



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, NOVEMBER 3, 2021**

The Nags Head Board of Commissioners met in person at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, November 3, 2021 at 9:00 a.m. for a Regular Meeting. The Town continues to adhere to COVID state and local guidelines.

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 Andy Garman; Attorney John Leidy; Kelly Wyatt; Holly White; Eric Claussen; Amy Miller; David Ryan; Phil Webster; Randy Wells; Shane Hite; Roberta Thuman; Michelle Gray; Jan Mielke; Kate Jones; Brittany Phillips; Conner Twiddy; Matthew Swain; Trey Lipscomb; Steve Szymanski; Mark Kasten; Robert Farmer; and Town Clerk Carolyn F. Morris

CALL TO ORDER

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

ADOPTION OF AGENDA

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

RECOGNITION

INTRODUCTION

Finance Director Amy Miller introduced new Human Resources Manager Jan Mielke who was welcomed by the Board to Town employment.

TWENTY-FIVE YEARS

Town Clerk Carolyn F. Morris introduced Deputy Town Clerk Michelle Gray who was congratulated and presented a plaque by the Board for 25 years of service.

Mayor Cahoon received Board concurrence to provide a photo opportunity for today's recognitions at 9:55 a.m. – just before the 10 a.m. time specific agenda item.

RECOGNITION – Senior Environmental Planner Kate Jones

Interim Planning Director Kelly Wyatt introduced Senior Environmental Planner Kate Jones who was recognized by the Board for her accomplishment at becoming a Licensed Landscape Architect.

PRESENTATION of Earl Murray Jr 2021 Employee of the Year Nominees

Dept Heads presented their Earl Murray Jr 2021 Employee of the Year nominees as follows:

Administrative Services - Amy Miller introduced Brittany Phillips
Fire Dept - Randy Wells introduced Matthew Swain
Planning and Development - Kelly Wyatt introduced Steve Szymanski
Police Dept - Phil Webster introduced Paul (Trey) Lipscomb
Public Works - Eric Claussen introduced Conner Twiddy

PUBLIC COMMENT

No one present wished to speak during Public Comment.

CONSENT AGENDA

The Consent Agenda consisted of the following agenda items:

Approval of minutes

Consideration of modification to Consolidated Fee Schedule

Consideration of resolution authorizing the exchange of equipment between the Town and the Manns Harbor Fire Depts

Request for Public Hearing to consider modifications to the stormwater ordinance

Request for Public Hearing to consider a UDO text amendment submitted by Jay Overton, PE, PLS of Albemarle & Associates to amend Section 8.5.4 as it pertains to alternative design standards within the Soundside Residential Overlay District

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

The requested modification to the Consolidated Fee Schedule, as explained in the agenda summary, as approved, read in part as follows:

"Attached please find a modification to the Town's Consolidated Fee Schedule removing the Post Season Vendor fee of \$15. This fee was for last year's extension of the Dowdy Park Holiday Markets and starting this year we charge one flat rate."

The resolution authorizing the equipment exchange between the Town's Fire Dept and the Manns Harbor Fire Dept, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head owns a Scott Self-Contained Breathing Apparatus Fill Station at a value of \$1,200; AND

'WHEREAS, The Manns Harbor Fire Department in Dare County owns physical fitness equipment valued at \$1,200; AND

'WHEREAS, the Manns Harbor Fire Department and the Town of Nags Head wish to make an even exchange of the described pieces of equipment; AND

'WHEREAS, North Carolina General Statute § 160A-271 authorizes the Town to make such an exchange if authorized by the Board of Commissioners by a resolution adopted at a regular meeting of the Board upon at least 10 days public notice; AND

'WHEREAS, the Town of Nags Head has given the required public notice, and the Board is convened in a regular meeting.

'THEREFORE, the Board of Commissioners of the Town of Nags Head resolves that:

1. The exchange of equipment described above is authorized.
2. The appropriate Town of Nags Head and Manns Harbor Fire Department officials are directed to execute the appropriate instruments necessary to carry out the exchange."

The Request for Public Hearing described in the agenda summary, as approved, read in part as follows:

"In an effort to simplify the current stormwater management regulations required for single-family development within the Town, Planning Staff has drafted amendments to Article 11. Environmental Regulations, PART I. – Stormwater, Fill and Runoff Management of the Unified Development Ordinance for consideration. These proposed revisions are a result of receiving input and comments from homebuilders within the Town as well as members of the Outer Banks Homebuilders Association. Staff has proposed two primary means to approach stormwater management for residential properties: a volume-based approach and a non-volume-based approach. Staff would note that during process of developing these proposed revisions to the stormwater management language it became necessary to also consider amendments to the existing fill requirements.

'Planning Board Recommendation

At their October 19, 2021, meeting the Planning Board discussed both proposed amendments at length. It was the consensus of the Planning Board to recommend the non-volume-based approach. Planning Staff requested the Planning Board defer taking a formal vote until their November 16th meeting when revised cut-sheets would be provided for the identified stormwater improvements/measures. Staff will provide the Planning Board's formal recommendation at the Board of Commissioner's December 1st, 2021 meeting."

The Request for Public Hearing described in the agenda summary, as approved, read in part as follows:

"Jay Overton, PE, PLS of Albemarle & Associates has submitted a text amendment request to the Unified Development Ordinance, which, if adopted, would add alternative site design standards for properties located within the Soundside Residential Dwelling Overlay District that contain an existing on-site elevation

differential of ten feet or greater. Specifically, the proposed text amendment would allow land disturbing activities to occur on up to 70% of the total lot area of the subject property. This would be a departure from the existing site design standard which limits land disturbance to within a 10-foot perimeter around the principal building footprint and site improvements.

'The 2017 Comprehensive Land Use Plan designates this area as being part of the Historic Character Area and notes that consideration shall be given to maintaining the character area including the preservation of natural vegetation, topography and maintaining open spaces and view sheds. These values are also reflected in the SRO ordinance.

'Staff Recommendation/Planning Board Recommendation:

Planning Staff finds the proposed text amendment to be inconsistent with the 2017 Comprehensive Land Use Plan and the intent of the SRO district and, as such, recommends denial of the proposed text amendment as requested. During the presentation of this item, Planning Staff noted that this amendment would apply only to a limited number of properties (i.e., two). There are many examples of properties with unique topographic conditions town wide that could benefit from relief from fill, bulkheading, and land disturbance requirements. It was suggested that a new process could be employed through a separate ordinance amendment to create a special exception or special use permit that would allow for deviations to be considered on a case-by-case basis through site plan review. The standards for granting this would be less restrictive than a variance where findings of hardship must be made. This would be a discretionary approval and would be best suited for board consideration. Staff would prefer this approach rather than an amendment specific to a limited number of properties. It would also involve design review which creates opportunities for additional flexibility.

'At their October 19, 2021 meeting, the Planning Board voted unanimously to recommend denial of the proposed text amendment as requested. However, it was the consensus of the Planning Board that Planning Staff explore an avenue of permitting, such as a Special Use Permit, for land development concerns such as those expressed by the applicant."

PUBLIC HEARINGS

Public Hearing to consider a text amendment submitted by Steve Pauls of FarmDog Surf School to add "Beach Recreation Equipment Rentals & Sales" as a permitted use within the C-4, Arts and Culture Zoning District

Attorney John Leidy introduced the Public Hearing to consider a text amendment submitted by Steve Pauls of FarmDog Surf School to add "Beach Recreation Equipment Rentals & Sales" as a permitted use within the C-4, Arts and Culture Zoning District. The time was 9:36 a.m.

