AGENDA

TOWN OF NAGS HEAD BOARD OF COMMISSIONERS
NAGS HEAD MUNICIPAL COMPLEX - BOARD ROOM
WEDNESDAY, APRIL 15, 2020 9:00 A.M.
REGULAR SESSION

In order to view and listen to the Board meeting remotely, please register here:
https://zoom.us/webinar/register/WN_YjqmiLnuR-CUDH5LI0svCg

Please email your comments for the Public Comment portion or for the Public Hearing here:
publiccomment041520@nagsheadnc.gov
(Comments will also be accepted during the Board meeting)

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

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

1. REMOTE MEETING LINK

   Documents:

   APR 15 BOC MEETING NOTICE 2.PDF

B. ADOPTION OF ELECTRONIC MEETING POLICY

Documents:

4 B ELECTRONIC PARTICIPATION POLICY SUMMARY.PDF
4 B ELECTRONIC PARTICIPATION POLICY.PDF

C. ADOPTION OF AGENDA

D. PUBLIC COMMENT

E. CONSENT AGENDA

1. Consideration Of Budget Adjustment #10 To FY 19/20 Budget

   Documents:

   4 E1 BUDGET ADJUSTMENT SUMMARY.PDF
   4 E1 BUD ADJ WORKSHEETS.PDF

2. Consideration Of Tax Adjustment Report

   Documents:

4 E2 TAX ADJUST REPORT SUMMARY.PDF
4 E2 TAX ADJ REPORT MSD.PDF
4 E2 TAX ADJ REPORT TOWN-WIDE.PDF

3. Approval Of Minutes

Documents:

4 E3 MINUTES SUMMARY.PDF
4 E3 MINUTES FEB 18 2020 - 9 AM.PDF
4 E3 MINUTES FEB 18 2020 - 1 PM.PDF
4 E3 MINUTES MAR 4 2020.PDF
4 E3 MINUTES MAR 11 2020.PDF
4 E3 MINUTES MAR 21 2020.PDF

4. Consideration Of Resolution In Support Of NCDOT
lowering speed limit from Juncos Street south from 45 MPH to 35 MPH - for one speed limit on SR 1243

Documents:

4 E4 LOWER SPEED LIMIT ON SOOIR SUMMARY.PDF
4 E4 LOWER SPEED LIMIT ON SOOIR MAP.PDF
4 E4 LOWER SPEED LIMIT ON SOOIR NCDOT FORM.PDF
4 E4 LOWER SPEED LIMIT ON SOOIR ORD.PDF

5. Consideration Of K9 Handler Compensation Policy
for inclusion in Town Personnel Policy

Documents:

4 E5 K-9 HANDLER POLICY AND SUMMARY.PDF

6. Request For Public Hearing To Consider Numerous Amendments
to the Unified Development Ordinance as it pertains to the updated flood maps and update of the Flood Damage Prevention Ordinance

Documents:

4 E6 RPH UDO AMEND RE FLOOD DAMAGE SUMMARY.PDF
4 E6 RPH UDO AMEND RE FLOOD DAMAGE ATTACH.PDF

7. Request To Continue To May 6th BOC Meeting
– Public Hearing to consider a text amendment to the Unified Development Ordinance submitted by property owner to expand principal sale items from outdoor stands to include reservations and tickets for events/activities

Documents:

4 E7 CPH TO MAY OUTDOOR STANDS SUMMARY.PDF
4 E7 CPH TO MAY OUTDOOR STANDS ATTACHMENT ORD.PDF

8. Request To Continue To May 6th BOC Meeting
- Public Hearing to consider a text amendment to the Unified Development Ordinance to correct identified errors

Documents:

4 E8 CPH TO MAY UDO CORRECTIONS SUMMARY.PDF
4 E8 CPH TO MAY UDO CORRECTIONS ATTACHMENT.PDF

F. PUBLIC HEARINGS

1. PUBLIC HEARINGS
   - to consider the adoption of a resolution authorizing the Town to enter into an Installment Purchase contract in an amount not to exceed $1,463,021 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

   Documents:

   4 F1 PH INSTALLMENT PURCHASE SUMMARY.PDF
   4 F1 PH INSTALLMENT PURCHASE PN.PDF
   4 F1 PH INSTALLMENT PURCHASE MEMO.PDF
   4 F1 PH APPL TO LGC.PDF
   4 F1 PH INSTALLMENT PURCHASE RES.PDF

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

1. Discussion Of FY 2020-2021 Public Beach And Coastal Waterfront Grant Pre-Application

   Documents:

   4 G1 CAMA GRANT SUMMARY.PDF
   4 G1 CAMA GRANT MEMO.PDF

H. NEW BUSINESS

1. Committee Reports

   Documents:

   4 H1 COMMITTEE REPORTS SUMMARY.PDF

2. Update On/Discussion Of Corona Virus-19
   - Consideration of resolution authorizing fees waived until June 30, 2020
   - Consideration of Emergency Paid Sick Leave Policy
   - Impact on current/future budgets

   Documents:

   4 H2 COVID-19 UPDATE SUMMARY.PDF
   4 H2 COVID-19 UTILITY FEES WAIVED RES.PDF
   4 H2 COVID-19 EMER SICK LEAVE POLICY.PDF

I. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

J. ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

1. Coastal Storm Damage Mitigation Fund

   Documents:

   4 J1 TM COASTAL STORM FUND SUMMARY.PDF

4 J1 TM COASTAL STORM FUND GUIDELINES.PDF

K. BOARD OF COMMISSIONERS AGENDA

1. Comr. Renée Cahoon – Consideration Of GEACC 2020-2021 Annual Budget

   Documents:

   4 K1 RENEE GEACC 2020-2021 BUDGET SUMMARY.PDF
   4 K1 RENEE GEACC 2020-2021 BUDGET REQUEST.PDF

L. MAYOR'S AGENDA

1. Future Town Envision

   Documents:

   4 L1 MAYOR ENVISION THE TOWN SUMMARY.PDF

2. Request For Closed Session
   to consider Town Manager's Review in accordance with GS 143-318.11(a)(6)

   Documents:

   4 L2 MAYOR REQ FOR CS SUMMARY.PDF

M. OTHER BUSINESS

N. ADJOURNMENT

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

TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING OF APRIL 15, 2020 at 9:00 A.M.

IN ORDER TO maintain the safety of Town residents, the Board of Commissioners, and Town staff, the Board of Commissioners meeting scheduled for 9:00 a.m. on Wednesday, April 15, 2020 will be conducted electronically and can be accessed by the public via the Zoom platform.

The agenda is available on the Town's website at www.nagsheadnc.gov.

The public should adhere to local and state health guidelines and not attend this meeting in person.

To provide comments for the Public Comment portion of the meeting and/or to provide comments for the Public Hearing please utilize the email address listed below. Comments will be read aloud at that time.

In order to view and listen to the Board meeting remotely, please register here:
https://zoom.us/webinar/register/WN_YjqmiLnuR-CUDH5LI0svCg

Please email your comments for the Public Comment portion or for the Public Hearing here:
publiccomment041520@nagsheadnc.gov
(Comments will also be accepted during the Board meeting)

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

The meeting recording will be available on the Town's YouTube channel (youtube.com/townofnagshead) as soon as possible after the live meeting. Thank you for your patience and understanding as we work to offer this solution during this unprecedented time.

If you have any questions, please do not hesitate to contact Town Clerk Carolyn F. Morris at carolyn.morris@nagsheadnc.gov or at 252-449-2009.

This is the 8th day of April 2020.

Carolyn F. Morris
Town Clerk

Agenda Item Summary Sheet

Item No: **B**
Meeting Date: **April 15, 2020**

Item Title: Consideration of Electronic Meeting Policy

Item Summary:

Attached please find a proposed Electronic Meeting Policy for Board consideration on April 15th. The policy allows electronic participation by Board members without requiring a quorum to be physically present in the Board Room as long as a quorum is participating in the meeting.

The policy is in accordance with the State's Open Meetings Law and provides direction for a meeting when a Board member is unable to be present (#1) and for a meeting in the event of a State of Emergency (#2).

Number of Attachments: 1

Specific Action Requested:

Request Board consideration of attached policy.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

Attorney has reviewed and concurs with the proposed policy.

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

I encourage approval of attached electronic meeting policy.

Signature: Cliff Ogburn Date: April 6, 2020

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

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

M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Board of Commissioners Policy

Electronic Participation in Board of Commissioners Meetings & Electronic Meetings of Board of Commissioners

(Adopted April 15, 2020)

The Town of Nags Head Board of Commissioners (the "Board") is committed to conducting its meetings in compliance with Article 33C of Chapter 143 of the North Carolina General Statutes ("the North Carolina Open Meetings Law"). To enable all Board members to participate fully in Board meetings, the following requirements shall apply whenever Board member(s) are unable to be physically present and are only able to participate in a Board meeting through electronic means:

1. **Where a quorum of the Board members are physically present** in the Board chambers for the meeting:
   A. A remote Board member must be able to hear the Board's discussion and any presentations made to the Board during the meeting.
   B. Technical arrangements must be made so that a remote Board member's comments can be heard by all present for the meeting, including the public.
   C. A remote Board member must notify the Town Clerk sufficiently in advance of the meeting to ensure that all requirements for remote participation, including technical and equipment needs can be addressed in advance of the meeting.
   D. A remote Board member may not vote on any matter.
   E. A remote Board member will not be included in determining whether a quorum is present for the meeting.
   F. A remote Board member may not participate in a closed session.
   G. A remote Board member may not participate in any quasi-judicial proceeding.
   H. The Board minutes must reflect that a remote Board member was not physically present.
   I. A Board member is discouraged from participating remotely in more than 3 regular Board of Commissioners meetings in a 12-month period.

2. **In the event of a declared State of Emergency** and/or when health or safety of the public, the Board of Commissioners members and Town staff may be adversely affected by the presence of Board of Commissioners members in the Board chamber or in the same meeting room, the following rules apply:
   A. The Board may meet electronically pursuant to this policy without a quorum physically present in the Board chambers so long as a quorum of the Board is participating, regardless whether the Board members are acting remotely or present in the Board chambers. A remote Board member must be able to hear the Board's discussion and any presentations made to the Board during the meeting.

B. A remote Board member must notify the Town Clerk sufficiently in advance of the meeting to ensure that all requirements for remote participation, including technical and equipment needs can be addressed in advance of the meeting. Technical arrangements must be made so that a remote Board member's comments can be heard by all present for the meeting, including the public.
C. Remote Board members may vote on matters before the Board as if they are present in the Board chambers.
D. The Board may hold a closed session if otherwise allowed by law when it would be unreasonable to wait until a future in-person meeting to hold the closed session, and when the Board can confirm that the technology being used does not allow anyone who would not be allowed to participate in the closed session to intercept or participate in the closed session.
E. The Board should take reasonable precautions to limit voting actions to those items which must be voted on at that time or within the time that an in-person meeting could safely and conscientiously occur. Except for exigent circumstances and then only with the applicant's consent, quasi-judicial proceedings should be rescheduled, postponed or continued to the time when an in-person meeting can safely and conscientiously occur.
F. The Board shall comply with N.C. Gen. Stat. Sec. 143-318.13 as same may be amended from time to time, including providing a location and means whereby members of the public may listen to the meeting and the notice of the meeting required by law shall specify that location. A fee of up to twenty-five dollars ($25.00) may be charged to each listening member of the public to defray in part the cost of providing the necessary location and equipment. In addition, the Board shall make a reasonable attempt to allow for:
    i. Real time transmission of audio of the meeting to the public, and if such transmission is not possible, then a reasonable attempt to publish the audio and video, if any, on the Town's website as soon as reasonably possible;
    ii. Public participation during a public comment period if the meeting is a regular meeting and the only regular meeting of the Board that month; and
    iii. Public participation for any public hearings required by law for the decisions being made during the meeting.
G. The Board should also consider taking action at the next meeting having an in-person quorum to ratify any actions taken electronically under this provision which occurred without a physically present quorum and without all the necessary votes for the action physically present in the Board chambers.
H. This section to of this policy shall also apply to all boards or committees appointed by the Board of Commissioners.

Agenda Item Summary Sheet

Item No: **E-1**
Meeting Date: **April 15, 2020**

Item Title: Consideration of Budget Adjustment #10 to FY 19/20 Budget

Item Summary:

Budget Adjustment #10 to the FY 19/20 Budget is provided for Board review and approval at the April 15th 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 #10 are attached.

Number of Attachments: 1

Specific Action Requested:

Request Board approval of attached budget amendment #10.

Submitted By: Administrative Services Date: April 6, 2020

Finance Officer Comment:

Request Board approval of attached budget amendment.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

I concur with staff's request.

Signature: Cliff Ogburn Date: April 6, 2020

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.7

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Powell Bill**	
10-499000	Appropriated fund balance (restricted for Public Safety)	1,568.00		615-543600	Maintenance and repairs equipment	1,568.00
TOTAL CHARGES		$ 1,568.00		TOTAL CREDITS		$ 1,568.00

JUSTIFICATION

Use of restricted forfeiture funds for equipment maintenance.

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.1

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Public Works Admin**	
10-491000	Financing proceeds	13,228.00		500-577350	Capital outlay improvements	13,228.00
TOTAL CHARGES		$ 13,228.00		TOTAL CREDITS		$ 13,228.00

JUSTIFICATION

Additional funds requested within the adopted reimbursement resolution 19-07-019 for fuel pumps required due to the location change of the fuel tanks.

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.2

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Expenditure Public Works Sanitation				**Expenditure Public Works Admin**	
580-543700	Vehicle maintenance	702.00		500-578100	Debt payment principal	702.00
TOTAL CHARGES		$ 702.00		TOTAL CREDITS		$ 702.00

JUSTIFICATION

Additional funds for the debt payment ($4,208 financed over six years at fixed principal plus interest) with a payment in advance requested - per reimbursement resolution 19-07-019 for fuel pumps required due to the addition of the fuel tanks.

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.3

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Expenditure Public Works Facilities				**Revenue**	
530-566300	Dowdy Park	61,625.00		10-491000	Financing proceeds	61,625.00
TOTAL CHARGES		$ 61,625.00		TOTAL CREDITS		$ 61,625.00

JUSTIFICATION

Staff will not be moving forward with the Dowdy Park decking and sidewalk project this fiscal year.

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.4

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Powell Bill**	
10-499000	Appropriated fund balance (restricted for Powell Bill)	75,582.00		570-577300	Capital outlay other	75,582.00
TOTAL CHARGES		$ 75,582.00		TOTAL CREDITS		$ 75,582.00

JUSTIFICATION

Fiscal year 2020 Powell Bill street project - additional funds requested to complete project.

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.5

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Solid Waste**	
10-430200	FEMA reimbursement	14,052.00		585-543420	Tipping fees (contract/landfill)	18,736.00
10-437000	NCDEM reimbursement	4,684.00				
TOTAL CHARGES		$ 18,736.00		TOTAL CREDITS		$ 18,736.00

JUSTIFICATION

Grant funds received from FEMA and the NCDEM for Hurricane Dorian fiscal year 2020.
(Category A)

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

BUDGET AMENDMENT REQUEST
FY 2019-2020

BUDGET AMENDMENT NO. 10
AMENDMENT 10.6

SOURCE OF FUNDS				USE OF FUNDS		
CODE	ACCOUNT	AMOUNT		CODE	ACCOUNT	AMOUNT
	General Fund				**General Fund**	
	Revenue				**Expenditure Planning**	
10-430200	FEMA reimbursement	8,347.00		490-543420	Dorian supplies	276.00
					Expenditure Public Works Admin	
10-437000	NCDEM reimbursement	2,782.00		500-43420	Dorian supplies	94.00
					Expenditure Public Works Facilities	
				530-543420	Dorian supplies	4,374.00
					Expenditure Police	
				610-543420	Dorian supplies	1,127.00
					Expenditure Stormwater Capital Reserve	
				625-543420	Dorian supplies	4,124.00
					Expenditure Fire	
				730-543420	Dorian supplies	1,134.00
TOTAL CHARGES		$ 11,129.00		TOTAL CREDITS		$ 11,129.00

JUSTIFICATION

Grant funds received from FEMA and the NCDEM for Hurricane Dorian fiscal year 2020.
(Category B)

ADMINISTRATIVE SERVICES 4/7/2020
RECOMMENDED BY DATE

APPROVED BY BOC: DATE

POSTED TO GENERAL LEDGER:

INITIALS

Agenda Item Summary Sheet

Item No: **E-2**
Meeting Date: **April 15, 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 April 15th 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: April 7, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: April 7, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 7, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Cliff Ogburn Date: April 7, 2020

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 MSD TAX LEVY
As of March 31, 2020 for the April 15, 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	1,181,057.00	0.00175	2,053.04		2,053.04
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	**811,871,276**		**1,420,762.55**	**1,417,272.90**	**3,489.65**
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	**811,871,276**				
Net levy		**1,420,762.55**		**1,417,272.90**	**3,489.65**
TOTAL UNCOLLECTED MSD AS OF 03/31/20:		**(3,891.44)**		**(3,891.44)**	**0.00**
CURRENT YEAR MSD COLLECTED:		**1,416,871.11**		**1,413,381.46**	**3,489.65**
CURRENT MSD COLLECTION PERCENTAGE:		**99.726%**		**99.725%**	**100.000%**

Town of Nags Head, North Carolina
ANALYSIS OF CURRENT 2019 TAX LEVY
As of March 31, 2020 for the April 15, 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	21,824,220.00	0.00317	68,486.94		68,486.94
Registered Motor Vehicles at 2018 year's rate	9,443,339.00	0.00307	28,991.05		28,991.05
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	**2,414,772,008**		**7,658,637.88**	**7,560,957.45**	**97,680.43**
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	**2,438,233,778**				
Net levy		**7,733,931.90**		**7,636,251.47**	**97,680.43**
Uncollected Taxes		(43,280.81)		(43,280.81)	0.00
Uncollected Town Wide Beach Nourishment		(4,016.13)		(4,016.13)	0.00
TOTAL UNCOLLECTED TAXES AS OF 03/31/20:		**(47,296.94)**		**(47,296.94)**	**0.00**
CURRENT YEAR TAXES COLLECTED:		**7,686,634.96**		**7,588,954.53**	**97,680.43**
CURRENT LEVY COLLECTION PERCENTAGE:		**99.388%**		**99.381%**	**100.000%**

Agenda Item Summary Sheet

Item No: **E-3**
Meeting Date: **April 15, 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 18, 2020 Joint Workshop with Planning Board
February 18, 2020 Mid-month Session
March 4, 2020 Regular Session
March 11, 2020 Recessed Session
March 21, 2020 Emergency Session

Number of Attachments: 5

Specific Action Requested:

Provided for Board review and approval.

Submitted By: Carolyn F. Morris, Town Clerk Date: April 6, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 6, 2020

DRAFT

TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS and
PLANNING BOARD WORKSHOP MINUTES
TUESDAY, FEBRUARY 18, 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 Tuesday, February 18, 2020 at 9:00 a.m.

Board members Present:	Mayor Ben Cahoon; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	Mayor Pro Tem Michael Siers
Others present:	Town Manager Cliff Ogburn; Andy Garman; David Ryan; Holly White; Kelly Wyatt; Lily Neiberding; Megan Vaughan; David Elder; Megan Lambert; Meade Gwinn; Gary Ferguson; Molly Harrison; and Dep. Town Clerk Michelle Gray

CALL TO ENTER INTO JOINT WORKSHOP

Mayor Ben Cahoon welcome everyone and called to enter a joint workshop with the Planning Board. The time was 9:01 a.m.

MOTION: Comr. Renée Cahoon made a motion to enter a joint workshop with the Planning Board. The motion was seconded by Comr. Kevin Brinkley which passed unanimously.

Planning & Development Director Michael Zehner presented a draft Flood Map & Flood Damage Prevention Ordinance PowerPoint presentation. The presentation is attached to and made a part of these minutes as shown in Addendum "A". He explained that staff is requesting direction from the Board and scheduling a Public Hearing in May with proposed adoption in June.

Principal Planner Holly White presented revisions to the Flood Map.

The Board of Commissioners and the Planning Board discussed the draft Flood Damage Prevention Ordinance revisions. Staff was directed to provide a memo with details from the meeting to both boards.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to recess to the Board of Commissioners Recessed Session later today at 1:00 pm. The motion was seconded by Comr. Cahoon which passed unanimously. The time was 10:15 a.m.

_____
Michelle H Gray, Dep. Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT

TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MINUTES
TUESDAY, FEBRUARY 18, 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 Tuesday, February 18, 2020 at 1:00 p.m.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Andy Garman; David Ryan; Amy Miller; Roberta Thuman; Hunter Freeman; John Cece; and Dep. Town Clerk Michelle Gray

CALL TO ORDER

Mayor Cahoon called the meeting to order at 1:00 p.m. A moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Cahoon made a motion to approve the February 18th agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

PUBLIC COMMENT

Mayor Cahoon conducted the Public Comment period.

PUBLIC COMMENT – JOHN CECE

John Cece, Nags Head resident; he followed up his email to the Board with a specific question to each member. Mayor Pro Tem Siers – would he sell an eight-bedroom house for the price of a four-bedroom house in South Nags Head; Comr. Cahoon – would she have a two-for-one sale at her store for the residents in South Nags Head; Mayor Cahoon – would he design a house for half price to residents in South Nags Head; Comr. Brinkley - when he was police chief would he schedule twice the number of patrols in South Nags Head; Comr. Fuller – would Village Realty rent an eight-bedroom house for the price of a four-bedroom house. Lastly, he asked Town Manager Ogburn – would he have trash picked up four times a week in South Nags Head rather than twice weekly. His final question to all – why should South Nags Head get twice the amount of sand than the northern part of town at the same cost rate. He asked the Board to charge each Municipal Service District proportionally by the amount of sand they receive.

There being no one else present who wished to speak, Mayor Cahoon concluded Public Comment at 1:05 p.m.

NEW BUSINESS

Consideration of contract award for Stormwater Master Plan Projects #12, #13 – South Nags Head and authorize Town Manager to execute associated contract

Town Manager Ogburn introduced Hunter Freeman, PE from Withers Ravenel to present Part 1 of the Stormwater Master Plan Projects #12, #13. Mr. Freeman summarized the bid opening held on January 30, 2020 from three bidders 1) RPC Contracting, Inc.; 2) Barnhill Contracting Co.; and 3) Hatchell Concrete, Inc.

The agenda summary sheet was summarized by David Ryan, Town Engineer which read in part as follows:

"On January 7, 2020, The Town of Nags Head solicited formal bids for the construction of (2) separate drainage infrastructure improvement projects encompassing the following work- (1) French drain installation on the east side of Old Oregon Inlet Road between James St. and Juncos St., and (2) French drain installation, generally on the east side of Old Oregon Inlet Rd. between Hargrove St. to Harvest St., wet well and pump installation near Harvest Dr., with connecting force main discharging to a west side infiltration basin north of Fire Station 21. Bids were received on Jan. 30, 2020 with (3) competitive bids being received from the following contractors: RPC Contracting Inc., Hatchell Concrete, Inc. and Barnhill Contracting Company. The lowest responsible, responsive bidder, Barnhill Contracting Company, submitted bid proposal of $1,263,236.15. exceeded the available funds for the project. In accordance with NCGS 143-129, a unit of government may negotiate with the lowest responsive, responsible bidder to make "reasonable" changes to the plans and specifications to bring the contract price within the funds available. A value engineering exercise was conducted between the contractor and the consulting engineer to bring the construction contract price to $759,962.64."

Mayor Ben Cahoon asked Mr. Hunter Freeman to summarize the engineering reduction/changes in value since the original bid exceeded available funds for the project. Mr. Freeman noted the below changes:

- overall length of each project was reduced approximately 600 feet
- overall French drain length continues to be approx. 2900' feet
- a wet well (manhole) at project area #12 has been eliminated at this time
- reduced the number of inlets and driveways
- overall impact would be 5-10% reduction in performance
- projects will have provisions to expand
- schedule pushed back bit, the reduction in length will help overall timeline; completion shortly after Memorial Day
- project area #12 still have a noticeable reduction in stormwater

In response to questions from the Board, Mr. Hunter takes responsibility for the too-aggressive estimate, the original estimate was based on last year's project; late change for the projects to meet DOT specification instead of the town's all contributed to that estimate.

Town Manager Ogburn added that DOT should have some responsibility in these projects. Mr. Ryan noted that DOT has corresponded to him "that the likelihood of funds towards these projects is extremely unlikely."

After the Board members discussed the pros and cons of the projects, Comr. Renée Cahoon made a **MOTION** to delay any action on this contract in order to renegotiate the contract, as discussed by the Board, until next spring. Comr. Kevin Brinkley seconded the motion. After some discussion, Comr. Cahoon amended the motion to delay action until the fall of 2020. The motion carried unanimously.

Consideration of Phases 8B and 8C of W Side Multi-Use Path - Authorization for Town Manager to execute contracts and Notices of Award

The agenda summary was summarized by David Ryan, Town Engineer which read in part as follows:

"Parts 1 and 2: On January 16, 2020, The Town of Nags Head solicited formal bids for the construction of (2) separate multi-use path projects. Bids for the two projects were received on February 11, 2020. Board consideration of the projects will be considered separately and in two parts.

