



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING (COVID-19)  
WEDNESDAY, AUGUST 5, 2020**

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

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

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

Board members Absent: None

Others present: Interim Town Manager Greg L. Sparks; Attorney John Leidy; Andy Garman; Amy Miller; Randy Wells; Phil Webster; Karen Snyder; Michelle Gray; Roberta Thuman; Anthony Beasley; Mike Norris; Jason Brickhouse; Russell Canter; Charles Bliven; Michael Alvarez; Charles Richt; C. Grice McMullan; Cathleen Saunders; and Town Clerk Carolyn Morris

**CALL TO ORDER**

Mayor Cahoon called the meeting to order at 9:00 a.m. Mayor Cahoon said that we were fortunate to have minimal disruption from Hurricane Isaias but that we should remember those in other areas who suffered loss of life and property damage. He also mentioned the explosion and loss of lives in Beirut. A moment of silence was followed by the Pledge of Allegiance.

**ADOPTION OF AGENDA**

**MOTION:** Comr. Brinkley made a motion to approve the August 5<sup>th</sup> agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

**RECOGNITION**

INTRODUCTION of 2020 Season Lifeguards - Mayor Cahoon pointed out that the Board has received numerous thank-you's from various visitors to the beach for the efforts of lifeguards this season.

Fire Chief Randy Wells commended Ocean Rescue Director Chad Motz who has put together a great group of lifeguards for many summer seasons. Chief Wells then presented a powerpoint presentation

where each lifeguard was introduced. Board members thanked staff for the presentation and commended the lifeguards.

Fleet Maintenance Superintendent Charlie Bliven introduced Fleet Mechanic Jason Brickhouse who was recognized by the Board for five years of service.

Facilities Maintenance Supervisor Mike Norris introduced Facilities Maintenance Technician Russell Canter who was recognized by the Board for five years of service.

Facilities Maintenance Supervisor Mike Norris introduced Sanitation Equipment Operator Anthony Beasley who was recognized by the Board for ten years of service.

Police Chief Phil Webster introduced Police Officer Michael Alvarez who was recognized by the Board for five years of service.

### **PUBLIC COMMENT**

No one spoke during Public Comment.

### **CONSENT AGENDA**

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #2 to FY 20/21 Budget

Consideration of Tax Documents

- FY 19/20 Year End Tax Adjustment Report
- FY 19/20 Year End Tax Settlement Report
- FY 20/21 Charge to Tax Collector to prepare new year taxes

Approval of minutes

Approval of Revision 2020 of NC Statewide Emergency Management Mutual Aid and Assistance Agreement (Revision 2017 was approved at the July Board meeting)

Approval of revised contract with Dare County under the Federal CARES Act (this revised contract supersedes initial version approved at the July Board meeting)

Consideration of amendment to Traffic Control Map to lower speed limit on Nags Head/Manteo Causeway in response to NCDOT removal of pedestrian facilities at Little Bridge

Consideration of extension of existing MOA with Town of Cary for emergency relocation of government during a State of Emergency

Consideration of drainage easement agreement with Gandt Development, LLC at 101 E. Dove St.

Consideration of agreement with Outer Banks Professional Services

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

Request for Public Hearing to consider a text amendment to the Unified Development Ordinance to allow Furniture Stores as an allowable use as part of commercial mixed-use uses

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

Mayor Cahoon asked Interim Town Manager Greg Sparks to follow up with NCDOT concerning erection of the 45 MPH signs on the Nags Head/Manteo Causeway.

Budget Adjustment #2 to the FY 20/21 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The Tax Documents presented: the FY 19/20 Year-End Tax Adjustment Reports, the FY 19/20 Year-End Tax Settlement Report, and the FY 20/21 Charge to Tax Collector; as approved, are attached to and made a part of these minutes as shown in Addendum "B".

The agenda summary sheet concerning the revised 2020 NC Statewide Emergency Management Mutual Aid and Assistance Agreement read in part as follows:

"The NC Statewide Emergency Agreement, Revision 2017, was reviewed and approved at the July 1<sup>st</sup> Board of Commissioners meeting. The State subsequently asked that the agreement, Revision 2020, be reviewed and approved. The only change between the 2017 agreement and the 2020 agreement is below (definition of "Emergency" was expanded):

'2017 - "Emergency" means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural or man-made accidental, military, or paramilitary cause.

'2020 – "Emergency" means an occurrence or imminent threat of widespread or severe damage, injury or loss of life or property, resulting from any natural or man-made accidental, military, or paramilitary, terrorism, weather-related, public health, explosion-related, riot-related cause, or technological failure or accident, including, but not limited to, a cyber incident, an explosion, a transportation accident, a radiological accident, or a chemical or other hazardous material incident.

"Fire Chief Randy Wells has approved the request. Attached please find the NC Statewide Emergency Agreement, Revision 2020, for Board approval at the August 5<sup>th</sup> Board of Commissioners meeting."

The agreement, as approved, is on file in the Town Clerk's office.

The agenda summary sheet concerning the contract with Dare County under the Federal CARES Act read in part as follows:

"The initial contract with Dare County under the Federal CARES Act was approved at the July 1<sup>st</sup> Board of Commissioners meeting. The contract allocates funds for local governments as part of the Coronavirus Relief Fund established under the Federal CARES Act.

'Last week the Governor signed HB 1023 which is the second part of the State COVID-19 Relief Fund and voids the initial contract approved on July 1<sup>st</sup>. It requires each County to give 25% of the grand total of part 1 and part 2 to towns.

'Dare's part 1 = \$852,149

Dare's part 2 = \$718,269

Dare's total = \$1,570,418 so \$392,605 of that amount goes to the municipalities.

'In addition to the proposed contract with Dare County, also attached is House Bill 1023 and FAQ of the Coronavirus Relief Fund."

The agreement, as approved, is on file in the Town Clerk's office.

The agenda summary sheet concerning the proposed amendment to the Traffic Control Map read in part as follows:

"Attached please find correspondence from NCDOT dated July 13, 2020 re: Little Bridge on the Nags Head/Manteo Causeway. In it, NCDOT details what it has done and what it will be doing to increase pedestrian safety at the Little Bridge to include the following:

1. *Remove the high visibility pedestrian crosswalk pavement markings*
2. *Removal of the pedestrian refuge islands in the center turn lane of US 64 (work pending)*
3. *Remove all signage related to the crossing*
4. *Replace the guardrail end treatments by closing the gaps in the existing guardrail*
5. *Install fencing to prohibit access to the catwalk on the north side of the bridge*
6. *Install "no parking" signs along the north side of US 64 from a point 200 feet west of the Melvin R. Daniels Bridge to a point approximately 1000 feet east of the bridge*
7. *Reduce the existing speed limit on US 64 from 50mph to 45mph beginning at the western Town Limits of Nags Head to US 158 at Whalebone Junction*
8. *Enact "No Fishing" ordinance on the north side of the bridge*

'Also attached please find an amendment modifying the Traffic Control Map in response to NCDOT's actions to lower the speed limit."

The ordinance amending the Traffic Control Map, as adopted, is attached to and made a part of these minutes as shown in Addendum "C".

The agenda summary sheet concerning the extension of the existing Memorandum of Agreement with the Town of Cary read in part as follows:

"The existing Memorandum of Agreement (MOA) with the Town of Cary authorizes the Town of Nags Head to utilize their spaces if needed in a State of Emergency. The attached MOA has only been

modified from the November 2015 version to be extended for an additional five (5) years and to include updated official names. Interim Town Manager Sparks has received concurrence from the Town of Cary for this extension.”

The MOA with the Town of Cary, as approved, is on file in the Town Clerk’s office.

The agenda summary sheet concerning the Drainage Easement Agreement with Gandt Development at 101 E Dove Street read in part as follows:

“Enclosed for Board consideration is a non-exclusive drainage easement agreement with Gandt Development, LLC for the subject property located at 101 E. Dove St. The agreement is being proposed to encompass a minor drainage swale encroachment across the northeast corner of 101 E. Dove St. A formal agreement will provide the Town a mechanism for continued operation and maintenance of the portion of drainage improvements which cross the corner of the subject property.

‘A copy of the non-exclusive easement agreement and proposed stormwater easement exhibit is attached. Once fully executed, the agreement will be recorded with the Dare County Register of Deeds.”

The easement agreement, as approved, is on file in the Town Clerk’s office.

The agenda summary sheet concerning the agreement with Outer Banks Professional Services read in part as follows:

“The attached agreement is between the Town and Outer Banks Professional Services, LLC which is also known as The Outer Banks Hospital Center for Healthy Living (“Clinic”). The agreement would permit Town employees to utilize the Clinic’s facility to provide immediate convenience care for acute complaints. The Clinic will accept from the Town’s health insurance provider, MedCost, the allowable amount under the current network agreement between the Clinic and MedCost. Employees would not be required to pay a co-pay fee for these services.”

The agreement with Outer Banks Professional Services, LLC, as approved, is on file in the Town Clerk’s office.

The agenda summary sheet concerning the Request for Public Hearing - Numerous minor text amendments to the UDO - as approved - read in part as follows:

“Since the Board of Commissioners May 6, 2020 meeting where the first iteration of post-Unified Development Ordinance adoption typographical errors was adopted, staff has identified several additional areas for correction or improvement of the UDO. These proposed amendments include: correction to the Post-Firm Definition, correction of various mis-spelled words, amending the UDO with the updated information from the December 5, 2018 approval of stormwater management amendments, correction to clarify that there are no supplemental standards for the use of Government Administrative Office, and to include “flag (non-advertising, non-informational)” regulations that were inadvertently deleted during the adoption of the UDO.

‘Staff Recommendation/Planning Board Recommendation

Planning staff recommends that the amendments be adopted as proposed.

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

The agenda summary sheet concerning the Request for Public Hearing - to allow Furniture Stores as an allowable use as part of Commercial Mixed-Use uses - as approved - read in part as follows:

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

‘Staff Recommendation/Planning Board Recommendation

Planning staff generally has no concern with listing the use of “Furniture Store” as an allowable use for all Commercial Mixed-Use designations and believes that is consistent with applicable policies.

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

## **PUBLIC HEARINGS**

Public Hearing to consider a revised preliminary plat for a major subdivision known as Coastal Villas, for an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987 and Parcel # 006749039; PIN # 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers

Attorney John Leidy introduced the Public Hearing to consider a revised preliminary plat for a major subdivision known as Coastal Villas, for an approximately 11.17 acre property, zoned R-2, Medium Density Residential, owned by Nags Head Construction (Applicant), located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 (Parcel # 006749004; PIN # 989108886987 and Parcel # 006749039; PIN # 989108893398); the revised Preliminary Plat proposes to create 17 building lots, along with an associated street and other required improvements, and requires a public hearing due to requested waivers.

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 questioned if Board members had any potential conflict and anything to disclose.

Comr. Brinkley said that while he has spoken with several Southridge Subdivision residents he confirmed that he would base his decision only on the evidence presented today.

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

The time was 9:20 a.m.

Town Clerk Carolyn F. Morris swore in the following persons: Planning Director Michael Zehner and Quible & Associates Project Manager/Engineer Cathleen Saunders.

The agenda summary sheet read in part as follows:

"The subject application is a Preliminary Plat for a Major Subdivision known as Coastal Villas, revised from the previous version considered by the Board in January 2020. The revised Plat now proposes the new street from US 158 (as opposed to Sea Bass Court) and incorporates a parcel owned by Dare County, planned for a future well site, determined to have not been properly subdivided in 2004. The proposed layout of the Dare County parcel necessitates waivers from provisions of the Subdivision Regulations concerning street access, access to US 158, and frontage; similar waivers were considered and approved in 2004.

'Planning Board/Staff Recommendation - Staff recommends approval of the Preliminary Plat, with conditions, and recommends approval of the requested waivers.

'The Planning Board, at their June 16, 2020 meeting, voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissions, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings."

Planning Director Michael Zehner summarized the staff report which read in part as follows:

"As the Board is aware, a Preliminary Plat for the subject property (excluding Parcel #: 006749039; PIN #: 989108893398) was presented for review and action at the Board's meeting on January 8, 2020. In written comments received prior to the meeting, and in public comments at the meeting, the Commissioners heard from abutting residents in the South Ridge subdivision concerned about the access to the proposed subdivision, which was to be through existing neighborhood streets, and involved the improvement of an existing paper street (Mariners Way) to connect the proposed subdivision street to Sea Bass Court. Following a presentation by Staff and discussion amongst the Board of Commissioners, the Board passed a motion to table consideration of the Preliminary Plat until the Board of Commissioners March 2020 meeting and to ask that Staff facilitate a discussion between the developer and the Fourth Street property owners to have one curb cut, one right-of-way off of US 158 as a better solution for access. Prior to the March 4, 2020 Board of Commissioners meeting, the applicant requested a continuance to the Board's May 6, 2020 meeting, which was granted.

'Since the Board of Commissioners January meeting, as directed, Staff has worked to facilitate discussions between the developer of the subject subdivision and the owner of 6 lots abutting the paper street known as Fourth Street. Staff held multiple separate conversations with the parties pursuant to the Board's direction, and held a meeting with the parties and their respective engineers to discuss the proposed development and future plans for Fourth Street. While Staff is unaware of any agreement between the parties, the proposed revised plan relocates access to the subdivision to US 158/S. Croatan Highway (eliminating the street/vehicular connection to Sea Bass Court) and extends the proposed street to allow for connectivity to the existing Fourth Street right-of-way; the revision of the plan was determined to require reconsideration by the Planning Board. The revised preliminary plat was reviewed by the Planning Board at a meeting on April 21, 2020. Ultimately, the Planning Board unanimously recommended approval of the Preliminary Plat as recommended by Staff, but noted concerns related to safety due to the possibility of two additional curb cuts on 158 (one being associated with Fourth Street), and a preference for the preliminary plat that had been presented to the Board in December 2019 providing access through Mariners Way/Sea Bass Court.

'During the Planning Board's review, member Gary Ferguson had inquired as to the circumstances leading to the creation of the property subject to the preliminary plat. Following the meeting, in coordination with the applicant and their representatives, as well as the Town Attorney, it was determined that a division in 2004 that was intended to establish a separate 1.03 acre parcel to be transferred to Dare County for use as a future well site, had not been properly subdivided. While a preliminary plat and associated waivers for this division had been approved by the Board of Commissioners, there is no record that a final plat for this subdivision was ever produced, approved, or recorded. Therefore, the applicant revised the preliminary plat further to include this additional 1.03 acres, and is proposing to re-establish the lot as part of the proposed subdivision; similar to the proposal in 2004, the preliminary plat requires waivers from the subdivision regulations, discussed further below. This further revised preliminary plat with waivers was similarly determined to require reconsideration by the Planning Board, held at the meeting on June 16, 2020. The Planning Board recommended approval of the Preliminary Plat with conditions, and recommended approval of the requested waivers.

'With regard to Fourth Street, Staff is aware that representatives of the Fourth Street properties have contacted NCDOT to discuss improvement of the street, and specifically any restrictions that may be imposed on any intersection with US 158/S. Croatan Highway; Staff has also made the owner of these properties aware of the likely process for requesting and making improvements to this right-of-way. Staff has been made aware that NCDOT, at least preliminarily, is inclined to allow the connection to US 158/S. Croatan Highway, likely requiring this to be restricted to right-in/right-out only. It is important to note, that the development of the Fourth Street lots or improvements to the Fourth Street right-of-way beyond the subject property are not subject to review under this Preliminary Plat. No commitments have been made with respect to the improvements of this portion of the right-of-way that would affect the consideration of the subject Preliminary Plat.

#### 'OVERVIEW

The subject application is a Preliminary Plat for a Major Subdivision<sup>1</sup> of an approximately 11.17-acre property located on the west side of US 158, approximately 300 feet south of the intersection of W. Soundside Road and US 158 ("the Proposed Subdivision"). The Proposed Subdivision would create seventeen (17) building lots, located along a new street connecting directly to US 158/ S. Croatan Highway; additionally, the preliminary plat includes two open space areas, as well as the creation of Lot A-2, a 1.03 acre lot owned by Dare County with notes indicating the "lot shall be limited to a well



production site for the Dare County reverse osmosis plant.” The new street, identified as Coastal Breeze Way, would terminate at the southern property line, allowing future connectivity to an existing paper right-of-way identified as Fourth Street. The proposed Preliminary Plat provides for a cul-de-sac to be developed where the proposed new street terminates, with allowances for the cul-de-sac to be removed if the existing Fourth Street right-of-way to the south is improved. As noted, the property is zoned R-2, Medium Density Residential; all proposed building lots (numbered 1 thru 17) are conforming, meeting the minimum required lot size of 20,000 square feet and demonstrating compliance with required minimum yard depths (i.e. setbacks; Front: 30 feet, Side: 10 feet, Rear: 20% of lot depth, not to exceed 30).

The proposed preliminary plat, and specifically the configuration of lot A-2 due to its lack of frontage, lack of direct access to a right-of-way, and proposed direct access through easement to US 158, requires waivers from the following provisions of the Subdivision Regulations:

- Section 10.46 Access to Public Street or Highway Required. There shall be no subdivision of any tract of land which does not have access to a public street or highway which is improved to the standards of the Town or the NCDOT, whichever is applicable, which access is of a right-of-way width and is improved in accordance with Section 10.66, Streets.
- Section 10.47 Limiting Access to US 158, US 64/264, NC 12, and SR 1243. Access to US 158, US 64/264, NC 12 or SR 1243 from any lot in a new residential subdivision of land or any recombination of existing residential lots is prohibited unless and except a variance or waiver is granted pursuant to this UDO. Access to any of the above major streets shall be provided by another existing, improved public street accepted for maintenance by the Town or a local access street, collector street or environmental street in the subdivision or an access easement shown on a subdivision plat approved by the Board of Commissioners; provided, however, that maintenance and replacement of accessways is approved by the Town Attorney and is in accordance with Section 10.51.4.
- Section 10.68.1. Frontage; Area. All lots in a subdivision must front a street, and no lot shall be laid out which shall have an area less than that required by Article 8, District Development Standards of this UDO
- Section 10.68.3. Minimum Amount of Frontage. All lots shall be designed so that they shall front on a public street for a distance of not less than fifty (50) feet which shall be measured along the right-of-way of such street; provided, further, that in the case of lots fronting on a cul-de-sac or street curve, the frontage may be reduced to not less than thirty (30) feet upon approval of the Planning Board.

It is also important to note that the revised version of the preliminary plat provides for the multi-use path extension through the Mariners Way paper right-of-way to meander away from the southern property line. This was a change from previous versions, responsive to considerations previously requested by a property owner along Sea Bass Court, while also considering potential impacts to Live Oak trees proposed to be retained within this area.

#### PROCEDURAL REQUIREMENTS/CONSIDERATIONS

The procedural requirements applicable to subdivisions are provided in Article 4, *Development Review Process*, Part IV, *Subdivision Procedures*, of the UDO; requirements or considerations of note are as follows:

- Pursuant to Section 4.22, *Initial Conference; Preliminary Sketch*, the applicant was first required to submit a preliminary sketch of the proposed subdivision and confer with the UDO Administrator. These requirements were completed, with authorization granted to the subdivider on October 3, 2019 to prepare a preliminary plat to be submitted to the Planning Board. Please note, the preliminary sketch plan for the subdivision provided for a street connection to US 158, with no connection through to Sea Bass Court; while the original plan proposed a connection to Sea Bass Court and no access from US 158, the now redesigned plan is more consistent with the preliminary sketch plan in this respect.
- The following subsections, or parts thereof, to Section 4.24, *Review Procedure for Major Subdivisions*, 4.24.1, *Preliminary Plat*, are applicable to the Proposed Subdivision:
  - 4.24.1.2., in part, "...the UDO Administrator who shall evaluate the plan to determine whether or not it meets the requirements of this Ordinance. The UDO Administrator will solicit and receive comments from other persons or agencies before making final recommendations. If the application is complete, the UDO Administrator will submit it to the Planning Board..."

'With the exception of the waivers noted above, it was determined by the UDO Administrator that the plan for the Proposed Development meets the requirements of the UDO, to be discussed further below under REGULATORY & DESIGN REQUIREMENTS/ CONSIDERATIONS.

Additionally, comments were solicited and received from Town Staff on both the original and now each of the redesigned plans; the attached letter from Cathleen Saunders, P.E., Quible & Associates, P.C., dated April 14, 2020, is an accurate representation of Staff comments pertaining to the revised Plan reviewed at the Planning Board's April 21 meeting, with responses from Ms. Saunders.

'The version of the proposed preliminary plat that is now before the Board was distributed for review by Town Staff. Returned comments noted that eventual construction drawings should include the planned location of water taps, further reference to the applicant's commitment to relocate the water line at the south of the subdivision to within the easement, the need to coordinate with Town Public Works on the installation of a waterline extension toward Sea Bass Court, and further requested that the applicant continue attempts to coordinate with NCDOT. On this last point, as previously indicated, the applicant's engineer did communicate that they received "preliminary verbal confirmation from NCDOT...that they will allow access off of S. Croatan Hwy," and were expecting to receive written confirmation with any applicable restriction or requirements. Staff can confirm that NCDOT's communications regarding Fourth Street noted this preliminary approval.

3 4.24.1.3., in part, "The Planning Board shall forward its recommendation to the Board of Commissioners within thirty (30) days after first consideration by the Planning Board. If the Planning Board fails to act within the 30-day period, the subdivision will be placed on the next available Board of Commissioners agenda. The Board of Commissioners shall consider the preliminary plat and approve, approve with conditions acceptable to the applicant, or disapprove the plan."

4 4.24.1.4., in part, "The Planning Board shall determine whether the preliminary plat meets the policy, purposes, and standards established by this Part and shall study its practicability, taking into consideration the requirements of the community and the best use of the land being subdivided. Particular attention shall be given to the arrangement, location and width of streets, their relation to the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, the future development of adjoining lands, construction plans, erosion control plans, and the requirements of the master plan and the official map, if such exist, the zoning requirements and this UDO. The

Planning Board shall submit its findings and recommendations to the Board of Commissioners at their next regularly scheduled meeting. The Board of Commissioners may approve, reject or grant conditional approval of the preliminary plat. The Planning Board or the Board of Commissioners, in its discretion, if it deems that health and sanitary conditions in the area, the subdivision plans and planned population density warrant, may require percolation tests of the soil by the subdivider and the installation of appropriate sanitary and waste disposal facilities as a condition of approval.”

5 4.24.1.5., Conditional Approval, “When recommending conditional approval of a preliminary plat, the Planning Board shall state in writing the conditions of such approval, if any, with respect to:

4.24.1.5.1. The specific changes which it will require in the preliminary plat;

4.24.1.5.2. The character and extent of these required changes; and

4.24.1.5.3. The amount of all bonds which will be required as a prerequisite to the approval of the preliminary plat.

‘Conditional approval of a preliminary plat shall not constitute approval of the final subdivision plat, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plat as a guide to the preparation of the final plat, which will be submitted for approval by the UDO Administrator, and for recording upon fulfillment of the requirements of this Part and the conditions of the conditional approval, if any. The Planning Board or the Board of Commissioners may require additional changes as a result of further study of the subdivision plans or as a result of new information obtained subsequent to the time of conditional approval. The fulfillment of these conditions and the incorporation of these conditions into the preliminary plat shall be determined by the UDO Administrator in accordance with the instructions of the Board of Commissioners. At such time, the Board of Commissioners' approval shall become final, as to the preliminary plat, and the UDO Administrator shall so signify on the plat.”

- With the necessary waivers, the provisions of Section 4.28, Subdivision Waivers, as follows, are applicable to consideration of the preliminary plat by the Planning Board and Board of Commissioners:

- Section 4.28 Subdivision Waivers.

4.28.1. Waivers Generally. Where the Planning Board finds that, due to the special circumstances of a particular plat, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may recommend and the Board of Commissioners may waive such requirements subject to appropriate conditions. Any decision of the Board of Commissioners must be rendered by a simple majority of those members present and constituting three-fourths of the total membership of the Board. Waiver requests shall be handled in accordance with the procedures established in Section 3.13, Procedures for Quasi-Judicial Hearings.

4.28.2. Conditions. In granting such waivers, the Planning Board may recommend and the Board of Commissioners may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

#### REGULATORY & DESIGN REQUIREMENTS/CONSIDERATIONS

The regulatory and design requirements applicable to subdivisions are provided in Article 10, *Performance Standards*, Part V., *Subdivision Regulations*, Division II., *Approval and Platting Requirements*, and Division III., *Improvements*, of the UDO; requirements or considerations of note are as follows:

- As noted above, the proposed preliminary plat requires waivers from Section 10.46, Access to Public Street or Highway Required, and Section 10.47, Limiting Access to US 158, US 64/264, NC 12, and SR 1243.
- Section 10.51.4., *Covenants and Deed Restrictions*, requires the submission of "proposed covenants, deed restrictions and a hold harmless agreement, in duplicate, which are intended to cover all or part of the tract...For any proposed subdivision amenities including, but not limited to, tennis courts, swimming pools, streets, and vehicular and pedestrian accessways for the benefit of the property owners, the developer shall establish a property owners association having the responsibility and authority for the upkeep, maintenance, repair, and reconstruction of such amenities and the authority to assess and collect dues and fees from the property owners within the subdivision for this purpose." The applicant has submitted a draft Declaration of Restrictive Covenants for review, with a final version required to be approved in conjunction with approval of the Final Plat.
- Section 10.62, *Required Improvements Enumerated*, indicates the improvements required to be provided by the subdivider, as follows:
  - Street rights-of-way and paved streets;
  - Water lines, mains, fire hydrants and services;
  - Electric and telephone lines and conduit;
  - Streetlights and supports and related electric wires and conduit;
  - Easements of right-of-way for utilities, where such are not within the street right-of-way;
- Section 10.63, *Dedications*, indicates the improvements and easements required to be offered to the Town or utility authorities for dedication:
  - Streets and street rights-of-way;
  - Water lines, mains, fire hydrants and services;
  - Easements of right-of-way for construction, operation and maintenance of utilities and cable television lines;
  - Streetlights and supports and related electric wiring and conduit;
- Section 10.66, *Streets*, establishes the standards for required streets, and specifically *local access streets*, as the proposed street is classified. Design standards for streets are contained in Chapter 36, *Streets, Sidewalks and Other Public Places*, of the Town Code.

A resident did inquire with Staff as to whether the proposed street name of Coastal Breeze Way was too close to the name of an existing street, W. Breeze Way. Pursuant to Section 10.66.10., Street Names and Signs, "All streets must be named so as not to duplicate the names of any existing streets in the Town. Such names shall be approved by the UDO Administrator and incorporated on the preliminary and final plats." Staff contacted the Postmaster for the Nags Head Post Office, who responded that they did not anticipate a problem. Staff suggested that the applicant provide some

alternatives to alleviate any perceived concerns that the proposed name may lead to confusion; at least informally the applicant inquired whether Coastal Way would be an acceptable name, which the UDO Administrator deemed acceptable.

- Section 10.68, *Lots*, reiterates zoning requirements for frontage and lot area, but also provides that for "lots fronting on a cul-de-sac or street curve, the frontage may be reduced to not less than thirty (30) feet upon approval of the Planning Board." The Preliminary Plat does not necessitate the reduction of required lot frontage for lots fronting on a cul-de-sac (the original plan did); however, as noted above, waivers from Section 10.68.1., Frontage, and Section 10.68.3., Minimum Amount of Frontage, are necessary to account for lot A-2's lack of frontage.
- Section 10.72, *Stormwater Runoff, Storm Drains, and Sewer Lines and Mains*, indicates that "stormwater runoff from lots shall be managed in accordance with Article 11 of this UDO pertaining to Stormwater Management (Part I) and Soil Erosion and Sedimentation Control (Part II)." However, development of the Proposed Subdivision will trigger and require North Carolina Department of Environmental Quality stormwater permitting.

#### 'POLICY CONSIDERATIONS

Policy specific to subdivisions is established in Article 10, *Performance Standards, Part V., Subdivision Regulations, Division I., In General, Section 10.41, Jurisdiction; Policy, Section 10.41.2.,* of the UDO, as follows:

*10.41.2.* It is declared to be the policy of the Board of Commissioners and the Planning Board of the Town to consider land subdivision plats as part of a plan for the orderly, efficient and economical development of the Town. This means, among other things, that land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood erosion or other menace; that proper provisions shall be made for drainage, water supply, sewerage and other needed improvements; that all proposed lots shall be so laid out and of such size as to be in harmony with the development pattern of the neighboring properties; that the proposed streets shall compose a convenient system conforming to the official map, if such exists and shall be properly related to the proposals shown on the master plan, if such exists and shall be of such width, grade and location as to accommodate the prospective traffic, to facilitate fire protection and to provide access of firefighting equipment to buildings, and to conform with existing or planned streets and with other public facilities; that a dedication of streets and rights-of-way or easements for pedestrian and utility purposes shall be made; that proper provisions shall be made for the distribution of population and traffic which shall avoid congestion and overcrowding and which shall create conditions essential to public health, safety and general welfare; and that proper provisions shall be made for open spaces for parks, playgrounds and public beaches.

'With regard to the area of the Proposed Subdivision and applicable policies of the *Comprehensive Plan*, this is considered to be within the *Neighborhoods Character Area*, described as "areas of primarily low-density single-family development that have limited to no commercial influence," and further, "The majority of the development in these areas is single-family residential. Lot sizes range from 6,000 square feet to greater than 25,000 square feet. Most newer subdivisions (post 1982) include lots that are 15,000 square feet or greater. It is the town's desire to keep these areas intact and protect them from incompatible land uses."

‘Additionally, given the location of the Proposed Subdivision and the extension of the multi-use path along US 158, policies and recommendations contained in the Town’s *Pedestrian Plan* are applicable; consistent with those policies and recommendations, the applicant has proposed to provide an extension of the multi-use path through the Proposed Subdivision, to connect to the recently constructed path along US 158.

#### ‘PLANNING BOARD RECOMMENDATION

At their meeting on December 17, 2019, the Planning Board voted 5-0 to recommend approval of the original Preliminary Plat to the Board of Commissioners, with conditions, as follows; in their recommendation, the Planning Board acknowledged that the Preliminary Plat satisfied the determinations contained in Section 4.24.1.4. of the UDO concerning applicable policies, purposes, and standards:

1. Prior to the commencement of land disturbance activities and/or construction of improvements, the applicant/developer shall submit construction drawings/plans for all improvements within the subdivision for approval by the UDO Administrator, who may seek input and comments from Town Staff in the review and approval of the construction drawings. In addition to providing details for all improvements, these drawings/plans shall also provide, and not be limited to, information on erosion and sedimentation control, culvert designs, and take into account any intended or required phasing/sequence of construction for the subdivision.
2. The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator to be necessary for the installation of stormwater measures. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.
3. Prior to or in conjunction with approval of the Final Plat for the subdivision, drainage easements, to be the responsibility of the applicant/developer and/or their successors (i.e. Property Owners Association), shall be properly conveyed by recordation with the Dare County Register of Deeds; such easements shall be reviewed and approved by the UDO Administrator prior to recordation, and the UDO Administrator may refer the easements to the Town Attorney for review and comment.

‘As previously noted, a revised preliminary plat was reviewed by the Planning Board at a meeting on April 21, 2020. The Board unanimously recommended approval of the Preliminary Plat as recommended by Staff, which included a changed Condition #2, as follows:

‘The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator (a) to be necessary for the installation of stormwater measures or (b) to accommodate the stockpiling of soil from lots within the subdivision which are subject to an issued building permit. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.

‘As part of their motion to recommend approval, the Board did note concerns with respect to safety due to the possibility of two additional curb cuts on 158, and a preference for the preliminary plat that had been presented to and recommended

‘Based upon their review of the further and final revised version of the Preliminary Plat on June 16,

2020, now before the Board of Commissioners, the Planning Board voted 7-0 to recommend approval of the Preliminary Plat to the Board of Commissions, with the conditions recommended by Staff, and recommended approval of the requested waivers based upon the required findings.

**STAFF RECOMMENDATION**

Staff recommends approval of the Preliminary Plat as revised and proposed, with the conditions noted below. With the exception of the requested waivers, Staff is of the opinion that the Preliminary Plat complies with all applicable requirements and that the applicant has addressed all issued comments; additionally, Staff is of the opinion that the Proposed Subdivision is consistent with applicable policy considerations. With respect to the requested waivers, Staff is of the opinion that the intended use of lot A-2 is a special circumstance, that, when taken into consideration with the existing easement, does not necessitate frontage in the interest of public health, safety and general welfare or preclude direct access to US 158 as inappropriate; given notes on the preliminary plat restricting the use of the lot and the existing easement, Staff does not recommend conditions specific to the requested waivers.

1. Prior to the commencement of land disturbance activities and/or construction of improvements, the applicant/developer shall submit construction drawings/plans for all improvements within the subdivision for approval by the UDO Administrator, who may seek input and comments from Town Staff in the review and approval of the construction drawings. In addition to providing details for all improvements, these drawings/plans shall also provide, and not be limited to, information on erosion and sedimentation control, culvert designs, and take into account any intended or required phasing/sequence of construction for the subdivision.

2. The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator (a) to be necessary for the installation of stormwater measures or (b) to accommodate the stockpiling of soil from lots within the subdivision which are subject to an issued building permit. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.

3. Prior to or in conjunction with approval of the Final Plat for the subdivision, drainage easements, to be the responsibility of the applicant/developer and/or their successors (i.e. Property Owners Association), as well as easements to be conveyed to the Town and Dare County, shall be properly conveyed by recordation with the Dare County Register of Deeds; such easements shall be reviewed and approved by the UDO Administrator prior to recordation, and the UDO Administrator may refer the easements to the Town Attorney for review and comment."

Mayor Pro Tem Siers questioned right-in and right-out at the Deering Street intersection and he expressed concern about the drainage on lots 16 and 17 once development is completed. He noted that it will still take five minutes driving to get out of the neighborhood; Director Zehner noted that Public Safety has indicated that they had no issue.

Comr. Fuller confirmed with Attorney Leidy that the Town may be able to do what it wants re: right-in/right-out once the street/right-of-way is dedicated to the Town. He also confirmed with Director Zehner that there is a Homeowners Association (HOA) for the new subdivision.

Mayor Cahoon suggested that the walkway in the right-of-way be more natural for less maintenance.

Cathleen Saunders of Quible and Associates; she stated that each lot is able to retain 2.5 inches of stormwater drainage on site; infiltration basins will be grassed.

There being no one else present who was sworn in and wished to speak, Attorney Leidy announced that the evidentiary phase was concluded. The time was 10:10 a.m.

**MOTION:** Comr. Fuller made a motion to approve waivers for the proposed Coastal Villas Subdivision – as relates to Town Code/UDO Sections 10.46 (access to public street or highway), 10.47 (limiting access to US 158, US 64/24, NC 12, and SR 1243), 10.68.1 (frontage to a street), and 10.68.3 (minimum amount of frontage). The motion was seconded by Comr. Brinkley which passed unanimously.

**MOTION:** Comr. Brinkley made a motion to approve the Coastal Villas Subdivision Plat as presented - with staff's three recommended conditions as follows:

- Prior to the commencement of land disturbance activities and/or construction of improvements, the applicant/developer shall submit construction drawings/plans for all improvements within the subdivision for approval by the UDO Administrator, who may seek input and comments from Town Staff in the review and approval of the construction drawings. In addition to providing details for all improvements, these drawings/plans shall also provide, and not be limited to, information on erosion and sedimentation control, culvert designs, and take into account any intended or required phasing/sequence of construction for the subdivision.
- The clearing and grading of any lot or portions thereof shall be prohibited prior to the issuance of a building permit for any such lot, except as determined by the UDO Administrator (a) to be necessary for the installation of stormwater measures or (b) to accommodate the stockpiling of soil from lots within the subdivision which are subject to an issued building permit. The developer/applicant is encouraged to address any necessary phasing and limits of disturbance on submitted construction drawings/plans.
- Prior to or in conjunction with approval of the Final Plat for the subdivision, drainage easements, to be the responsibility of the applicant/developer and/or their successors (i.e. Property Owners Association), as well as easements to be conveyed to the Town and Dare County, shall be properly conveyed by recordation with the Dare County Register of Deeds; such easements shall be reviewed and approved by the UDO Administrator prior to recordation, and the UDO Administrator may refer the easements to the Town Attorney for review and comment.

The motion was seconded by Comr. Renée Cahoon which passed unanimously.



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

### Update from Planning Director

Planning Director Michael Zehner summarized his report which is attached to and made a part of these minutes as shown in Addendum "D". Some highlights follow:

### Public Hearing scheduled for September 2<sup>nd</sup> Board meeting

**MOTION:** Mayor Pro Tem Siers made a motion to schedule a Public Hearing on a text amendment that would allow for lots west of NC12 and SR1243 which have a Base Flood Elevation (located in an AE zone) to have fill added up to a height required by the Dare County Health Department - for the September 2, 2020 Board of Commissioners meeting. The motion was seconded by Comr. Brinkley which passed unanimously.

National Endowment for the Arts - Our Town Grant - for the design and development of plans for the future renovation of the Town's Skate Park located at the YMCA. If successful, the local match would be \$15,000. It was Board consensus for staff to pursue the grant.

Joint workshop between the Board of Commissioners and the Planning Board - for a review of the Town's residential stormwater regulations. Director Zehner asked if the Board was interested in engaging a third party to facilitate the workshop to review residential stormwater regulations - part of the workshop could be a presentation with the Board/Planning Board jointly. Mayor Cahoon suggested this be a September 2020 Retreat discussion and then to return to the Board if any action is needed - It was Board consensus to take no action at this time.

Update of the Decentralized Wastewater Management Plan - evaluation and selection for the RFQ project consultant - It was Board consensus to not be involved in the process of evaluation and selection for a project consultant for the Decentralized Wastewater Management Plan.

US Census - Director Zehner explained that he and Mayor Cahoon recently spoke with a US Census representative - the Town currently has a 84.5% response rate; it was indicated that the upcoming work by enumerators will be ending a month earlier than originally hoped - the end of September 2020. To encourage participation staff has a banner from Dare County that is used at the Farmers' Markets, notes encouraging participation will be included in water utility bills. Information was provided to the Census enumerators by Director Zehner to make sure they begin in residential neighborhoods where they would be more efficient.

Comr. Renée Cahoon - Land Use Plan Update – Comr. Renée Cahoon questioned the delay in approval of the Land Use Plan Update document. Director Zehner stated that the document was initially submitted for approval early last year; it was approved by the Board of Commissioners in 2017. Comr. Renée Cahoon questioned if the delay was on the Town or on CAMA. He noted that staff continues to prepare revisions responding to their comments. Director Zehner is to verify the timeline of the approval process and provide to the Board.

## **OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS**

### From July 1<sup>st</sup> Board meeting - Discussion of Dowdy Park part-time position

The agenda summary sheet read in part as follows:

“At the July 1<sup>st</sup> Board meeting, the Board passed a motion to unfreeze the \$16,000 Dowdy Park part-time position funds for a 30-day period - until the August 5<sup>th</sup> Board meeting - and to have staff spend the funds at their discretion. Post action reports were provided to the Board after the Thursday, July 2<sup>nd</sup> and the Thursday, August 6<sup>th</sup> Farmer’s Market events as requested.”

Mayor Cahoon confirmed with Planning Director Zehner that the last Dowdy Park Farmers Market is August 27<sup>th</sup>; Closeout work is for the following two weeks and preparation for the FY 20/21 season starts in February/March 2021.

Comr. Renée Cahoon would like staff to develop a plan as the Farmers Market seems to be consuming a lot of Planning Dept staff time – she would like for staff to develop a plan moving forward to include how to run Dowdy Park, how it will be staffed, etc.

**MOTION:** Mayor Cahoon made a motion to extend the Dowdy Park part-time manager position through the last scheduled Farmers Market (August 27, 2020) plus two weeks for closeout. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

### From July 1<sup>st</sup> Board meeting - Consideration of Charge for and Appointments to the Reuse and Recycle Task Force

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

“The Board would like to establish a task force focused on waste reduction initiatives. These initiatives would promote the reuse of materials, reduced consumption, and diversion of materials from the waste stream. They would also focus on the proper and responsible handling of materials by the consumer as well as the town or the town’s contractors. Although there are policies in the town’s comprehensive plan and solid waste plan related to waste management and waste reduction goals, these need to be reviewed in light of changing market conditions, available resources, current practices, and community needs and desires. The task force could provide research and recommendations to inform the town’s waste reduction efforts and provide leadership as it relates to this important community need and government function. Although this discussion began with a focus on the town’s curbside recycling program, Nags Head recognizes that recycling is only one facet of waste reduction and is often cited as the last of the three R’s, Reduce, Reuse, and Recycle. Many communities have expanded this list and also identify “Refuse” and “Rot” which illustrate the need for a broader focus when discussing waste reduction. Individual effort as it relates to responsible product and consumption choices and programs focused on composting or removing food waste from the waste stream are important components of this conversation. Therefore, community education and a multi-faceted approach becomes critical for a successful and comprehensive waste reduction program. Attention should also be paid to the life cycle

of materials to ensure that expenditures related to collection and processing have legitimate benefits as opposed to landfilling and incineration.

'To get this process started, the Board will need to appoint members to the task force. Staff would recommend no more than an eight person citizen task force with support from staff. The board has a list of 13 individuals who have expressed interest in the task force which summarizes their background and interests. Although staff has no specific recommendation on members, the task force members should represent a broad spectrum of town interests, including business, institutional, government and academia. There are several individuals listed whose background and interests align well with the following tasks. During this process, staff would expect to bring in individuals from industry, NC DENR, or other local governments who can provide information to the task force and/or discuss opportunities for collaboration.

'It is anticipated that the first assignment of the task force would be to review and recommend goals for Nags Head community waste reduction efforts. This would involve a review of existing goals from adopted plans and policies. Other items for the task force could include:

- Establish a planning framework to review the town's waste reduction efforts
- Evaluate existing town recycling and waste reduction programs to understand community needs and desired service levels; provide cost effective recommendations to enhance these services
- Define metrics for cost effectiveness and service quality related to waste reduction and disposal initiatives; this could include a cost-benefit analysis of curbside vs. distributed collection/disposal options
- Identify new programs to remove materials from the waste stream including food waste, household hazardous waste, etc.; review the use of distributed town recycling drop off sites and recommend service enhancements
- Identify high return recycling activities that could be enhanced such as commercial collection of pre-sorted materials
- Review the current limitations of single-stream recycling programs and provide research on the state of the industry; provide recommendations for future efforts that align with anticipated recycling industry changes
- Determine local and regional capacity to support reuse, reduction and recycling programs; identify gaps that need further policy level support or regional collaboration; this also includes review of available private sector resources that are available to the town
- Identify local, regional, or state partnerships that support the goals of the task force and the town
- Develop and implement progressive educational programming aimed at reducing waste and promoting reuse, recycling, and consumer education on consumption
- Develop education campaigns that improve recycling participation and minimize contamination

‘Staff welcomes feedback on the suggested work items for the task force. It is anticipated that the task force would meet at least monthly through the early part of 2021 in order to have recommendations to the Board prior to consideration of the FY 2021/22 budget.’

Board members spoke favorably of the charge presented for the Task Force and expressed their appreciation of the work that went into the charge and report prepared by staff. Comr. Renée Cahoon said that there needs to be a local and regional partnership to make it work.

Comr. Fuller suggested an addition to the charge to look at the fiscal component; there needs to be a more full and clear understanding of the cost - to include the cost the Town has invested.

It was Board consensus to add to the charge for the Reuse and Recycle Task Force the fiscal component - to include a full and clear understanding of what the Town has invested.

**MOTION:** Mayor Cahoon made a motion that the following be appointed to the Town Reuse and Recycle Task Force: Meredith Fish, Robert Netsch, David Bragg, Ann Daisey, and Kari Bakus – subject to each being a Nags Head resident. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

## **NEW BUSINESS**

### Consideration of Human Resources Manager job description

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

‘Attached for Board review and approval is a job description for Human Resources Manager.

‘Informal approval was received from the Board to create and advertise the position. This formalizes approval of the position.’

Interim Manager Sparks explained that he and staff are now in the process of setting up interviews. He is asking for Board approval of the job description which modifies the job description title from Human Resources Director to Human Resources Manager.

**MOTION:** Comr. Fuller made a motion to approve the Human Resources Manager job description, to include the reduction in pay grade, as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

## **MOVE TOWN ATTORNEY REQUEST FOR CLOSED SESSION TO END OF MEETING**

Mayor Pro Tem Siers requested and Board members agreed to move the Town Attorney’s request for a Closed Session (Item K on the agenda) to the end of the meeting.

Interim Town Manager Greg Sparks - West side US 158 Multi-Use Path project update

Town Engineer David Ryan updated the Board on the 2.5 miles of added path to the US 158 multi-use path:

Project 8A – Soundside Road to W Danube - The project was completed April 2020.

Project 8C – W Danube to w Seachase - The project is 99% complete with some incidental work still to be completed.

Project 8B – W Baymeadow to Gull Street - The halfway point of the project was completed at the Outer Banks Event site - crews are now working south of this location and have completed the pathway to the Nags Head Raceway. The project is now approximately 65% to 70% complete. Staff has worked with businesses along this corridor and posted additional signage for vehicular traffic at entranceways during the course of construction.

Comr. Fuller noted the differences between completion and substantial completion – Mr. Ryan noted separate fees for liquidated damages for each which have been discussed with the contractor.

Board members expressed their appreciation to staff for meeting with the business owners and for providing the signage.

Interim Town Manager Greg Sparks - Discussion of Town Organizational Assessment/Recommendations

Interim Town Manager Greg Sparks summarized his report which read in part as follows:

“INTRODUCTION

The Board of Commissioners requested the incoming Interim Town Manager to review the organizational structure with the goal of improving communication and accountability within the organization. This report represents an initial assessment of observations and analysis, with recommendations for accomplishing the Commission’s objectives.

‘BACKGROUND

-Organizational Structure

An initial review of organization structure based on the chart posted on the town’s website and in other documents indicates that the Town Manager directs all departmental activities through the Deputy Town Manager (Appendix A). However, the Deputy Town Manager was overseeing Planning and Development, Administrative Services, Public Works, Town Engineer, and Information Technology, while the Town Manager directly supervised the two public safety departments and the Human Resources Director. This was further complicated in that the Public Works Director typically reported directly to the Town Manager and coupled with the remote location of Public Works has led to both overlapping and insufficient oversight of the department from the Town Manager and Deputy Town Manager.

‘Following is a review of departmental organization charts and structure issues:

`-Fire and Rescue Department

The Fire Chief has two direct reports-Deputy Fire Chief who oversees six Captains at the two stations and the Ocean Rescue Captain who manages four supervisors of Lifeguards; Office Manager. (Appendix B)

`-Police Department

The Chief has amended the Organizational Chart to reflect two direct reports: Deputy Chief who oversees operations through the Lieutenant over four Patrol Sergeants, Investigations Sergeant, and Animal Control; Office Systems Manager who oversees an Office Assistant. (Appendix C)

-Planning and Development

`The departmental organization chart shows the Planning Director as a direct report to the Deputy Town Manager, and with one direct report-Deputy Director of Planning who oversees 10 positions: Administrative Assistant, PT Event Coordinator, Principal Planner, Zoning Administrator, Permitting Coordinator, Code Enforcement, Environmental Planner, Engineering Technician, and Chief Building Official and Senior Building Official. The Director has indicated that it has not functionally operated in the manner as indicated by the chart. (Appendix D)

`-Administrative Services

Organization chart reflects the Finance Officer as a direct report to the Deputy Town Manager and that the Finance Officer oversees the Deputy Finance Officer who supervises six positions: Tax Collection, Accounting Technician, Payroll/Benefits Specialist, Customer Service Representative/Cashier, Water Billing and Customer Service Coordinator, and a PT Office Assistant. (Appendix E)

`-Public Works

The current organization chart shows the Director as having three direct reports: Office Manager, Fleet Maintenance Superintendent, and the Facilities/Sanitation Superintendent. In addition, the Water Superintendent is also a direct report but is not reflected in the organization chart. Additionally, another organization chart shows the reporting structure to the Deputy Town Manager and includes the unfunded Deputy Public Works Director, as well as the Sanitation Superintendent and Sanitation Supervisor positions that are unfunded with the Superintendent combined with Facilities Maintenance. (Appendix F)

`-Other Positions

Information Technology-includes the Coordinator and contractual services under the direction of the Deputy Town Manager.

`Administrative Assistant/Public Information Officer-under the direction of the Town Manager.

`Town Engineer-under the direction of the Deputy Town Manager.

`Human Resources Director-Under the direction of the Town Manager. With the recent changes in the HR position the Town Manager has previously recommended that this position be amended to a Human Resources Manager under the general direction of the Finance/Administrative Services Director.

The Interim Town Manager has re-initiated weekly staff meetings with department directors, a weekly check-in meeting with Town Manager staff-Deputy Town Manager, Town Clerk, Administrative Assistant/PIO, and Deputy Town Clerk, as well as monthly one on one meetings with department directors for the purpose of improving communication and addressing significant issues and coordination of town services. One of the themes that has emerged both from the Commission

perspective and departmental level is the need for improved communication and the building of trust up and down the organization. Of concern is the perspective from Public Works that staffing issues are not given enough priority from management or the Board. With the upcoming retirement of the Public Works Director, timing is key for addressing several issues that impact the department.

The town has conducted strategic planning sessions in the past that included the Town Manager and Deputy Town Manager. However, department directors were not generally included in all aspects of the sessions. Department directors and the board have both noted that communication between the board and staff could be improved. Staff has questions about the board's priorities and the board would like more information from departments that demonstrate an effective approach to providing public services.

#### CONCLUSIONS

1. Departmental organization structures need to be evaluated for optimal reporting, accountability, and efficiency.
2. The group of "Other Positions" should be evaluated in terms of reporting requirements to the Town Manager and Deputy Town Manager.
3. All departments except Public Works have Deputy Director positions that are responsible for managing a significant number of staff.
4. The current Personnel Policy indicates that changes to job descriptions and the Position Classification Plan require Board approval. As a result, minor changes to job descriptions and the pay plan tend to be delayed due to the extra steps involved in making changes.
5. Communication can be enhanced between staff and the commission through strategic visioning and regular written and oral communication from the management team, and ongoing agenda review meetings between the Town Manager and Commission.
6. Public Works has an immediate need for additional supervisory staffing due to the previously approved combination of the Facilities and Sanitation Superintendent positions and not filling a vacated Sanitation Supervisor position.

#### RECOMMENDATIONS

1. Refine organizational oversight responsibilities between the Town Manager and Deputy Town Manager. The Deputy Town Manager to be responsible for management oversight of Public Works, Planning and Development, and Information Technology. The Town Manager will directly oversee the Deputy Town Manager, Police, Fire/Rescue, Administrative Services, and Town Clerk.
2. Capital project planning and engineering functions should be coordinated to a higher degree with Public Works. The Deputy Town Manager and Town Engineer should establish weekly meetings with the Public Works Director and Superintendents to address capital project planning and on-going maintenance of public facilities. The Town Engineer would continue to be responsible for specific project engineering as well as managing outside engineering contracts.
3. The Administrative Assistant/PIO to be placed under the supervision of the Town Clerk.

4. The Human Resources Director to be re-classified as a Human Resources Manager at one salary grade lower (from a 16 to 15), and to be incorporated into the Administrative Services Department as a direct report to the Finance/Administrative Services Director.
5. Amend the Public Works organization chart to reflect the inclusion of the Water Division.
6. Public Works should re-institute the vacated Sanitation Supervisor position.
7. Amend the Personnel Policy to allow the Town Manager to approve changes to job descriptions and pay classification plan, if the changes are cost neutral or result in a decrease. Any changes that result in an increase in compensation or to a higher grade in the pay plan would continue to require Commission approval.
8. Schedule a strategic visioning session in the Fall of 2020 that has the active participation of all department directors with the Board of Commissioners.
9. Departmental staffing, use, and responsibilities of deputy director positions and general staffing issues should be reviewed for potential changes prior to the next fiscal year budget process.
10. Approve a revised organization chart. (Appendix G)''

Board members spoke favorably of the preliminary recommendations for organizational changes as presented by Interim Town Manager Sparks; he noted that some of the changes would be implemented later such as after the hiring of a new Public Works Director.

If agreed to by the Board, Interim Manager Sparks said that he would bring the finalized organizational chart back for Board approval at its September meeting.

Comr. Fuller made the following comments:

1. Modify title of Finance Director to Director of Administrative Services/Finance Director
2. Move Fire Lieutenant to between Fire Captain and the other positions - Manager Sparks agreed and said that he would be speaking with the Fire Chief about this.
3. Public properties - he recommended that one person, such as a department deputy manager, be responsible for each public property - currently different staff are responsible for grass cutting, scheduling, insurance, etc. such as is the case for Dowdy Park.

It was Board consensus to agree with Interim Manager Spark's process - with some input - and to proceed.

#### Interim Town Manager Greg Sparks - Upcoming September 2, 2020 Board meeting

For the September 2, 2020 Board of Commissioners meeting, Interim Manager Sparks indicated that the Fire Dept Strategic Plan will be presented. In addition, Police Chief Webster will be presenting a Police activities update.



Also to be brought forward in September is a modification to the Personnel Policy to reflect the requested process for modification to job descriptions/classification and pay plan.

Interim Town Manager Greg Sparks - Soundside Road (Jockey's Ridge State Park) parking area

Interim Manager Sparks updated the Board on the parking issues with the Jockey's Ridge Soundside access where neighbors have complained about the growing problem of parking on the roadway as well as vehicles waiting for the site to open in the mornings. He reported that staff has met with Soundside Road neighbors and Jockey's Ridge officials. Solutions are being discussed.

Interim Town Manager Greg Sparks - Beach Nourishment Projects

Interim Town Manager Sparks reported that staff recently met with the county, other municipalities, and consultants for the first of quarterly meetings to see if we can collaborate beach nourishment projects for a potential cost savings. He noted that while the Town's maintenance project does not line up with other towns as we are awaiting our FEMA obligation funds for 2021, staff will continue to work with the others in this regard.

Interim Town Manager Greg Sparks - Hurricane Isaias

Interim Town Manager Sparks thanked all Town departments for their work in preparing for Hurricane Isaias - he feels fortunate that the Town ended up with very minor issues.

**BOARD OF COMMISSIONERS AGENDA**

Comr. Fuller – Police monitoring of public beach access parking and multi-use path issues

Comr. Fuller asked Police Chief Webster to explain the procedural process in place to monitor the public beach access parking and multi-use path issues.

Police Chief Phil Webster responded that during undedicated time officers patrol and during this time they address this issue – a lot of tickets have not been issued as officers try to work with the public. At the beginning and at the end of each shift, officers try to review their specific areas.

Comr. Fuller said that the Board's value has always been to put the multi-use path in a higher priority category – this year he has seen more electric vehicles on the path as opposed to last year when he observed more construction vehicles on the path.

Mayor Cahoon questioned Board members if the Town should still have a zero tolerance re: electric skateboards, etc. on the path or should this be revisited.

Chief Webster expressed interest in educating people first because if pushed off the path, they will go somewhere else.

Comr. Brinkley re-emphasized the importance of officers keeping an eye on the beach accesses and the motorized vehicles/golf carts on the multi-use path.

Comr. Renée Cahoon said that she has not seen as much patrol/traffic control at Whalebone as in previous years. Chief Webster said he would reinforce this with his officers.

Comr. Renée Cahoon has seen public safety hazards such as a Pepsi truck unloading and blocking a lane of traffic.

Chief Webster encouraged Board members to call him if a violation is seen and he will respond.

#### Comr. Renée Cahoon - Thank You to Sanitation Staff

Comr. Renée Cahoon thanked Public Works sanitation staff for securing trash carts prior to Hurricane Isaias as well as picking up afterwards. She suggested more communication between the Town and rental companies to help with this.

Mayor Cahoon pointed out that he has observed staff continuing to keep up with minimizing the amount of equipment left on the beach by renters/tenants and they are doing a good job.

### **MAYOR'S AGENDA**

#### Mayor Cahoon - Future Town Envision

Mayor Cahoon stated that this item is to be left on the meeting agenda with an opportunity for discussion at the September 2020 Board Retreat.

#### Mayor Cahoon - Discussion of September 2020 Board Retreat

Mayor Cahoon confirmed the dates of September 23 – 24, 2020 with Board members for a Retreat with September 25<sup>th</sup> to be used for staff discussions.

It was Board consensus to proceed with the recommendation of facilitator by Interim Town Manager Sparks.

#### Mayor Cahoon - Discussion of Town Manager search firm selection

Discussion of a Town Manager search firm will take place at the August 19<sup>th</sup> mid-month meeting at 2 p.m. Mayor Cahoon said that the search has been narrowed down to three firms.

As was done with the Interim Town Manager position, representatives of the three companies will be interviewed via the Zoom platform.

Interim Town Manager Sparks was directed to make arrangements with the three firms of interest for interview time, break, and deliberation. Attorney Leidy pointed out that he would not be available on August 19<sup>th</sup> and Mayor Cahoon stated that Interim Town Manager Sparks could assist if needed.

Attorney Leidy pointed out that the hiring and selection of the Town Manager search firm would be an open meeting process.

### **CLOSED SESSION**

**MOTION:** Comr. Renée Cahoon made a motion to enter Closed Session to confer with the Town Attorney re: matters within attorney client privilege, to preserve that privilege to include discussion of the Blackburn v Dare County, Town of Nags Head, et al in accordance with GS 143-318.11(a)(3) - and to discuss a confidential personnel matter in accordance with GS 143-318.11(a)(6). The motion was seconded by Comr. Brinkley which passed unanimously. The time was 11:45 a.m.

### **OPEN SESSION**

The Board re-entered Open Session at 1:00 p.m. Attorney Leidy reported that during Closed Session the Board conferred with the Town Attorney re: pending litigation as well as other legal matters. Some action was taken but there is nothing to report at this time.

### **ADJOURNMENT**

**MOTION:** Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 1:00 p.m.

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Carolyn F. Morris, Town Clerk

Date Approved: September 2, 2020

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