishing pier properties that include residential units, also a nonconforming condition. The Planning Board considered and recommended adoption of a text amendment at their August meeting, and consideration of the scheduling of a public hearing is on the Board of Commissioners consent agenda for the meeting on September 2, 2020.
- Dowdy Park Farmer's Market - The last scheduled date for the Market is Thursday, August 27. However, given expressed interest from vendors, the extended season, and staffing availability, Staff is working to determine whether a Market will be held on Thursday, September 3. Staff has been enforcing masking and other protocols to ensure the public's health and safety.
- Permitting/Online Permitting - Staff had previously contacted representatives of the Outer Banks Home Builders Association to coordinate a schedule for a workshop/forum for the building community. However, given current circumstances, this effort has been placed on hold. Staff is considering developing a series of videos in the interim.

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

As previously reported, as of May 8, 2020, online permitting has been activated for all residential and commercial building and trade permit types. As noted in the FY19-20 3<sup>rd</sup> and 4<sup>th</sup> Quarter Permitting Report, Staff will continue to work to make improvements to the platform, publicize the availability of the resource, refine documents providing guidance to the Town's customers, and develop protocols for records management in support of the platform.

#### • Grants and Assistance

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

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

- A final application for a National Fish and Wildlife Foundation - National Coastal Resilience Fund grant to develop an Estuarine Shoreline Management Plan was submitted in July 2020. Additionally, an application was submitted for the 2020 North Carolina Attorney General

Environmental Enhancement Grant for the same project. Staff anticipates learning the status of these applications by the end of September 2020. o As noted, Staff submitted a final application for the National Endowment for the Arts Our Town Grant on August 18, 2020 seeking funds to prepare designs for the renovation of the Town's Skate Park.

• Academic/NGO Projects

As the boards are likely aware, the Outer Banks and Town are the subject of numerous academic and general research projects. We felt it important to provide an overview of the active projects involving the Town in some degree, as follows:

o 2020 OBX Field School and UNC-CSI Capstone Project

The OBX Field School, along with the UNC-CSI Capstone Project, are coordinated through the Coastal Studies Institute. Kicking off the Fall 2020 Semester, Department Staff along with Town Engineer David Ryan were invited to join the UNC Field School on their Water Tour on August 12, 2020. Mr. Ryan and Holly White provided students with an overview of the Town's Comprehensive Plan and challenges related to groundwater, septic health management, stormwater, and water quality. The students concluded their time with Town Staff with a trip to the groundwater lowering wells near the Barnes Street Park.

In conjunction with the Field School, the Planning Department will virtually host an intern this semester. Brianna "Bri" Thompson is a junior at UNC double majoring in Environmental Studies and Public Policy. She also has an interest in art and design that will assist her in her project with the Town. Bri will work on developing social media messaging and general outreach materials for the stormwater, septic health, and floodplain management programs.

As part of the UNC-CSI Capstone Project, students will perform water sampling at several locations in Nags Head throughout the semester to monitor bacteria and optical brighteners. Their work last year suggested that the groundwater lowering systems, managed by the Town, are having an added benefit to improved water quality; additional research will be conducted to investigate this further. Lastly, students will develop and conduct a survey to resident and non-residential property owners to assess their knowledge and awareness, attitudes/risk perceptions, and behaviors/practices regarding septic systems. Previous work, and this semester's work, will benefit the forthcoming update of the Town's Decentralized Wastewater Management Plan.

o C-CoAST - The Collaboratory for Coastal Adaptation over Space and Time (C-CoAST)

A Research Coordination Network (RCN) funded by the National Science Foundation (NSF) to address grand challenges in coastal resilience. Developed coastal environments are shaped by interactions between human activities and natural processes. Mitigation and recovery strategies that promote adaptation at the time scale of storm events can be counterproductive over longer timescales. A series of collaborative activities will integrate coastal researcher, stakeholder, and practitioner expertise, building capacity for a comprehensive understanding of the human-natural coastal system. This will

enable the potential for steering away from future outcomes that communities may want to avoid, and toward outcomes they deem more desirable.

'This network is working to develop a hub which will ultimately provide funding for project implementation for both researchers and practitioners. Dare County was identified as a pilot community in which virtual listening session and a community meeting will be held. Staff's role is limited to providing feedback as a sounding board for ideas and connection to local stakeholder groups.

○ ECU Groundwater Study

'This project was initiated in 2019, intended to measure and identify changes in groundwater levels within the Town and the causes. There is to be a related focus on impacts to onsite wastewater. The lead researcher is currently out of the country working on a separate research assignment.

○ Wastewater Infrastructure Tipping Points: Prioritizing Implementation of Climate Adaptation Plans in Decentralized Systems

This project is being led by North Carolina Sea Grant and faculty from ECU. The project is researching the relationship between climate change/adaptation, groundwater, and onsite decentralized wastewater systems.