'Part 1
The first project, Phase 8B, W. Side Multi-Use Path encompasses the following work: approximately 3,792 l.f of 6'-10' wide concrete multi-use pathway with associative concrete curb and gutter, drainage infrastructure improvements and incidental work along the S. Croatan Hwy (US Hwy 158) western right-of-way margin extending from Baymeadow Dr.. to the north end of the Outer Banks Visitors Bureau "Event Site" and from the south end of the "Event Site" to Gull St. Bids were received on Feb. 11, 2020 with (3) competitive bids received from the following contractors: RPC Contracting Inc., Hatchell Concrete, Inc. and Barnhill Contracting Company. RPC Contracting Inc., was determined to be the lowest responsible, responsive bidder, with a submitted bid proposal of $533,900. Please note that an alternate bid item #1 was provided on the bid form for a substitution of slope stabilization material specified in the base bid. Considering the cost differential and stabilization benefits of the two stabilization product types, staff recommends proceeding with the specified base bid geocell containment system, thus waiving the need for acceptance of pricing for alternate #1.

'Part 2
The second project, Phase 8C, W. Side Multi-Use Path encompasses the following work: - Base Bid: approximately 4,500 l.f of 10' wide concrete multi-use pathway with associative concrete curb and gutter, drainage infrastructure improvements and incidental work along the S. Croatan Hwy (US Hwy 158) western right-of-way margin extending from W. Danube St. to W. Seachase Dr. The bid package was structured with a base bid and an alternate bid to permit the Town flexibility to award a portion of the scope of work if the bids exceeded the available funds. Bids were received on Feb. 11, 2020 with (3) competitive formal bids being received from the following contractors: RPC Contracting Inc., Hatchell Concrete, Inc. and Barnhill Contracting Company. For Phase 8C, RPC Contracting Inc., was determined to be the lowest responsible, responsive bidder, with a submitted bid proposal of $613,260. Since the lowest responsive, responsible bid received for the base bid + additive alternate amount was within the available funds, staff recommends acceptance of the total scope of work."

Construction for the two parts of the multi-use path would begin in March with completion by mid-June.

Comr. Fuller noted that in years past, the town received a grant to plant vegetation along the Old Nags Head Cove Subdivision on Hwy 158 and that careful measures should be taken to minimize the disturbance of that vegetation. Mr. Ryan confirmed that the design accounts for trimming of the vegetation with minimal disturbance.

In response to Mayor Pro Tem Michael Siers' question regarding deceleration lanes, Mr. Ryan stated deceleration lanes are not included in the project and were not warranted as there are numerous existing deceleration lanes.

Mr. Ryan explained that a full deceleration lane is 250'; Deering St has a short-unmarked lane and DOT has two options 1) curb/gutter/drainage or 2) omit the curb/gutter/drainage and have 10' lateral offset from edge of pavement.

MOTION: Comr. Renée Cahoon made a motion to accept the bid for Phase 8B by RPC Contracting and authorize the Town Manager to execute the contract. Comr. Webb Fuller seconded the motion which carried unanimously.

MOTION: Comr. Renée Cahoon made a motion to accept the bid for Phase 8C by RPC Contracting and authorize the Town Manager to execute the contract. Mayor Pro Tem Michael Siers seconded the motion which carried unanimously.

Consideration of Resolution in support of Alligator River Bridge improvements

Mayor Cahoon read the below resolution:

"WHEREAS, the Lindsey C. Warren Bridge which crosses the Alligator River was constructed in 1960 and serves as the main transportation link along Highway 64 from areas west of Dare County; AND

'WHEREAS, the draw-bridge infrastructure of the bridge is obsolete and was closed for repairs in 2017 and 2019 resulting in lengthy detours for residents, visitors, and commerce to Dare County, Currituck County, Hyde County and Tyrrell County; AND

'WHEREAS, the Alligator River is part of the Intercoastal Waterway and is used by numerous commercial shipping vessels and recreational boats on an annual basis, often creating delays and back-ups; AND

'WHEREAS, the Lindsey C. Warren Bridge is an essential component of the hurricane evacuation route for residents of Dare County, Currituck County, and Hyde County and thousands of Outer Banks visitors each year and the continuous functionality of the Warren Bridge is imperative to ensure the safety of our residents and visitors; AND

'WHEREAS, the need for a new bridge and/or a replacement bridge across the Alligator River has been identified by the NC Department of Transportation but has not been funded as part of the State's Transportation Improvement Plan (STIP) despite the age, obsolescence and continued operational issues of the bridge; AND

'WHEREAS, the methodology for STIP funding does not allow a new or replacement Alligator River Bridge to compete effectively against other transportation improvements in more urban areas of the State, thus contributing to the continued delay in construction of a new or replacement bridge; AND

'WHEREAS, the NC Department of Transportation is soliciting comments on transportation improvements for inclusion in the ten-year transportation plan for 2023-2032.

'NOW THEREFORE BE IT RESOLVED the Nags Head Board of Commissioners requests a new or replacement bridge for the Alligator River be included in the 2023-2032 State Transportation Improvement Plan in recognition of the vital role this bridge plays in the transportation and commerce needs of Dare County and Eastern North Carolina. Be it further resolved that other funding sources for such improvements should be identified by the State of North Carolina if STIP methodology used for funding is not suitable and practicable for this project."

MOTION: Mayor Cahoon made a motion to adopt the resolution replacing "obsolete" with "obsolescence". Comr. Cahoon seconded the motion with passed unanimously.

BOARD OF COMMISSIONERS AGENDA

Mayor Pro Tem Siers – He spoke concerning the joint workshop between the Board of Commissioners and the Planning Board re: Flood Map Revisions:

As a recap from the joint workshop held this morning, he would like to see this move forward in two separate entities. One being move forward on what the town needs to do and what is required; and how the town moves forward regarding building permits so it can be done correctly. He feels that one blanket doesn't cover everyone.

Comr. Fuller – Flooding from Albatross St. to Memorial Ave:

Comr. Fuller asked for Board consensus to ask staff to shoot an elevation from the Beach Road along Albatross St. west to the north/south ditch on Memorial Ave. to see if there is enough room to possibly install a ditch. This area consistently floods and ponds water after a rain. A lot of vacationers from the Memorial Ave. area use the Albatross Beach Access when going to the beach and need to wade through the water. He's only asking for information from the elevation shoot. It was Board consensus for staff to perform this task.

ADJOURNMENT

MOTION: Comr. Kevin Brinkley made a motion to adjourn the meeting. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 1:50 p.m.

_____
Michelle H Gray, Dep. Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, MARCH 4, 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, March 4, 2020 at 9:00 a.m.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Phil Webster; Perry Hale; Randy Wells; Shane Hite; Michael Zehner; David Ryan; Amy Miller; Brie Floyd; Roberta Thuman; Karen Snyder; Chris Flynn; Carolyn Brooker; Lee Nettles; David Bragg; Ellen Heatwole; Lauren Kickard; Nelene Gibbs; John Ratzenberger; Arnold Vass; Donald Williams; Geraldine Williams; Donny King; Susan Burroughs; Ralph Buxton; Ginny Flanders; 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 March 4th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

RECOGNITION

NEW EMPLOYEE – Dep Town Manager Andy Garman introduced new employee Information Technology Assistant Karen Snyder who was welcomed by the Board to town employment.

TEN YEARS – Police Chief Phil Webster introduced Dep Police Chief Perry Hale who was recognized by the Board for ten years of service.

PROCLAMATION IN SUPPORT OF SAFETY WEEK – Dep Fire Chief Shane Hite announced Safety Week which is scheduled for March 9 – 13, 2020; he introduced the Safety Committee members: Brie Floyd, Nancy Caraway, Jackie Hart, Ed Snyder, Perry White, Ron Watson, and Ray Schoonmaker. Other members Trey Allen, Greg South, Keith White and Eddie Hawley were not able to attend. Dep Chief

Hite detailed the work of the Safety Committee and the upcoming activities planned for Safety Week. Mayor Cahoon read the proclamation as follows:

"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."

Mayor Cahoon noted fewer claims in the workplace due to the committee's work.

MOTION: Comr. Fuller made a motion to adopt the Safety Week Proclamation as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

PRESENTATION - Dowdy Park Review of 2019 Season and Plans for 2020 Season
Dep Planning Director Kelly Wyatt summarized accomplishments of the Town's Art and Culture Committee of 2019 and plans for the upcoming year. Committee members and Coordinator Paige Griffin were present and displayed slides of a successful 2019 season at Dowdy Park.

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

Public Works Office Manager Karen Heagy and Public Works Office Assistant Sue Cummings detailed the upcoming 2nd Annual Community Clean Up which is scheduled for Saturday, March 28 beginning at 8 am at Dowdy Park. Ms. Heagy stated that she hopes next year to schedule a more widely-participated clean up with representatives from each of the town's neighborhoods.

PUBLIC COMMENT

PUBLIC COMMENT – DAVID BRAGG
David Bragg, Village at Nags Head resident; all recycling is being incinerated not recycled; it appears that the contractor was not forthcoming; he is concerned that the 6/30/20 date will come and go with no changes made – he would like a public forum scheduled with Town officials; trash cart rollback issue – the Town pays two people to roll carts back only on the Beach Road; on the Town's Facebook page – the Town limits postings with no opinions included – he has four pages of why incineration is a terrible idea; he read from a page re: climate rising and other predictions starting from the 1970's; these things have been linked to the scientists who were sure these things were going to happen just like global warming.

PUBLIC COMMENT – DONNY KING
Donny King, Better Beaches OBX; lives in Nags Head and is owner of Ocean Boulevard Restaurant; he is requesting that more sand fencing be installed for additional beach stabilization; the last fencing installed has done its part and is mostly covered; there is a lot of representation of Better Beaches OBX volunteers in the audience; he would like to help coordinate grass planting on the beach; he would like the town to allocate more funds for sand fencing and to catch more sand in the right places; grass would work now through November which is the next opportunity to plant; in recognition of the recent Town Beach Nourishment Project he applauds the town's efforts; he thanked the Board.

PUBLIC COMMENT – ELLEN HEATWOLE
Ellen Heatwole, Seagull Drive; she applauded the town for Beach Nourishment Projects which have been fantastic and sand fencing has done its job; a lot of the grass planted however has not survived; she supports Mr. Donny King of Better Beaches OBX and spoke in support of his initiative to install more sand fencing and grass on the beach.

PUBLIC COMMENT – LEE NETTLES
Lee Nettles, Outer Banks Visitors Bureau Executive Director; spoke of proposed ideas for the event center site - the proposed facilities are expected to draw new visitors to the area to support year-round visitation to Dare County; septic could be addressed on site but at the expense of green space; no commitments have been made yet; they welcome the opportunity for the Town to assist in the project.

There being no one else present who wished to speak, Attorney Leidy concluded Public Comment at 9:41 a.m.

Mayor Pro Tem Siers commented that instead of the Tourism Board purchasing property, that their money could be spent on keeping the beaches nourished – this money could be put into a sustainable beach and have the beaches around a little bit longer.

CONSENT AGENDA
The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #9 to FY 19/20 Budget
Consideration of Tax Adjustment Report
Report of Tax Delinquent List to be advertised
Approval of minutes
Consideration of resolution clarifying Dare County Control Group / Town MOA of Oct 2015

Consideration of resolution authorizing an installment finance direct borrowing contract to finance the vehicles and equipment identified in the fiscal year 2019/2020 Budget

Request for Public Hearing to consider 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 cost of the Sidewalk Pedestrian Path, Fuel Tank Conversion, and Dowdy Park improvements as identified in FY 19/20 Budget

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

Request for Public Hearing to consider a text amendment to the UDO to correct identified errors

MOTION: Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

Budget Adjustment #9, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

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

The Tax Delinquent List summary sheet, as approved, read in part as follows:

"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.)"

The Resolution clarifying the Dare County Control Group / Town Memorandum of Agreement, as adopted, read in part as follows:

"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 for consideration by the entire Board; AND

'WHEREAS The Town Attorney has stated that the MOU is not enforceable and is more of a statement and that from a legal perspective, he has no major concern with the document; 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 This collaboration between local municipalities and the county is 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 does hereby ratify the MOA dated October 19, 2015 and authorizes it as official and binding in the spirit of cooperation among all municipalities and the county through the Dare County Control Group."

<u>The resolutions authorizing three and five year loans for financing vehicles/equipment identified in FY 19/20, as adopted, read in part as follows:</u>

Three-year loan

"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:

'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.

'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.

'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.

'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.

'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."

Five-year loan

"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:

'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.

'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.

'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.

'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.

'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."

The first Request for Public Hearing summary, as approved, read in part as follows:

"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"

The second Request for Public Hearing summary, as approved read in part as follows:

"The proposed text amendment (the applicant for the amendment is Kate Creef, Assistant General Manager, on behalf of Outlets Nags Head) is seeking to amend Section 7.76.1 to expand the principal sale items allowed to be sold from outdoor stands to include "reservations or ticket sales," and to amend Section 7.76.2. to increase the number of outdoor stands allowed per site from one (1) to two (2). 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."

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

Update from Planning Director - Flood Map ordinance overview

Planning Director Michael Zehner summarized his memo with several updates. He discussed with Board members the flood map ordinance and the state's proposed flood maps. The Flood Map Informational Meeting flyer was displayed – the meeting is scheduled for Monday, March 9th in the Board Room from 5:30 to 6:30 p.m.

Mayor Pro Tem Siers expressed his concern about the flood maps which he feels have no sustainability; modifying the Town's building code will mean a lot of "rd" will need to be modified.

Director Zehner explained that free board is not being removed – if the Board is interested staff can look at raising standards for elevation on the west side of SR1243.

Comr. Renée Cahoon agreed with Mayor Pro Tem Siers – that most of the modeling for the maps is done on the oceanfront yet most of the flooding does not occur there; don't need to go back and retrofit need to look at places that are flooding now and modify standards as appropriate. What we know as reality is not which is indicated on the flood maps.

Mayor Cahoon stated that it would be beneficial for the Board to see the information that is to be presented at next week's informational session as soon as possible; make sure elevation standards we are proposing are adequate.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

Mayor Cahoon noted that both of these items have been continued by the applicants:

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

NEW BUSINESS

Committee Reports

Comr. Fuller – Dare County Tourism Board (DCTB) – the Tourism Board Advisory Committee is moving forward; he wanted to make sure Board members understood what Executive Director Lee Nettles was speaking about during Public Comment earlier today. Director Nettles was asking if the Board would consider the following concerning proposals for the event site:
- Will the Board consider a reduction in parking standards? and
- Will the Board consider allowing central sewage already located in Nags Head (Village at Nags Head) to be extended to the DCTB event site?

It was Board consensus that there is no interest in reducing parking standards nor allowing an extension of central sewage to the event site and that there is, therefore, no action for staff to take at this time.

Mayor Pro Tem Siers also noted that he has not heard any interest from citizens for an event site hotel and did not see the need for staff time and money to be spent in research re: reduction in parking standards and extending central sewage from the Village at Nags Head to the event site.

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

Dep Town Manager Andy Garman summarized his memo which read in part as follows:

"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.

'Recommendation – Moffat & Nichol for Beach Surveying Services
Recommendation – McKim & Creed for Coastal Engineering and Design Services"

Mayor Cahoon clarified first step is to determine company – and then approve scope of services; McKim is a very capable firm and he has no problem identifying them with the understanding that the Board will be seeing the scope.

<u>Beach Nourishment Project – Beach Surveying Services</u>

<u>MOTION:</u> Comr. Renée Cahoon made a motion to invite Moffit & Nichol to make a presentation to the Board, and to authorize the Town Manager to enter into contractual negotiations with them for Beach Nourishment Project surveying services with all relevant material to come back to the Board. The motion was seconded by Comr. Brinkley.

Attorney Leidy reminded the Board that proposals were solicited based on qualifications and not cost.

<u>CONTINUATION OF MOTION:</u> The motion passed unanimously.

<u>Beach Nourishment Project – Coastal Engineering and Design Services</u>

<u>MOTION:</u> Comr. Fuller made a motion to authorize the Town Manager to enter into contractual negotiations with McKim & Creed for Beach Nourishment Project coastal engineering and design services. The motion was seconded by Comr. Brinkley which passed unanimously.

Discussion/Consideration of proposed Municipal Services Districts

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

"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"

Town Manager Ogburn summarized the proposed districts:

District 3 – Eighth Street (northern town line) south to Bonnett Street
(includes all properties east of Wrightsville Avenue)
Eventually this northern mile may need nourishment

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).

MOTION: Comr. Fuller made a motion to schedule a Public Hearing to consider the Municipal Service Districts as presented, to include Old Nags Head Place, for the May 6th Board of Commissioners meeting. The motion was seconded by Comr. Brinkley which passed unanimously.

Consideration of Board/Committee appointments

MOTION: Comr. Renée Cahoon made a motion to reappoint Angelina Lowe and John Mascaro to additional three-year terms on the Board of Adjustment. The motion was seconded by Comr. Fuller which passed unanimously.

MOTION: Comr. Brinkley made a motion to reappoint Perry White and Saundra Futrell to additional three-year terms on the Personnel Grievance Panel. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - Sanitation and Recycling – Consideration of trash cart rollback ordinance

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

"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."

Town Manager Ogburn asked Board members to authorize him to work with neighborhood homeowners' associations concerning the trash cart rollback issue and to not rescind the ordinance at this time.

Comr. Fuller noted that there are some ordinances on the books that are not specifically enforced but remain on the books and he feels this one could be the same.

Board members agreed with Town Manager Ogburn to take no action at this time on the trash cart rollback ordinance allowing him to continue working with neighborhood associations on this issue.

Town Manager Ogburn - Consideration of contract for beach sprigging and sandfencing

Comr. Renée Cahoon spoke of Figure Eight Island who is a big supporter of installing bales of hay on their beaches. Town Manager Ogburn indicated that he would like to do a test project and noted that it would not require a General Contractor license to do this work.

It was Board consensus to authorize Town Manager Ogburn to conduct a test pilot project on the beach with hay bales in addition to the sand fencing/sprigging.

MOTION: Comr. Renée Cahoon made a motion to approve Budget Amendment #8 to the Beach Nourishment Capital Project Ordinance as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The Beach Nourishment Project Capital Project Ordinance, amendment #8, as adopted, is attached to and made a part of these minutes as shown in Addendum "C".

Town Manager Ogburn - 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

MOTION: Comr. Brinkley made a motion to authorize staff to request that NCDOT reduce the speed limit on SR 1243 from Juncos Street south to the town line from 45 MPH to 35 MPH. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Town Manager Ogburn – Recycling with other municipalities

Town Manager Ogburn announced that on March 30th at the Dare County offices, a meeting will be held with the County, municipalities, restaurant associations and DENR to see what future recycling options may be available.

Mayor Cahoon – Upcoming Town information sessions and events

Mayor Cahoon pointed out the following upcoming sessions/events:

- Multi-use path construction meeting – Thursday, March 5th from 5:30 to 7 pm – Board Room
- Flood Map & Flood Map Prevention Ordinance – Monday, March 9th from 5:30 to 6:30 pm – Board Rm
- Town Safety Week – March 9th to 13th
- Green Drinks and Stormwater Updates – Wednesday, March 11th at 7:30 pm at Waveriders Restaurant
- Sunshine Week – March 15-21
- St. Patrick's Parade – Sunday, March 15th
- CIP Workshop – Wednesday, March 25th at 9 am – Board Room
- Community Clean Up starting at Dowdy Park – Saturday, March 28th at 8 am

BOARD OF COMMISSIONERS AGENDA

Comr. Brinkley – Thank you to Donny King and Ellen Heatwole

Comr. Brinkley thanked Donny King of Better Beaches OBX and Ellen Heatwole for speaking concerning the organization and in support of additional beach sand fencing.

Comr. Brinkley – Recycling

Comr. Brinkley confirmed with Attorney Leidy that the Town does not have the option to sue Bay Disposal re: incinerating recycling materials rather than true recycling per the contract. Attorney Leidy said that suing does not apply to that particular provision of the contract – and would also be counter-productive since the Town is still utilizing the company.

MAYOR'S AGENDA

Mayor Cahoon – Workforce Housing

A meeting is being scheduled with local mayors for Thursday, March 12th to discuss J1 workers and housing issues. A location has not yet been finalized. A speaker is coming from Wisconsin where a program was developed to solve their seasonal housing problem. Possibly a model can be utilized for this area.

Town Clerk Carolyn Morris is to send details of the meeting to Board members when received.

Mayor Cahoon - Future Town Vision (from Jan 2020 Board Retreat)

Mayor Cahoon presented his vision for the future of the Town. His memo read in part as follows:

"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."

His list was presented and read in part as follows:

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)

Mayor Cahoon encouraged Board members to bring forward their ideas to add to the list.

Closed Session

MOTION: Comr. Fuller made a motion to enter Closed Session, in accordance with GS 143-318.11(a)(6) to discuss the Town Manager's review and to discuss and preserve attorney/client privilege pursuant to GS 143-318.11(a)(3). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 11:40 a.m.

Open Session

The Board re-entered Open Session at 1:08 p.m. Attorney Leidy stated that during Closed Session the Board did confer with the Town Attorney re: attorney/client privilege item and did discuss the Town Manager's review and did take action which cannot be disclosed for confidentiality reasons.

ADJOURNMENT

Mayor Cahoon recessed the Board meeting to Wednesday, March 11th at 9 am in the Board Room. The time was 1:10 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, MARCH 11, 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, March 11, 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; Ben Jadoff; and Town Clerk Carolyn Morris

CALL TO ORDER
Mayor Cahoon called the recessed meeting to order at 9:00 a.m.

CLOSED SESSION

MOTION: Comr. Renée Cahoon made a motion to enter Closed Session pursuant to GS 143-318.11(a)(3) and (6) to discuss a confidential personnel matter and to preserve attorney/client privilege. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 9:01 a.m.

ADJOURNMENT
Mayor Cahoon recessed the Board meeting to a Capital Improvement Program (CIP) Workshop on Wednesday, March 25th at 9 am in the Board Room. The time was 12:32 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
EMERGENCY MEETING
SATURDAY, MARCH 21, 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 Saturday, March 21, 2020 at 4:30 p.m. for an Emergency Meeting.

Board members Present:	Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley
Board members Absent:	None
Others present:	Town Manager Cliff Ogburn; Attorney Ben Gallop; Andy Garman; Roberta Thuman; Phil Webster; Randy Wells; Amy Miller; Meade Gwinn; Jim Morris; Bill Rigley; and Town Clerk Carolyn Morris

CALL TO ORDER

Mayor Cahoon called the Emergency Meeting to order at 4:30 p.m. A brief moment of silence was followed by the pledge of allegiance.

PUBLIC NOTICE

The public notice for this emergency meeting read in part as follows:

"Notice is hereby given that the Nags Head Board of Commissioners has called an emergency meeting to be held today, Saturday, March 21, 2020 at 4:30 pm at the Nags Head Board of Commissioners Meeting Room located at 5401 S. Croatan Hwy. Nags Head, NC. The purpose of the meeting is for 1) discussion of the Town's response to COVID 19; 2) discussion of recent restrictions imposed on access to the Town; 3) consideration of additional restrictions that may be taken by other authorities that impact the Town; and 4) actions that need to be taken in relation to items 1), 2) and/or 3)."

Mayor Cahoon confirmed with Attorney Ben Gallop that the provisions for emergency meetings - six hours notice and meeting discussion limited to the reasons for calling the emergency meeting – were met. The reasons for this emergency meeting are:

- to discuss the Town's response to the Corona Virus-19 pandemic
- to discuss recent restrictions imposed on access to the Town
- to consider additional restrictions that may be taken by other authorities that impact the Town
- to consider any actions that may need to be taken in response to the above items

Mayor Cahoon spoke of the recent Governor's Order to allow first responders and others that need to be at work to have the needed day care in order to conduct their work – to allow an expansion of these types of operations which he noted may mean that the order may allow for 15 children in a day care but the Town's zoning only allows 10 - Town/staff would comply with this or any other Executive Order.

Mayor Cahoon expanded that the Board wanted to ask questions of staff and direct staff as necessary to make sure that the Town is as prepared as possible in order that the Town's citizens are protected as well as its interests.

Town Manager Ogburn provided details of the responses/actions of Town staff as a result of the Corona Virus pandemic starting when the first person in North Carolina was reported affected and Governor Cooper's first Executive Order was given:

- Public Safety has been prepared – by March 6th actions plans were prepared and put into place; the hospital/nursing home were contacted; meetings and events were cancelled and parks were closed; reservations were no longer taken and staff complied with the March 16th Town Statement of Emergency proclamation re: mass gatherings to not more than 50 persons; the message to the public is that the town will continue to provide essential services – and all services as long as possible – remove services began to limit contact and comply with Governor Cooper's order of social distancing; water cutoffs were suspended, travel was suspended and any dealings with the town were moved online and away from Town Hall; a mutual aid discussion with other towns took place; Town Manager Ogburn met with the Finance Officer this past week to confirm a watchful eye is on the budget revenue for now and up to June 30th; restrictions are now in place so that only essential purposes are being addressed; ocean rescue and a discussion of plan for patrolling the beaches this summer is necessary; projects have been delayed; Seven million is currently in Fund Balance and he is more concerned about the impact on next year's budget; staff will continue to do whatever possible to maintain essential services; public has heeded the town's requests and foot traffic has diminished greatly; staff continues to maintain services for as long as possible and works toward keeping staff healthy.