Mayor Cahoon asked to be excused from this discussion as his company, Cahoon & Kasten Architects, worked with the applicant on this item.

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

Mayor Cahoon left the meeting.

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

"Steve Pauls of Farmdog Surf School has submitted the attached text amendment request to the Unified Development Ordinance (UDO), which, if adopted would permit "Beach Recreation Equipment Rentals/Sales" as a permitted use within the C-4, Arts and Culture Zoning District.

'The applicant has noted in the attached application that the reason for this request is because he is under contract to purchase the property at 2403 Wrightsville Avenue and would like to operate Farmdog Surf School, a Beach Equipment Rentals and Sales use, out of this existing building. The applicant also notes that within the current UDO, bicycle rental and general retail are both permitted separately in the C-4, Arts and Culture Zoning District. Staff submits that while this is helpful information, text amendments are not site specific but rather they apply to the entire district in which it is being requested.

'A map of the C-4, Art and Culture District has been included in your packet and consists of several residential dwellings, four vacant properties, and commercial uses such as Jewelry by Gail, Gallery Row Animal Hospital and Glenn Eure's Ghost Fleet Gallery.

'CODE CONSIDERATIONS

Currently, the Beach Recreation Equipment Rentals/Sales use is only permitted as a by-right use within the CR, C-1, and C-2 zoning districts. There are no supplemental regulations for the use, but the required parking standard is one parking space per 300 square feet of gross floor area, plus 2 employee parking spaces for each retail unit or establishment.

'The following are the commercial uses currently allowed within the C-4 district, either permitted by-right or with the issuance of a special use permit:

'Bed and Breakfast

Child Care Facility, Family Child Care Home

Dormitory Hotels

Multi-Unit Assisted Housing with Services

Art Gallery

Art Gallery - Owner Occupied

Artisan's Workshop (3,000 sq. ft. or less) Artisan's Workshop (exceeding 3,000 square feet)

Auction House

Beach Recreation Equipment Rentals/Sales

Bicycle Shop (repair, retail, rental) Convenience Store

Firearms Sales and Service Food/Grocery Store Furniture Store

General Retail, including clothing, gifts, candy, toys, shoes, jewelry, notions, beach equipment, bakery, antiques, hobby goods, magazines/comics, crafts, dry goods, gifts, musical instruments, bookstores, sporting goods (and the incidental manufacturing, repair, or service of goods on the premises)

Greenhouse/Plant Nursery Hardware Store

Pet Shop/Dog Grooming Group Fitness- Aerobics/Dance/Karate/Yoga Hair Salon

Indoor Fitness/Gymnasium Indoor Public Assembly Facility Massage and Bodywork Therapy Shoe Repair

Spa Tailor

Veterinary Clinic with no Animal Boarding

Coffee Shop/Juice Bar Food Truck

Ice Cream Shop Microbreweries

Restaurant - Neighborhood Restaurant - Sit Down Restaurant - Take Out

Professional Office, including General Business, Financial, Real Estate Sales, Insurance, Attorney, Accountant, Mortgage Commercial with Accessory Residential Mixed Use Development

Multiple Principal Uses Museum

Medical Offices Community Garden Small Wireless Facilities

Commercial Crop Production, Indoor Fine Craft and Folk Art Production Bulkhead/Estuarine Bulkhead Garage

Greenhouses
Portable Storage Units/Temporary Construction Trailers
Shed
Solar Energy Facility, Accessory Swimming Pool
Walls and Fences

'POLICY CONSIDERATIONS

The 2017 Comprehensive Land Use Plan designates this area as Neighborhood Commercial and it is within the Gallery Row, Community Center Character Area. Table 2.2.2.A notes Appropriate Land Uses in the Gallery Row Character Area as Commercial uses 10,000 square feet or less, Retail and Equipment Rentals. Based upon this analysis, Planning Staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire of this area to be a central node for community activity to include amenities and services that can meet a variety of daily needs including active and passive recreation, social interaction, education and fitness, and commercial services for residents and visitors.

'PLANNING BOARD AND STAFF RECOMMENDATION:

Staff is of the opinion that the requested amendment is consistent with the Town's adopted Comprehensive Plan and is reasonable and in the public interest and recommends adoption of the amendment as requested.

'The Planning Board, at their September 21, 2021 meeting, voted unanimously to recommend adoption of the proposed text amendment as requested.

'If the Board of Commissioners is inclined to adopt this proposed text amendment, please reference Appendix A for the statement of consistency with the Town's adopted Comprehensive Plan requirements."

Applicant Robert Farmer and Mark Kasten of Cahoon & Kasten were present.

Mark Kasten with Cahoon & Kasten Architects stated that he represented the FarmDog group; he feels that the amendment would be good for tourists and helps the Town keep the area cleaner because renters would not need to put their week-long items out for trash pickup – he feels it's a good business opportunity.

There being no one else present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:44 a.m.

MOTION: Comr. Fuller made a motion to adopt the text amendment to add "Beach Recreation Equipment Rentals & Sales" as a permitted use within the C-4, Arts and Culture Zoning District as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was excused.).

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

Mayor Cahoon returned to the meeting.

BREAK FOR PHOTO OPPORTUNITY

Board members went outside for a photo opportunity with those recognized during today's meeting. The time was 9:45 a.m.

Presentation from Decentralized Wastewater Management Plan Committee

Environmental Planner Kylie Shephard introduced Tetra Tech representative Holly Miller (via Zoom) and Decentralized Wastewater Management Plan Advisory Committee member Bob Muller.

The agenda summary sheet read in part as follows:

"This item is an update of the Decentralized Wastewater Management Plan given by the consultant, Holly Miller with Tetra Tech, and advisory committee member, Bob Muller. This presentation is intended to provide the Board with an update on the status of the Decentralized Wastewater Management Plan. More information on the plan process, including minutes of the Advisory Committee meetings, is available [HERE](#).

'Planning Staff and consultant will be available to address any questions."

Tetra Tech representative Holly Miller summarized her presentation re: the development of the Decentralized Wastewater Management Plan along with an upcoming schedule.

Ms. Miller's presentation slides are attached to and made a part of these minutes as shown in Addendum "B".

Advisory Committee member Bob Muller presented the committee's updates which are included in his presentation slides which are attached to and made a part of these minutes as shown in Addendum "C".

The schedule presented included a February 2022 delivery of the Draft Plan to the Board for review and approval.

Comr. Brinkley agreed that education is huge and much needed; he has heard from the community that Nags Head is the leader in this area and wishes others would follow with the initiative.

Comr. Renée Cahoon thanked Bob Muller for participating on the committee and for beginning the Septic Health Initiative Program many years ago – property manager associations could help and could be key to getting information to the renters.

Board members thanked Tetra Tech representative Holly Miller, staff members, and Advisory Committee member Bob Muller for the very informative presentations on the Decentralized Wastewater Management Plan.

Public Hearing to consider a text amendment to the Unified Development Ordinance allowing temporary accommodations for outdoor dining

Attorney John Leidy introduced the Public Hearing to consider a text amendment to the UDO allowing temporary accommodations for outdoor dining. The time was 10:41 a.m.

The agenda summary sheet read in part as follows:

"At their meeting on May 5, 2021, the Board of Commissioners requested that planning staff work on a text amendment to accommodate temporary allowances for outdoor dining, regardless of a declared state of emergency. Staff was asked to consider amendments that would allow for outdoor dining on a temporary or seasonal basis in a more flexible and simplified manner, allowing this where parking was not

a reduced below that which is required and/or when seating is not increased in excess of available and required parking, or in excess of wastewater capacity.

'Taking into consideration comments from the Planning Board at their July 20, 2021 meeting, Planning Staff prepared and presented an amendment to Section 4.11.5, Temporary Use Permit, which if adopted would allow temporary outdoor dining that qualifies as customer service area, or to allow the temporary use of parking areas for outdoor dining. With such requests, parking shall not be reduced below that which is required for the use, nor shall seating/occupancy be increased in excess of required parking or the wastewater capacity. When issued, these temporary use permits would have an expiration date, not to exceed 180-days from the date of issuance. Extensions of this original temporary use permit for dining may be sought but shall not be granted beyond 210 consecutive days as proposed. Restaurant uses shall not be eligible for the issuance of a temporary use permit for outdoor dining where a temporary use permit has been effective for the same site in each of the two (2) preceding calendar years.

'Staff Recommendation/Planning Board Recommendation:

Planning Staff is of the opinion that providing temporary accommodations for outdoor dining, with limits, is supported by the Comprehensive Plan and that the proposed amendment is reasonable and in the public interest.

'At their September 21, 2021 meeting, the Planning Board voted unanimously to recommend adoption of the proposed text amendment as requested."

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

"At their May 5, 2021 meeting the Board of Commissioners expressed unanimous support to allow for the continued issuance of Temporary Use Permits until November 28, 2021 should the declared state of emergency be lifted. Additionally, Staff was asked to work on a text amendment to allow temporary allowances for outdoor dining regardless of a declared state of emergency. Generally, the Board discussed the possibility of amending the UDO to allow outdoor dining on a temporary or seasonal basis in a more flexible and simplified manner, allowing this where parking was not reduced below that which is required and/or seating not increased in excess of available and required parking, or in excess of wastewater capacity.

'The Planning Board discussed this item at their meeting on July 20, 2021. Points raised at that meeting include the following:

- Whether the duration of the temporary use permit should be longer, that 90 days may be too short of a duration.
- Whether the number of extensions should be limited.
- Whether the temporary use permit provides an option for restaurants to try before making a longer commitment.
- Should the temporary use permit allow parking areas to be used for seating, whether used for serviced dining or not?
- An alternative to the temporary use permit may be to allow outdoor dining as an accessory use with supplemental regulations; however, would this be harder to track and enforce?
- Whether a hybrid option, where only a temporary use permit would be required if parking area was used, would be an option.
- Whether the number of times that a temporary use permit is issued should be limited, with additional interest requiring a site plan review.

'CODE CONSIDERATIONS

Staff believes that there is an opportunity to address this allowance through the modification of the Temporary Use Permit provisions that were adopted in 2020. Restaurants wishing to establish an allowance to provide regular or occasional serviced outdoor dining could include such a request as part of a site plan review application, or as part of a subsequent application; however, there is currently no mechanism within the UDO allowing a restaurant to occasionally implement serviced outdoor dining without a site plan review application or without a Temporary Use Permit. At present, the issuance of a Temporary Use Permit for a temporary use or the temporary modification of a use, is only eligible during a declared State of Emergency (or due to the impacts associated with a declared State of Emergency). Staff is of the opinion that the provisions could be easily modified to allow for Temporary Use Permits to be issued at all times, for limited durations, for limited use types (at least initially, for outdoor dining), and subject to certain limitations (i.e. no reduction of parking, no occupancy in excess of wastewater capacity, etc.).

'POLICY CONSIDERATIONS

The Town's Comprehensive Plan does include at least one action, as follows, supportive of increasing opportunities for outdoor dining:

- *LU-2c* Focus on activating the front of commercial structures along the NC 12 corridor with uses that blend the private sphere of the business with the public sphere of the sidewalk and street. This can be accomplished through outdoor seating or dining.

'PLANNING BOARD AND STAFF RECOMMENDATION

Staff is of the opinion that providing temporary accommodations for outdoor dining, with limits, is supported by the Comprehensive Plan, and that the proposed amendment is consistent with the Town's adopted Comprehensive Plan and is reasonable and in the public interest and recommends adoption of the amendments as proposed.

'At their September 21, 2021 meeting the Planning Board voted unanimously to recommend adoption of the proposed amendment as presented.

'If the Board of Commissioners is inclined to adopt this proposed text amendment, please reference Appendix A for the statement of consistency with the Town's adopted Comprehensive Plan requirements (attached)."

MOTION and WITHDRAWAL OF MOTION: Comr. Fuller made a motion to adopt the text amendment as presented and subsequently withdrew his motion.

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

MOTION: Comr. Fuller made a motion to adopt the text amendment to the Unified Development Ordinance allowing temporary accommodations for outdoor dining as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

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

Update from Planning Director

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

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on November 3, 2021.

'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for October 2021*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Wednesday, October 6th – Board of Commissioners Meeting
- Thursday, October 7th – Meeting with Homebuilders Association re: Stormwater
- Thursday, October 7th – OBX CRS Users Group Meeting
- Thursday, October 7th – ETIPP Technical Assistance Meeting
- Wednesday, October 13th - Committee for Arts & Culture Meeting
- Thursday, October 14th – Board of Adjustment Meeting
- Tuesday, October 19th – Planning Board Meeting
- Thursday, October 21st – DWMP Advisory Committee Meeting
- Thursday, October 21st – ETIPP Technical Assistance Meeting

'Review of Residential Stormwater Regulations

At their October 19, 2021 meeting, the Planning Board reviewed proposed text amendments to the Stormwater, Fill and Runoff Management regulations within the Unified Development Ordinance. These revisions were drafted following input provided by homebuilders within the Town as well as members of the Outer Banks Homebuilders Association in an effort to simplify the current stormwater management regulations required for single-family development within the Town. Staff has proposed two primary means to approach stormwater management for residential properties: a volume-based approach and a non-volume-based approach. While the Planning Board deferred a formal recommendation on the amendments until their November 16th meeting when they will be given the revised, simplified cut-sheets for stormwater improvements/measures, it was the consensus of the Planning Board to recommend the non-volume-based approach.

'The draft amendments were also provided to members of the Outer Banks Homebuilders Association for their review. They also preferred the non-volume-based approach.

'Staff also took the opportunity to propose modifications to the ordinance that are necessary for consistency and clarity that are outside of the stormwater standards for residential construction. These include consideration of eliminating the five foot no-fill setback when a 4:1 fill slope is utilized, clarity on where pre-disturbance lot fill elevations shall be taken when the building footprint is irregular, and addressing the ability to fill and level lot depressions that are a minimum of five feet from all lot lines.

'Lastly, staff would like to receive guidance from the Board of Commissioners as it pertains to use of fill on properties west of NC 12 and SR1243. Section 11.5.3.2.1 of the UDO currently states that in areas where the FIRM provides a base flood elevation for a subject property, fill shall not exceed the amount required for wastewater permits required by the Dare County Health Department, or the base flood elevation. In

many cases now, the base flood elevation in AE Zones is 4-5 feet msl. With the adoption of a Local Elevation Standard (LES)/Regulatory Flood Protection Elevation (RFPE) of 9 feet msl, we did not amend the language of Section 11.5.3.2.1 to allow for the placement of fill up to the LES/RFPE. Please note that prior to the update of the Flood Damage Prevention Ordinance associated with the new flood maps, the ordinance did allow for the placement of fill material up to the then base flood elevation, which ranged from 8 feet msl to 10 feet msl west of NC 12 and SR1243. While this was an oversight and staff would recommend that it be remedied, this is more than regular housekeeping and as such would appreciate any discussion and guidance that the Board of Commissioners would like to provide on this matter.

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on October 19, 2021 and included a site plan review submitted and Tom and Donna Haddon for the removal of trees with caliper of 16-inches or greater within the SED-80 District, consideration of a text amendment by Jay Overton, PE, PLS to establish alternative site design standards for lots with unique topography in the Soundside Residential Dwelling Overlay District, consideration of various text amendments to the Town's Residential Stormwater Regulations and a brief update on the Electric Vehicle Action Plan

'The Board's next meeting is scheduled for November 16, 2021. At this time, the agenda is expected to include consideration a of text amendment for revisions the Residential Stormwater Management Regulations with the proposed simplified cut-sheets for stormwater improvement measures.

'As noted above, the Planning Board did hear a text amendment request submitted by Jay Overton, PE, PLS seeking to establish alternative site design standards for lots with unique topography in the Southside Residential Overlay District. Current site design standards limit land disturbing activities to within vehicular accessways and within a 10-foot perimeter around the principal building and accessory buildings. Mr. Overton is designing a homesite in the Soundside Residential Overlay District that has significant elevation changes. Mr. Overton proposed a text amendment which would regulate land disturbance based upon the percentage of the lot being disturbed versus a perimeter around the buildings. The proposed amendment would also exempt the subject property from various requirements of the Stormwater, Fill and Runoff Management requirements and would exempt subject properties from compliance with regulations limiting the use of bulkheads to vehicular accessways, decorative landscaping and estuarine bulkheads. Staff did recommend denial of this proposed text amendment based upon the amendment's inconsistency with the Comprehensive Land Use Plan. Staff also acknowledges the difficulty in trying to design a homesite in a area with unique topographical characteristics to accommodate a desired home while reducing the utilization of hardened structures such as retaining walls. During the presentation of this item and upon hearing the discussion, staff noted that this text amendment may not be the best mechanism to seek site design deviations, and perhaps the Special Use Permitting process may be better suited given the limited number of properties that the amendment would affect and the inability to obtain a variance through a showing of hardship. Perhaps allowing permitting of a single-family dwelling under specific site and building design conditions via the Special Use Permit would be something for staff to explore. This text amendment request is Item E-8 on the November 3rd Consent Agenda. At this time the applicant is moving forward with the requested text amendment and a recommendation of denial from the Planning Board, to be heard by the Board of Commissioners at their December 1st, 2021 meeting. Staff is available for discussion, questions and/or guidance on the Board's wishes to explore the Special Use Permit process.

'Additional Updates

- Decentralized Wastewater Management Plan - To this point, seven meetings have been held with the project Advisory Committee, with the last meeting being on October 21st with discussion focusing on upcoming milestones and recommendations for consideration as part of the program update. The Board of Commissioners will be receiving a project update from the consultant, Holly Miller of Tetra Tech and Advisory Committee member, Bob Muller at their November 3rd meeting. The community is invited to participate in a survey for the update of the Decentralized Wastewater Management Plan – [HERE](#). The

survey will be open through November 30th. A Virtual Public Form for the update is being held on Thursday, November 18th at 6pm. You can sign up for more information [-HERE](#). A summary of key takeaways from the stakeholder interviews is being completed and will be uploaded to the Decentralized Wastewater Management Plan project page when completed.

- Estuarine Shoreline Management Plan – The contract with Biohabitats has been executed and the consultants will be visiting Nags Head 10/27/21 – 10/29/21. During this time, they will meet with staff, view the Town’s shoreline, and make initial observations. During the site visit, staff will also work with Biohabitats to develop a community engagement plan. Updates will be provided to the Board following this visit.
- Whalebone Park: Phase 1 – Planning – There has been no update since the last Director’s Report. The FY21/22 Adopted Budget & 22/23 Financial Plan included a CIP project for “renovation and improvement of amenities at Whalebone Park...budgeted at \$250,000,” with full grant funding to be sought. It is noted that primary concerns are the overall maintenance of the park, providing adequate shade opportunities and the need for restroom facilities.
- Electric Vehicles Action Plan – Staff provided an update to the Planning Board at their October meeting and the Duke Masters students will attend the Planning Board’s November meeting virtually to discuss the project scope. The students will identify key stakeholders and begin working on the EV Action Plan.
- Level 2 Charger - There has been no update since the last Director’s Report. Staff continues to consider opportunities and vendors to source a charger for location on Town property through a “host” arrangement. Additionally, Staff expects that resources or options may be identified through the EV Action Plan.
- NC Resilient Coastal Communities Program – There has been no update since the last Director’s Report.
- ETIPP Project/Program - The Department of Energy’s Energy Transitions Initiative Partnership Program (ETIPP) is assisting the Town. With assistance from the National Renewable Energy Laboratory (NREL), a survey has been developed and sent to key staff to help identify and rank town owned critical facilities and other non-Town owned critical facilities. Once completed staff will meet with NREL to provide specific data on key critical facilities. This data will be analyzed to determine how best to improve the energy resiliency of each critical facility.
- NC AIA Activate Technical Assistance – Key stakeholders have been identified and asked to participate in a survey specific to their background. A community survey was prepared and distributed as well. Approx. 108 responses were received about preferences and opinions on energy and water conservation. Staff has also conducted several stakeholder interviews as a follow up to the survey. Information gathered through this process will be utilized by staff, representatives of AIA, and NC State School of Design to develop best practices that will be featured in a Residential Energy and Water Conservation Guide for Nags Head.
- Flood/Tide Gauges – There has been no update since the last Director’s Report. Three gauges have been installed in the Town, one in the Village, one at Jennette’s Pier, and another at on Little Bridge. Staff is waiting for direction from the vendor before publicizing the gauges.
- LID Stormwater Demonstration Project - There has been no update since the last Director’s Report.

- LED Conversion of Streetlights; Amber Streetlight Demo – There has been no update since the last Director's Report. Dominion will be moving forward with a demonstration/pilot of amber "turtle-friendly" lights, to be installed in 8 locations in close proximity to the beach.
- Dowdy Park Events/Farmers Market/Holiday Markets – This year's Holiday Market dates are Saturday, November 27 (9a-12p), Saturday, November 27 (9am-12pm), Thursday, December 2 (4pm-7pm), and Saturday, December 11 (9am-12pm). Event Coordinator, Paige Griffin has also coordinated another movie to be shown at Dowdy Park on Friday, November 5th.
- Grants and Assistance
 - The Town has been awarded a \$200,000 grant towards the Epstein Beach Access improvements. The Governor's Award letter should be mailed to the Mayor shortly.
 - The Town has been awarded an Event Grant in the amount of \$1,680 from the Dare County Tourism Board for the 2021 Dowdy Park Holiday Markets for the purchase of tents.

'Upcoming Meetings and Other Dates

- Wednesday, October 27 – Friday, October 29 – Biohabitats Site Visit ESMP
- Tuesday, November 2nd – AIA Conservation Guide Discussion
- Wednesday, November 3rd – Board of Commissioners Meeting
- Thursday, November 4th – OBX CRS Users Group
- Wednesday, November 10th – Committee for Arts & Culture Meeting
- Thursday, November 11th – Veterans Day, Offices closed
- Tuesday, November 16th – Planning Board Meeting
- Thursday, November 18th – DWMP Virtual Public Forum
- Thursday, November 18th – Board of Adjustment Meeting"

Ms. Wyatt highlighted specific items from her report for the Board: She pointed out the December Public Hearing concerning residential stormwater regulations as well as a request from engineer Jay Overton concerning alternative site design standards in the Soundside Residential Overlay District.

Mayor Cahoon confirmed with Ms. Wyatt that she is asking for Board input on Fill and lots with unique topography; Board members commented that fill should not injure neighboring lots.

Mayor Cahoon confirmed that the Board would be considering these items during the two scheduled Public Hearings for the December 1st Board meeting and would provide guidance at that time.

Consideration of site plan submitted by Tom and Donna Haddon for removal of trees with a caliper of 16-inches or greater as required within the SED-80 Special Environmental District. The property is located at 3620 S Old Nags Head Woods Road

Interim Planning Director Kelly Wyatt summarized staff's report which read in part as follows:

"Applicant: Tom and Donna Haddon

Application Request: SED-80 Site Plan Review.

Purpose: Request approval of a site plan required for the removal of sixteen (16) trees that exceed a 16-inch caliper within the SED-80, Special Environmental District.

Property Location: 3620 S. Old Nags Head Woods Road, Nags Head.

Existing Land Use: Vacant.

Zoning Classification of Property: SED-80, Special Environmental District.

Zoning Classification and Use of Surrounding Properties: Properties to the north and south of this parcel are zoned SED-80, Special Environmental District. Property east of the parcel is zoned SPD-20, Special Planned Development District. The Roanoke Sound borders the property to the west.

'Flood Hazard Zone of Property: X Flood Zone and AE-5 immediately adjacent to the Sound; per the Town of Nags Head local ordinance, the property is subject to an RFPE/LES of 9' msl.

'Land Use Plan Map/Policies: The 2017 Comprehensive Plan Future Land Use Map designates this property as Conservation, described as follows:

'The Conservation designation offers protection to significant, limited, or irreplaceable sensitive areas. This designation encompasses wetlands, estuarine and coastal shorelines, public trust and estuarine waters, Significant Natural Heritage Areas (as designated by the State Natural Heritage Program), and other similar lands that are environmentally significant because of their natural role in the integrity of the coastal region as significant natural areas in Section 2.9

'Significant Natural Areas. Conservation areas should be preserved and not developed. The provision of infrastructure and services in this area should not stimulate or intensify development in these fragile areas. Proper management of these areas is needed to conserve the natural, cultural, recreational, scenic, or biologically productive value of these areas.

'Additionally, the property is located within the Significant Natural Areas Character Area, and specifically Nags Head Woods. Single Family Residential is identified as an appropriate land use within the Nags Head Woods Significant Natural Areas Character Area. The Comprehensive Plan includes the following discussion regarding the SED-80 zoning district:

'The special environmental district, SED-80, contains Nags Head Woods and Fresh Pond. This zoning district was created to permit development that is compatible with the environmentally sensitive nature of Nags Head Woods. Additionally, the SED-80 district preserves land in a natural state where such land is considered to be a vital link in the groundwater replenishment cycle of the outer banks and where the destruction of natural vegetation would have a harmful effect on the stability of the soil and its resistance to erosion. The purpose of the SED-80 district is to:

- *Provide for the paramount public concern for these natural resources in the interest of health, safety and general welfare of the residents of and visitors to the town.*
- *Preserve the natural features and functions of the area necessary for safe and compatible development on the entire outer banks. Such features include, but are not limited to, the following:*
 - *The components of the groundwater storage and recharge system which are necessary for the growth and maintenance of the maritime forest vegetation. Such components include ponds, lowlands, marshes, bay forests and wetlands.*
 - *Vegetation acting as soil stabilizers or which provide significant protection from storm or salt intrusion, including the dune ridge plant communities and scrub forest.*
- *Protect the fragile ecosystems of Nags Head Woods from the effects of fire, storms, flooding and other natural and manmade disasters.*

- *Prevent pollution of the estuary and the sound which might otherwise adversely affect the biological productivity of the sound.*
- *Permit low-density residential development of those portions of the SED-80 district suitable for residential use and to encourage open space and limited passive recreational use of portions not suitable for residential use.*
- *Prohibit commercial and industrial use of the land except as provided in this section.*
- *Preserve the cultural heritage, features and integrity of Nags Head Woods as a maritime forest.*

'SPECIFIC INFORMATION AND REVIEW STANDARDS

The lot in question is approximately 2.78 acres in area, with approximately 100' of frontage along the Roanoke Sound. Due to the location of the lot adjacent to the Sound and its unique natural features, which include rolling topography and a diverse variety of large trees, the property is subject to numerous regulatory requirements, including GAMA requirements, Army Corps of Engineers wetland regulations, local zoning regulations, erosion and sedimentation control regulations and Dare County Health Department requirements pertaining to the location and operation of the septic system.

'The SED-80 zoning district provides for development requirements in addition to the standard development requirements (Section 8.4.3.3., Additional Requirements), which the proposed site plan meets. Additionally, the District provides for additional standards in Section 8.4.3.4., Special Development Standards, including design standards contained in Section 8.4.3.4.2., Site Design Standards; the proposed site plan meets all site design standards, with the exception of the following:

'8.4.3.4.2.3. The removal of any tree with a caliper sixteen (16) inches or greater is prohibited, whether or not they fall within any building site, septic area, driveway, road or utility easement, except as provided in subsection 8.4.3.4.3.1.3 of this section.

'Pursuant to Section 8.4.3.4.2., Site Design Standards, the provided design criteria, including the aforementioned criteria contained in Section 8.4.3.4.2.3., "shall be satisfied, except where the Board of Commissioners finds an alternative design scheme which provides equal or better performance standards regarding the intent of this UDO and to protect the natural features of the SED-80 district protected under this section."

'Section 8.4.3.4.3., Standards of Review and Approval Procedure; Intent and Purpose, and subsections, and specifically Section 8.4.3.4.3.1.4., provide the standards for review of the subject request. The Section and subsection are provided below, with relevant sections highlighted:

- *Standards of Review and Approval Procedure; Intent and Purpose. When selecting the building site, the applicant shall adhere to the following standards and to the intent and purpose of this section:*
- *Building Site Selection. The Board of Commissioners or planning and development staff, whichever the case may be as described in subsection 8.4.3.4.3.2 of this section, shall review and may approve the proposed improvements site plan indicating the proposed building sites before a building permit can be issued. The most suitable building sites are those areas that require the absolute minimum alterations of the natural vegetation, topography and groundwater systems. Evaluation of site suitability shall use the following additional criteria:*
- *Existing unforested land areas shall be considered as the most suitable building sites, unless such a selection would threaten the health of the vegetation by stimulating dune migration or cause extensive*

salt mist intrusion into the Woods or would involve alterations or development prohibited elsewhere in this section.

- *Where vegetation must be removed for the building sites, the most suitable sites will be the sites which disturb the minimum number of healthy trees and vegetation. In approving the building sites, the board shall consider the density, height and variety of the vegetation to be removed, so as to preserve those forest stands which provide the most protection from storm and salt spray and maintain the unique natural diversity of the plant species in the Woods.*
- *The planning and development department may approve the removal of any tree which:*
- *Poses a safety hazard to pedestrians or vehicular traffic or threatens to cause disruption of public service;*
- *Poses a safety hazard to a building; or*
- *Is diseased or weakened by age, so as to pose a safety hazard.*
- *The Board of Commissioners shall review and may approve the removal of any tree greater than four (4) inches in caliper where:*
- *The Board of Commissioners find in their opinion no reasonable alternative building site and/or supporting facilities can be located on a lot; or*
- *The removal is necessary to construct proposed improvements as a result of: need for access around the proposed structure for construction equipment; need for access to the building site for construction equipment; essential grade changes; surface water drainage and utility installations. However, removal of trees greater than sixteen (16) inches in caliper is prohibited unless subsection 8.4.3.4.3.1.3 or subsection 8.4.3.4.3.1.4 of this section apply.*
- *The topography of the site shall be evaluated for overall development suitability so that all structures shall be constructed below the canopy of existing tree cover.*

'To summarize, the Applicant is seeking to remove sixteen (16) trees greater than sixteen (16) inches in caliper. In reviewing the request, the Planning Board and Board of Commissioners shall consider, in light of the requested removals:

- Whether the proposed building site is the most suitable in that it is in areas requiring the absolute minimum alterations of the natural vegetation, topography and groundwater systems.
- Whether existing unforested land exists that would be considered the most suitable building site, unless development of such area would threaten the health of vegetation by stimulating dune migration or cause extensive salt mist intrusion into the Woods or would involve alterations or development prohibited elsewhere in this section.
- Whether the building site, given the removal of trees, is the most suitable in that it disturbs the minimum number of healthy trees and vegetation, with consideration to the density, height and variety of the vegetation to be removed, with the goal to preserve those forest stands which provide the most protection from storm and salt spray and maintain the unique natural diversity of the plant species in the Woods.
- That there is no reasonable alternative building site and/or supporting facilities can be located

on a lot OR the removal is necessary to construct proposed improvements as a result of: need for access around the proposed structure for construction equipment; need for access to the building site for construction equipment; essential grade changes; surface water drainage and utility installations.

- Whether, based upon an evaluation of the topography of the site, all structures will be constructed below the canopy of existing tree cover.

'The Applicant has noted the following with respect to these standards within the application:

'This is a densely wooded lot with irregular terrain that also contains an estuarine Roanoke Sound Dune Ridge near the waterfront. There is a naturally occurring plateau-like area where the majority of the primary structure is centered. The construction envelope, grading areas and structural design have attempted to avoid tree removal to the maximum extent practical, while using a location that also minimizes site grading to conform to development standards within the SEO-BO District. However, some of the pines and the gum tree to be removed are a function of safety to the owners and protection of the home.

'PLANNING BOARD & STAFF RECOMMENDATION

The subject site is heavily wooded. While the applicant is proposing to remove these sixteen (16) trees, staff is of the opinion that the siting of the principal structure is such that numerous other trees of similar size are being retained and preserved. Staff would submit that the proposed building site of the principal structure is the most suitable given the minimization for alterations to the site's various natural conditions; that there is generally no unforested land on site that would be viable for development; that the proposed building site is the most suitable in that it disturbs a minimum number of healthy trees and vegetation, and favors the preservation of a variety of trees species over the preservation of the subject pines, which provide the most protection from storm and salt spray and maintain the unique natural diversity of the plant species in Nags Head Woods; that alternative building sites are less than reasonable compared to the proposed building site; and, that at least with respect to three (3) of the trees, removal is necessary to construct proposed improvements as a result of need for access around the proposed structure for construction equipment and need for access to the building site for construction equipment.

'The proposed detached garage located on the east side of S. Old Nags Head Woods Road does have a significant improved parking area, however staff recognizes that parking is somewhat limited at the principal structure site due to the topography and the property owners desire to reduce the amount of required land disturbance necessary for the driveway and parking. Shifting this improved parking area to the south or reducing the width could possibly result in the retention of two (2) 16-inch caliper pines, however numerous other pines, oaks, and a large gum tree are being retained and preserved.

'Based upon a review of the application and the inspection and analysis of the property, and the above, Staff recommends approval of the Site Plan as presented, allowing for the removal of the sixteen (16) subject trees.

'At their October 19, 2021, meeting the Planning Board voted unanimously to recommend approval of the removal of sixteen (16) trees with a caliper of 16-inches or greater as requested."

Applicant Mr. Haddon stated that he is present to answer any questions Board members may have.

MOTION: Comr. Brinkley made a motion to approve the site plan as submitted by Tom and Donna Haddon for the removal of trees with a caliper of 16 inches or greater as required within the SED-80

Special Environmental District. The motion was seconded by Comr. Fuller and Mayor Pro Tem Siers which passed unanimously.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From Oct 6, 2021 Board meeting - Update on Sidewalk/Crosswalk projects

The agenda summary sheet read in part as follows:

"At the October 6, 2021 Board of Commissioners Meeting, the Board requested that staff add an additional sidewalk segment along Seachase Drive to the bid for the other previously planned and approved sidewalk projects along E. Bonnett and W. Barnes Streets. Staff advertised for these three sidewalk projects on October 19th and will open bids on November 9th at 2:00 PM. The segment along Seachase Drive was advertised as an "add alternate" to allow for staff to assess bid costs as the E. Bonnett & W. Barnes Street segments were previously identified for funding in the FY22 budget and submitted for partial funding as part of a Visitors Bureau grant. Once awarded, the contractor shall have until March 2, 2022 to complete this work without penalty, and staff will coordinate the work on the Seachase Drive segment with Village Property Owners Association if that project is approved for funding.

'Additionally, staff has been in regular communications with NCDOT regarding the installation of the Board-approved lighted, pushbutton signs at Seachase Drive and S. Virginia Dare Trail. NCDOT is preparing the reimbursement agreement with the Town for those signs, and once executed, they will schedule the installation. NCDOT has also communicated with the Town Manager and Public Services Director regarding their findings for the requested traffic studies at US158 & Gray Eagle Street and NC12 & Old Oregon Inlet Road, which they will present to staff in mid-November. In addition, they will be providing an update on the installation of advanced pedestrian features (crosswalk treatments) as presented to the Board by the Public Services Department at the September Board of Commissioner's Meeting."

Sidewalks - Board members concurred with Town Engineer David Ryan's update re: sidewalks and asked that the property owners be made aware of the scheduled sidewalk construction projects ahead of time.

Crosswalk projects - Board members concurred with Public Works Director Eric Claussen's update re: crosswalk projects - He indicated that staff is to meet with NCDOT within the next two weeks to review two traffic studies (US158/Gray Eagle and NC12/SOOIR) as well as the reimbursement agreement for the lighted pedestrian pushbutton sign at Seachase/SVDT and to ask NCDOT to proceed with the advanced pedestrian features (crosswalk treatments) as previously presented to the Board. Director Claussen said that he will emphasize the importance of expediting the agreement process so work is completed, hopefully, by March 2022. Director Claussen was also aware of the S Nags Head (June St) crosswalk striping mis-match and will have NCDOT fix.

From Oct 6, 2021 Board meeting - Discussion of reduced speed limit on Seachase Drive

Public Works Director Eric Claussen summarized the agenda summary sheet which read in part as follows:

"At the October 6, 2021 Board of Commissioners Meeting – Open Session, Commissioner Cahoon had requested information to discuss lowering of the speed limit in the Village from 25 MPH to 20 MPH. Following that request, the Town Manger had solicited feedback from the Village Property Owners Association, and staff is currently in the process of collecting those comments.

'National statistics show that as speed limits are lowered, the probability of a pedestrian being fatally struck by a vehicle is greatly reduced. For example, according to the Institute of Transportation Engineers, if a vehicle is traveling at 30 MPH the likelihood of the that crash resulting in a fatality is 40% vs that same pedestrian being struck by a vehicle traveling at 20 MPH is 10%.

'An update to the Traffic Control Map, lowering the speed limit in the Village from 25 MPH to 20 MPH, is attached for the Board to consider for immediate action. However, prior to make the permanent modification, Public Services would like to perform a speed study in the Village so that existing speeds can be documented. If the 85th percentile speeds indicate the drivers are exceeding the speed limit of 25 MPH, staff would want to consider coupling the speed limit reduction with an engineering treatment that affects driver behavior to achieve that desired speed."

Director Claussen said that he would like to see a speed study done just to understand the roadway traffic; Comr. Renée Cahoon agreed but said that timing is not correct as it needs to be done during the summer season. The speed study could be done at Thanksgiving and at Christmas.

It was confirmed with staff that one comment received from a Village Property Owner's Association member was in support of the reduction in speed limit.

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance amending the Traffic Control Map as presented – modifying the speed limit from 25 MPH to 20 MPH on W Seachase Road. The motion was seconded by Comr. Fuller which passed unanimously.

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

Board members thanked Director Claussen for being able to assist with pedestrian and speed limit items with the knowledge he brings from his previous positions.

From Oct 6, 2021 Board meeting - Appointment/Reappointment to Board of Adjustment

The agenda summary sheet read in part as follows:

"At the November 3rd Board of Commissioners meeting, the following Board of Adjustment appointments/reappointments are presented for consideration - postponed from the October 6th Board meeting:

'Board of Adjustment - Resignation in Sep 2021 of Angelina Lowe - she would like to be an Alternate.

'Please see attached Current and Candidate listings for the Board of Adjustment."

MOTION: Comr. Renée Cahoon made a motion to appoint Alice Coffey as a regular member of the Board of Adjustment. The motion was seconded by Comr. Brinkley which passed unanimously.

Mayor Pro Tem Siers said he believes that there is one person serving on three separate Town Boards/Committees. Staff is to check on this and locate any policy or past practice, to include any duplicates on current Boards/Committees for discussion at the December Board meeting.

NEW BUSINESS

Committee Reports

Comr. Fuller – Dare County Tourism Board - he reported that he had asked for full grants for the Town's beach access funding requests; he also encouraged all to look at the Soundside boardwalk plan which is moving forward rapidly and includes the Harvey site.

Comr. Brinkley - Jennette's Pier Advisory Committee - the committee met on October 27th - they are going to request appropriation from the General Assembly in order to better perform maintenance at the Pier to include their restrooms. Comr. Brinkley also noted that the national competition Waves To Water is scheduled for April 2022 at the Pier.

Mayor Cahoon - North Carolina Beach, Inlet and Waterway Association - Mayor Cahoon will be attending the NCBIWA Conference Thursday and Friday of this week.

Comr. Renée Cahoon - Current TV/Gov-Ed – She reported that there is an opening available with the resignation of Skip Wallace.

Mayor Pro Tem Siers - He has been working with builders and staff on an updated residential stormwater ordinance - to be presented next month by staff.

Mayor Cahoon - Environmental Lawsuit - Mayor Cahoon reported to the Board concerning a lawsuit filed against the Corps re: dredging in the summer in the southern part of the State. Mayor Cahoon noted that he wrote to Congressmen Burr and Tillis with information that the Town dredges in the summer out of necessity and that many efforts are put into place in order to protect wildlife.

Post-Dorian Beach Nourishment Project

- Bid results and recommendation

Town Engineer David Ryan reported on the recent bid opening of the post-Dorian Beach Nourishment Project; he said that three bids were received with the recommendation of Great Lakes Dredge and Dock. He explained that this was for informational purposes and that at the December 1st Board meeting he will return with a request for the Board to approve the Notice of Award for the recommended contractor and for authorization for the Town Manager to execute the construction contract.

Bryan Joyner of Moffat & Nichol provided details of the three bids that were received. The recommended bid is from Great Lakes in the amount of \$11,598,653,10 and bids are good for 90 days.

RECESS FOR/RECONVENE FROM LUNCH

The Board recessed for lunch at 12:08 p.m. and reconvened at 1:30 pm.

Annual Beach Condition Survey Report from Moffat & Nichol

Town Engineer David Ryan introduced Bryan Joyner of Moffat & Nichol who presented the Annual Beach Condition Survey Report. Mr. Joyner's report is attached to and made a part of these minutes as shown in Addendum "F".

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy had nothing new to report.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Project Updates

a. *One Water Plan Framework* – Town Engineer David Ryan presented information, for the Board's information, concerning the "One Water" program which does the following: Evaluates interconnected resources via a holistic approach; Develops a mindset that all water has value; Encourages innovative approaches and forward thinking; Right-sizes solutions focused on achieving multiple benefits; and Strengthens systems as a whole rather than piecemeal. He explained that this is a first look at this initiative.

The agenda summary sheet read in part as follows:

"At the November 6th Board meeting, Town Engineer David Ryan will present a "One Water" Framework and how it could be applied to provide connectivity through existing initiatives and the potential for incorporation into future construction projects.

"The "One Water" initiative is a result of discussions stemming from the Town's Strategic Plan. The intent is to develop smart practices and processes to assist in ways to strengthen our ability to enhance water use a resource. A "One Water" approach can serve as the nexus in the relationship between water supply and consumption, on-site wastewater, stormwater, groundwater and surface water. Under a "One Water" umbrella, issues associated in these areas of interest could be considered holistically, rather than individually."

Engineer Ryan's slide presentation is attached to and made a part of these minutes as shown in Addendum "G".

b. *Review of Water Distribution System Standard Specs* - Town Engineer David Ryan presented this item. The agenda summary sheet read in part as follows:

"At the November 3rd Board meeting, staff will provide an update to the Town's water distribution system standard specifications which is conducted periodically to reflect current standards, construction practices, materials, testing and associative incidental work associated with water distribution system improvements.

"Individual community water systems are required to file standard specifications through North Carolina Department of Environmental Quality- Public Water Supply Section. System specifications were submitted, reviewed, and approved by NCDEQ Public Water Supply Section on September 21, 2021."

MOTION: Mayor Pro Tem Siers made a motion to approve the Water Distribution System Standard Specifications as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

c. *Multi-use path ordinance discussion* - Town Manager Garman presented this item which came forward when the Town became aware of electric bicycles; he feels that the Town's multi-use path ordinance needs to be updated with new definitions. He questioned how restrictive to be with these bicycles on the multi-use path and how restrictive on Town streets.

Board members discussed concerns related to the hazards on both the path and the Beach Road with additional conflicts and how it can be done without being an enforcement nightmare.

Director Claussen explained that next year's budget request will include funds for reconstruction of the multi-use path; speed limits on the Beach Road; and a look at widening the path by narrowing the roadway to try to take care of these issues; the Town also needs to be consistent with the US 158 multi-use path and install stop signs on the Beach Road path. He indicated that staff will return with specifics at the December Board meeting.

d. *Beach driving and Utility Terrain Vehicles (UTV)* - Town Manager Garman presented the ordinance explaining that the UTV's should not be allowed on the beach except by specific individuals/officials. The agenda summary sheet read in part as follows:

"Attached please find a revised Beach Driving ordinance prepared by staff and reviewed by Town Attorney John Leidy. As of October 1, 2021, modified utility terrain vehicles may be licensed and registered for use on certain roadways in North Carolina through the Division of Motor Vehicles. Without changes to the town's beach driving ordinance, these vehicles would be eligible for a beach driving permit. The draft ordinance would prohibit these types of vehicles on the beach, except as authorized for disabled persons or for government officials. The attached ordinance is provided for Board review and consideration at the November 3rd Board of Commissioners meeting."

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance amending the Beach Driving Ordinance re: Utility Terrain Vehicles (UTV) as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

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

e. *Memorial Avenue improvements* - Town Engineer David Ryan presented details of the recent bid opening in which Hatchell Concrete was the low bidder. He recommends moving forward to accept base bid plus Alt #1 which includes Soundside Road and the culvert pipe replacement for a total of \$356,480 - \$310,000 was budgeted for the project. He requested that the Board authorize the additional funds and authorize the Town Manager to execute the construction contract.

MOTION: Comr. Renée Cahoon made a motion to award Hatchell Concrete the contract for the Memorial Avenue improvements in an amount not to exceed \$356,480, to authorize Alt #1 and to authorize the Town Manager to execute the contract. The motion was seconded by Comr. Brinkley which passed unanimously.

f. *Strategic Plan update* - Town Manager Garman summarized the agenda summary sheet which read in part as follows:

"On September 21st and 22nd the town held a strategic planning retreat which represented an update to last year's process. The first day included department heads and key staff working with the Board of Commissioners to establish priorities and action items for the next two years. The second day was a staff session to create a workplan to implement the strategic plan. Attached for the board's review is the public facing document that details town priorities with First Year Imperatives and Two-Year Results.

Three overarching goals were created by the Board in 2020 to achieve 2025 The Town of Nags Head Vision: 1st- Reforming Processes to Tackle Technical Issues - this includes developing integrated maintenance plans to address infrastructure needs, development of a communications plan for the public and for staff, and completing the decentralized wastewater management and estuarine shoreline plans. 2nd- Empowering the Delivery of Consistent and Exemplary Public Service - this includes work to create a

high performing organization, a well informed and engaged public and staff, strategic plans for each department, and a process to tie these to the town's strategic plan as well as the budget and CIP. 3rd-Facilitating Collaboration to Address Community-wide Regional Issues - this includes efforts to work across community borders to address needs for housing, mental health and wellness, public safety, solid waste and recycling, and shoreline management.

'Staff is working on a detailed work breakdown structure to identify how the action items identified in the plan will be implemented. Staff would appreciate any comments and/or feedback from the Board on the attached document. This document will be reviewed with town staff; a concerted effort will be made to ensure the entire Nags Head team understands our workplan and shared vision.'

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

Town Manager Garman - Request for Closed Session

Mayor Cahoon noted that Town Manager Garman's request for a Closed Session to consider the acquisition of real property will be considered at the end of the meeting with other Closed Session items.

BOARD OF COMMISSIONERS AGENDA

Comr. Fuller – Congratulations and Thank you

Comr. Fuller congratulated Mayor Cahoon, Mayor Pro Tem Siers, and Bob Sanders for their win in yesterday's election. Comr. Fuller thanked staff for all the work they've done. He's had a wonderful ride and a lot of good times and said that this would mark the end of his public service - he has been happy to be able to serve Nags Head. He did confirm that he would be at the December 1st Board meeting.

Comr. Brinkley – Congratulations

Comr. Brinkley congratulated those who won in yesterday's election.

Comr. Renée Cahoon - Congratulations and Thank you

Comr. Renée Cahoon congratulated those who won in yesterday's election. She thanked Comr. Fuller for all his years of good service to include the 20 plus years he served as Town Manager.

Comr. Renée Cahoon - UDO Administrator appointment

Comr. Renée Cahoon noted that the previous Planning Director was also the UDO Administrator.

MOTION: Comr. Renée Cahoon made a motion to appoint the Interim Planning Director as the Unified Development Ordinance Administrator. The motion was seconded by Comr. Brinkley which passed unanimously.

Mayor Pro Tem Siers – Congratulations and Thank you

Mayor Pro Tem Siers congratulated all those who won in yesterday's election and specifically thanked those who voted. He also thanked Comr. Fuller for his years of service.

Mayor Pro Tem Siers - Sidewalks in commercial site plans

Mayor Pro Tem Siers asked about including a requirement for sidewalks in commercial site plans. Town Manager Garman stated that when this was brought up previously, it was thought that a facility fee adjustment would be necessary.

MAYOR'S AGENDA

Mayor Cahoon - Thank you to Comr. Fuller for his service

Mayor Cahoon thanked Comr. Fuller for his four years of service as a commissioner. He noted that Comr. Fuller has helped the Town Board a lot during the past four years and said that he will miss Comr. Fuller's perspective on various issues.

Mayor Cahoon - Request NCDOT help facilitate east-west traffic

Mayor Cahoon asked NCDOT to help with facilitation of east-west traffic as the Town is trying to get people safely back and forth.

Mayor Cahoon - Consideration of date/scope for January 2022 Board Retreat

Mayor Cahoon said that with a new Board member starting and with staff working on a new budget calendar to better implement the strategic plan/budget process, he didn't feel there was a need at this time for another Board Retreat. Board members concurred.

Mayor Cahoon stated that with a light January 5, 2022 Board agenda he would like to get the new commissioner updated with a one to two hour workshop afterwards. Comr. Renée Cahoon asked for a zoom option as she will be on vacation at that time.

Mayor Cahoon - Consideration of 2022 Calendar Year Board of Commissioners Meeting Schedule

Mayor Cahoon suggested one change to the proposed 2022 Calendar - modify mid-month meetings to begin at 9 a.m.

MOTION: Mayor Cahoon made a motion to adopt the proposed 2022 Calendar Year Board Meeting Schedule with the change that all mid-month meetings start at 9 am. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Closed Session

MOTION: Mayor Cahoon made a motion to enter Closed Session to consider the acquisition of real property pursuant to GS 143-318.11(a)(5) and for the purpose of considering the 2021 Earl Murray Jr Employee of the Year Honorarium in accordance with GS 143-318.11(a)(2). The motion was seconded by Comr. Renée Cahoon which passed unanimously. The time was 2:55 a.m.

Open Session

The Board re-entered Open Session at 3:27 p.m. Attorney Leidy reported that during Closed Session the Board did give instructions to the Town Attorney re: a real estate matter and the Earl Murray Jr Employee of the Year Award was discussed; no other actions were taken during Closed Session.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 3:28 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: **December 1, 2021**

Mayor: _____
Benjamin Cahoon