



DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, FEBRUARY 5, 2020

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, February 5, 2020 at 9:00 a.m.

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

Board members Absent: None

Others present: Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Phil Webster; Perry Hale; Randy Wells; Shane Hite; Michael Zehner; David Ryan; Amy Miller; Brie Floyd; Roberta Thuman; Terrence Flaughner; Nehmias Cortez; Brooke Norris; Keefe White; Craig Leonard; John Costulis; Mike Remige; Jim Morris; Cathleen Saunders; Susie Walters; Al Friedman; Cheri Pain; John Perkins; Dave Masters, Jr; and Town Clerk Carolyn Morris

CALL TO ORDER

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

ADOPTION OF AGENDA

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

RECOGNITION

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

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

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

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

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

Jennette's Pier Annual Update

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

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

PUBLIC COMMENT

PUBLIC COMMENT – SUSIE WALTERS

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

PUBLIC COMMENT – AL FRIEDMAN

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

PUBLIC COMMENT – CHERI PAIN

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

PUBLIC COMMENT – DAVID MASTERS, JR.

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

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

CONSENT AGENDA

The Consent Agenda consisted of the following items:

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

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

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

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

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

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

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

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

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

'Request for Authorization to Begin Foreclosures on 2019 Taxes:

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

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

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

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

'BE IT THEREFORE RESOLVED, as follows:

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

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

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

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

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

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

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

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

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

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

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

- AMY MILLER, FINANCE DIRECTOR; and countersigned by any one of the following:
- BROOKE NORRIS, DEPUTY FINANCE OFFICER;
- BENJAMIN CAHOON, MAYOR;
- CLIFF OGBURN, TOWN MANAGER;
- CAROLYN F MORRIS, TOWN CLERK;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PUBLIC HEARINGS

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

The agenda summary sheet read in part as follows:

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

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

'Staff Recommendation/Planning Board Recommendation

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

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

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

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

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

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

“GENERAL INFORMATION

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

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

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

- Demolition of the existing 3,000 square foot urgent care building at 4923 S. Croatan Highway, the construction of a 10,400 square foot addition to the existing 4,500 square foot radiation therapy building located at 4927 S. Croatan Highway, to house an infusion center, and the development of parking and stormwater improvements.
- The applicant has requested consideration be given to a Conditional Use Permit request to allow a reduced loading zone berth based on the anticipated deliveries to this facility being by cargo van. The applicant has noted that medical supplies and linens will be the primary deliveries to the location and do not require the specified loading zone outlined in Section 10.17 of the UDO, Off-Street Loading. The applicant is seeking to reduce the loading zone berth from 12’ x 60’ to 20’ x 23’.
- The applicant has requested that consideration be given to a reduction of required parking, based on a Medical Office use, as allowed by Conditional Use Permit under Section 10.15.5 and 10.15.6 of the Unified Development Ordinance. The proposed use of an infusion center is unique and not currently covered within Section 10.16 of the UDO, Required Parking by Use.
- In addition to the Site Plan application, a rezoning of three (3) lots along S. Passage Way from SPD-C/SF4 (Special Planned Development – Community District, specifically the Village at Nags Head SPD-C Zoning Ordinance, and Single-Family Four District) to SPD-C/Hotel District is also being requested to accommodate the use of the site, and specifically the provision of requisite parking to support the use.

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

‘Existing Land Use: Medical Offices and Vacant Lots.

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

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

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

'POLICY AND PLAN CONSIDERATIONS

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

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

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

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

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

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

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

- Page 3-14, LU-5 reads, "Promote contiguous and cohesive nodes of commercial development of appropriate size and massing for the surrounding area".
- Page 3-20, LU-9 reads, "Encourage land uses that serve the needs of both year-round and seasonal residents in support of the town's overall vision for the community".

- Page 3-25, LU-15 reads, "Promote architectural standards for commercial development in keeping with the Nags Head style architecture".
- Page 3-31, LU-23 reads, "Require sufficient parking for commercial businesses with parking area design regulations that limit impacts on neighbors and surrounding land uses". LU-23b further reads, "Monitor the use of parking and utilize this information to evaluate changes in parking standards".
- Page 3-117, EC-3 reads, "Meet the infrastructure and service needs of the community at appropriate levels as the community continues to grow".

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

SPECIFIC INFORMATION

Applicable Zoning Regulations:

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

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

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

Maximum Allowed Building Coverage: 25%; Proposed: 19% - Compliant.

Maximum Parking Lot Coverage: 45%; Proposed: 31% - Compliant.

Minimum Landscaped Area: 30%; Proposed: 49% - Compliant

Min. Interior Parking Lot Landscaping Required: 1,174 sf. Proposed: 1,491 sf.