Comr. Renée Cahoon confirmed with Town Manager Ogburn that travel/training has been suspended and she suggested that the Town's 401K contribution to each employee is a discretionary item; she also suggested eliminating the charge card fee for those customers paying their bills. Staff is to verify the legality of eliminating this fee.

Comr. Fuller asked about the position of School Resource Officer when there is no school in session at this time; Comr. Brinkley pointed out, and confirmed with Town Manager Ogburn, that the School Resource Officer is a Police Officer position and even when not performing that duty that position still has police officer duties.

Comr. Fuller asked if Town Manager Ogburn had considered furloughs for employees who no longer have jobs especially with the reduced foot traffic at Town Hall; Town Manager Ogburn indicated that he has not considered furloughs for any positions.

Comr. Fuller stated he recently attended a meeting of the Dare County Tourism Board (DCTB); their staff are working with the DCTB to identify ways to save resources/money which he has not seen coming from the Town. He would like the Board of Commissioners and Town staff to be more engaged especially concerning the Town's financial picture. He said that while he supports Public Safety needing to do more he feels that there are a lot of people at Town Hall that have less to do than they normally do at this time and if not a furlough, then maybe a reduction in the work week.

Comr. Fuller expressed concern that so many businesses/residents are suffering because of the lack of business.

Mayor Cahoon confirmed that Town Manager Ogburn will be bringing to the March 25th Board workshop information re: the Town's financial picture – he asked Board members to share any suggestions they have with the Town Manager prior to the meeting.

Mayor Cahoon asked Board members of their concerns re: Corona Virus emergency:

Comr. Fuller – While the Division of Emergency Management has responded well to his inquiries, he has issues with the entry point issue: his white re-entry priority card did not work – property owners are unable to get to their houses. The Control Group is advisory and Nags Head makes its own decisions.

Mayor Cahoon explained that the Town did its own Statement of Emergency, separate from Dare County's; additions to the Dare County declaration was to restrict visitors and then non-resident property owners; the Town's Statement of Emergency was not updated. Nags Head is within the confines of Dare County and DC is manning the borders.

Mayor Cahoon asked Attorney Gallop if there was a way to allow visitors to Nags Head in to Dare County; Attorney Gallop said that the deputies are acting in Dare County authority – he stated that the County proclamation would have to be modified in order to allow Nags Head visitors through. He also noted that the courts are closed at this time.

It was Board consensus that 1) Town Manager Ogburn provide a fiscal report, in response to reduced revenues, to the March 25th Workshop/meeting; 2) Attorney Gallop provide an electronic meeting policy for Board consideration at the March 25th Workshop/meeting; and 3) Mayor Cahoon ask Dare County if there is a mechanism to allow non-resident property owners, who may have been in the middle of a project when they were barred from entry, and whose property may be in a compromised state, to finish what they were doing – and to do so without adding excessively to the deputies' burdens at the County checkpoints.

ADJOURNMENT

In response to Comr. Renée Cahoon, Town Manager Ogburn stated that staff has made sure that the Town has Zoom capability for upcoming meetings as necessary.

Mayor Cahoon noted the Board's workshop on Wednesday, March 25, 2020 at 9 am. He thanked everyone for attending today and appreciates that the Town is attempting to be pro-active; he appreciates everyone's efforts and their work.

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 5:29 p.m.

_____
Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon

Agenda Item Summary Sheet

Item No: **E-4**
Meeting Date: **April 15, 2020**

Item Title: Consideration of resolution in support of NCDOT lowering speed limit from Juncos Street south - from 45 MPH to 35 MPH – for one speed limit on SR 1243; Adoption of Traffic Control Map ordinance

Item Summary:

The NC Dept of Transportation (NCDOT) form entitled Certification of Municipal Declaration To Repeal Speed Limits and Request for Concurrence is required in order to repeal the 45 MPH speed limit on S Old Oregon Inlet Road (SR 1243).

At its March 4, 2020 meeting, the Board approved the reduction in speed limit from 45 MPH to 35 MPH from Juncos Street south to the Town line and authorized forwarding to NCDOT. The remainder of SR 1243 is 35 MPH.

Attached please find the required NCDOT form, an ordinance amending the Town's Traffic Control Map, and an applicable map. NCDOT staff has indicated that the speed limit signage will be replaced after receipt of the attached form.

Number of Attachments: 3

Specific Action Requested:

Request Board authorization to submit attached form to NCDOT for their concurrence in reducing speed limit on SOOIR and adoption of attached Traffic Control Map ordinance.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

No unbudgeted costs associated with this agenda item.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

Request approval of attached forms; if approved, SR 1243 will have a speed limit of 35 MPH.

Signature: Cliff Ogburn Date: April 6, 2020

ArcGIS NCDOT Statutory Speed Limits

Details | Basemap |

About Content Legend

Legend

NCDOT Statutory Speed Limits

Speed Limit - State Maintained

- 10
- 15
- 20
- 25
- 30
- 35
- 40
- 45
- 50
- 55
- 60
- 65
- 70

Certification of Municipal Declaration
To Repeal Speed Limits and Request for Concurrence

Concurring State Ordinance Number: 1067057

Division: 1 **County:** DARE **Municipality:** NAGS HEAD

Type: Municipal Speed Zones

Road: SR 1243 **Car:** 45 MPH **Truck:** 45 MPH

Description: Between a point 3.00 miles south of the northern intersection with NC 12 and the southern corporate limits of Nags Head, a point 0.08 mile north of the southern intersection with NC 12.

Municipal Certification

I, _____, Clerk of _____, do hereby certify that the municipal governing body, pursuant to the authority granted by G.S. 20-141(f), determined upon the basis of an engineering and traffic investigation and duly declared, on the _____ day of _____, 20_____, the repeal of speed limits as set forth above on the designated portion of the State Highway System, which shall become effective when the Department of Transportation has passed a concurring ordinance and signs are erected giving notice of the authorized speed limit.

The said municipal declaration is recorded as follows:

Minute Book: _____ Page:_____ Ordinance Number: _____

In witness whereof, I have hereunto set my hand and the municipal seal this _____ day of _____, 20_____.

_____
(signature) (municipal seal)

Department of Transportation Approval

Division: _____ Title: _____ Date: _____

Region: _____ Title: _____ Date: _____

Ordinance No. 20-04-XXX
Traffic Control Map amendment
Juncos Street south on SOOIR
BOC Meeting April 15, 2020

ORDINANCE AMENDING THE NAGS HEAD TRAFFIC CONTROL MAP

BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Nags Head Traffic Control Map is hereby amended as follows:

PART I. That a speed limit reduction from 45 MPH to 35 MPH be established on S Old Oregon Inlet Road (SR 1243) from Juncos Street south to the Town line.

PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

PART III. This ordinance shall become effective upon notation being made on the Nags Head Traffic Control Map and the erection of appropriate signage.

This the 15th day of April 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:

_____
John Leidy, Town Attorney

ADOPTED **April 15, 2020**

MOTION TO ADOPT BY: _____
SECONDED BY: _____
VOTE: _____ AYES _____ NOES

Agenda Item Summary Sheet

Item No: **E-5**
Meeting Date: **April 15, 2020**

Item Title: Consideration of (K9) Handler Compensation Policy – for inclusion in the Town Personnel Policy

Item Summary:
In an effort to follow best practices we would like to add Handler Compensation to the Personnel Policy as it relates to the Pay Plan. Handler Pay is often referred to as Garcia Pay. Garcia v San Antonio Metropolitan Transit Authority was a 1985 case that essentially extended FLSA to state and local governments. This case directly affects how and when K9 officers are to be compensated for the at-home care of their dog. We researched department records and found that a Caring for Police K-9 Supplement Agreement was made in 2007 between the Town and then-handler Paul Lipscomb. Although the courts have not ruled directly on the amount of compensation for handling, there is one case, Levering v District of Columbia, that states the "appropriate time" of such activity. This case states "30 minutes per day", seven days per week is a reasonable compensation. We feel this method of calculation is a reasonable estimate of the actual amount of time spent. The Handler Compensation section will be located in Article IV. The Pay Plan, Section 20:

Section 20. Handler Compensation
Police Officers assigned as canine handlers shall receive additional compensation of $200.00 per pay period for a total of $5,200.00 annually. This supplemental pay is to compensate a canine officer for his or her off duty time caring for their assigned partner. Care is defined as, but not limited to, bathing, brushing, exercising, the act of feeding, grooming, administering medication, training the dog at home, cleaning of the dog's kennel and vehicle. The handler compensation will continue until the officer is reassigned from the K-9 unit.

Number of Attachments: 0

Specific Action Requested:

Provided for Board review and consideration.

Submitted By: Brie Floyd, Human Resources Director Date: April 6, 2020

Finance Officer Comment:

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

I concur with the request.

Signature: Cliff Ogburn Date: April 6, 2020

Agenda Item Summary Sheet

Item No: **E-6**
Meeting Date: **April 15, 2020**

Item Title: Request for Public Hearing to consider numerous text amendments to the Unified Development Ordinance as it pertains to the updated flood maps and update of the Flood Damage Prevention Ordinance

Item Summary:
The proposed text amendments serve to adopt the updated Flood Insurance Rate Maps and Flood Insurance Study by amendment of the Flood Damage Prevention Ordinance; additionally, amendments are included to Article 4, Development Review Process, Section 8.6.4., Building Height, Section 11.5.3. Standard for Depth or Elevation of Fill, and Appendix A. Definitions. In addition to the Ordinance, also attached is the PowerPoint presentation made to the Planning Board at the meeting on April 1, 2020 and a letter from the Outer Banks Home Builders Association providing comments on the draft ordinance that was submitted during the Planning Board's meeting.

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

Number of Attachments: 3

Specific Action Requested:

Provided for Board review and schedule of Public Hearing.

Submitted By: Principal Planner Holly White Date: April 7, 2020

Finance Officer Comment:

N/A

Signature: Amy Miller Date: April 7, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 7, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 7, 2020

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF NAGS HEAD, NORTH CAROLINA PERTAINING TO FLOOD DAMAGE PREVENTION

ARTICLE I. Purpose(s) and Authority.

WHEREAS, The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

WHEREAS, The flood prone areas of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

WHEREAS, The Town of Nags Head desires to protect human life, safety and health; minimize expenditure of public money for costly flood control projects; minimize the need for rescue and relief efforts associated with flooding; minimize prolonged business losses and interruptions; minimize damage to public facilities and utilities; minimize damage to private and public property due to flooding; maintain the natural and beneficial functions of floodplains; and mitigate flood risks in Nags Head by implementing local elevation standards for all Special Flood Hazards Areas and Shaded X and X flood zones.

WHEREAS, The Town of Nags Head 2017 Comprehensive Plan includes goals and policies that support the Town's continued participation in the National Flood Insurance Program (NFIP) and ensure the Town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster; and

WHEREAS, the 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. 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 11, Environmental Regulations**, **Part III. Flood Damage Prevention** shall be deleted in its entirety and replaced with the following:

PART III. FLOOD DAMAGE PREVENTION

SECTION 11.41 STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND OBJECTIVES.

11.41.1. Statutory Authorization.
The Legislature of the State of North Carolina has in Part 6, Article 21 of Chapter 143; Article 6 of Chapter 153A; Article 8 of Chapter 160A; and Article 7, 9, and 11 of Chapter 160D (Effective January 1, 2021) of the North Carolina General Statutes, delegated to local governmental units the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Board of Commissioners does ordain as follows in this Article 11, Part III.

11.41.2. Findings of Fact.

> ***11.41.2.1.*** The flood prone areas of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
>
> ***11.41.2.2.*** These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy in flood prone areas of uses vulnerable to floods or other hazards.

11.41.3. Statement of Purpose.
It is the purpose of this Article 11, Part III to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions within flood prone areas by provisions designed to:

> ***11.41.3.1.*** Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
>
> ***11.41.3.2.*** Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
>
> ***11.41.3.3.*** Control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of floodwaters;
>
> ***11.41.3.4.*** Control filling, grading, dredging and other development which may increase erosion or flood damage; and
>
> ***11.41.3.5.*** Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

11.41.4. Objectives.
The objectives of this article are to:

> ***11.41.4.1.*** Protect human life, safety and health;

11.41.4.2. Minimize expenditure of public money for costly flood control projects;

11.41.4.3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

11.41.4.4. Minimize prolonged business losses and interruptions;

11.41.4.5. Minimize damage to public facilities and utilities, such as water and gas mains, electric, telephone, cable and sewer lines, streets and bridges, located in flood prone areas;

11.41.4.6. Minimize damage to private and public property due to flooding;

11.41.4.7. Make flood insurance available to the community through the National Flood Insurance Program (NFIP);

11.41.4.8. Maintain the natural and beneficial functions of floodplains;

11.41.4.9. Help maintain a stable tax base by providing for the sound use and development of flood-prone areas; and

11.41.4.10. To ensure that potential homebuyers are notified that property is in a Special Flood Hazard Area (SFHA) or other areas prone to flooding.

11.41.4.11. Mitigate flood risks in Nags Head by implementing local elevation standards for all Special Flood Hazards Areas and Shaded X and X flood zones.

SECTION 11.42 GENERAL PROVISIONS.

11.42.1. Lands to Which this Article 11, Part III Applies.

This Article 11, Part III shall apply to all areas within the jurisdiction of the Town, including Extra-Territorial Jurisdictions (ETJs) as allowed by law.

11.42.2. Basis for Establishing the Special Flood Hazard Areas.

The special flood hazard areas are those identified under the Cooperating Technical State (CTS) agreement between the State of North Carolina and FEMA in its Flood Insurance Study (FIS) dated June 19, 2020 for Town of Nags Head, Dare County and associated DFIRM panels, including any digital data developed as part of the FIS, which are adopted by reference and declared a part of this ordinance, and all revisions thereto after January 1, 2021. Future revisions to the FIS and DFIRM panels that do not change flood hazard data within the jurisdictional authority of the Town of Nags Head are also adopted by reference and declared a part of this ordinance. Subsequent Letter of Map Revisions (LOMRs) and/or Physical Map Revisions (PMRs) shall be adopted within 3 months.

11.42.3. Establishment of a Local Elevation Standard (LES)

The Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in the Shaded X, X, AE, AO, VE, as depicted on the FIRMs for Nags Head. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall. Many of these areas have repetitively flooded and continue to remain at risk to flooding. Therefore, an elevation standard and other floodplain development standards are needed to meet the objectives of this Section as identified in 11.41.4.

11.42.3.1. In Nags Head the RFPE is as defined as:

11.42.3.1.1. Coastal High Hazard Areas (CHHA)- Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

11.42.3.1.2. Properties west of NC 12 and SR 1243- The RFPE for properties located west of NC 12 and SR 1243 and in flood zones Shaded X, X, or AE, is 10 feet NAVD 1988. This includes properties abutting US 64, also known as the Causeway.

11.42.4. Establishment of Floodplain Development Permit.
A floodplain development permit shall be required in conformance with the provisions of this Part prior to the commencement of any development activities within the AE, AO, VE, Shaded X or X zone.

11.42.5. Compliance.
No structure or land shall hereafter be located, extended, converted, altered or developed in any way without full compliance with the terms of this Part and other applicable regulations.

11.42.6. Abrogation and Greater Restrictions.
This Part is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Part and another provision conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

11.42.7. Interpretation.
In the interpretation and application of this Part, all provisions shall be considered as minimum requirements; liberally construed in favor of the Board of Commissioners; and deemed neither to limit nor repeal any other powers granted under state statutes.

11.42.8. Warning and Disclaimer of Liability.
The degree of flood protection required by this Part is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; actual flood heights may be increased by manmade or natural causes. This Part does not imply that land outside the special flood hazard areas or uses permitted within such areas will be free from flooding or flood

damages. This Part shall not create liability on the part of the Town or by an officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made thereunder.

11.42.9. Penalties for Violations.
Violation of the provisions of this Part or failure to comply with of its requirements, including violation of conditions and safeguards established in connection with grants of variance or special exceptions, shall constitute a Class 1 misdemeanor pursuant to NC G.S. § 143-215.58. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $500.00 or imprisoned for not more than 30 days, or both. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Town from taking such other lawful action as it necessary to prevent or remedy any violation. Other lawful actions may include, but shall not be limited to, those provisions in Section 1.10, Violation of UDO Regulations.

SECTION 11.43 ADMINISTRATION.

11.43.1. Designation of Floodplain Administrator.
The Chief Building Inspector or his designee, hereinafter referred to as the "Floodplain Administrator", is hereby appointed to administer and implement the provisions of this Part. In instances where the Floodplain Administrator receives assistance from others to complete tasks to administer and implement this ordinance, the Floodplain Administrator shall be responsible for the coordination and community's overall compliance with the National Flood Insurance Program and the provisions of this ordinance.

11.43.2. Duties and Responsibilities of the Floodplain Administrator.
Duties of the floodplain administrator shall include, but not be limited to:

> ***11.43.2.1.*** Review all floodplain development applications and issue permits for all proposed development Shaded X, X, AE, AO, and VE flood zones to assure that all requirements of this Part have been satisfied.
>
> ***11.43.2.2.*** Review all proposed development to assure that all necessary local, state and federal permits have been received, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
>
> ***11.43.2.3.*** Notifying adjacent communities and the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program prior to any alterations or relocation of a watercourse and submitting evidence of such notification to FEMA.
>
> ***11.43.2.4.*** Assuring that maintenance is provided within the altered or relocated portion of such watercourse so that the flood-carrying capacity is maintained.

11.43.2.5. Obtaining the actual elevation (in relation to NAVD 1988) of the reference level (including the basement) and all attendant utilities of all new or substantially improved structures in accordance with subsection 11.43.5.1 of this section.

11.43.2.6. Obtaining the actual elevation (in relation to NAVD 1988) to which all new or substantially improved structures and utilities have been floodproofed in accordance with subsection 11.43.5.1 of this section.

11.43.2.7. Obtain actual elevation (in relation to NAVD 1988) of all public utilities in accordance with subsection 11.43.5.1 of this section.

11.43.2.8. When floodproofing is utilized for a particular structure, the floodplain administrator shall obtain certifications from a registered professional engineer or architect in accordance with subsection 11.43.5.2 of this section and subsection 11.44.2.2.

11.43.2.9. Where interpretation is needed as to the exact location of the boundaries of the special flood hazard areas (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) or Shaded X or X flood zones, the floodplain administrator shall make the necessary interpretation. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this Part.

11.43.2.10. When the lowest floor and the lowest adjacent grade of a structure or the lowest ground elevation of a parcel or structure in a special flood hazard area is above the base flood elevation, advise the property owner of the option to apply for a letter of map amendment (LOMA) from FEMA. However, if the property is to be removed from the V Zone it must not be located seaward of the landward toe of the primary frontal dune. Maintain a copy of the letter of map amendment (LOMA) issued by FEMA in the floodplain development permit file.

11.43.2.11. Making on-site inspections of work in progress. As the work pursuant to a floodplain development permit progresses, the floodplain administrator shall make as many inspections of the work as may be necessary to ensure that the work is being done according to the provisions of this article and terms of the permit. In exercising this power, the floodplain administrator has a right, upon presentation of proper credentials, to enter on any premises within the jurisdiction of the Town at any reasonable hour for the purposes of inspection or other enforcement action.

11.43.2.12. Issue stop work orders as required. Whenever a building or part thereof is being constructed, reconstructed, altered, or repaired in violation of this Part, the floodplain administrator may order the work to be immediately stopped. The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons(s) for the stoppage, and the conditions(s) under

which the work may be resumed. Violation of a stop-work order constitutes a misdemeanor.

11.43.2.13. Revoke floodplain development permits as required. The floodplain administrator may revoke and require the return of the floodplain development permit by notifying the permit holder in writing stating the reason(s) for the revocation. Permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of state or local laws; or for false statements or misrepresentations made in securing the permit. Any floodplain development permit mistakenly issued in violation of any applicable state or local law may be revoked.

11.43.2.14. Permanently maintain all records pertaining to the administration of this Part and making these records available for public inspection, recognizing that such information may be subject to the Privacy Act of 1974, as amended.

11.43.2.15. Providing the North Carolina Department of Public Safety, Division of Emergency Management, State Coordinator for the National Flood Insurance Program with two copies of the maps delineating new corporate limits within six months from date of annexation or change in corporate boundaries.

11.43.2.16. Make periodic inspections throughout the jurisdiction of the Town. The floodplain administrator and each member of his or her inspections department shall have a right, upon presentation of proper credentials, to enter on any premises within the territorial jurisdiction of the department at any reasonable hour for the purposes of inspection or other enforcement action.

11.43.2.17. Follow through with corrective procedures of subsection 11.43.6.

11.43.2.18. Review, provide input, and make recommendations for variance requests.

11.43.2.19. Maintain a current map repository to include, but not limited to, historical and effective FIS report, historical and effective FIRM and other official flood maps and studies adopted in accordance with subsection 11.42.2 of this Part, including any revisions thereto including letters of map change, issued by FEMA. Notify state and FEMA of mapping needs.

11.43.2.20. Coordinate revisions to FIS reports and FIRMS, including letters of map revision based on fill (LOMR-F) and letters of map revision (LOMR).

11.43.3. Floodplain Development Application Requirements.
Application for a floodplain development permit shall be made to the floodplain administrator on forms prior to any development activities. The following items shall

be presented to the floodplain administrator to apply for a floodplain development permit:

11.43.3.1. Two copies of a plot plan drawn to scale, along with an electronic version, which shall include, but shall not be limited to, the following specific details of the proposed floodplain development; at the discretion of the floodplain administrator, such plot plans shall be certified by a North Carolina registered land surveyor or professional engineer:

11.43.3.1.1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, location of fill materials, storage areas, drainage facilities, and other development;

11.43.3.1.2. The boundary of any special flood hazard area or any Shaded X or X Zone as delineated on the FIRM or other flood map as determined in subsection 11.42.2 or a statement that the entire lot is within the special flood hazard area;

11.43.3.1.3. Flood zone(s), including any Shaded X or X zone, designation of the proposed development area as determined on the FIRM or other flood map as determined in subsection 11.42.2;

11.43.3.1.4. The base flood elevation (BFE) and/or the Regulatory Flood Protection Elevation (RFPE) where provided as set forth in subsection 11.42.2;

11.43.3.1.5. The old and new location of any watercourse that will be altered or relocated as a result of proposed development; and

11.43.3.1.6. The boundary and designation date of the CBRS area or OPA, if applicable.

11.43.3.2. Proposed elevation, and method thereof, of all development including but not limited to:

11.43.3.2.1. The elevation in relation to NAVD 1988 of the proposed reference level (including the basement) of all new and substantial improvements; and

11.43.3.2.2. Elevation in relation to NAVD 1988 to which any non-residential structure in zone AE, AO, Shaded X, or X Zone will be floodproofed; and

11.43.3.2.3. Elevation in relation to NAVD 1988 to which any proposed utility systems will be elevated or floodproofed.

11.43.3.3. If floodproofing, a floodproofing certificate (FEMA Form 086-0-34) with supporting data, an operational plan, and an inspection and maintenance

plan that includes, but is not limited to, installation, exercise, and maintenance of floodproofing measures.

11.43.3.4. A foundation plan, drawn to scale, which shall include details of the proposed foundation system to ensure all provisions of this Part are met. These details include but are not limited to:

11.43.3.4.1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation, open foundation on columns/posts/piers/piles/shear walls).

11.43.3.4.2. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with subsection 11.44.2.4 when solid foundation perimeter walls are used in zones AE or Shaded X or X Zone.

11.43.3.4.3. The following, in coastal high hazard areas, in accordance with subsection 11.44.2.4.4 and subsection 11.44.3:

11.43.3.4.3.1. V-Zone certification with accompanying plans and specifications verifying the engineered structure and any breakaway wall designs (breakaway wall designs are only for accessory structures). In addition, prior to the Certificate of Compliance/Occupancy issuance, the floodplain administrator may require a registered professional engineer or architect to certify that the finished construction is compliant with the design, specifications and plans for VE Zone construction if determined necessary.

11.43.3.4.3.2. Plans for open wood lattice or insect screening, if applicable.

11.43.3.4.3.3. Plans for non-structural fill, if applicable. If non-structural fill is proposed, it must demonstrate through coastal engineering analysis that the proposed fill would not result in any increase in the base flood elevation or otherwise cause adverse impacts by wave ramping and deflection onto the subject structure or adjacent properties.

11.43.3.5. Usage details of any enclosed areas below the regulatory flood protection elevation.

11.43.3.6. Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage.

11.43.3.7. Certification that all other local, state and federal permits required prior to floodplain development permit issuance (wetlands, endangered

species, erosion and sedimentation control, Coastal Area Management Act (CAMA), riparian buffers, mining, etc.) have been received.

11.43.3.8. Documentation for placement of recreational vehicles and/or temporary structures, when applicable, to ensure subsections 11.44.2.3 and 11.44.2.5 of this Part are met.

11.43.3.9. A description of proposed watercourse alteration or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects on properties located both upstream and downstream; and a map (if not shown on the plot plan) showing the location of the proposed watercourse alteration and relocation.

11.43.3.10. In Shaded X and X zones, a survey prepared by a licensed North Carolina surveyor may be used to demonstrate the natural grades of the parcel relative to the RFPE.

11.43.4. Floodplain Development Permit Requirements.
The Floodplain Development Permit shall include, but not be limited to:

11.43.4.1. A complete description of all the development to be permitted under the floodplain development permit. (e.g. house, garage, pool, septic, bulkhead, cabana, pier, bridge, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).

11.43.4.2. The flood zone determination for the proposed development per available data specified in subsection 11.42.2.

11.43.4.3. The regulatory flood protection elevation required for the reference level and all attendant utilities.

11.43.4.4. The regulatory flood protection elevation required for the protection of all public utilities.

11.43.4.5. All certification submittal requirements with timelines.

11.43.4.6. The flood openings requirements, if in zones AE, Shaded X, or X Zone.

11.43.4.7. Limitations of use of the enclosures below the lowest floor, not to exceed 300 square feet in area, (i.e. parking, building access and limited storage only).

11.43.4.8. A statement, if in zone VE, that there shall be no alteration of sand dunes which would increase potential flood damage.

11.43.4.9. A statement, if in zone VE, that there shall be no fill used for structural support.

11.43.4.10 A statement, that all materials below BFE/RFPE must be flood resistant materials.

11.43.5. Floodplain Development Certification Requirements.

11.43.5.1. Elevation Certificates for AE, AO, VE, Shaded X, and X Zones.

11.43.5.1.1. An elevation certificate (FEMA Form 086-0-33) may be required prior to the actual start of any new construction if determined necessary by the floodplain administrator. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of elevation of the reference level, in relation to NAVD 1988. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

11.43.5.1.2. An elevation certificate (FEMA 086-0-33) is required after the reference level is established. Within 21 calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the floodplain administrator a certification of the elevation of the reference level, in relation to NAVD 1988. Any work done within the 21 calendar-day-period and prior to submission of the certification shall be at the permit holder's risk. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to proceed. Failure to submit the certification or failure to make the required corrections shall be cause to issue a stop-work order for the project.

11.43.5.1.3. A final Finished Construction elevation certificate (FEMA 086-0-33) is required after construction is completed and prior to certificate of compliance/occupancy issuance. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The floodplain administrator shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to certificate of compliance/occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance to a certificate of compliance/occupancy. The Finished Construction Elevation Certificate certifier shall provide at least 2 photographs showing the front and rear of the building taken within 90 days from the date of certification. The photographs must be taken with views confirming the building description and diagram number provided in Section A. To the

extent possible, these photographs should show the entire building including foundation. If the building has split-level or multi-level areas, provide at least 2 additional photographs showing side views of the building. In addition, when applicable, provide a photograph of the foundation showing a representative example of the flood openings or vents. All photographs must be in color and measure at least 3" × 3". Digital photographs are acceptable.

11.43.5.1.4. For Shaded X and X flood zones east of NC 12 and SR 1243, the submission of the under construction elevation certificate may be waived if a survey of the parcel was used to certify the natural grade of the parcel was to or above 12 feet at the time of permit application. For Shaded X and X flood zones west of NC 12 and SR 1243, the submission of the under construction elevation certificate may be waived if a survey of the parcel was used to certify the natural grade of the parcel was to or above 10 feet at the time of permit application. In all cases, a finished construction elevation certificate is required at the completion of the project.

11.43.5.2. Floodproofing Certificate. If non-residential floodproofing is used to meet the regulatory flood protection elevation requirements, a floodproofing certificate (FEMA 086-0-33), with supporting data, an operational plan, and an inspection and maintenance plan is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the floodplain administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities in relation to NAVD 1988. Floodproofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The floodplain administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a certificate of compliance/occupancy.

11.43.5.3. A final Finished Construction Floodproofing Certificate (FEMA Form 086-0-34), with supporting data, an operational plan, and an inspection and maintenance plan are required prior to the issuance of a Certificate of Compliance/Occupancy. It shall be the duty of the permit holder to submit to the Floodplain Administrator a certification of the floodproofed design elevation of the reference level and all attendant utilities, in relation to NAVD 1988. Floodproofing certificate shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The Floodplain Administrator shall review the certificate data, the operational plan, and the inspection and maintenance plan. Deficiencies detected by such review shall be corrected by the applicant prior to Certificate of Occupancy. Failure to submit the certification or failure to make required corrections shall be cause to deny a Floodplain Development Permit. Failure to construct in

accordance with the certified design shall be cause to deny a Certificate of Compliance/Occupancy.

11.43.5.4. If a watercourse is to be altered or relocated, a description of the extent of the watercourse alteration or relocation, a professional engineer's certified report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map showing the location of the proposed watercourse alteration or relocation shall be submitted by the permit applicant prior to issuance of a floodplain development permit.

11.43.5.5. Certification Exemptions. The following structures, if located within zones AE, AO, and Shaded X or X, are exempt from the elevation/floodproofing certification requirements specified in subsections 11.43.5.1.1 and 11.43.5.1.2 above:

> ***11.43.5.5.1.*** Recreational vehicles meeting requirements of subsection 11.44.2.3;
>
> ***11.43.5.5.2.*** Temporary structures meeting requirements of subsection 11.44.2.5; and
>
> ***11.43.5.5.3.*** Accessory structures less than 150 square feet meeting or $5,000 or less and meeting requirements of requirements of subsection 11.44.2.6.

11.43.5.6. A V-Zone certification with accompanying design plans and specifications is required prior to issuance of a floodplain development permit within coastal high hazard areas. It shall be the duty of the permit applicant to submit to the floodplain administrator said certification to ensure the design standards of this Part are met. A registered professional engineer or architect shall develop or review the structural design, plans and specifications for construction and certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Part. This certification is not a substitute for an elevation certificate. In addition, prior to the Certificate of Compliance/Occupancy issuance, the floodplain administrator may require a registered professional engineer or architect to shall certify that the finished construction is compliant with the design, specifications and plans for VE Zone construction if determined necessary.

11.43.5.7. Determinations for existing buildings and structures. For applications for building permits to improve buildings and structures, including alterations, movement, enlargement, replacement, repair, change of occupancy, additions, rehabilitations, renovations, substantial improvements, repairs of substantial damage, and any other improvement of or work on such buildings and structures, the Floodplain Administrator, in coordination with the Building Official, shall:

11.43.5.7.1. Estimate the market value, or require the applicant to obtain an appraisal of the market value prepared by a qualified independent appraiser, of the building or structure before the start of construction of the proposed work; in the case of repair, the market value of the building or structure shall be the market value before the damage occurred and before any repairs are made;

11.43.5.7.2. Compare the cost to perform the improvement, the cost to repair a damaged building to its pre-damaged condition, or the combined costs of improvements and repairs, if applicable, to the market value of the building or structure;

11.43.5.7.3 Determine and document whether the proposed work constitutes substantial improvement or repair of substantial damage; and

11.43.5.7.4. Notify the applicant if it is determined that the work constitutes substantial improvement or repair of substantial damage and that compliance with the flood resistant construction requirements of the NC Building Code and this ordinance is required.

11.43.6. Corrective Procedures.

11.43.6.1. Violations to be corrected. When the floodplain administrator finds violations of applicable state and local laws, it shall be his duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

11.43.6.2. Actions in event of failure to take corrective action. If the owner of a building or property shall fail to take prompt corrective action, the floodplain administrator shall give the owner written notice, by certified or registered mail, to his last known address or by personal service that:

11.43.6.2.1. The building or property is in violation of the flood damage prevention regulations;

11.43.6.2.2. A hearing will be held before the floodplain administrator at a designated place and time, not later than ten (10) working days after the date of the notice, at which time the owner shall be entitled to be heard in person or by counsel and to present arguments and evidence pertaining to the matter; and

11.43.6.2.3. Following the hearing, the floodplain administrator may issue such order to alter, vacate or demolish the building; or to remove fill as appears appropriate.

11.43.6.3. Order to take corrective action. If, upon a hearing held pursuant to the notice prescribed above, the floodplain administrator shall find that the

building or development is in violation of this Part, he or she shall issue an order in writing to the owner, requiring the owner to remedy the violation within such period not less than sixty (60) days, nor more than one hundred and eighty (180) calendar days, as the floodplain administrator may prescribe; provided, however, that where the floodplain administrator finds that there is imminent danger to life or other property, he or she may issue an order that corrective action be taken in such lesser period as may be feasible.

11.43.6.4. Appeal. Any owner who has received an order to take corrective action may appeal the order to the board of adjustment by giving notice of appeal in writing to the floodplain administrator and the Town Clerk within ten (10) days following issuance of the final order. In the absence of an appeal, the order of the floodplain administrator shall be final. The Board of Adjustment shall hear an appeal within a reasonable time and may affirm, modify and affirm, or revoke the order.

11.43.6.5. Failure to comply with order. If the owner of a building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order of the board of adjustment following an appeal, the owner shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

11.43.7. Variance Procedures.

Variance procedures shall be applied in AE, AO, VE, and Shaded X and X flood zones in accordance with Section 3.10, Variances of this UDO and the following additional provisions:

11.43.7.1. The Board of Adjustment, as established by the Town, shall hear and decide requests for variances from the requirements of this Part.

11.43.7.2. Any person aggrieved by the decision of the Board of Adjustment may appeal such decision to superior court, as provided in NCGS Chapter 7A.

11.43.7.3. Variances may be issued for:

11.43.7.3.1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

11.43.7.3.2. Functionally dependent facilities if determined to meet the definition as stated in Appendix A, provided provisions of subsections 11.43.7.10.2 and 11.43.7.10.3 have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or

11.43.7.3.3. Any other type of development provided it meets the requirements stated in this section.

11.43.7.4. In passing upon variances, the Board of Adjustment shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this Part and the:

11.43.7.4.1. Danger that materials may be swept onto other lands to the injury of others;

11.43.7.4.2. Danger to life and property due to flooding or erosion damage;

11.43.7.4.3. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

11.43.7.4.4. Importance of the services provided by the proposed facility to the community;

11.43.7.4.5. Necessity to the facility of a waterfront location as defined under Appendix A as a functionally dependent facility, where applicable;

11.43.7.4.6. Availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

11.43.7.4.7. Compatibility of the proposed use with existing and anticipated development;

11.43.7.4.8. Relationship of the proposed use to the Town's Comprehensive Plan and floodplain management program for that area;

11.43.7.4.9. Safety of access to the property in times of flood for ordinary and emergency vehicles;

11.43.7.4.10. Expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11.43.7.4.11. Costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

11.43.7.5. A written report addressing each of the above factors shall be submitted with the application for a variance.

11.43.7.6. Upon consideration of the factors listed in subsection 11.43.7.4 of this Part and the purposes of this Part, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Part.

11.43.7.7. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the RFPE and the elevation to which the structure is to be built and that such construction below the RFPE increases risks to life and property, and that the issuance of a variance to construct a structure below the RFPE will result in increased premium rates for flood insurance up to $25.00 per $100.00 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their insurance.

11.43.7.8. The floodplain administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of North Carolina upon request.

11.43.7.9. Conditions for variances.

11.43.7.9.1. Variances shall not be issued when the variance will make the structure in violation of other federal, state or local laws, regulations or ordinances.

11.43.7.9.2. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

11.43.7.9.3. Variances shall only be issued prior to development permit approval.

11.43.7.9.4. Variances shall only be issued upon:

11.43.7.9.4.1. A showing of good and sufficient cause;

11.43.7.9.4.2. A determination that failure to grant the variance would result in exceptional hardship; and

11.43.7.9.4.3. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances

11.43.7.10. A variance may be issued for solid waste disposal facilities or sites, hazardous waste management facilities, salvage yards, and chemical storage facilities that are located in special flood hazard areas provided that all of the following conditions are met:

11.43.7.10.1. The use serves a critical need in the community;

11.43.7.10.2. No feasible locations exist for the use outside the SFHA;

11.43.7.10.3. The reference level of any structure is elevated or floodproofed to at least the RFPE;

11.43.7.10.4. The use complies with all other applicable federal, state and local laws; and

11.43.7.10.5. The Town has notified the Secretary of the North Carolina Department of Public Safety of its intention to grant a variance at least 30 calendar days prior to granting the variance.

SECTION 11.44 PROVISIONS FOR FLOOD HAZARD REDUCTION.

11.44.1. General Standards.
The following provisions are required in Shaded X, X, AE, AO, and VE flood zones:

11.44.1.1. All new construction and substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure.

11.44.1.2. All new construction or substantial improvements shall be constructed with materials and utility equipment resistant to flood damage in accordance with the FEMA Technical Bulletin 2, Flood Damage-Resistant Materials Requirements.

11.44.1.3. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damages.

11.44.1.4. All new electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be located at or above the RFPE or designed and/or installed so as to prevent water from entering or accumulating within the components during occurrence of base flood. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility, cable boxes, appliances (washers, dryers, refrigerators, freezers, freezers, etc.), hot water heaters, and electric outlets/switches.

11.44.1.4.1. Replacements that are part of a substantial improvement, electrical, heating, ventilation, plumbing, air conditioning equipment, and other service equipment shall also meet the above provisions.

11.44.1.4.2. Replacements that are for maintenance and not part of a substantial improvement, may be installed at the original location provided the addition and/or improvements only comply with the

standards for new construction consistent with the code and requirements for the original structure.

11.44.1.5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

11.44.1.6. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

11.44.1.7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

11.44.1.8. Nothing in this ordinance shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this ordinance and located totally or partially within the floodway, non-encroachment area, or stream setback, provided there is no additional encroachment below the Regulatory Flood Protection Elevation in the floodway, non-encroachment area, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this ordinance.

11.44.1.9. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted except by variance as specified in subsection 11.43.7.10. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in an SFHA only if the structure or tank is either elevated or floodproofed to at least the regulatory flood protection elevation and certified according to subsection 11.43.5 of this Part.

11.44.1.10. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage.

11.44.1.11. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.

11.44.1.12. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

11.44.1.13. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33 U.S.C. 1334.

11.44.1.14. When a structure is partially located in a Special Flood Hazard Area or Shaded X or X flood zone, the entire structure shall meet the requirements for new construction and substantial improvements.

11.44.1.15. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest RFPE shall apply.

11.44.2. Specific Standards.
In Shaded X, X, AE, AO, and VE flood zones as set forth in subsection 11.42.2 and 11.42.3, the following provisions, in addition to subsection 11.44.1 of this section are required:

11.44.2.1. Residential Construction. New construction or substantial improvement of any residential structure shall have the reference level, including the basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A.

11.44.2.2. Non-Residential Construction. New construction and substantial improvement of any commercial, industrial, or other non-residential structure shall have the reference level, including basement, elevated no lower than the regulatory flood protection elevation, as defined in Appendix A. Structures located in AE, AO, Shaded X, and X zones may be floodproofed to the regulatory flood protection elevation in lieu of elevation provided that all areas of the structure, together with attendant utility and sanitary facilities, below the regulatory flood protection elevation are watertight with walls substantially impermeable to the passage of water, using structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. For AO Zones, the floodproofing elevation shall be in accordance Section 11.44.3. and 11.44.5. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the floodplain administrator as set forth in subsection 11.43.5, along with the operational and the inspection and maintenance plan.

11.44.2.3. Recreational Vehicles. Recreational vehicles placed on sites shall either:

11.44.2.3.1. Be on-site for fewer than 180 days; or

11.44.2.3.2. **Be** fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities, and has no permanently attached additions); or

11.44.2.3.3. Meet all the requirements for new construction, including anchoring and elevation requirements of subsection 11.42.3 and subsections 11.44.1 of this section.

11.44.2.4. Elevated Buildings. Fully enclosed areas of new construction and substantially improved structures, which are below the regulatory flood protection elevation in AE, AO, Shaded X, or X Zones:

11.44.2.4.1. Shall not be designed or used for human habitation, but shall only be used for parking of vehicles, building access, or limited storage of maintenance equipment used in connection with the premises. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment (standard exterior door), or entry to the living area (stairway or elevator). The interior portion of such enclosed area shall not be finished or partitioned into separate rooms, except to enclose storage areas;

11.44.2.4.2. Shall not be temperature-controlled or conditioned Non-temperature controlled dehumidifiers may be used in enclosed areas and shall not result in the enclosed area being determined to be conditioned space;

11.44.2.4.3. Shall be constructed entirely of flood-resistant materials, up to the regulatory flood protection elevation;

11.44.2.4.4. Shall not, in areas governed by the local elevation standard, exceed 300 "square feet in area" below the reference level with the exception of crawl space construction, and shall also include flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. For the purposes of this requirement, enclosures shall be measured to the outside of the wall framing (to calculate floor area) excluding the thickness of sheathing, siding, or trim applied to the outside of the framing. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

> ***11.44.2.4.4.1.*** A minimum of two flood openings on different sides of each enclosed area subject to flooding;
>
> ***11.44.2.4.4.2.*** The total net area of all flood openings must be at least one square inch for each square foot of enclosed area subject to flooding or a minimum of one engineered square inch for each square foot of enclosed area for an engineered opening;
>
> ***11.44.2.4.4.3.*** If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
>
> ***11.44.2.4.4.4.*** The bottom of all required flood openings shall be no higher than one foot above the adjacent grade;

11.44.2.4.4.5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and

11.44.2.4.4.6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.

11.44.2.4.5. Shall allow, in coastal high hazard areas (zones VE), open wood latticework or insect screening, provided it is not part of the structural support of the building and is designed so as to breakaway, under abnormally high tides or wave action, without causing damage to the structural integrity of the building.

11.44.2.4.6. Property owners shall be required to execute and record a non-conversion agreement prior to issuance of a building permit declaring that the area below the lowest floor shall not be improved, finished or otherwise converted to habitable space; The Town of Nags Head will have the right to inspect the enclosed area .This agreement shall be recorded with the Dare County Register of Deeds and shall transfer with the property in perpetuity.

11.44.2.4.7*.* Release of restrictive covenant. If a property which is bound by a non-conversion agreement is modified to remove enclosed areas below BFE, then the owner may request release of restrictive covenant after staff inspection and submittal of confirming documentation.

11.44.2.5. Temporary Non-Residential Structures. Prior to the issuance of a floodplain development permit, for a temporary structure, all applicants must submit to the floodplain administrator a plan for the removal of such structures in the event of a hurricane, flash flood or other type of flood warning notification. The following information shall be submitted in writing to the floodplain administrator for review and written approval:

11.44.2.5.1. A specified time period for which the temporary use will be permitted. The time specified should not exceed three months, renewable up to one year;

11.44.2.5.2. The name, address and phone number of the individual responsible for the removal of the temporary structure;

11.44.2.5.3. The time frame prior to the event at which a structure will be removed (i.e.: minimum of 72 hours before landfall of a hurricane or immediately upon flood warning notification);

11.44.2.5.4. A copy of the contract or other suitable instrument with a trucking company to ensure the availability of removal equipment when needed; and

11.44.2.5.5. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area to which the temporary structure will be moved.

11.44.2.6. Accessory Structure. Accessory structures (sheds, detached garages, etc.), shall meet the following criteria:

11.44.2.6.1. Accessory structures with floor area located below the regulatory flood protection elevation shall not be used for human habitation, (including working, sleeping, living, cooking or restroom areas).

11.44.2.6.2. Accessory structures shall not be temperature controlled.

11.44.2.6.3. Any portion of an accessory structure located below the regulatory flood protection elevation shall not exceed 300 "square feet in area."

11.44.2.6.4. Accessory structures shall be designed to have low flood damage potential.

11.44.2.6.5. Accessory structures shall be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters.

11.44.2.6.6. Accessory structures shall be firmly anchored in accordance with subsection 11.44.1.1 of this section.

11.44.2.6.7. All service facilities such as electrical and heating equipment shall be installed in accordance with subsection 11.44.1.4 of this section.

11.44.2.6.8. Flood openings to facilitate automatic equalization of hydrostatic flood forces shall be provided below regulatory flood protection elevation in conformance with subsection 11.44.2.4.3 of this section.

11.44.2.6.9. An accessory structure with a footprint less than 150 square feet or that is a minimal investment of $5,000 or less and that satisfies the criteria outlined above does not require an elevation or floodproofing certificate. Elevation or floodproofing certifications are required for all other accessory structures in accordance with subsection 11.43.5.

11.44.2.6.10. Other secondary structures located on the same parcel, in

addition to a principal use structure, which feature conditioned, temperature-controlled areas elevated above the regulatory flood protection elevation shall be constructed consistent with Section 11.44.1. General Standards and 11.44.2. Specific Standards. The certification requirements of 11.43.5.1. Elevation Certificates shall apply.

11.44.2.6.11. Accessory structures, regardless of the size or cost, shall not be placed below elevated buildings in Coastal High Hazard Areas (CHHA).

11.44.2.7. Additions/Improvements/Conversions.

11.44.2.7.1. Additions and/or improvements to pre-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

11.44.2.7.1.1. Not a substantial improvement, the addition and/or improvements must be designed to minimize flood damages and must not be any more nonconforming than the existing structure.

11.44.2.7.1.2. A substantial improvement, with modifications/rehabilitations/improvements to the existing structure or the common wall is structurally modified more than installing a doorway, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

11.44.2.7.2. Additions to pre-FIRM or post-FIRM structures with no modifications to the existing structure other than a standard door in the common wall shall require only the addition to comply with the standards for new construction.

11.44.2.7.3. Additions and/or improvements to post-FIRM structures when the addition and/or improvements in combination with any interior modifications to the existing structure are:

11.44.2.7.3.1. Not a substantial improvement, the addition and/or improvements only must comply with the standards for new construction consistent with the code and requirements for the original structure.

11.44.2.7.3.2. A substantial improvement, both the existing structure and the addition and/or improvements must comply with the standards for new construction.

11.44.2.7.4. Where an independent perimeter load-bearing wall is provided between the addition and the existing building, the addition(s)

shall be considered a separate building and only the addition must comply with the standards for new construction.

11.44.2.7.5. Any combination of repair, reconstruction, rehabilitation, addition or improvement of a building or structure taking place during a 365 day period, the cumulative cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started must comply with the standards for new construction. For each building or structure, the 365 day period begins on the date of the first improvement or repair of that building or structure subsequent to the effective date of this ordinance. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The requirement does not, however, include either:

11.44.2.7.6. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assume safe living conditions.

11.44.2.7.7. Any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

11.44.2.7.8. Areas in existing structures shall not be converted for use as conditioned, temperature controlled space unless the reference level is located to or above the RFPE.

11.44.2.7.9. Additional Standards in Shaded X and X Flood Zones

11.44.2.7.9.1. The substantial improvement/substantial damage definitions as established in Appendix A, Definitions, do not apply to Shaded X and X zones.

11.44.2.7.9.2. In structures located west of NC 12 and SR 1243 where the reference level of existing conditioned, temperature controlled space is located below the RFPE, such space may be increased by 25% at the same level, without having to be elevated to or above the RFPE.

11.44.2.7.9.3. Remodeling or renovations of existing habitable area in structures with the reference level located below the current applicable RFPE that do not increase the footprint of the structure may be authorized at the existing reference level or higher.

11.44.2.7.9.4. Reconstruction of damaged portions of a structure may be authorized at the existing reference level or higher. However, if a structure is entirely demolished, for

whatever reason, the replacement structure shall be constructed to or above the RFPE.

11.44.2.7.9.5. Structures that are relocated on the same site or to another site shall be elevated to or above the applicable RFPE of the lot or to or above the RFPE of the new site.

11.44.2.7.9.6. Areas in existing structures shall not be converted for use as conditioned, temperature controlled space unless the reference level is located to or above the RFPE.

11.44.2.8. Tanks. When gas and liquid storage tanks are to be placed within the Shaded X, X, AE, AO, or VE flood zones, the following criteria shall be met:

11.44.2.8.1. **Underground tanks.** Underground tanks in flood hazard areas shall be anchored to prevent flotation, collapse or lateral movement resulting from hydrodynamic and hydrostatic loads during conditions of the design flood, including the effects of buoyancy assuming the tank is empty;

11.44.2.8.2. **Above-ground tanks, elevated.** Above-ground tanks in flood hazard areas shall be elevated to or above the Regulatory Flood Protection Elevation on a supporting structure that is designed to prevent flotation, collapse or lateral movement during conditions of the design flood. Tank-supporting structures shall meet the foundation requirements of the applicable flood hazard area;

11.44.2.8.3. **Above-ground tanks, not elevated.** Above-ground tanks that do not meet the elevation requirements of Section 11.44.2.2. of this ordinance shall not be permitted in V or VE Zones. Tanks may be permitted in other flood hazard areas provided the tanks are designed, constructed, installed, and anchored to resist all flood-related and other loads, including the effects of buoyancy, during conditions of the design flood and without release of contents in the floodwaters or infiltration by floodwaters into the tanks. Tanks shall be designed, constructed, installed, and anchored to resist the potential buoyant and other flood forces acting on an empty tank during design flood conditions.

11.44.2.8.4. **Tank inlets and vents.** Tank inlets, fill openings, outlets and vents shall be:

11.44.2.8.4.1. At or above the Regulatory Flood Protection Elevation or fitted with covers designed to prevent the inflow of floodwater or outflow of the contents of the tanks during conditions of the design flood; and

11.44.2.8.4.2. Anchored to prevent lateral movement resulting from hydrodynamic and hydrostatic loads, including the effects

of buoyancy, during conditions of the design flood.

11.44.3. Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243.

Coastal high hazard areas are special flood hazard areas established in subsection 11.42.2 and designated as zones VE.–Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, in addition to meeting all requirements of Part III Flood Damage Prevention, the following provisions shall apply:

11.44.3.1 All new construction and substantial improvements shall:

11.44.3.1.1. Be located landward of the reach of mean high tide;

11.44.3.1.2. Be located landward of the first line of stable natural vegetation; and

11.44.3.1.3. Comply with all applicable Coastal Area Management Act (CAMA) setback requirements.

11.44.3.2. All new construction and substantial improvements shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor (excluding pilings or columns) is no lower than the regulatory flood protection elevation. Floodproofing shall not be utilized on any structures in VE zones to satisfy the regulatory flood protection elevation requirements."

11.44.3.3. All new construction and substantial improvements, including properties with elevations above the regulatory flood protection elevation, shall have the space below the bottom of the lowest horizontal structural member of the lowest floor either be free of obstruction or constructed with open wood latticework or insect screening so as not to impede the flow of floodwaters, provided they are not part of the structural support of the building and are designed so as to breakaway, under abnormally high tides or wave action without causing damage to the elevated portion of the building or supporting foundation system or otherwise jeopardizing the structural integrity of the building in accordance with subsection 11.43.3. The following design specifications shall be met:

11.44.3.3.1. Design plans shall be submitted in accordance with subsection 11.43.3.

11.44.3.3.2. Material shall consist of open wood or plastic lattice having at least 40 percent of its area open, or insect screening.

11.44.3.4. All new construction and substantial improvements shall be securely anchored to an open "pile or column foundation" to allow floodwaters and waves to pass beneath the structure. "All pilings and columns and the structures attached thereto shall be anchored to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components."

> ***11.44.3.4.1.*** Water loading values used shall be those associated with the base flood.
>
> ***11.44.3.4.2.*** Wind loading values used shall be those required by the current edition of the North Carolina State Building Code.

11.44.3.5. All new construction, initiated after the adoption of this UDO, located east of NC 12 and SR 1243 shall limit the total enclosed habitable living space of individual structures to 5,000 square feet. Enclosed habitable living space for large residential dwellings shall also include any enclosed habitable space that may be present in any accessory structure or accessory dwelling that is located on the same lot as the principal structure.

11.44.3.6. For concrete pads, including patios, decks, parking pads, walkways, driveways, pool decks, etc. the following is required:

> ***11.44.3.6.1.*** Shall be structurally independent of the primary structural foundation system of the structure and shall not adversely affect structures through redirection of floodwaters or debris; and
>
> ***11.44.3.6.2.*** Shall be constructed to breakaway cleanly during design flood conditions, shall be frangible, and shall not produce debris capable of causing damage to any structure. (The installation of concrete in small segments (approximately 4 feet x 4 feet) that will easily break up during the base flood event, or score concrete in 4 feet x 4 feet maximum segments is acceptable to meet this standard); and
>
> ***11.44.3.6.3.*** Reinforcing, including welded wire fabric, shall not be used in order to minimize the potential for concreted pads being a source of debris; and
>
> ***11.44.3.6.4.*** Pad thickness shall not exceed 4 inches; or
>
> ***11.44.3.6.5.*** Provide a Design Professional's certification stating the design and method of construction to be used meet the applicable criteria of this section.

11.44.3.7. For swimming pools and spas, the following is required:

> ***11.44.3.7.1.*** Be designed to withstand all flood-related loads and load combinations.

11.44.3.7.2. Be elevated so that the lowest horizontal structural member is elevated above the RFPE; or

11.44.3.7.3. Be designed and constructed to break away during design flood conditions without producing debris capable of causing damage to any structure; or

11.44.3.7.4. Be sited to remain in the ground during design flood conditions without obstructing flow that results in damage to any structure.

11.44.3.7.5. Registered design professionals must certify to local officials that a pool or spa beneath or near a VE Zone building will not be subject to flotation or displacement that will damage building foundations or elevated portions of the building or any nearby buildings during a coastal flood.

11.44.3.7.6. Pool equipment shall be located above the RFPE whenever practicable. Pool equipment shall not be located beneath an elevated structure.

11.44.3.8. All elevators, vertical platform lifts, chair lifts, etc., the following is required:

11.44.3.8.1. Elevator enclosures must be designed to resist hydrodynamic and hydrostatic forces as well as erosion, scour, and waves.

11.44.3.8.2. Utility equipment in Coastal High Hazard Areas (VE Zones) must not be mounted on, pass through, or be located along breakaway walls.

11.44.3.8.3. The cab, machine/equipment room, hydraulic pump, hydraulic reservoir, counter weight and roller guides, hoist cable, limit switches, electric hoist motor, electrical junction box, circuit panel, and electrical control panel are all required to be above RFPE. When this equipment cannot be located above the RFPE, it must be constructed using flood damage-resistant components.

11.44.3.8.4. Elevator shafts/enclosures that extend below the RFPE shall be constructed of reinforced masonry block or reinforced concrete walls and located on the landward side of the building to provide increased protection from flood damage. Drainage must be provided for the elevator pit.

11.44.3.8.5. Flood damage-resistant materials can also be used inside and outside the elevator cab to reduce flood damage. Use only stainless steel doors and door frames below the BFE. Grouting in of door frames and sills is recommended.

11.44.3.8.6. If an elevator is designed to provide access to areas below the BFE, it shall be equipped with a float switch system that will activate during a flood and send the elevator cab to a floor above the RFPE.

11.44.3.9. Accessory structures, regardless of size or cost, shall not be permitted below elevated structures.

11.44.3.10. A registered professional engineer, professional land surveyor, or architect shall certify that the design, specifications and plans for construction are in compliance with the provisions contained in subsection 11.43.2, subsections 11.44.3.1 and 11.44.3.2, subsection 11.44.3.4 and subsection 11.44.3.6 of this Part on the current version of the North Carolina "National Flood Insurance Program V-Zone Certification" form or equivalent local version. In addition, prior to the Certificate of Compliance/Occupancy issuance, the floodplain administrator may require a registered professional engineer or architect to-certify the finished construction is compliant with the design, specifications and plans for VE Zone construction if determined necessary.

11.44.3.11. Fill/Grading

11.44.3.11.1. The placement of site-compatible, non-structural fill under or around an elevated building is limited to two (2) feet. Fill greater than two (2) feet must include an analysis prepared by a qualified registered design professional demonstrating no harmful diversion of floodwaters or wave runup and wave deflection that would increase damage to adjacent elevated buildings and structures. Excavated material moved or relocated onsite is considered fill.

11.44.3.11.2. The fill material must be similar and consistent with the natural soils in the area.

11.44.3.11.3. Minor grading and the placement of minor quantities of nonstructural fill, outside the areas referenced in 11.44.3.11.1., may be permitted for landscaping and for drainage purposes under and around buildings and for support of parking slabs, pool decks, patios and walkways.

11.44.3.11.4. Nonstructural fill with finished slopes that are steeper than five (5) units horizontal to one (1) unit vertical shall be permitted only if an analysis prepared by a qualified registered design professional demonstrates no harmful diversion of floodwaters or wave runup and wave deflection that would increase damage to adjacent elevated buildings and structures.

11.44.3.12. There shall be no alteration of sand dunes or mangrove stands which would increase potential flood damage.

11.44.3.13. Recreational vehicles may be permitted in coastal high hazard areas provided that they meet the recreational vehicle criteria of subsection 11.44.2.3 of this section and the temporary structure provisions of subsection 11.44.2.5 of this section.

11.44.3.14. A deck that is structurally attached to a building or structure shall have the bottom of the lowest horizontal structural member at or above the Regulatory Flood Protection Elevation and any supporting members that extend below the Regulatory Flood Protection Elevation shall comply with the foundation requirements that apply to the building or structure, which shall be designed to accommodate any increased loads resulting from the attached deck. The increased loads must be considered in the design of the primary structure and included in the V-Zone Certification required under Section 11.43.5.6.

11.44.3.15. A deck or patio that is located below the Regulatory Flood Protection Elevation shall be structurally independent from buildings or structures and their foundation systems, and shall be designed and constructed either to remain intact and in place during design flood conditions or to break apart into small pieces to minimize debris during flooding that is capable of causing structural damage to the building or structure or to adjacent buildings and structures.

11.44.3.16. In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave deflection that would increase damage to adjacent buildings and structures. Such other development activities include but are not limited to:

11.44.3.16.1. Bulkheads, seawalls, retaining walls, revetments, and similar erosion control structures;

11.44.3.16.2. Solid fences and privacy walls, and fences prone to trapping debris, unless designed and constructed to fail under flood conditions less than the design flood or otherwise function to avoid obstruction of floodwaters.

11.44.3.16.3. Docks, piers, and similar structures.

11.44.3.17. No more than four (4) electrical outlets and no more than four (4) electrical switches may be permitted below RFPE unless required by building code.

11.44.5. Standards for Areas Of Shallow Flooding (Zone AO). Located within the Special Flood Hazard Areas established in Article 3, Section B, are areas

designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. In addition to Sections 11.44.1. and 11.44.2., all new construction and substantial improvements shall meet the requirements of Section 11.44.3. Coastal High Hazard Areas (Zones VE) and Properties East of NC 12 and SR 1243.

SECTION 11.45 REMEDIES.

Any violation of this Article 11, Part III shall be subject to the remedies as stated in Section 1.10, Violation of UDO Regulations of this UDO.

SECTION 11.46 LEGAL STATUS PROVISIONS.

11.46.1. Effect on Rights and Liabilities Under the Existing Flood Damage Prevention Ordinance.

This Article 11, Part III in part comes forward by re-enactment of some of the provisions of the flood damage prevention ordinance enacted February 3, 1975 as amended, and it is not the intention to repeal but rather to re-enact and continue to enforce without interruption of such existing provisions, so that all rights and liabilities that have accrued thereunder are reserved and may be enforced. The enactment of this Article 11, Part III shall not affect any action, suit or proceeding instituted or pending. All provisions of the flood damage prevention ordinance of the Town of Nags Head enacted on February 3, 1975, as amended, which are not reenacted herein are repealed.

11.46.2. Effect Upon Outstanding Floodplain Development Permits.
Nothing herein contained shall require any change in the plans, construction, size, or designated use of any development or any part thereof for which a floodplain development permit has been granted by the floodplain administrator or his or her authorized agents before the time of passage of this Article 11, Part III; provided, however, that when construction is not begun under such outstanding permit within a period of six (6) months subsequent to the date of issuance of the outstanding permit, construction or use shall be in conformity with the provisions of this Article 11, Part III.

11.46.3. Severability.
If any section, clause, sentence, or phrase of the Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this Ordinance.

SECTION 11.47 EFFECTIVE DATE.
This ordinance shall become effective June 19, 2020.

SECTION 11.48 ADOPTION CERTIFICATION.
I hereby certify that this is a true and correct copy of the Flood Damage Prevention Ordinance as adopted by the Board of Commissioners of the Town of Nags Head, North Carolina, on the Day (number or text) day of Month, 2020.

WITNESS my hand and the official seal of insert Name, Title, this the Day (number or text) day of Month, 2020.

_____

(signature)

<u>SECTION 11.49 – 11.50 RESERVED.</u>

PART II. That **Appendix A. Definitions** be amended with the addition of the following new terms and definitions in appropriate alphabetical order:

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting foundation system (for the purposes of Article 11, Part III, Flood Damage Prevention).

Enclosure/Enclosed Area means that portion of an elevated building below the lowest elevated floor that is either partially or fully shut in by rigid/solid walls and is located either partially or fully below the RFPE.

Local Elevation Standard means a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in the Shaded X, X, AE, AO, VE, as depicted on the FIRMs for Nags Head. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall. Many of these areas have repetitively flooded and continue to remain at risk to flooding.

Map Repository means the location of the official flood hazard data to be applied for floodplain management. It is a central location in which flood data is stored and managed; in North Carolina, FEMA has recognized that the application of digital flood hazard data products carries the same authority as hard copy products. Therefore, the NCEM's Floodplain Mapping Program websites house current and historical flood hazard data. For effective flood hazard data, the NC FRIS website (http://FRIS.NC.GOV/FRIS) is the map repository, and for historical flood hazard data the FloodNC website (http://FLOODNC.GOV/NCFLOOD) is the map repository.

Secondary Structure means a structure that features habitable conditioned space above the RFPE located on the same parcel as a primary use structure. A secondary structure is not an accessory structure as defined in this section. A secondary structure is subject to the same standards as a primary use structure.

Shaded X Zone means areas of moderate flood hazard shown on the FIRM and are the areas between the limits of the base flood and the 0.2% annual chance for flood. Also commonly referred to as the 500-year flood.

X Zone means the areas of minimal flood hazard shown on the FIRM which are areas outside of the Special Flood Hazards Areas and higher than the elevation of the 0.2% annual flood chance. Also referred to as Unshaded X zone.

PART III. That **Appendix A. Definitions** be amended by deleting the existing definitions for the following terms and replacing with the definitions as provided:

Building means any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other purposes. For the purposes of Article 11, Part III, Flood Damage Prevention, see the definition for Structure.

Coastal high hazard area means a Special Flood Hazard Area extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on a FIRM, or other adopted flood map as determined in Article 11, Part III, Flood Damage Prevention, as Zone VE, or any property east of NC 12 and SR 1243.

Development means any land disturbing activity that increases the amount of built-upon area or that otherwise decreases the infiltration of precipitation into the soil or any man-made change to improved or unimproved real estate including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials, not including existing residential or commercial development already in place.

Existing building and existing structure means any building and/or structure for which the “start of construction” commenced before the community entered the NFIP, dated November 10, 1972.

Fill is the depositing of soil, rock or other earthen materials by artificial means, but not including poured slab, asphalt, porous pavement, Turfstone™, or other manmade materials or surfaces designed in association with construction. Excavated material moved or relocated onsite is considered fill.

Flood Insurance Rate Map (FIRM) means an official map of a community issued by the Federal Emergency Management Agency on which both the special flood hazard areas and the risk premium zones applicable to the community are delineated (also see DFRIM).

Floodway encroachment analysis means an engineering analysis of the impact that a proposed encroachment into a floodway or non-encroachment area is expected to have on the floodway boundaries and flood levels during the occurrence of the base flood discharge. The evaluation shall be prepared by a qualified North Carolina licensed engineer using standard engineering methods and hydraulic models meeting the minimum requirement of the National Flood Insurance Program.

Freeboard means the height added to the BFE to account for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, blockage of bridge

or culvert openings, storm surge or precipitation exceeding the base flood and the hydrological effects of urbanization on the watershed. The base flood elevation plus the freeboard establishes the "regulatory flood protection elevation."

Height means the vertical distance measured from the tallest part of a building to the ground at the base of the building. Typically, height is measured from the tallest portion of the roof to the top of the concrete slab. In cases where a concrete slab is not present, height is measured from the tallest part of the roof to the average finished grade using the corners at the base of the building.

- In Shaded X, X, or AE special flood hazard area west of NC 12 and SR 1243, as defined in 11.42.3.1.2, 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.

- In coastal high hazard areas and VE zones east of NC 12 and SR 1243 as defined in 11.42.3.1.1., height shall be measured from regulatory flood protection elevation (lowest horizontal structural member). 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 (free-of-obstruction).

Existing manufactured home park or manufactured home subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, either final site grading or the pouring of concrete pads, and the construction of streets) was completed before February 3, 1975 (for the purposes of Article 11, Part III, Flood Damage Prevention).

Post-FIRM means construction or other development for which the start of construction occurred on or after December 31, 1974, the effective date of the initial Flood Insurance Rate Map.

Pre-FIRM means construction or other development for which the start of construction occurred before November 10, 1972, the effective date of the initial Flood Insurance Rate Map.

Recreational vehicle (RV) means a vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light-duty truck; designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use; and is fully licensed and ready for highway use.

Reference level is:

(1) The reference level is the bottom of the lowest floor or the bottom of the lowest attendant utility including ductwork, whichever is lower, with only

flood resistant materials located below the reference level west of NC 12 and SR 1243.

(2) The reference level is the bottom of the lowest horizontal structural member of the lowest floor for structures in Coastal High Hazard Areas (CHHA) east of NC 12 and SR 1243.

Regulatory flood protection elevation means the Local Elevation Standard (LES). *The Local Elevation Standard is a locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in the Shaded X, X, AE, AO, VE, as depicted on the FIRMs for Nags Head. These areas may be vulnerable to flooding from storm surge, wind-driven tides, and excessive rainfall. Many of these areas have repetitively flooded and continue to remain at risk to flooding.*

Coastal High Hazard Areas (CHHA) - Properties located to the east of NC 12 and SR 1243 are located in an active oceanfront environment that is vulnerable to storm surge, erosion, sea level rise, and other hazards. These areas have special flood hazards associated with high velocity waters from storm surges or seismic activity and, therefore, the RFPE is 12 feet NAVD 1988.

Properties west of NC 12 and SR 1243 - The RFPE for properties located west of NC 12 and SR 1243 and in flood zones Shaded X, X, or AE, is 10 feet NAVD 1988. This includes properties abutting US 64, also known as the Causeway.

Substantial improvement means any combination of repairs, reconstruction, rehabilitation, addition or other improvement of a structure, taking place during any one-year period for which the cost equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

(1) Any correction of existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to ensure safe living conditions; or

(2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure and the alteration is approved by variance issued pursuant to 11.43.7. Variance Procedures.

Technical bulletin and technical fact sheet mean a FEMA publication that provides guidance concerning the building performance standards of the NFIP, which are contained in Title 44 of the U.S. Code of Federal Regulations at Section 60.3. The bulletins and fact sheets are intended for use primarily by State and local officials responsible for interpreting and enforcing NFIP regulations and by members

of the development community, such as design professionals and builders. New bulletins, as well as updates of existing bulletins, are issued periodically as needed. The bulletins do not create regulations; rather they provide specific guidance for complying with the minimum requirements of existing NFIP regulations. It should be noted that Technical Bulletins and Technical Fact Sheets provide guidance on the minimum requirements of the NFIP regulations. State or community requirements that exceed those of the NFIP take precedence. Design professionals should contact the community officials to determine whether more restrictive State or local regulations apply to the building or site in question. All applicable standards of the State or local building code must also be met for any building in a flood hazard area.

PART IV. That **Article 4. Development Review Process, Section 4.11 Permit Types** be deleted and replaced with the following:

4.11.3. Floodplain Development Permit.
Floodplain Development Permits are can be issued in combination with a zoning, land disturbance, and/or building permit or as a stand-alone permit for any development within the Special Flood Hazard Area (SFHA) Shaded X, X, AE, AO, and VE flood zones.

PART V. That **Section 4.12.2.1., For All Types of Development Activity**, be deleted and replaced with the following:

4.12.2.1 For All Types of Development Activity.

- Site plan/survey
  - Property information- address, ownership, lot number/map book/page reference
  - Existing and proposed development including but not limited to streets, topographic and natural features, and drainage
- Coastal Area Management Act (CAMA) Permit.
- Wastewater approval from Dare County Health Department or NC Department of Environmental Quality.
- Erosion control approval is issued with general development for projects disturbing more than 5,000 square feet (see Article 11, Part II).
- Flood (if in a Special Flood Hazard Area, Shaded X, or X Zone, see Article 11, Part III).
- Stormwater management (for projects which propose filling greater than one foot or for all new commercial construction, see Article 11, Part I).

- Architecture (for residential structures greater than 3,500 square feet, see UDO Section 7.4., Dwelling, Large Residential).

- Utility connections (see Town Code Chapter 44).

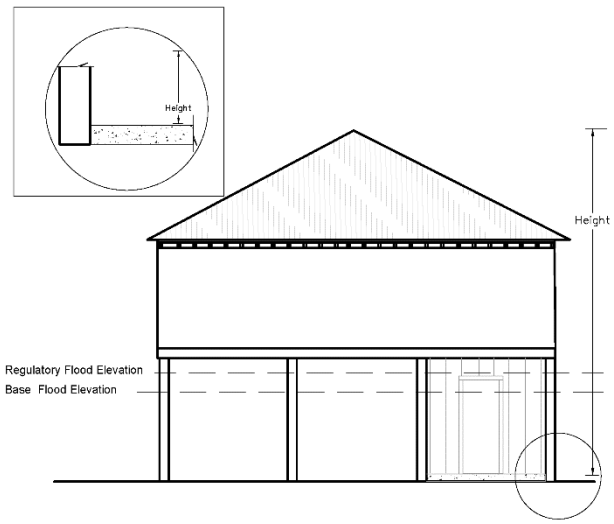
- Any other State or Federal Permits

PART VI. That **Section 8.6.4. Building Height and the subsections thereof** be deleted and replaced with the following:

8.6.4. Building Height.

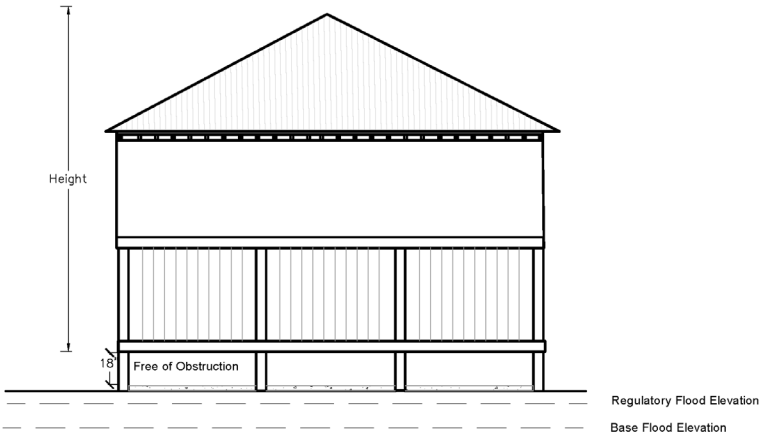
8.6.4.1. Measurement of height. Height means the vertical distance measured from the tallest part of a building to the ground at the base of the building. Typically, height is measured from the tallest portion of the roof to the top of the concrete slab. In cases where a concrete slab is not present, height is measured from the tallest part of the roof to the average finished grade using the corners at the base of the building.

8.6.4.1.1. In Shaded X, X, or AE special flood hazard area west of NC 12 and SR 1243, as defined in 11.42.3.1.2., 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.



8.6.4.1.1. West of NC 12 and SR 1243: Flood Zone- Height

8.6.4.1.2. In coastal high hazard areas and VE zones east of NC 12 and SR 1243 in as defined in 11.42.3.1.1., height shall be measured from regulatory flood protection elevation (lowest horizontal structural member). 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 (free-of-obstruction).



8.6.4.1.2. East of NC 12 and SR 1243: Flood Zone- Height

PART VII. That **Section 11.5.3. Standard for Depth or Elevation of Fill and the subsections thereof** be deleted and replaced with the following:

11.5.3. Standard for Depth or Elevation of Fill.
Any residential or duplex development or redevelopment which utilizes fill shall be limited to the following standards:

11.5.3.1. Properties East of NC 12 and SR 1243.

11.5.3.1.1. Fill shall be subject to the provisions of Section 11.44.3.11.

11.5.3.1.2. Areas of fill exceeding the height of existing grade shall not exceed ten (10) percent of the lot area (see Article 8, District Development Standards), excluding the footprint of the active drainfield and septic system as approved by the Dare County Health Department in accordance with the septic permit. Lot area is defined as that portion of the lot landward of the first line of stable vegetation as defined by CAMA.

11.5.3.1.3. No bulkheads are allowed.

11.5.3.2. Properties West of NC 12 and SR 1243.

11.5.3.2.1. In areas where the most recent Flood Insurance Rate Map (FIRM) provides a base flood elevation for a subject property, fill shall not be permitted to exceed the base flood elevation except in cases where it is placed directly beneath a slab that is designed to meet the base flood

elevation depicted on the FIRM. In these instances, fill may exceed the base flood elevation by up to twelve inches (12”) to support a turn-down or thickened edge slab or beneath a slab that is supported by a ring-wall style foundation. Fill placed above the base flood elevation shall not extend beyond the outside edge of the slab.

11.5.3.2.1. In areas where the most recent Flood Insurance Rate Map (FIRM) provides no base flood elevation, fill shall not exceed the amount required for wastewater permits required by the Dare County Health Department, or two feet (2’) above pre-development surface elevation, whichever is greater.

ARTICLE III. 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 IV. Effective Date.

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

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST: _____
Carolyn F. Morris, Town Clerk

APPROVED AS TO FORM:
Town Attorney
Date adopted: _____
Motion to adopt by Commissioner _____
Motion seconded by Commissioner _____
Vote: ____ AYES ____ NAYS

Flood Map & Flood Damage Prevention Ordinance

Planning Board

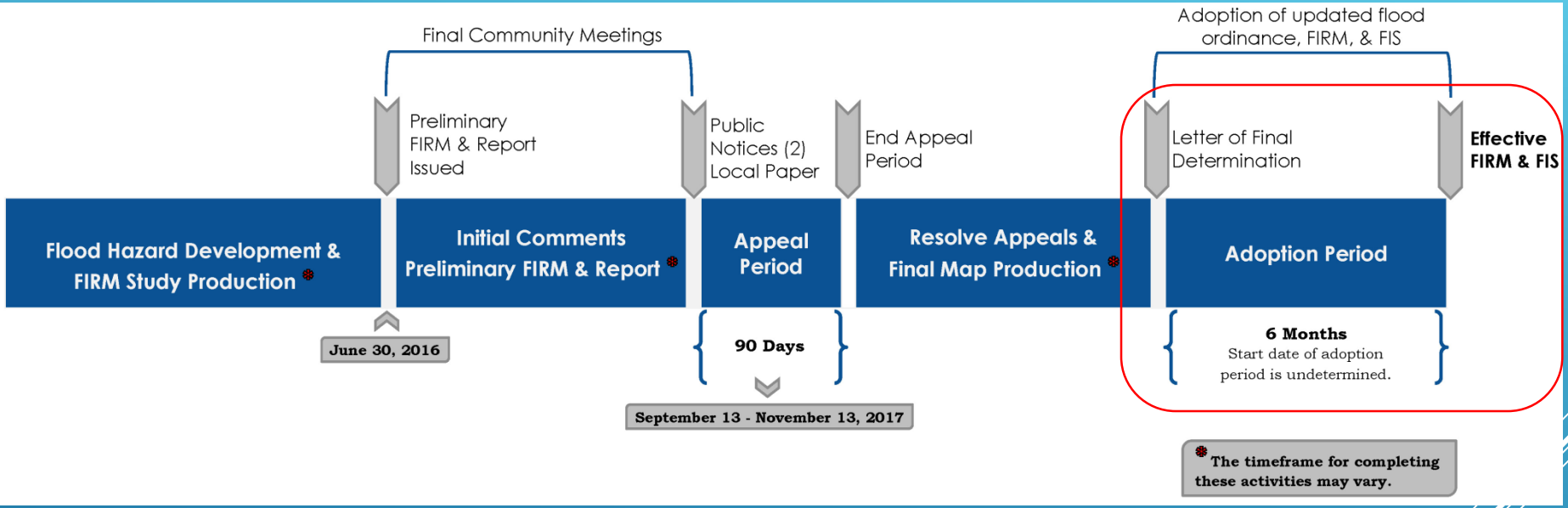
April 1, 2020

FLOOD MAP REVISIONS

- New preliminary flood maps released for Dare County – June 30, 2016
- Last update September 20, 2006
- NC Floodplain Mapping-Digital FIRMs

  http://fris.nc.gov/fris/
- Must adopt the maps, study, and ordinance by June 19, 2020

TIMELINE


Final Community Meetings
Adoption of updated flood ordinance, FIRM, & FIS
Preliminary FIRM & Report Issued
Public Notices (2) Local Paper
End Appeal Period
Letter of Final Determination
Effective FIRM & FIS
Flood Hazard Development & FIRM Study Production
Initial Comments Preliminary FIRM & Report
Appeal Period
Resolve Appeals & Final Map Production
Adoption Period
June 30, 2016
90 Days
September 13 - November 13, 2017
6 Months
Start date of adoption period is undetermined.
The timeframe for completing these activities may vary.

MAJOR CHANGES TO PRELIMINARY FIRMS

- Fewer VE zone properties
- Fewer AE zone properties, particularly west of NC 12
- Removal of causeway properties from VE zone
- Increase in X zone properties town wide
- Base flood elevations reduced in AE zone; most new BFE's are 4 or 5, formerly 8-10.
- Base flood elevations modified in VE zone; range from 10' – 12'; formerly 11' through entire town
- Addition of AO zones west of primary frontal dune

FLOOD DAMAGE PREVENTION ORDINANCE

The standards for AE and VE Flood Zones largely remain the same.

- State Model Ordinance updates
- Local LES language

Draft ordinance available:

www.nagsheadnc.gov/floodmaps

STATE REVIEW & COMMENT

- 11.41.1. Statutory Authorization- update with new 160D references
- 11.43.5.5.3.- strike template language of "Insert Cost of Structure)
- 11.43.7.7. Add word "be".

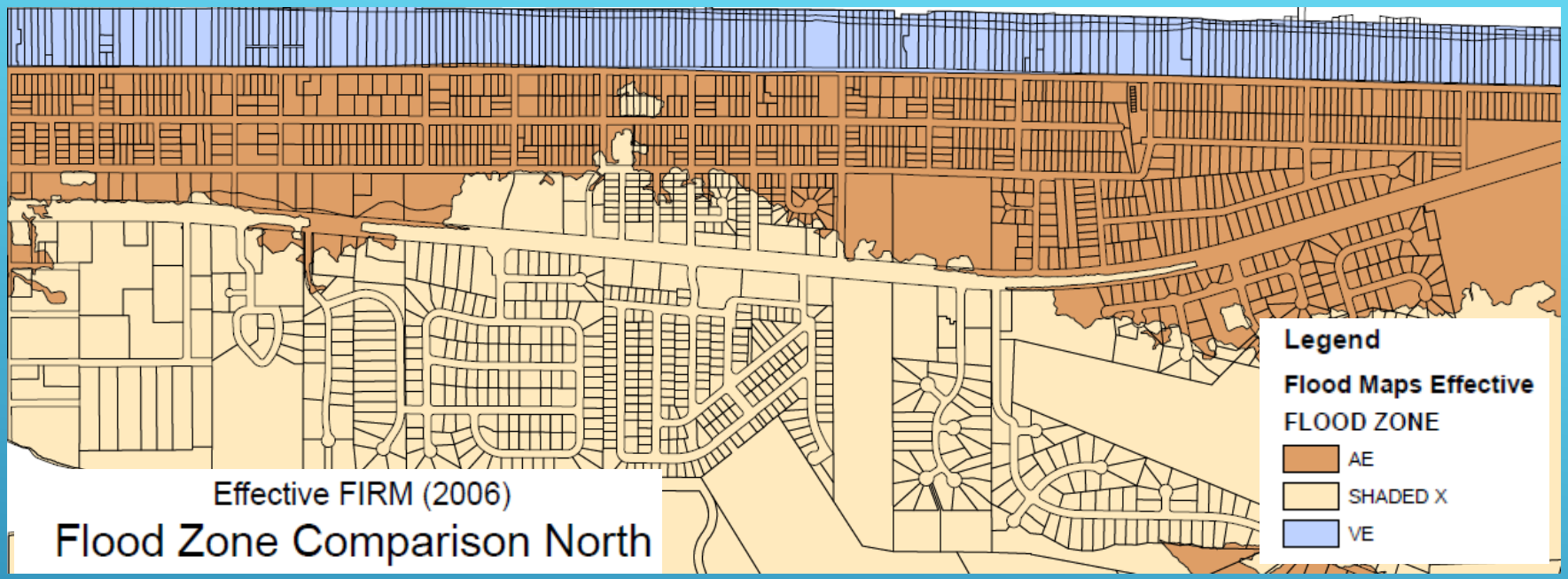
Any applicant to whom a variance is granted shall be given written notice specifying the difference between the RFPE and the elevation to which the structure is to be built

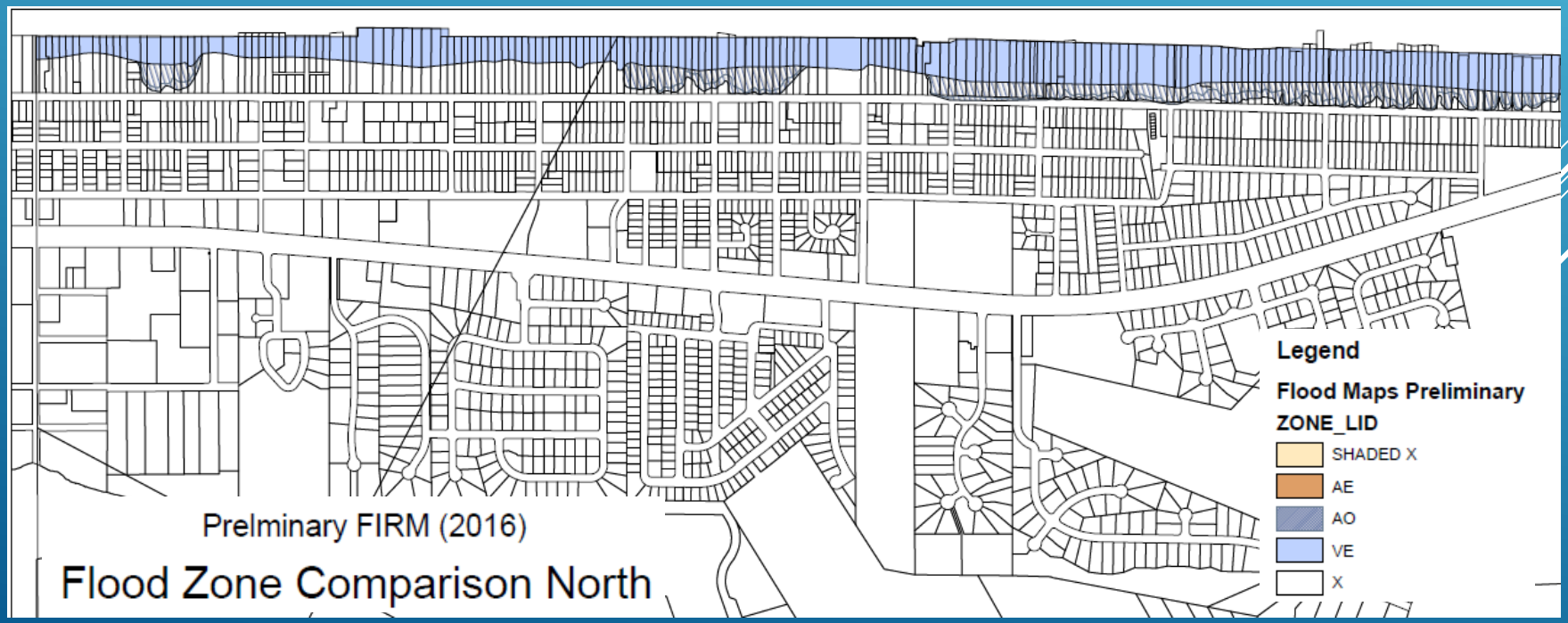
STATE REVIEW & COMMENT

- 11.44.3.2.- Add the following:

"Floodproofing shall not be utilized on any structures in VE zones to satisfy the regulatory flood protection elevation requirements."

- Modify the date utilized in the definition of "Existing manufactured home park" to reflect Insert the date of the community's initial floodplain regulations- *February 3, 1975*.
- Amend the definition of "Pre-Firm" to reflect the initial FIRM date of *November 10, 1972*.


Legend
Flood Maps Effective
FLOOD ZONE
AE
SHADED X
VE
Effective FIRM (2006)
Flood Zone Comparison North


Legend
Flood Maps Preliminary
ZONE_LID
SHADED X
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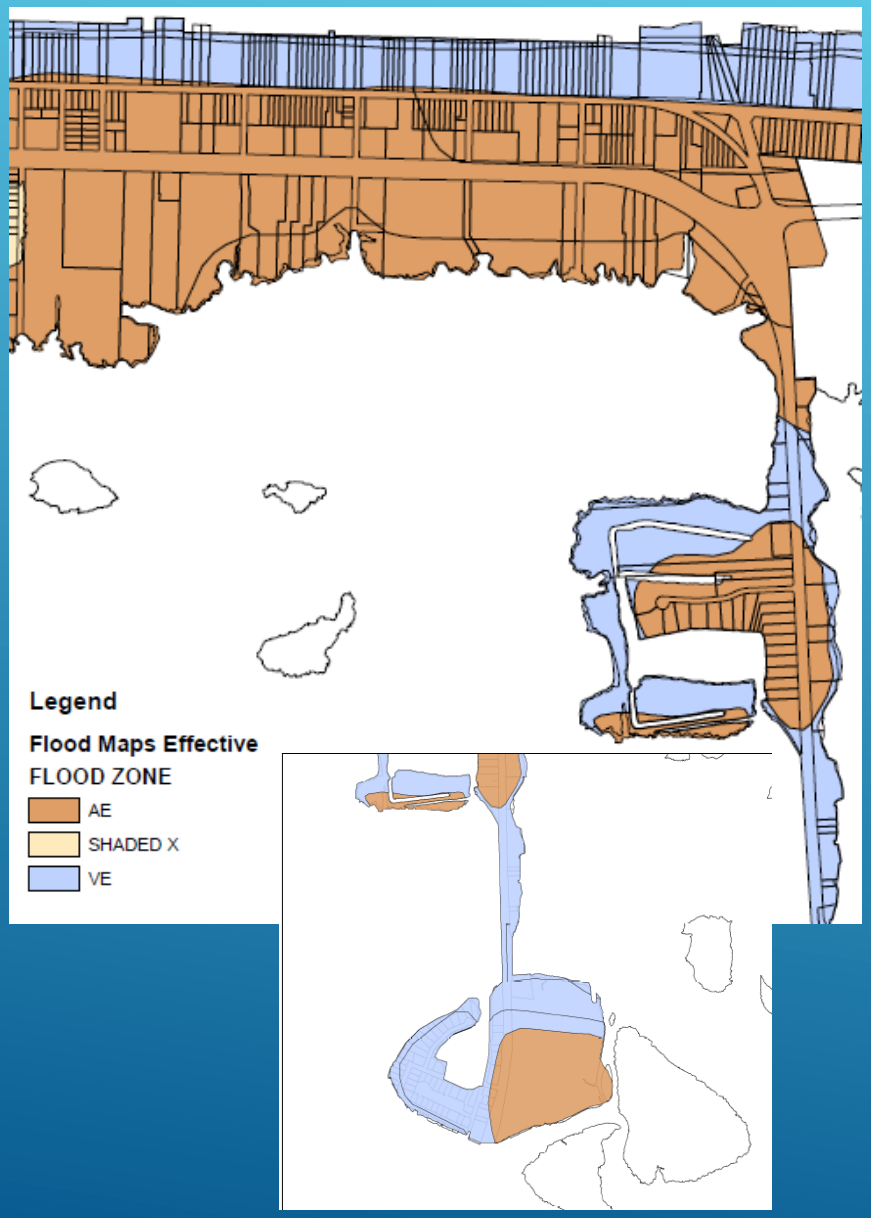
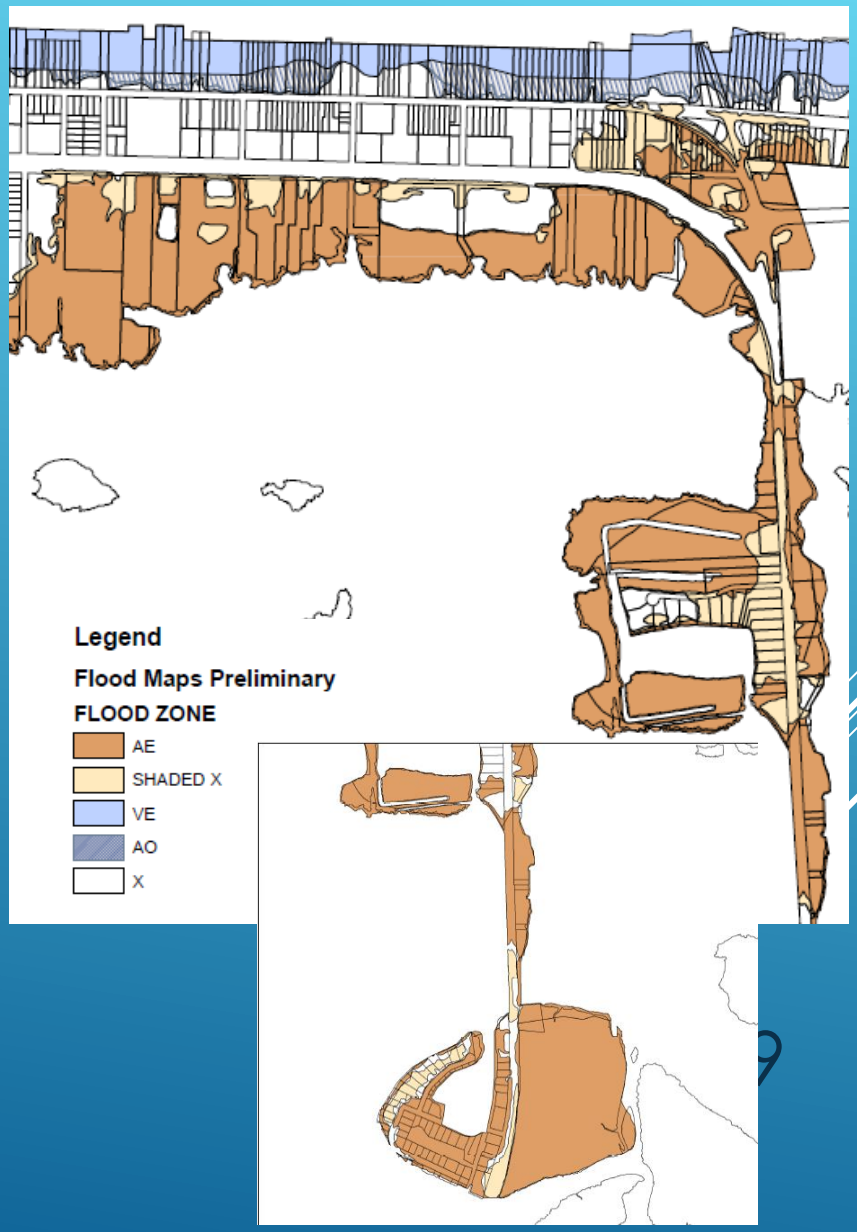
AO
VE
X
Prelminary FIRM (2016)
Flood Zone Comparison North

Flood Zone Comparison South

Effective FIRM (2006)

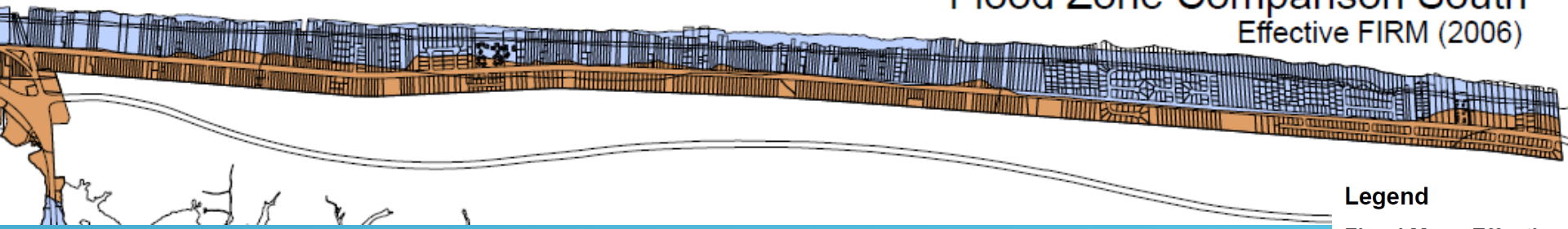


Prelminary FIRM (2016)



Flood Zone Comparison South

Effective FIRM (2006)



Legend

Flood Maps Effective

FLOOD ZONE

- AE
- SHADED X
- VE

Prelminary FIRM (2016)

Legend

Flood Maps Preliminary

FLOOD ZONE

- AE
- SHADED X
- VE
- AO
- X

CREATION OF LOCAL ELEVATION STANDARD (LES)

- Locally adopted elevation level used as the Regulatory Flood Protection Elevation (RFPE) to mitigate flood hazards in Shaded X and X, AE, AO, or VE flood zones as depicted on the FIRMS for Nags Head.

BENEFITS OF LES

- The town is proactively regulating based on known historical risk.
- The model flood damage prevention ordinance, the terminology, and standards are consistent between the town and the rest of the county.
- Allows property owners to experience a decrease in flood insurance premiums, but allows the town to regulate using a local elevation standard based on known flooding risk.
- Avoid future loss and risk to property owners for new construction and additions.
- The LES protects against future costly insurance rate increases for non-conforming construction. The new maps should positively affect insurance rates for many property owners which may cause owners to cancel flood insurance coverage. However, if flood maps are updated in the future to reflect expanded flood zones or higher BFE's, these properties may become non-conforming and face costly insurance rate increases.

LOCAL ELEVATION STANDARD

- East of 12/1243:

  12' and VE construction requirements

- For non-oceanfront areas (west of NC 12 or SR 1243 and the Causeway):

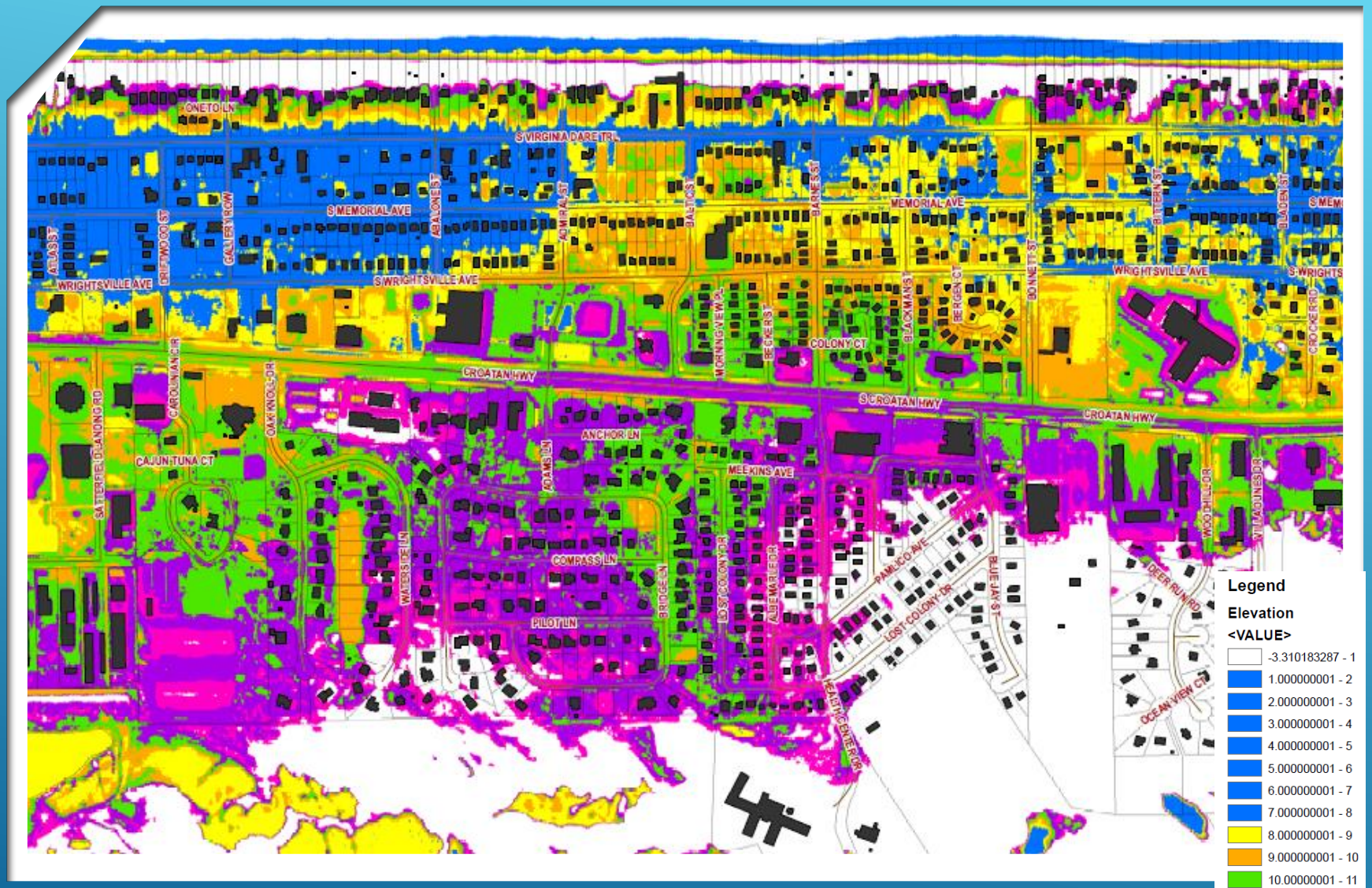
  10' feet would be required for all new construction

The Town will adopt the FIRM for flood insurance purposes.

HOW THE LES AFFECTS PROPERTY

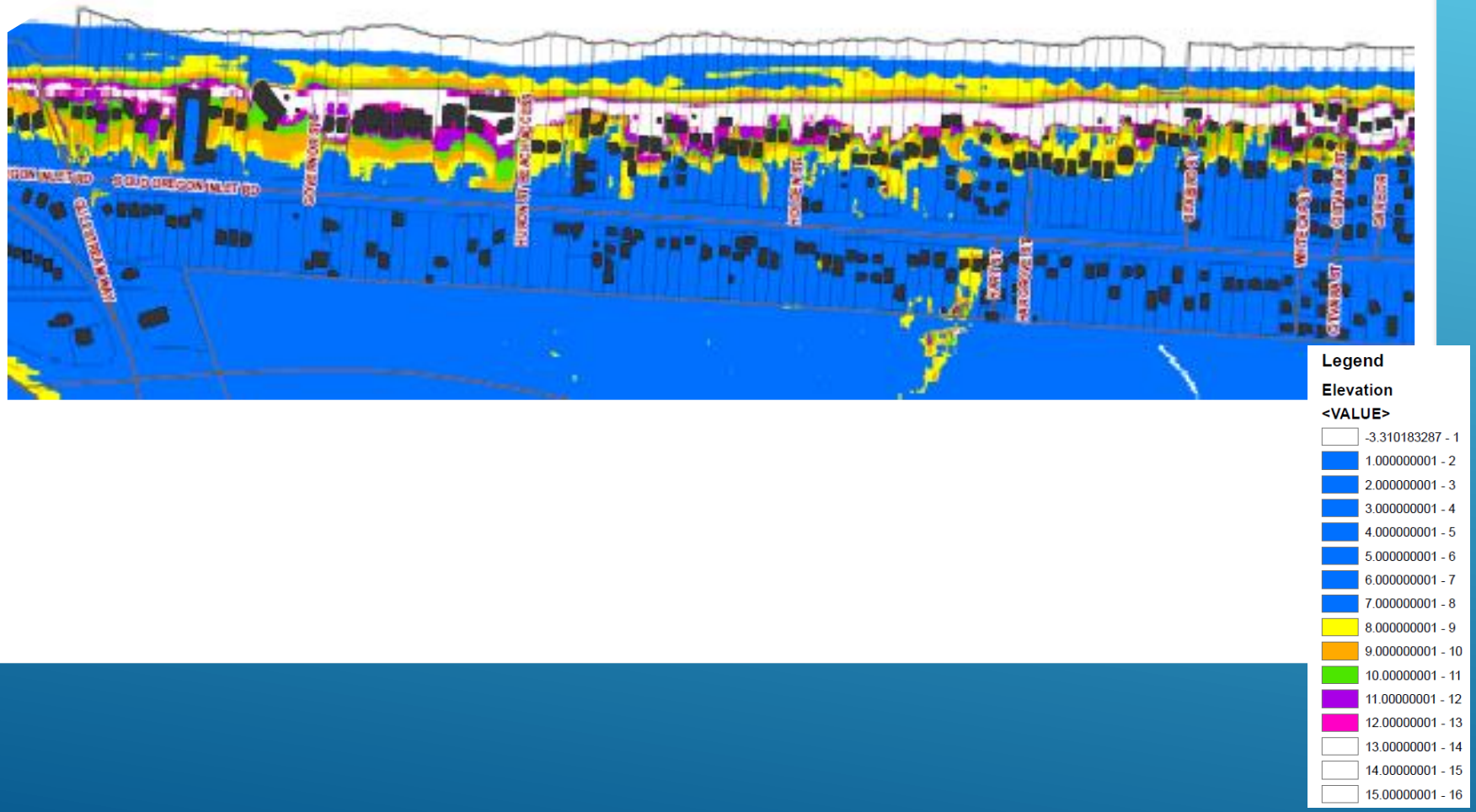
- East of 12/1243: Treat as V Zone with V zone requirements; no enclosures
- West of 12/1243: Treat as AE; Limit enclosures 300 sq. ft. or less
- Existing structures: Areas cannot be converted for temperature controlled space unless meets RFPE
- Section 11.44.2.7.9., Standards in Shaded X and X:
  - Substantial improvement/damage definitions do not apply
  - Lateral additions- structures located west of NC 12 and SR 1243 (where the reference level of existing conditioned, temperature controlled space is located below the RFPE)- may be increased by 25% at the same level, without having to be elevated to or above the RFPE
  - Remodeling/renovations existing habitable area- allowed as long as footprint does not increase.

Northern Nags Head- Ground Elevations



Central Nags Head- Ground Elevations

South Nags Head- Ground Elevations



NAGS HEAD ANALYSIS

1,004/19% structures(Existing FEMA non-compliance)

1,178/22% structures (Proposed LES non-compliance)

174 structures (non-compliance)

3%

1,178 non-compliant structures

78%

Non-compliant structures will be within an X flood zone with an LES of 10'.

Why is this significant?

Properties could build on grade without an LES.

All of these properties have ground elevations below 11'.

House built- 1972

Lot area- 11,325 sq. ft.

Ground Elevations- 6.5-6.7

First Floor- 9.7

Building/Decks- 1,363 sq. ft.

Concrete parking/drives- 559 sq. ft.

Total lot existing coverage-

1,921 sq. ft. (16.9%)

Allowable lot coverage (33%)- 3,737.25 sq. ft.

Available coverage- 1,816.25 sq. ft. (16.1%)

House built- 1972

Lot area- 11,325 sq. ft.

Ground Elevations- 6.5-6.7

First Floor- 9.7

First floor area- 768 sq. ft.

25% lateral addition- 192 sq. ft.

Available coverage- 1,816.25 sq. ft. (16.1%)

Minus lateral addition- 192 sq. ft.

Remaining coverage- 1,624.25 sq. ft.

Early March

Community Information Meeting

1 Apr.

Planning Board Meeting; consider recommendation

15 Apr.

Board of Commissioners Consent Agenda; request to schedule public hearing

6 May

Board of Commissioners Public Hearing; Final Action (or continued consideration to June 3 meeting)

19 June

Effective Date

(must be no later than)

NEXT STEPS

STAFF CONTACTS

- Planning Director- Michael Zehner (252.449.6044) or michael.zehner@nagsheadnc.gov
- Deputy Planning Director Kelly Wyatt (252.449.6042) or kelly.wyatt@nagsheadnc.gov
- Principal Planner Holly White (252.449.6041) or holly.white@nagsheadnc.gov
- Chief Building Inspector/Floodplain Administrator Cory Tate (252.449.6043) or cory.tate@nagsheadnc.gov
- Senior Building Inspector Steve Szymanski (252.449.2005) or steve.szymanski@nagsheadnc.gov

Tuesday, March 31, 2020

Town of Nags Head Planning Board
P.O. Box 99
Nags Head, NC 27959

Dear Chairman Vaughan and planning board members,

Thank you for your leadership as our community works to maximize its resilience by revising the Flood Damage Prevention Ordinance (FDPO) in preparation for the 2020 Flood Insurance Rate Map (FIRM)'s June 19 effective date. The over 500 members of the Outer Banks Home Builders Association (OBHBA) appreciate the complexity of the task before you and welcome the opportunity this process presents us to apply our professional knowledge in service to the town. We are thankful for planning staff's responsiveness to our members' recommendations as the ordinance has developed in recent months, and are confident the draft before you potentiates sound solutions to the challenges the 2020 FIRM poses for construction and development standards. We remain concerned, however, that the FDPO as currently written is problematic in two important and interrelated respects: its establishment of a 10-foot local elevation standard for areas west of NC HWY 12, and its restriction according to square footage of same-level lateral additions to nonconforming properties in X and Shaded X zones.

OBHBA members began working in early 2017 with the surveying and engineering community to assist local planning staff in designing new flood prevention measures to address an anticipated reduction in the 2006 FIRM's flood zone elevations in Dare County. Extensive consideration of historical flooding, previous FIRMs, and topographical data informed a consensus among county and municipal planning staff that administration of eight foot standards to a revised reference level, the bottom of the lowest floor or utility, would ensure adequate flood protection in X and Shaded X zones. Section 11.42.3.1.2. of Nags Head's draft ordinance proposes a 10 foot RFPE for properties west of NC HWY 12. While we recognize that each jurisdiction must determine RFPEs and other important planning objectives on localized bases, the OBHBA urges planning board members' attention to the potential consequences Nags Head's proposed ten foot RFPE poses in light of additional proposed restrictions on lateral additions.

Section 11.44.2.7.9.2. would require that lateral additions to nonconforming structures in X and Shaded X zones be elevated to the proposed ten foot RFPE if they would increase the square footage of the adjacent floor by 25% or more. This presents a problem for homeowners interested both in usably enlarging a floor that falls below the proposed RFPE and in maintaining a level floor. The OBHBA respectfully requests that you allow existing maximum lot coverage restrictions to regulate additions and remove the arbitrary 25% threshold. We believe that the category of possible lateral additions that would expand properties with a demonstrated flood history, that would conform to maximum lot coverage, and that would be large enough to constitute a compelling regulatory interest is almost vanishingly narrow. We believe that the size of lateral additions to the many moderately sized homes in Nags Head should not be rigorously constrained by a regulation with such a limited intended function.

Thank you again for participating in the Outer Banks community's cooperative endeavor to ensure sustainable building, and for your efforts to include stakeholders' concerns in your dialogue. Please address any questions to porter@obhomebuilders.org.

Regards,

Porter Graham

Government Affairs Director
Outer Banks Home Builders Association

Agenda Item Summary Sheet

Item No: **E-7**
Meeting Date: **April 15, 2020**

Item Title: Request to continue to May 6th Board meeting - 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, 2020 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: Continue previously scheduled public hearing.

Submitted By: Planning and Development Date: April 6, 2020

Finance Officer Comment: N/A

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment: N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation: N/A

Signature: Cliff Ogburn Date: April 6, 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-8**
Meeting Date: **April 15, 2020**

Item Title: Request to continue to May 6th Board meeting - 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: April 7, 2020

Finance Officer Comment:

N/A

Signature: Amy Miller Date: April 7, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 7, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 7, 2020

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.

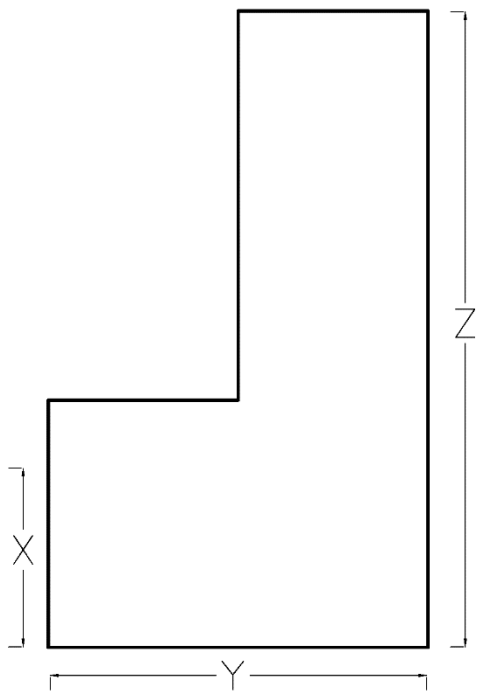
7.58.3. Failure to comply with inspection and code requirements can result in fines and/or suspension of the use of the site in accordance with Section 1.10, Violation of UDO Regulations, of this UDO and other applicable local and state regulations.

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".

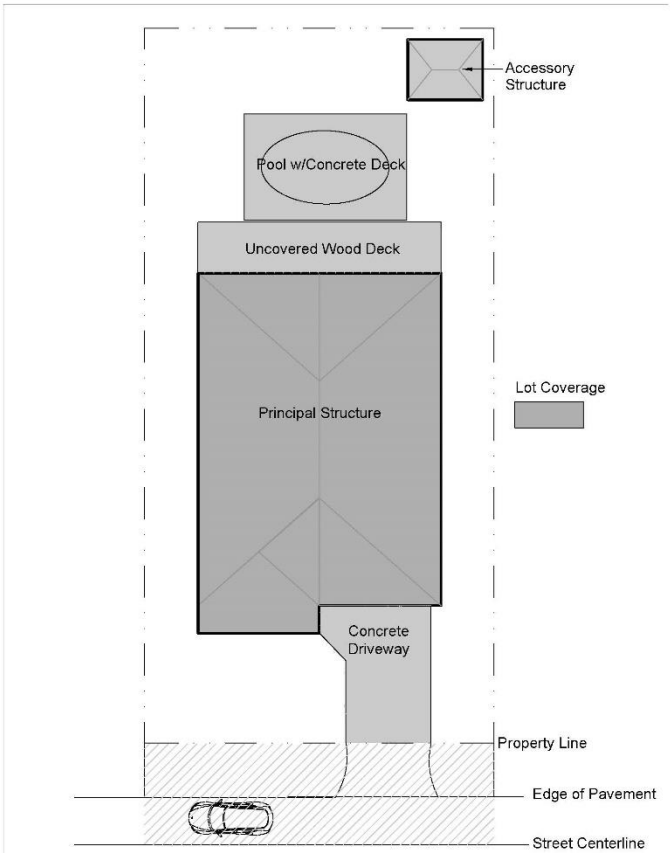
PART XVII. That **Article 8. District Development Standards, Section 8.6 Standards/Application of Dimensional Requirements**, be amended as follows:

8.6.6. Lot Coverage.

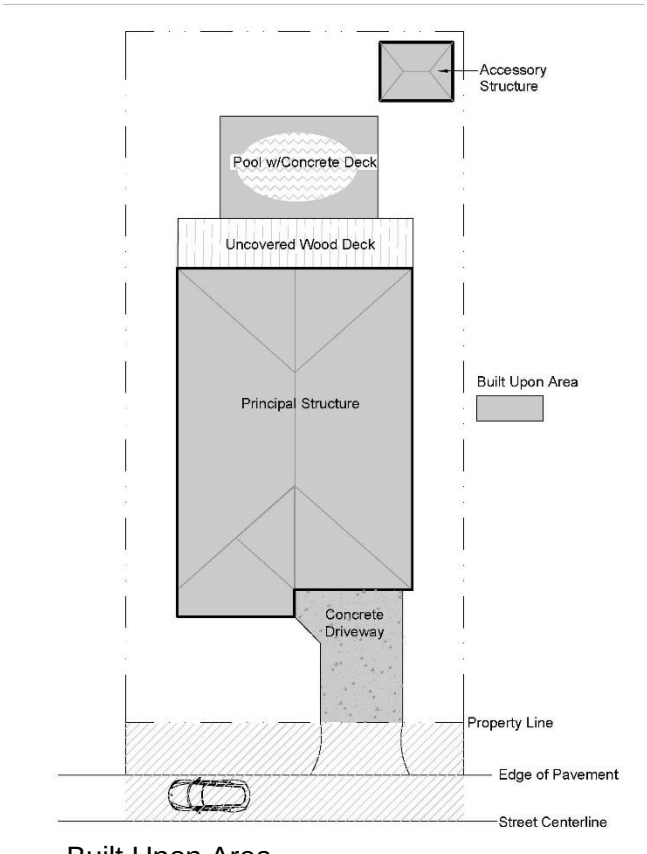
8.6.6.1. Purpose and Intent. As defined in Appendix A of this UDO, lot coverage means that portion of the lot area, expressed as a percentage, which is covered or

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: **April 15, 2020**

Item Title: 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 $1,401,396 to finance the cost of the Sidewalk Pedestrian Path, Fuel Tank and Pump Conversion, and Dowdy Park improvements as identified in the fiscal year 2019/2020 Budget

Item Summary:

Attached please find a staff memo with recommendation for financing budgeted 2019/2020 real property improvements. The approved projects to be financed are the Sidewalk Pedestrian Path, Fuel Tank and Pump Conversion, and Dowdy Park improvements.

The lowest bid of PNC Bank with an interest rate of 2.42% has been recommended. Attached please find a resolution approving the financing and a second resolution authorizing the required filing of an application to the Local Government Commission.

Number of Attachments: 3

Specific Action Requested:

Provided for Board consideration and adoption of two attached financing resolutions.

Submitted By: Administrative Services Date: April 7, 2020

Finance Officer Comment:

A budget amendment is requested for the fuel pump that is non-functioning as a result of the tank relocation. A reimbursement resolution (19-07-019) has been adopted by the Board that covers these projects. The Public Works building (2200 Lark Ave.) will be used to collateralize this financing.

Signature: Amy Miller Date: April 7, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 7, 2020

Town Manager Comment and/or Recommendation:

I concur with staff.

Signature: Cliff Ogburn Date: April 7, 2020

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

NOTICE OF PUBLIC HEARING
TOWN OF NAGS HEAD BOARD OF COMMISSIONERS

NOTICE IS HEREBY GIVEN that the Nags Head Board of Commissioners will conduct a public hearing on **Wednesday, April 15, 2020** beginning at 9:00 am in the Board Room of the Municipal Complex, 5401 S. Croatan Highway, Nags Head, NC to consider and take action upon the following request:

> Public Hearing to consider the adoption of a resolution authorizing the Town to enter into an installment purchase contract in an amount not to exceed $1,463,021 to finance the cost of the sidewalk pedestrian path, fuel tank conversion, and Dowdy Park Improvements as identified in the FY 2019/2020 Budget

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

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

This the 26th day of March 2020.

Carolyn F. Morris
Town Clerk

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: April 6, 2020

RE: Recommendation for 2019/2020 real property improvement financing

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

	Interest Rate
PNC Bank	**2.42%**
BB&T	2.65%
Towne Bank	Unable to bid
Southern Bank	Unable to bid

The lowest total bid in aggregate has been selected. Staff is recommending accepting the proposal received from PNC Bank, which offered the most competitive financing bid within the requested financing guidelines.

Resolution No 20-04-XXX
Pedestrian Multi-use path
Fuel & Pump Tank Replace
Dowdy Park
Appl for financing
BOC Meeting April 15, 2020

Resolution Authorizing the Filing of an Application for Approval of a Financing Agreement Authorized by NCGS 160A-20

WHEREAS, the Town of Nags Head, North Carolina desires to finance the construction of a pedestrian path project, Dowdy Park improvements, and Public Works fuel tank and pump replacements as identified in the fiscal year 2019-2020 budget and Reimbursement Resolution Number 19-07-019 (the "Project") to better serve the citizens of Nags Head; and

WHEREAS, The Town of Nags Head desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of Nags Head, North Carolina, meeting in regular session on the 15th day of April 2020, make the following findings of fact:

1. The proposed contract is necessary because the Town wishes to construct a pedestrian path based on the highest-ranking projects from its pedestrian plan in order to provide better connectivity throughout Town. The Town's fuel tanks need to be converted to above ground tanks to eliminate water intrusion. The re-location of the tanks requires new fuel pumps due to the additional burden put on the pumps. Finally, Dowdy Park improvements are necessary in order to complete implementation of the master plan and the intent of the original site design. All applicable permits and easements will be obtained prior to LGC approval.

2. The sums to fall due under the contract are adequate and not excessive for the proposed purpose as in accordance with the amended budget for FY 2019-2020 and Reimbursement Resolution Number 19-07-019.

3. The Town of Nags Head's debt management procedures and policies have been carried out in strict compliance with the law, and assurance is provided that debt management will hence forth be so carried out.

4. The Town of Nags Head is not in default in any of its debt service obligations.

5. The attorney for the Town of Nags Head has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Manager is hereby authorized to act on behalf of the Town of Nags Head in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

ADOPTED this the 15th day of April 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Resolution No. 20-04-XXX
Pedestrian Multi-use path
Fuel & Pump Tank Replace
Dowdy Park
BOC Meeting April 15, 2020

Resolution Approving Financing Terms

WHEREAS: The Town of Nags Head (the "Town") has previously determined to undertake a project for financing of the Pedestrian Multi-use Path, Fuel and Pump Tank Replacement, and Dowdy Park improvements, (the "Project"), and the Finance Director 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 PNC Bank (PNC), in accordance with the proposal dated April 3, 2020. The total amount financed shall be $1,401,396.00 and the term shall not exceed five (5) years from closing and the annual interest rate shall not exceed 2.42%.

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. The Financing Documents shall include a Financing Agreement and Deed of Trust and a Project Fund Agreement as PNC may request.

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 director's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified, tax-exempt obligations" for the purpose of Internal Revenue Code Section 265(b)(3).

5. 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 PNC 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.

6. 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 15th day of April 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F. Morris, Town Clerk

Agenda Item Summary Sheet

Item No: **G-1**
Meeting Date: **April 15, 2020**

Item Title: Discussion of FY 2020-2021 Public Beach and Coastal Waterfront Grant pre-application

Item Summary:

The Division of Coastal Management ("DCM") has notified local governments in the 20-county coastal area that grant funding is available for Public Beach and Coastal Waterfront Access projects for the upcoming 2020-21 fiscal year. Local governments are invited to apply for funding for projects with pre-applications due on Friday, May 15, 2020. The Town has identified Huron Street Beach Access as the focus of a grant application for funding in this upcoming Fiscal Year. Staff would request the Board's feedback with respect to an application for improvement to the Huron Street access.

Number of Attachments: 1

Specific Action Requested:

Discussion and Feedback

Submitted By: Planning and Development Date: April 7, 2020

Finance Officer Comment:

Signature: Amy Miller Date: April 7, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 7, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: April 7, 2020

STAFF REPORT
Town of Nags Head
Planning & Development Department

To: Board of Commissioners

From: Holly B. White, Principal Planner

Date: April 7, 2020

Subject: Discussion of FY 2020-2021 Public Beach and Coastal Waterfront Grant Pre-Application

The Division of Coastal Management ("DCM") has notified local governments in the 20-county coastal area that grant funding is available for Public Beach and Coastal Waterfront Access projects for the upcoming 2020-21 fiscal year. Local governments are invited to apply for funding for projects that are anticipated to begin after January 2021 and to be completed by July 2022. The application process has three (3) steps: the pre-application, invitation to submit a final application, and grant contract approval. DCM will review the pre-applications and select a number of proposals for further consideration based on available funding. DCM has extended the deadline for the 2020-21 Public Beach and Coastal Waterfront Access Grant pre-applications to Friday, May 15, 2020.

The Town was awarded CAMA Public Access Grants in 2018 and 2019 to make improvements at the Jacobs Street and Islington Street accesses. Grant funding for the two projects totals approximately $169,000, with local matching funds totaling $96,103.

The Town has identified Huron Street Beach Access as the focus of a grant application for funding in this upcoming Fiscal Year. The pre-application grant package notes the following criteria used to prioritize and select projects to receive grant assistance:

- Lack of access opportunities in the area;
- Demonstrated need for the project due to high demand and limited opportunities;
- Project is identified in a local beach or waterfront access plan or certified CAMA Land Use Plan;
- Community has not received previous assistance from this grant program;
- The commitment of matching funds exceeds the minimum required local match;
- Project proposal includes multiple funding sources (in addition to DCM);
- Location includes donated land deemed "unbuildable" due to regulations or physical
  limitations and;
- The community has demonstrated its ability to complete previous projects and/or
  has demonstrated its ability to operate and maintain facilities previously funded.

Staff discussed the potential of a pre-application with DCM staff for the replacement of the beach access crossover at Huron Street. This access is currently not ADA accessible, but does have an improved parking area. DCM staff noted that in addition to the criteria listed above, applications for new beach accesses are given greater preference than those for replacement. It was also noted that there are situations where dunes are so high that ADA accessibility cannot be achieved, and this is understood. In these cases, replacement in kind would be acceptable. Staff has determined that replacement as an ADA access in this location would require the elimination of several existing parking spaces. Also, there are several ADA compliant access points in this vicinity. For these reasons, staff is recommending replacing the walkover as is. Staff is also recommending this project based on its small scope given that there may be limited funds available for a match.

While a local match was initially considered to be included as part of the Town's FY20-21 CIP ($40,000), if available, a Tourism Impact Grant from the Dare County Tourism Board will be pursued to cover this amount. If no DCTB grant funds are available due to a reduction in revenue, the Board could decide later in the year if town funds are available to provide the match.

Staff would request the Board's feedback with respect to an application for improvement to the Huron Street access. Including the improvement of accesses, the following are examples of eligible projects provided by DCM:

- Land acquisition - purchase of land for future public access facilities.
- Land easement acquisition - purchase of easements for public access.
- Parking areas, restrooms and other facilities.
- Urban waterfront access sites - improved public access to deteriorating or under-utilized urban waterfronts through reconstruction or rehabilitation.
- Reconstruction or relocation of existing damaged public access facilities. Primarily for sites not originally funded by this program or for improvements to any sites at least fifteen (15) years old.
- Handicap facilities - Local governments are encouraged to submit proposals designed to enhance handicap accessibility at existing facilities.
- Boat Launch facilities- boat launch and ramp facilities, whether motorized or not, may be part of a project provided pedestrian access is still a major component of the project.

Agenda Item Summary Sheet

Item No: **H-1**
Meeting Date: **April 15, 2020**

Item Title: Committee Reports

Item Summary:

At the April 15th 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: April 6, 2020

Finance Officer Comment:

No unbudgeted fiscal impact.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 6, 2020

Agenda Item Summary Sheet

Item No: **H-2**
Meeting Date: **April 15, 2020**

Item Title: Update on/Discussion of Corona Virus-19

Item Summary:

Consideration of resolution authorizing fees waived until June 30, 2020
Attached please find a proposed resolution authorizing waiving the following fees until June 30th in accordance with the Governor's Executive Order #124:

- Water late fees and reconnection fees
- Tax penalty fees
- E-check/debit/credit card fees for paying of water and taxes

Consideration of Emergency Paid Sick Leave Policy – Attached please find a proposed Emergency Paid Sick Leave Policy for Board consideration; the Policy, in accordance with the Families First Coronavirus Relief Act, provides emergency paid sick leave regardless of an individual's length of employment. The policy as mandated terminates December 31, 2020.