○ Climate Change Adaptation in a Coupled Geomorphic-Economic Coastal System

'This project is being led by UNC-Wilmington, UNC, Duke, and Ohio State. There have been no recent updates.

'Upcoming Meetings and Other Dates

- Thursday, August 27 - Farmers' Market
- Monday, August 31 - P&D Staff Meeting
- Tuesday, September 1 - Technical Review Committee Meeting
- Wednesday, September 2 - Board of Commissioners Meeting
- Thursday, September 3 - Extended Farmers' Market Day - tentative
- Wednesday, September 9 - Arts & Culture Committee Meeting
- Thursday, September 10 - Board of Adjustment Meeting
- Tuesday, September 15 - Planning Board Meeting
- Tuesday, September 15 - CRS Audit'

Decentralized Wastewater Management Plan Update - It was Board consensus to agree with Planning Director Zehner that he ask for volunteers for an advisory group/steering committee to assist in guiding the Town's Decentralized Wastewater Management Plan update to be brought to the Board for consideration of appointment at an upcoming meeting.

Signs - Mayor Cahoon asked about signs showing up that aren't exactly campaign signs but do concern voting. Director Zehner said that he was not aware of staff picking up any of these types of signs and that staff usually is not involved in content of signage but that he will check with Code Compliance Officer Ed Snyder and work with Public Information Officer Roberta Thuman to issue a press release.

Short-term Rental Registrations - Director Zehner gave a brief update on the short-term rental registrations – a rental for longer than 30 days does not require a registration and cottage courts are also not required to register.

## **NEW BUSINESS**

### Committee Reports

Comr. Brinkley – Jennette’s Pier Advisory Group – Director of the Pier, Mike Remige, reported that 18,000 visitors visited the Pier during the month of June 2020. Direct access to the Pier is being allowed with social distancing for fishing; he noted that the next Advisory Group meeting is scheduled for the end of October 2020.

Comr. Fuller – Dare County Tourism Board (DCTB) – the Grants Committee meets on September 9<sup>th</sup>; He reported that while visitation to the Wright Brothers Memorial is low, the Hatteras campgrounds are full.

### Police Dept - Presentation of Police Department Progress Report

Police Chief Phil Webster presented a powerpoint presentation which is attached to and made a part of these minutes as shown in Addendum “I”. His report was well received by the Board.

Comr. Brinkley complimented Chief Webster with the work his office has done involving social media.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER**

### Interim Town Manager Sparks – Consideration of proposed Town Organizational Chart

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

“At the August 5<sup>th</sup> Board of Commissioners meeting, Interim Town Manager Greg Sparks presented a report titled “Organizational Assessment and Recommendations”. The Board reviewed the report and gave approval to bring back preliminary recommendations for specific Board action. Attached is the Proposed Town of Nags Head Organization Chart that reflects the recommendation from the report.”

**MOTION:** Comr. Brinkley made a motion to approve the Town Organizational Chart as presented. The motion was seconded by Comr. Fuller which passed unanimously.

The Town Organizational Chart, as approved, is attached to and made a part of these minutes as shown in Addendum “J”.

### Consideration of modification to Personnel Policy re: Approval of job descriptions/pay class plan

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

"At the August 5<sup>th</sup> Board of Commissioners meeting, a modification to the Personnel Policy to reflect the process for modification to job descriptions/classification and pay plan was discussed.

'Request Board approval of the following modification to the Personnel Policy - Article II. General Provisions - Section 6. Responsibility of the Town Manager - Item B:

'B. ~~Recommend revisions of the position classification plan to the Board of Commissioners.~~

*May approve revisions to job descriptions and to the position classification plan that maintains or lowers the established pay grade. Revisions that increase a position grade shall require approval from the Board of Commissioners. The Town Manager shall inform the Board of Commissioners in writing within 30 days of any changes to the position classification plan."*

**MOTION:** Comr. Renée Cahoon made a motion to approve the proposed modification to the Personnel Policy re: approval of job descriptions/pay class plan as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

#### Discussion of authorization to apply for Dare County Tourism Board grants

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

"Each year the Dare County Tourism Board (DCTB) offers grants to local governments for capital projects that assist local governments with providing services needed due to the impact of tourism. In past years, this has been referred to as the short-term restricted grant fund. The town has used these funds for projects such as the multi-use path, parks, and beach and sound access improvements. The DCTB is now offering a similar program referred to as the Tourism Impact Grant which "is designed to help Governmental Units and Nonprofit organizations located in Dare County with programs or services needed due to the impact of tourism." Information about the program can be found here: [https://assets.simpleviewinc.com/simpleview/image/upload/v1/clients/outerbanks/TOURISM\\_IMPACT\\_GRANT\\_RQ\\_053c6670-c55a-42b3-9df6-d0edb61bfcb9.pdf](https://assets.simpleviewinc.com/simpleview/image/upload/v1/clients/outerbanks/TOURISM_IMPACT_GRANT_RQ_053c6670-c55a-42b3-9df6-d0edb61bfcb9.pdf)