- Height: The maximum allowable building height within the Town is 35 feet; however, pursuant to Section 8.2.1, Dimensional requirements, total height may be increased to 42 feet with the use of an 8:12 roof pitch or greater. The applicant has proposed a structure with an overall height of 33.3 feet therefore height is compliant. Note that the roof pitch meets the desired pitch as well with the use of 9:12 roof pitch.
- Architecture Design Standards: Section 10.82, Applicability, of the UDO, states that Commercial Design Standards shall apply to all building construction or remodeling projects requiring a conditional use permit or site plan review. Section 10.83, Design Standards, of the UDO, states that projects adding a total habitable building area of 10,000 square feet or less may elect to comply with the building design requirements by achieving 150 points based on the criteria outlined in the Town of Nags Head Residential Design Guidelines. Projects that elect to comply in this manner shall, in addition to the 150 architectural design points, incorporate specific standards into the design (attached). The proposed architectural design satisfies the minimum standards required by Section 10.83 and additionally achieves 160 architectural design points with the use of a first-floor porch, dormers, minimum 8:12 pitched roof, combination base form, simulated wood shingle siding, single hung windows and other miscellaneous architectural details.

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

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

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

'In support of their request for a parking reduction, the applicant has provided an article from the ITE (Institute of Transportation Engineers) Parking Generation Manual, which has evaluated anticipated parking rates for Outpatient Cancer Centers and supports a rate of 3.5 to 4.5 spaces per 1,000 square feet of floor area. If applying this standard, the proposed site would require between 52 and 67 parking spaces. The applicant is proposing to provide 57 parking spaces. Specifically, the applicant is seeking a reduction of one (1) parking space with a bike rack pursuant to Section 10.15.5 and an additional 14 parking space reduction under Section 10.15.6, and justified by the number of employees, the number of patient/treatment rooms available, the waiting room capacity, and the availability of Dare County Transit services for many of the patients receiving treatment at this facility. With the requested reduction, a total of 57 onsite parking spaces is consistent with the recommended parking ratio for this use in the ITE Manual. Staff recommends approval of the requested parking reduction, however, would recommend a condition that a parking study/assessment be conducted by a third-party, at 6 months and one-year after the issuance of a Certificate of Occupancy, to ensure onsite parking is adequate; if parking is determined to be insufficient, the applicant would be required to install up to 12 additional parking spaces along the shared drive leading to the site.

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

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

- Buffering/Landscaping: Several sections of the UDO address Buffering and Landscaping as it applies throughout this proposed site:
 - Section 9.24.10 of the UDO, SPD-C Hotel District, Landscaping requires that all commercial and office uses install a 20-foot wide landscaped or natural buffer area when a commercial use abuts a residential use or designation. A compliant buffer has

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

- Section 10.92.6.2 of the UDO, Parking and Drive Aisle Setbacks, requires that where off-street parking is provided between the building and the street right-of-way line, a parking lot buffer of at least ten (10) feet in width shall be provided between the parking lot and the street right-of-way. This buffering has not been shown however, it will be a continuation of the existing buffering provided for the Radiation Therapy Facility to the south. work with planning staff to identify the proper plantings prior to the Board of Commissioners review.
 - Section 10.93.3.7 of the UDO, Interior Parking Lot Landscaping, requires parking landscaping be provided at a minimum rate equal to ten percent of the total area of parking spaces. The minimum area necessary for compliance is 1,174 square feet of vegetation. The applicant has proposed 1,491 square feet therefore interior parking lot landscaping is compliant.
 - Section 10.93.3.8.2 of the UDO, Vegetation Preservation Requirements, requires that a minimum of 10% of the lots total area be preserved with existing natural vegetation. Approximately 11.5% of the vegetation throughout the site will be maintained therefore this proposal is compliant.
- Lighting: The proposed lighting plan and fixtures are compliant with the requirements of UDO. A light audit will be required prior to issuance of occupancy permits.
 - Signage: No additional signage is being proposed at this time.

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

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

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

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

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

'ANALYSIS

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

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

1. The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
2. The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.
3. The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.
4. Adequate utilities, access roads, drainage, parking or necessary facilities have been or are being provided.

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

1. Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety.
2. Will not create parking impacts for adjacent properties or within Town rights-of-way.
3. Will not be contrary to the objectives specified in the Comprehensive Plan.
4. Is necessary to permit the reasonable use of the subject property.
5. Will not adversely impact adjacent property or the surrounding area.