Impact on current/future budgets
Town Manager Ogburn will present potential budget impacts due to COVID-19 along with possible solutions for Board discussion.

Number of Attachments: 2

Specific Action Requested:

Provided for Board discussion and consideration of resolution re: waiving of fees until June 30, 2020 and consideration of policy re: emergency paid sick leave for employees.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

I will provide comment at the Board meeting.

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: April 6, 2020

Resolution No. 20-04-XXX
CFS fees waived for COVID-19
BOC Meeting April 15, 2020

Resolution Authorizing Fees Waived

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

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

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

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

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

WHEREAS, fees associated with the use of debit and credit card, and e-check to pay taxes, utility services are also waived.

NOW THEREFORE BE IT RESOLVED that the Nags Head Board of Commissioners hereby authorizes fees associated with non-payment and reconnection for utility services, debit and credit card and e-check be waived until June 30, 2020.

This the 15th day April 2020.

_____
Benjamin Cahoon, Mayor
Town of Nags Head

ATTEST:

_____
Carolyn F Morris, Town Clerk

Benjamin Cahoon
Mayor

Michael Siers
Mayor Pro Tem

Cliff Ogburn
Town Manager

Town of Nags Head
Post Office Box 99
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M. Renée Cahoon
Commissioner

J. Webb Fuller
Commissioner

Kevin Brinkley
Commissioner

Board of Commissioners Policy

Emergency Paid Sick Leave Policy
(expires December 31, 2020)

The Town provides eligible employees with emergency paid sick leave and emergency FMLA leave under certain conditions as required by the Families First Coronavirus Relief Act. These are two separate forms of leave that in some cases are governed by different rules, as set forth below.

Eligibility

All classes of employees are eligible for emergency paid sick leave and emergency FMLA leave. All employees are eligible for emergency paid sick leave under this policy regardless of the length of their employment. To be an "eligible" employee for purposes of emergency family or medical leave available under this policy, the employee must have been employed by the Town for at lease 30 calendar days before requesting the leave.

A. Reason for Emergency Paid Sick Leave

You may take Emergency Paid Sick Leave if you are unable to work (or telework, if allowed) due to a need for leave because:

1. You are subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. You are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
4. You are caring for an individual who is subject to an order as described in 1, above or who has been advised to quarantine or isolate due to concerns related to COVID-19;
5. You are caring for your own child (i) because their school or place of care is closed, or (ii) because your child's childcare provider is unavailable, due to COVID-19 precautions; or
6. You are experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Duration/Compensation

Employees are entitled to Emergency Paid Sick Leave:

- **Full-time employees:** Up to 80 hours of pay for non-exempt employees, two weeks of pay for exempt employees, or a two-week equivalent of pay for fire and police, at their regular pay rate. However, when caring for a family member (for reasons 4, 5, and 6 above), Emergency Paid Sick Leave is paid at two-thirds the employee's regular rate.
- **Part-time employees:** Emergency Paid Sick Leave provided under this Policy is calculated based on the number of hours the employee works, on average, over a two-week period. Except in extraordinary circumstances, the two-week period used will be the two full weeks immediately preceding the date the leave is requested.
- Paid leave under this shall not exceed $511 per day ($5,110 in total) where leave is taken for reasons 1, 2, and 3 described above (generally, an employee is unable to work because of their own illness or quarantine); or $200 per day ($2,000 in total) where leave is taken for reasons 4, 5, or 6 (where the employee is unable to work due to a need to care for others or school closures).

Leave Rules

- You may elect to use Emergency Paid Sick Leave before using any accrued paid leave. You are not required to use any other paid leave before using Emergency Paid Sick Leave.
- No leave provided by the Town before April 1, 2020 may be credited against your leave entitlement. In addition, Emergency Paid Sick Leave provided under this Policy cannot be carried over after December 31, 2020 and will not be paid out upon termination.

Requesting Emergency Paid Sick Leave

- If you need to take Emergency Paid Sick Leave, provide notice as soon as possible. Normal call-in procedures apply to all absences from work. You are not required to search for or find a replacement employee to cover the hours during which you are using leave under this policy.

B. Reason for Emergency FMLA Leave

An eligible employee is entitled to Emergency FMLA Leave if the employee is unable to work (or telework, if allowed) due to a need for leave to care for their own child < 18 y.o. because the school or childcare facility for the child has been closed due to public health emergency, or because the childcare provider of such child is unavailable due to a public health emergency.

Duration/Compensation

- No pay is available for first 10 days of leave unless the employee elects to substitute any accrued vacation leave, sick leave or Emergency Sick Leave.
- After 10 days, part-time and full-time employees will receive two-thirds of the employee's regular rate of pay for the number of hours they would normally be scheduled to work, capped at $200/day and $10,000 total.

Leave Rules

You may elect to use any accrued paid leave during the first 10 days of Emergency FMLA Leave.

Requesting Emergency FMLA Leave

Where the need for Emergency FMLA Leave provided for in this policy is foreseeable, the employee must provide their supervisor with as much notice of the leave as is practicable.

Job Restoration

The return to work provision of the Town's FMLA Leave policy shall apply to an employee who takes Emergency FMLA leave under this policy.

C. General Provisions

Retaliation

The Town will not retaliate against any employee who requests or takes Emergency Paid Sick Leave or Emergency FMLA Leave in accordance with this policy.

Expiration

This policy and the leave options provided by it expires on December 31, 2020.

Agenda Item Summary Sheet

Item No: **J-1**
Meeting Date: **April 15, 2020**

Item Title: Town Manager Ogburn – Coastal Storm Damage Mitigation Fund

Item Summary:

In accordance with Session Law 2019-224, $11,500,000 has been allocated to the N.C. Department of Environmental Quality (NCDEQ), Division of Water Resources Coastal Storm Damage Mitigation Fund to help NC coastal cities and towns recover from hurricane damage. Funding may only be used for costs associated with beach nourishment, artificial dunes, and other projects to mitigate or remediate coastal storm damage to the ocean beaches and dune systems of the state. The amount shall not exceed $2.5 million for each unit of local government and no cost-share will be required.

All applications will be evaluated to determine if the proposed beach nourishment or dune project meets the minimum requirements and will be ranked according to six criteria. The six criteria include environmental benefits, social benefits, economic benefits, life of the project, financial resources and project efficiency. The submission deadline for the grant is April 30, 2020.

Staffs requests the Board to authorize the Town Manager to proceed with the submission of the FY 2019-2020 Coastal Storm Damage Mitigation grant application.

Number of Attachments: 0

Specific Action Requested:

Provided for Board consideration authorizing the manager to submit the FY 2019/2020 Coastal Storm Damage Mitigation grant application.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

A budget ordinance for approval will be brought to the Board if funding is approved.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

Signature: Cliff Ogburn Date: April 6, 2020

Coastal Storm Damage Mitigation Fund Guidelines
FY 2019 - 2020

Administered by: N.C. Department of Environmental Quality (DEQ), Division of Water Resources (DWR), 1611 Mail Service Center, Raleigh, N.C., 27699-1611. Contact Coley Cordeiro at Coley.Cordeiro@ncdenr.gov or (919) 707-9013.

Who is Eligible: Unit of local government.

Application Deadlines: Applications must be sent via email to Coley.Cordeiro@ncdenr.gov on or before April 30, 2020.

Funding Source/Documents: Session Law 2019-224

Eligible Purposes and Cost-Share Percentages: Session Law 2019-224 allocated $11,500,000 to DWR's Coastal Storm Damage Mitigation Fund to be used to provide grants in an amount not to exceed $2,500,000 for each unit of local government during the 2019-2021 fiscal biennium. Notwithstanding G.S. 143-215.73M, no cost-share shall be required for these grants.

Additional Requirements:
Applicants may submit applications for more than one project but must submit a separate (and complete) application for each project.

Application Submittal:
Application Spreadsheet (MS Excel) - Applications must be completed and returned via email to Coley Cordeiro at Coley.Cordeiro@ncdenr.gov.

No Conflict of Interest Certification – The applicant must provide certification that it complies with the requirements and prohibitions set forth in NCGS § 14-234, has and complies with its own duly executed conflict of interest policy, and has conducted a reasonable inquiry and concluded that it does not have any actual or apparent conflict of interest with respect to the project for which it has applied.

Project Maps –The applicant must submit a map or maps showing, at minimum, the following information relevant to the proposed project:

1. project site plan and borrow area locations;
2. upland ownership of property, indicating federal, State, local, or private ownership;
3. approximate location of Mean High Water; and the first line of stable and natural vegetation (FLSNV), the Static Vegetation Line (if applicable), or Development Line (if applicable) and the long-term oceanfront erosion rates as determined by the NC Division of Coastal Management

Engineering Studies and Post-Project Monitoring
The applicant must submit engineering studies that have been completed for the project and plans for standardized pre- and post-project monitoring.

Beach Nourishment Permit Application or Copy of Approved Permit
The applicant must include in its application all permit applications and issued permits that relate to the project. The applicant has an ongoing obligation to provide to DWR copies of permit applications and issued permits as promptly as possible.

Additional Information
The applicant may submit additional information, including but not limited to letters of support, discussion of relevant nearby projects, studies, inventories, analysis, or planning documents related to the proposed project. Relevant information will be considered as part of the funding review process.

Note: It is the applicant's responsibility to ensure the application submitted to DWR is accurate and complete. Erroneous or incomplete information in an application may prevent a project from being recommended for grant funding and may delay processing of contracts and funds for approved projects.

Funding Selection Criteria

All applications will be evaluated to determine if the proposed beach nourishment activity meets the minimum requirements and then ranked on a relative basis according to the six considerations listed below. Each element of the funding consideration criteria is rated using the following numerical evaluation to assess the degree that the application meets the criteria:
High - 3 points
Medium - 2 points
Low - 1 point
Does not meet criteria (a resource or factor is present, but the proposal has been evaluated as having no value or not having the intended benefit) - 0 points

Considerations during the review process are as follows:

1. Environmental Benefits/ Mitigation Measures

- Improves the ecological function of the beach and dune system.
- Restores degraded dune habitat.
- Restores habitat used by threatened or endangered species.
- Project is designed to avoid significant adverse impacts to threatened and endangered species and fish, shellfish & wildlife resources.

2. Social Benefits

- Protects existing or historic public recreation areas.
- Improves the public accessibility to the beach.
- Provides or enhances full and complete public access.

3. Economic Benefits

- Protects public property or infrastructure, or historic or culturally significant structures.

- Protects economically important land uses.
- Reduces potential storm damage to private property.

4. Expected useful life of project

- Anticipated life expectancy of project benefits.
- Time to complete project and time required for stabilization of beach in years.
- Longevity of previous nourishment projects.

5. Financial Resources

- Availability of funds to complete the project

6. Project Efficiency

- Incorporates project efficiencies through regional planning at the County level or through the involvement and cooperation of two or more local governments
- Incorporates the beneficial use of clean, beach quality dredged material from the navigation channels within the nearshore, beach or inlet shoal system.
- Readiness to proceed based on the project phase, status of the permit, local funding source, construction easements, and construction schedule.

Post Grant Funding Award

After DWR issues the applicant an award notice, the applicant must enter into a grant contract with DEQ for DEQ to begin distributing grant funds. Any changes to the scope of the project or project budget after submission of a grant application will require the written approval of the DWR Grant Administrator and may also require a DEQ contract amendment. In seeking DWR approval, the grantee must submit, at a minimum, a justification for any proposed changes, revised scope of work narrative, and a revised budget. Unapproved changes to the project scope or budget shall not be eligible for, and may result in additional reductions to funding.

A DEQ grant contract is considered 'fully-executed' once it has been signed by both a signatory authority of the grantee and DEQ Financial Services. A copy of the fully-executed contract will be provided to the grantee after being signed by DEQ.

State funds may not be used to reimburse a grantee for a project that has been or will be fully reimbursed with federal funds. If a project receives State funds and subsequently receives federal funds, the Grantee must return any State funds that have become federally reimbursable to the Office of State Budget and Management within 90 calendar days of the municipality receiving federal reimbursement.

Project Sponsor Obligation – Environmental Permitting

The applicant/grantee is responsible for complying with applicable federal and State laws, including obtaining and complying with all applicable permits.

Contract Duration & Extension Requests

Grant contracts for funds appropriated under Session Law 2019-224 will have a term of two

years. Grantees may request a one-year extension. A request for an extension must be submitted in writing on official letterhead and include the following information:

1. Justification for the extension request
2. Summary of the current project status
3. Anticipated project schedule moving forward

A request for an extension must be submitted 45 days prior to the contract expiration date and must be submitted via email to Coley Cordeiro at Coley.Cordeiro@ncdenr.gov. Extension requests that are approved by DWR require a grant contract modification.

Project Close-Out

The grantee shall notify the DWR Grant Administrator upon project completion and provide DWR with the most recent set of permits, as-built/record, post-surveys in Adobe PDF format prior to the project close-out.

The DWR Grant Administrator may schedule a close-out inspection of the completed project with a representative of the grantee. This inspection will verify that the project was implemented in accordance with the information provided in the grant application, along with the approved plans and specifications.

Agenda Item Summary Sheet

Item No: **K-1**
Meeting Date: **April 15, 2020**

Item Title: Comr. Renée Cahoon – Consideration of Government Education Access Channels (GEAC) FY 2020/2021 Annual Budget

Item Summary:

Attached, along with a narrative, is the proposed FY 2020/2021 Budget for the operation of the Government Education Access Channels.

Number of Attachments: 1

Specific Action Requested:

Request Board review and approval of the proposed FY 2020/2021 Budget.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

The proposed Government Education Access Channels Committee budget requires no additional funding from the participating entities above the current annual $1,000 membership fee.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 6, 2020

Government Education Access Channels Committee
2020-2021 Proposed Budget

The following item is presented for the Town of Nags Head Board of Commissioners review and approval.

Specific Action Requested:

1. Approve the proposed 2020-2021 GEACC Budget.

Budget Summary

The Government Education Access Channels (GEAC) Committee has reviewed and approved the proposed 2020-2021 budget for the operation of the Government and Education Channels. The proposed budget, which would take effect July 1, 2020, must be approved by every participating member entity of the Channels, which includes the towns of Duck, Southern Shores, Kitty Hawk, Kill Devil Hills, Nags Head, Manteo, and Dare County, Dare County Schools, College of The Albemarle, and Coastal Studies Institute - ECU.

The budget as proposed requires no additional funding from the participating entities other than the current annual $1000 membership fee. The budget is funded from the North Carolina Video Programming Distribution proceeds, which are dispersed quarterly by the State to certified members of the GEACC. These funds must be used for the operation of the two channels and no other purpose. Additionally, the legislation that originally established the video distribution funding required that the proceeds not supplant current funding. Accordingly, the annual $1000 membership fee that was in place when the program began must remain, or the Channels would lose all video distribution funding from the state.

The GEAC committee recommends the budget, which includes, in part, the following: funding for two full-time staff positions and a Local Programming Development Initiative to assist members in the development of programming for the Government and Education Channels. The funding also includes the continued funding of two regular news magazine shows that highlight each of the participating members of the GEAC on the Education Channel and the Government Channel.

To maintain the fund balance at the recommended level, the proposed budget sets forth a plan to reduce the amount of fund balance being used for operations and strategically focuses budget spending to match yearly revenue. This includes a 50% cut to LPDI funding in the 2020-2021 fiscal year (from $10,000 to $5,000 per entity), followed by a gradual 50% cut to Contractual Services over the next 3 years.

Government Education Access Channels Committee
2020-2021
Proposed Budget

Executive Summary

Funding comes from the state of North Carolina use tax on cable and satellite fees. Our revenue from this source in 2020-2021 is projected to be a conservative $270,000.00. In addition, each of the 10 entities pay a $1000 membership fee annually to participate in the channel's operations. This $1000 fee is unchanged and is the only impact on each entity's budget. This money that is received from the entities in support of the Government and Education Access Channels must remain in the budget in order for each entity to continue to receive PEG Supplements from the state of North Carolina. This budget is requesting a total of $25,583.25 be allocated from the fund balance. The fund balance is projected to be $161,796.00 on June 30, 2020. The proposed total budget for the Government and Education Access Channels Committee for 2020-2021 is $306,583.25, that includes a 50% cut to LPDI funding as part of a long term plan to bring the fund balance to it's recommended level.

INCOME	PROPOSED 2020-2021	CURRENT 2019-2020
NC PEG Supplemental Video Disbursement (from the state NCDOR)[1]	270,000.00	260,000.00
Member Fees (annual fee paid by participating entities)[2]	10,000.00	10,000.00
Interest Income (interest from fund balance)[3]	1,000.00	1,000.00
TOTAL INCOME	**281,000.00**	**271,00.00**
APPROPRIATED FUND BALANCE[4]	**25,583.25**	**148,961.40**
TOTAL REVENUE	**306,583.25**	**419,961.40**
EXPENDITURES		
Salaries (2 Full time employees)[5]	(118,000.00)	(113,000.00)
PT Salary (Internships)[6]	(0)	(2,000.00)
Merit Pay[6]	(2,360.00)	(2,260.00)
FICA	(9,027.00)	(8,644.50)
Retirement	(12,059.60)	(9,119.10)
Health Insurance [8]	(30,850.05)	(29,381.00)
Life Insurance	(224.20)	(214.70)
Retiree Health	(212.40)	(192.10)
Contractual Services (Production of Destination Dare/Ed Awareness)[9]	(50,000.00)	(50,000.00)
Professional Services [10]	(1,000.00)	(1,500.00)
Equipment - Repair, Replacement, Purchase [11]	(5,000.00)	(10,000.00)
Supplies[12]	(3,500.00)	(5,000.00)
Music Library[13]	(350.00)	(350.00)
Training	(1,000.00)	(2,500.00)
Travel	(1,000.00)	(2,500.00)
Professional Memberships	(250.00)	(500.00)
Channel Operations [14]	(7,200.00)	(15,000.00)
Marketing [15]	(1,000.00)	(15,000.00)
Miscellaneous	(500.00)	(500.00)
Capital Outlay	(0.00)	(40,000.00)
Contingency (Reserve for unexpected expenses)[16]	(5,000.00)	(5,000.00)
Emergency Contingency (Storm related overtime during activations)[17]	(2,500.00)	(2,500.00)
Vehicle Maintenance [18]	(500.00)	(500.00)
Vehicle Fuel [19]	(2,000.00)	(1,000.00)
Insurance and Bonds [20]	(2,900.00)	(2,900.00)
Uniforms [21]	(250.00)	(750.00)
TOTAL OPERATING EXPENDITURES	**(256,583.25)**	**(319,961.40**
Local Program Development Initiative		

This is money set aside in the budget to foster development of program content by the member entities. Money is awarded on an application and grant basis to participating entities by the Government and Education Access Channel Committee. The money can be used to produce programs, improve the quality of existing programs, or purchase equipment to provide for increased production and/or quality of programs.		
LPDI 1 - Coastal Studies Institute	(5,000.00)	(10,000.00)
LPDI 2 - College of The Albemarle	(5,000.00)	(10,000.00)
LPDI 3 - Dare County Government	(5,000.00)	(10,000.00)
LPDI 4 - Dare County Schools	(5,000.00)	(10,000.00)
LPDI 5 - Duck	(5,000.00)	(10,000.00)
LPDI 6 - Kill Devil Hills	(5,000.00)	(10,000.00)
LPDI 7 - Kitty Hawk	(5,000.00)	(10,000.00)
LPDI 8 - Manteo	(5,000.00)	(10,000.00)
LPDI 9 - Nags Head	(5,000.00)	(10,000.00)
LPDI 10 - Southern Shores	(5,000.00)	(10,000.00)
TOTAL LPDI [22]	**(50,000.00)**	**(100,000.00)**
TOTAL LPDI AND OPERATING EXPENDITURES	**(306,583.25)**	**(419,961.40)**

Government and Education Access Channel
Budget Notes for 2020-2021

Goals and Objectives to be achieved with this budget.

1. Continue to fund the operation of the channel at a level that provides a professional, reliable and quality service to the citizens of Dare County.
2. With the fund balance nearing an appropriate level (currently at $161,796) implement a plan to strategically focus budget spending to match yearly revenue. Per the guidance of the Committee, staff will work to cut both LPDI and Contractual Services by 50% over the next 3 years.

[1] **NC PEG Supplemental Video Disbursement** - this is revenue that is collected by the state in the form of a use tax on cable and satellite providers. The money is pooled and disbursed to qualifying PEG operations within the state. PEG stands for Public, Education, and Government Access. Dare County has 10 qualifying PEG entities, each is a member of the Government and Education Access Channel Committee. Each quarter, this money is disbursed to the entities by the state, and then the Government and Education Access Channels invoices the entities for this money. These state funds are the main source of funding for the Government and Education Access Channels. There has been no change in revenue between the 2019 and 2020 fiscal years, thusly we have budgeted for an anticipated revenue equal to year 2020.

[2] **Member Fees** - Each entity member pays an annual membership fee to participate in the Government and Education Channel Access. This money must remain in place in order for each entity to receive the PEG Supplement from the state. There is no change to this amount from last year, so impact on each entity's budget is unchanged.

[3] **Interest Income** - This is interest the Government and Education Access Channels Committee receives on the fund balance.

[4] **Appropriated Fund Balance** - The unappropriated fund balance is projected to be $161,796.00 on June 30, 2020. The appropriated fund balance is the amount pulled from the unappropriated fund balance to meet the obligations of the budget. **Staff believes that the fund balance is nearing a level where the previous spend down trend should be halted, and the budget's expenditures should be matched to its revenue.**

[5] **Salaries** - This budget currently funds two full-time positions that are considered to be Dare County employees. Increased due to the possibility of a new hire requiring a higher than projected salary.

[6] **Part Time Salaries** - Staff suggests cutting this line item as it was not previously utilized.

[7] **Merit Pay** - 2% of 118,000.00

[8] **Health Insurance** - Includes an annual employee only cost of $11,172, and annual family cost of $19,678 for vacant position. Vacant positions are budgeted at the Family cost.

[9] **Contractual Services** - This is for the production of Destination Dare and Dare Education Awareness, our two main programming initiatives that highlight interesting aspects of government and education in Dare County. Each entity contributes one segment to each episode. Destination Dare is produced every other month, and Dare Education Awareness is produced in the alternate months.

[10] **Professional Services** - Item to pay for costs associated with talent services such as professional voice over work, acting and hosting fees, and potential production support.

[11] **Equipment** - Monies set aside for the purchase and repair of large item video production equipment, such as cameras, editing computers, and lighting equipment.

[12] **Supplies** - This supports the purchase of supplies such as batteries, gaffers tape, lighting gels, accessories, and small equipment items that do not qualify as Capital Outlay or Equipment.

[13] **Music Library** - Soundstripe: subscription for music & sound effects.

[14] **Channel Operations** - Expenses that support the day to day operation of the channels. This includes:

- $3,000.00 - OBX Media: for website hosting and maintenance
- $2,500.00 - Reflect: Streaming Video/VOD for online video streaming service
- $600.00 - Adobe: Creative Cloud subscription for professional non-linear editing tools
- $1,100.00 - Gracenote: subscription for E-guide service on Charter Spectrum. Staff recommends ending the contract for this service, which ends in October 2020.

[15] **Marketing** - Expenses to support marketing efforts including paid social media and other local advertising.

[16] **Contingency** - This is for expenses that come up that were either unplanned or unforeseen. Not for use of everyday expenses.

[17] **Emergency Contingency** - This pays for storm related overtime for the hourly employee during Emergency Management activations.

[18] **Vehicle Maintenance** - Car maintenance costs.

[19] **Vehicle Fuel** - Estimated fuel costs for vehicle based on previous budget year use of Dare County's vehicle.

[20] **Insurance and Bonds** - Costs that Dare County will be charging Current TV for costs related to insuring equipment and vehicle.

[21] **Uniforms** - Expenses for embroidered uniform items including several polo shirts and rain jackets. Will require a uniform policy to be established in coordination with Dare County Public Relations department.

[22] **TOTAL LPDI** - This expenditure line item has been cut by 50% in accordance with budget reduction plan.

Agenda Item Summary Sheet

Item No: **L-1**
Meeting Date: **April 15, 2020**

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

Item Summary:

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

Mayor Cahoon will continue discussions with Board members on April 15th.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

I will participate in the discussion as necessary.

Signature: Cliff Ogburn Date: April 6, 2020

Agenda Item Summary Sheet

Item No: **L-2**
Meeting Date: **April 15, 2020**

Item Title: Mayor Ben Cahoon – Request for Closed Session

Item Summary:

A Closed Session, in accordance with GS 143-318.11(a)(6) may be requested to consider the Town Manager's review.

Number of Attachments: 0

Specific Action Requested:

Provided for Board discussion.

Submitted By: Administration Date: April 6, 2020

Finance Officer Comment:

Insufficient information to determine fiscal impact.

Signature: Amy Miller Date: April 6, 2020

Town Attorney Comment:

N/A

Signature: John Leidy Date: April 6, 2020

Town Manager Comment and/or Recommendation:

N/A

Signature: Cliff Ogburn Date: April 6, 2020