'It is important to note that several aspects of this program have changed from prior years. For this cycle, projects under \$50,000 require no match. Projects where the award amount is \$125,000 or less require a minimum 25% match. Projects where the award amount is greater than \$125,000 would require a minimum 50% match. Staff would ask the Board to consider authorizing the following projects as part of this grant cycle:

- Sidewalk from US 158 to Wrightsville Avenue at Admiral Street, (Shoppes at 10.5, north side of driveway access, see attached map). This is the highest ranked project in the town's pedestrian plan and is currently under design. The estimated cost would be \$40,000 and therefore would not require a town match.
- Skate Park renovations – this project was included in the current year CIP. This would involve redesign and reconstruction of the wooden elements of the skate park. (see attached CIP sheet). The project cost is estimated at \$180,000. The town would request \$125,000 in grant funds. At 25%, the minimum match amount would be \$31,250. If the grant is awarded, staff would recommend that the Board provide \$55,000 in town matching funds which would be \$23,750 above the minimum required match."

**MOTION:** Comr. Brinkley made a motion to authorize staff to apply for the Dare County Tourism Board - Tourism Impact Grants (Sidewalk from US 158 to Wrightsville Avenue at Admiral Street and Skate Park renovations) as requested. The motion was seconded by Comr. Fuller which passed unanimously.

## **BOARD OF COMMISSIONERS AGENDA**

### Comr. Renée Cahoon - Consideration of resolution in support of the J-1 Visa Exchange Visitor Program

Comr. Renée Cahoon discussed a proposed resolution with Board members re: support of the J-1 Visa Exchange Visitor Program which she feels is important as the program provides students from other countries to help our area. It's important to stress to congress and the senate the importance of renewing the program.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution in support of the J-1 Visa Exchange Visitor Program, with the following change:

Revise paragraph "1." to read as follows:

Petitions the White House and Trump Administration to issue a National Interest Exemption for Economic Recovery during the next 60-Day Review, concluding on September 22, 2020, as provided by Section 3(b)(iv) and 4(a)(i) of the Presidential Proclamation of June 22, 2020;

The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

"WHEREAS the Town of Nags Head, its residents, local businesses, and tourists depend on and value the students who participate in the J-1 Visa Exchange Visitor Program - Summer Work Travel Program to meet the demands of visiting tourists during the summer season; and

'WHEREAS the Presidential Proclamation issued on June 22, 2020, suspended the Summer Work Travel Program through December 31, 2020, with the possibility of extension; and

'WHEREAS during the 2019 season there were approximately 400 Summer Work Travel participants employed within the Town of Nags Head, while during the 2020 season no more than 40 were employed within the Town; and

'WHEREAS due to the suspension and loss of Summer Work Travel Program participants, Summer Work Travel Host Employers have needed to reduce services and operating hours, close off portions of their facilities, and turn away customers; and

'WHEREAS Town of Nags Head Ocean Rescue, which has relied on Summer Work Travel Program participants in seasons' past, has also been impacted, having approximately 20 fewer lifeguards, resulting in the reduction of lifeguard stands from 15 to 10 and negatively impacting this critical service; and

'WHEREAS a recent survey of Summer Work Travel Host Employers found the average employer laid off or furloughed 13 employees each, and lost on average \$250,000 in revenues, because of the loss of Summer Work Travel participants; and

'WHEREAS the Town of Nags Head is committed to ensuring American employees are protected during these difficult economic times, but that not nearly enough Americans are applying for the seasonal jobs offered in Nags Head, and certainly not enough to replace the lost Summer Work Travel Program participants; and

'WHEREAS the Presidential Proclamation 10014 of June 22, 2020, as amended by the Presidential Proclamation of 22 June 2020 has a specific provision for periodically reviewing the suspension of programs like the Summer Work Travel program from the Proclamation's suspension, such as the 30 and 60 day reviews directed by the modifications to Section 4 of the Presidential Proclamation 10014; and

'WHEREAS Section 3(b)(iv) the Presidential Proclamation of June 22, 2020 provides that the Secretaries of State and/or the Secretary of Homeland Security can determine which groups, like Summer Work Travel, can be exempted from the suspension because their entry would be in the national interest of the United States; and

'WHEREAS Section 4(a)(i) of the Presidential Proclamation of June 22, 2020 further directs those Secretaries, along with the Secretary of Labor, to define categories like the Summer Work Travel program to be exempted per the procedures of Section 3(b)(iv) who can facilitate the immediate and continued economic recovery of the United States can determine which groups, like Summer Work Travel, can be exempted from the suspension because their entry would be in the national interest of the United States; and

'NOW, THEREFORE, BE IT RESOLVED that the Town of Nags Head determines the immediate resumption of the Summer Work Travel Program is necessary to the immediate and continuing economic recovery of businesses within the Town of Nags Head, wholeheartedly endorses the State Department's Summer Work Travel program, and:

1. Petitions the White House and Trump Administration to issue a National Interest Exemption for Economic Recovery during the next 60-Day Review, concluding on September 22, 2020, as provided by Section 3(b)(iv) and 4(a)(i) of the Presidential Proclamation of June 22, 2020;
2. Asks the federal Congressional delegation for the Town of Nags Head to engage the White House in support of this National Interest Exemption;
3. Directs the Clerk of the Town to send a copy of this Resolution to the President and all federal Congressional Members representing Nags Head;
4. Encourages all Town residents to participate in events and initiatives that will raise the overall awareness of the need for the resumption of the Summer Work Travel Program and to engage their Congressional Representatives asking them to support this program as well; and
5. Supports the Outer Banks International Student Outreach Program (ISOP) and Summer Work Travel Program sponsors as they help our Town resume this program."

Board members directed staff to forward the executed resolution to the Resort Towns and Cities organization and Dare County/municipalities recommending it be adopted – in addition to forwarding it to the legislature as listed in the resolution.

Comr. Brinkley – Change in Nags Head Voting Location

Comr. Brinkley thanked Dep Town Clerk Michelle Gray for forwarding the change in voting location for Nags Head residents to Board members and employees noting that he had also recently received a notice in the mail. He asked Public Information Officer Roberta Thuman to issue a press release to this effect.

Comr. Brinkley – Dowdy Park Farmers Market

Comr. Brinkley thanked all those that spoke today during Public Comment in favor of the Dowdy Park Farmers Market and the Event Coordinator position.

Comr. Fuller – Surveying on US 158

Comr. Fuller clarified with staff that Dewberry Surveying is surveying on US 158 on behalf of Dominion Energy.

Comr. Fuller – Maintenance of Town facilities

Comr. Fuller emphasized that while several departments may maintain the Town's parks/facilities/skateboard park, responsibility for everything related to each individual site should be with just one person.

Mayor Pro Tem Siers – Spoke in support of other Board member comments

Mayor Pro Tem Siers spoke in support of what the other Board members spoke of re: new Nags Head voting location, Dowdy Park Farmers Market, Surveying on US 158, and Maintenance Responsibility of Town facilities.

Comr. Renée Cahoon – Trash pick on the west side of US 158

Comr. Renée Cahoon stated that the Board needs to plan how to address trash pick-up services on the west side of US 158 so that they have a consistent level of service – such as two days of trash pick-up per week.

Comr. Renée Cahoon – Dowdy Park Farmers Market

Comr. Renée Cahoon noted that there may be some mis-information concerning the Dowdy Park Farmers Market as no one wants to stop the Farmers Market, and the entire budget, to include the part-time position, will be re-addressed.

Mayor Cahoon asked that either the Town Manager or the Planning Director prepare a two-paragraph email from Board members responding to those that spoke today with updated information concerning the Farmers Market to include that it will be continuing through this month.

Mayor Cahoon – Community Vision

Mayor Cahoon asked the Town Clerk to locate an email he prepared after the January 2020 Board Retreat where he shared some thoughts concerning community values/vision to be forwarded to Board members and Interim Town Manager Sparks.

**CLOSED SESSION (Moved from ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY)**

**MOTION:** Comr. Fuller made a motion to enter Closed Session to discuss various legal matters within attorney/client privilege in accordance with GS 143-318.11(a)(3) to include Beach Nourishment Project Condemnations and to discuss confidential personnel matters in accordance with GS 143-318.11(a)(6). The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 11:58 a.m.

**OPEN SESSION**

The Board re-entered Open Session at 12:38 p.m. Attorney Leidy reported that the Board did discuss attorney/client privilege issues to include Beach Nourishment Project condemnation litigation as well as a confidential personnel matter but that no action was taken.

**ADJOURNMENT/RECESS**

**MOTION:** Comr. Brinkley made a motion to recess to the Board Retreat at the Villas Clubhouse on Wednesday, September 23, 2020 at 9:00 a.m. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:41 p.m.

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

Date Approved: \_\_\_\_\_

Mayor: \_\_\_\_\_  
Benjamin Cahoon