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

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

PLANNING BOARD RECOMMENDATION

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

STAFF RECOMMENDATION

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

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

1. The site shall be developed in compliance with the plans dated December 05, 2019, revised as necessary to comply with conditions of approval; modifications to the project prior to the issuance of a Certificate of Occupancy shall be considered and processed as Minor Site Plans or Major Site Plans pursuant to Article 4 of the Unified Development Ordinance.
2. At 6 months and 12 months following the issuance of a Certificate of Occupancy, an assessment of the sufficiency of parking shall be conducted by a third-party traffic engineer, engaged and costs borne by the owner/developer of the property, with qualifications acceptable to the Town of Nags Head Director of Planning and Development. This assessment shall determine whether the parking provided on-site is sufficient and does not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety, and/or does not create parking impacts for adjacent properties or within Town rights-of-way; further, this assessment shall recommend whether the provision of additional parking spaces is necessary if on-site parking is determined to be deficient. This assessment shall be presented to the Director of Planning and Development for acceptance and final determination as to whether additional parking is required to be provided, with any determination to be made within eighteen (18) months of the issuance of a Certificate of Occupancy, and any additional parking to be provided within twenty-four (24) months of the issuance of a Certificate of Occupancy.
3. Signage shall be installed on-site, to be approved by the Director of Planning and Development or his/her designee, directing deliveries by vehicles larger than the reduced loading zone can accommodate to the main Outer Banks Hospital located at 4800 S. Croatan Highway.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONTINUATION OF MOTION: The motion passed unanimously.

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

- 1) The use will not materially endanger the public health and safety if located where proposed and developed according to the plan as submitted.
- 2) The use, as proposed, will not overburden the firefighting capabilities and the municipal water supply capacity of the Town as such facilities and capabilities will exist on the completion date of the conditional use for which application is made.
- 3) The conditional use will be in harmony with the existing development and uses within the area in which it is to be located.
- 4) Adequate utilities, access roads, drainage, parking or necessary facilities have been or are being provided.

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

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

- 1) Will not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety.
- 2) Will not create parking impacts for adjacent properties or within Town rights-of-way.
- 3) Will not be contrary to the objectives specified in the Comprehensive Plan.
- 4) Is necessary to permit the reasonable use of the subject property.

- 5) Will not adversely impact adjacent property or the surrounding area.
- 6) The site shall be developed in compliance with the plans dated December 05, 2019, revised as necessary to comply with conditions of approval; modifications to the project prior to the issuance of a Certificate of Occupancy shall be considered and processed as Minor Site Plans or Major Site Plans pursuant to Article 4 of the Unified Development Ordinance.
- 7) At 6 months and 12 months following the issuance of a Certificate of Occupancy, an assessment of the sufficiency of parking shall be conducted by a third-party traffic engineer, engaged and costs borne by the owner/developer of the property, with qualifications acceptable to the Town of Nags Head Director of Planning and Development. This assessment shall determine whether the parking provided on-site is sufficient and does not result in increased traffic congestion or otherwise negatively impact existing traffic flow or pedestrian and vehicular safety, and/or does not create parking impacts for adjacent properties or within Town rights-of-way; further, this assessment shall recommend whether the provision of additional parking spaces is necessary if on-site parking is determined to be deficient. This assessment shall be presented to the Director of Planning and Development for acceptance and final determination as to whether additional parking is required to be provided, with any determination to be made within eighteen (18) months of the issuance of a Certificate of Occupancy, and any additional parking to be provided within twenty-four (24) months of the issuance of a Certificate of Occupancy.
- 8) Signage shall be installed on-site, to be approved by the Director of Planning and Development or his/her designee, directing deliveries by vehicles larger than the reduced loading zone can accommodate to the main Outer Banks Hospital located at 4800 S. Croatan Highway.

The motion was seconded by **Comr. Renée Cahoon**.

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

CONTINUATION OF MOTION: The motion passed unanimously.

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

Update from Planning Director

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

- 1) The Flood Prevention Ordinance will be forwarded by the end of today to Board members – for discussion at the Joint Workshop with the Planning Board on February 18th
- 2) Planning Board requests feedback on regulation of large occupancy/event homes
- 3) The Blue Heron Motel has asked staff to consider legacy options in the UDO and staff will be presenting options to the Planning Board for discussion

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

Discussion of Workforce Housing

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

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

'Staff Recommendation

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

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

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

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

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

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

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

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

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

RECESS AND RECONVENE

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

NEW BUSINESS

Consideration of Audit Contract

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

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

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

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

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

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

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

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

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

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

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Ogburn - Beach Nourishment

Discussion of proposed Municipal Service District (MSD)

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

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

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

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

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

Town Manager Ogburn - Sanitation/Recycling

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

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

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

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

Disposition of Recyclable Materials

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

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

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

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

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

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

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

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

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

Consideration of changes to winter sanitation/recycling schedule

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

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

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

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon – Workforce Housing

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

Comr. Brinkley – Thank you to today’s speakers

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

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

Comr. Fuller – Outer Banks Hospital facility site plan

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

MAYOR’S AGENDA

Mayor Cahoon - Consideration of dates for CIP/Budget Workshops

The agenda summary sheet with the proposed schedule read in part as follows:

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

‘Capital Improvement Program Workshop

Wed, March 25, 2020; 9 am

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

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

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

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

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

Mayor Cahoon – Demolition of Urgent Care building

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

Mayor Cahoon – Out of Town

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

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

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

ADJOURNMENT

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

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon