



DRAFT MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, JUNE 2, 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, June 2, 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: Interim Town Manager Andy Garman; Attorney John Leidy; Michael Zehner; Kelly Wyatt; Amy Miller; David Ryan; Eric Claussen; Phil Webster; Randy Wells; JC Mitchell; David (Shane) Allen; Michelle Gray; David Bragg; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am. He asked for a moment of silence concerning the tragedy in Los Angeles where a firefighter killed a firefighter, injured another one, and then killed himself - another situation of workplace violence. The moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

Mayor Cahoon added to the already requested Closed Session an update from the Town Attorney re: pending beach nourishment condemnation actions, the possible acquisition of real property located at 106 E Seachase Drive, and a personnel matter.

MOTION: Comr. Webb Fuller made a motion to approve the June 2nd agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed unanimously.

INTRODUCTION OF LIFEGUARDS

Fire Chief Randy Wells presented a video with the introduction of this year's lifeguards which was well received. Board members appreciated the video production and wished the lifeguards a safe summer.

RECOGNITION

NEW EMPLOYEE - Interim Town Manager Andy Garman introduced Public Works Director Eric Claussen who was welcomed by the Board to Town employment.

FIVE YEARS - Police Chief Phil Webster introduced Police Officer JC Mitchell who was recognized by the Board for five years of service.

TEN YEARS - Police Chief Phil Webster introduced Police Officer/School Resource Officer David (Shane) Allen who was recognized by the Board for ten years of service.

PUBLIC COMMENT

Attorney Leidy opened the Public Comment period.

PUBLIC COMMENT – DAVID BRAGG

David Bragg, Village at Nags Head resident; he pointed out that the \$35,000 that the Town is paying for pull-back sanitation cart contracts for the Beach Road is not something that he has in his west side neighborhood; he is hoping the new garbage schedule will help this situation; living here full time he would expect full-time residents would get this treatment instead of visitors. On a different note, he read from the adopted resolution where the Town requested that the Trump executive order re: J-1 Visas be rescinded as many local businesses do not have enough people to keep their businesses working at full capacity; he asked that the Town write a letter to the President and to the Governor telling them to stop the unemployment benefits which is why many people are not working.

There being no one else who wanted to speak, Attorney Leidy concluded Public Comment at 9:22 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following agenda items:

Consideration of Budget Adjustment #15 to FY 20/21 Budget

Consideration of Tax Adjustment Reports

Approval of minutes

Consideration of annual write-off of uncollectible water accounts

Consideration of codification of Gas Franchise Ordinance

Consideration of resolution authorizing exchange between Nags Head and Hatteras Fire Dept

Consideration of resolution authorizing formal bids to be advertised electronically

Consideration of resolution authorizing receipt of American Rescue Plan Act funds

Consideration of resolution authorizing higher federal micro-purchase thresholds

Consideration of updated banking resolution

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

Budget Adjustment #15 to the FY 20/21 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

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

The memo re: the annual write-off of uncollectible water accounts, as approved, read in part as follows:

"At this time, it is requested that the Board of Commissioners approve the write-off of all accounts currently considered to be uncollectable. A detailed list of these accounts is attached hereto and made a part hereof.

'The requested write-off total for water accounts over \$50.00 is \$244.23. Also attached is a list of accounts of \$50.00 or less totaling \$20.78 that has been written off.

'In the past 12 months the total amount billed for water was \$2,520,023.60.

'As in the past, if circumstances should change for any of these accounts, every effort shall be made to recover the bad debt."

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

The Resolution authorizing the exchange of equipment with the Hatteras Fire Dept, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head owns ten Scott AP 75 SCBA (value of \$200 each) and ten Scott AP 50 SCBA (value of \$100 each) with a total value of \$3,000; AND

'WHEREAS, The Hatteras Fire Department in Dare County owns fire hose valued at \$3,000; AND

'WHEREAS, the Hatteras Fire Department and the Town of Nags Head wish to make an even exchange of the two described 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 Hatteras Fire Department officials are directed to execute the appropriate instruments necessary to carry out the exchange."

The Resolution authorizing receipt of ARP Act funds, as adopted, read in part as follows:

“WHEREAS, the federal government passed the American Rescue Plan Act (ARP Act) on March 11, 2021, an economic stimulus law to speed up the United States' recovery from the economic and health effects of the COVID-19 pandemic and the ongoing recession; and

‘WHEREAS, the American Rescue Plan Act of 2021 established the Coronavirus State and Local Fiscal Recovery Funds, providing substantial aid for local governments to lay the groundwork for a strong and equitable recovery; and

‘WHEREAS, the U.S. Treasury Department has issued guidance for the use of these funds and implemented the provisions of this program; and

‘WHEREAS, the broad definition of allowable uses include replenishing lost revenue (limited to revenue loss due to pandemic relative to fiscal year prior to the emergency), mitigating negative economic impact of the pandemic, and providing necessary investments in water, sewer, or broadband infrastructure; and

‘WHEREAS, funds made available to the Town of Nags Head must be obligated by December 31, 2024; and

‘WHEREAS, the NC Pandemic Recovery Office (NCPRO) has provided guidance for non-entitlement local governments in order to receive their distribution from the State; and

‘WHEREAS, NCGS 160a-17.1 authorizes the governing body of any city or county to make contracts for and to accept grants-in-aid and loans from the federal and State governments and their agencies for constructing, expanding, maintaining, and operating any project or facility, or performing any function, which such city or county may be authorized by general law or local act to provide or perform; and

‘WHEREAS, the Board of Commissioners authorizes the receipt of ARP Act funds and delegates authority to the Town Manager or designee to execute any necessary agreements on behalf of the Board; and

‘WHEREAS, NCGS 159-26(b)(2) authorizes the creation of a special revenue fund.

‘NOW, THEREFORE, BE IT RESOLVED

‘Section 1. The Town of Nags Head hereby creates the ARP Act Special Revenue Fund for the purposes of tracking and reporting eligible expenditures and ARP Act revenues.

‘Section 2. This ARP Act Special Revenue Fund shall remain until the expiration of the original act and any subsequent extensions or additions provided by the federal government.

‘Section 3. This resolution shall become effective upon its adoption.”

The Resolution authorizing higher federal micro-purchase thresholds, as adopted, read in part as follows:

“WHEREAS, from time to time, the Town of Nags Head purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

‘WHEREAS, the Town of Nags Head’s procurement of such goods and services is subject to the Town of Nags Head’s purchasing and bid requirements policy, as most recently amended on April 28, 2020; and

‘WHEREAS, the Town of Nags Head is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a “higher threshold consistent with State law”; and

‘WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the Town of Nags Head to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than \$30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to \$30,000; and

‘WHEREAS, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the “Mini-Brooks Act”); and

‘WHEREAS, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), the Board of Commissioners of the Town of Nags Head now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

‘NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD:

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the Town of Nags Head hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:

- A. \$30,000, for the purchase of “apparatus, supplies, materials, or equipment”; and
- B. \$30,000, for the purchase of “construction or repair work”; and
- C. \$50,000, for the purchase of services not subject to competitive bidding under North Carolina law; and
- D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an

exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$10,000.

2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until June 30, 2021 but shall not be applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

3. In the event that the Town of Nags Head receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds.

4. The Unit shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

5. The Town Manager, or in absence designee, of the Town of Nags Head is hereby authorized, individually and collectively, to revise the Purchasing Policy of the Unit to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.”

The Resolution with updated banking officials, as adopted, read in part as follows:

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

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

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

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

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

PUBLIC HEARINGS

Public Hearing to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2021 – June 30, 2022, proposed CIP requests for FY 21/22 through FY 25/26, and updated Consolidated Fee Schedule

Attorney John Leidy introduced the Public Hearing to consider citizen comment on the Town Manager's proposed operating budget for July 1, 2021 - June 30, 2022, proposed CIP requests for FY 21/22 through FY 25/26, and the updated Consolidated Fee Schedule. The time was 9:24 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 19, 2021 and on Wednesday, May 26, 2021, as required by law.

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

"At the May 5th Board of Commissioners meeting, Interim Town Manager Greg Sparks presented highlights of his recommended FY 21/22 Budget. At that time the proposed budget was distributed to Board members. A Public Hearing was subsequently scheduled for the June 2nd Board meeting.

'Attached please find the Public Notice of Public Hearing for the proposed Operating Budget, CIP requests, and the updated Consolidated Fee Schedule. Also attached please find a memo from Finance Director Amy Miller detailing the changes to the recommended FY 21/22 budget."

Board members thanked Department Heads/managers for their hard work to bring the budget and the Town to where they need to be.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:31 a.m.

Public Hearing to consider various text amendments to update the Unified Development Ordinance as required by N.C.G.S. 160D

Attorney John Leidy introduced the Public Hearing to consider various text amendments to update the Unified Development Ordinance as required by GS 160D. The time was 9:32 a.m.

Dep Planning Director Kelly Wyatt summarized the agenda summary sheet which read in part as follows:

"In 2014, the Zoning, Planning, and Land Use section of the North Carolina Bar Association initiated an effort to modernize the framework of the State's enabling statutes for planning and development regulations. After extensive review and revision from various entities, the legislation moved through the General Assembly, the Senate Judiciary Committee and the House and Senate with the Governor signing the legislation on July 11, 2019. The new Chapter 160D of the North Carolina General Statutes consolidates current city- and county- enabling statutes (now found in Chapters 153A and 160A, respectively) into a single, unified chapter, and pulls in related statutes previously scattered throughout the General Statutes. All city and county zoning, subdivision, and other development regulations, including unified development ordinances, will need to be updated by July 1, 2021 to conform to the new law.

'Staff Recommendation/Planning Board Recommendation

Staff recommends adoption of the amendments as proposed.

'At their April 20th, 2021 meeting the Planning Board voted unanimously to recommend adoption of the proposed text amendments as presented.'

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 19, 2021 and on Wednesday, May 26, 2021, as required by law.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:36 a.m.

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance updating the UDO as required by GS 160D as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

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

Comr. Fuller noted that all UDO changes will be administrative based on fact - he stated that we are continuing to add to the UDO and wants to make sure there is nothing interpretive about it and that it is all based on fact.

Attorney John Leidy said that he feels that some interpretation is necessary. We do want to increase consistency but do not want to eliminate the ability to interpret some things - and still have the ability to appeal to the Board of Adjustment or Board of Commissioners - which wouldn't be necessary if there were no interpretation.

Public Hearing to consider a text amendment pertaining to lot coverage associated with dumpster conversions from side load to front load pickup

Attorney John Leidy introduced the Public Hearing to consider a text amendment pertaining to lot coverage associated with dumpster conversions from side load to front load pickup. The time was 9:47 a.m.

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

"The Town is currently undergoing a process of converting existing side-load dumpsters to front-load dumpsters where possible, to reduce the number of side-load routes needed to be maintained given the expectation that the availability of trucks that are able to service side-load dumpsters will be reduced in the future. To aid in this effort and to reduce complications involving alterations and/or expansions to dumpster locations or pad dimensions, Staff requested and the Board authorized development of a text amendment to the UDO to address potential increases in lot coverage that may be associated with these changes.

'The Planning Board reviewed this matter and draft amendments at their meeting on April 20, 2021. The Planning Board voted 6-0 to recommend approval of the text amendment as presented.

'Subsequent to the April 20, 2021 Planning Board meeting, Staff discussed the conversion process further with the Deputy Town Manager, Public Works Director, and Facilities Maintenance/Sanitation

Superintendent and determined that the proposed language should not reference a requirement by the Town for conversion, as that was not necessarily consistent with practice. Therefore, Staff is recommending an amendment with changes from the version originally presented to the Planning Board. Staff noted this modification and the reason at the Planning Board meeting on May 18, 2021.

'CODE CONSIDERATIONS

Allowable lot coverage, related to zoning district and use types is established within Section 8.2.1., Dimensional Requirements, of the UDO. Section 8.6.6., Lot Coverage, of the UDO establishes specific requirements for the administration of lot coverage, and Section 8.6.6.7., Exclusion of Lot Coverage Calculation, outlines those instances where lot coverage may otherwise be exempted or excluded. There is currently no exemption for dumpster pads.

'POLICY CONSIDERATIONS

The Comprehensive Plan does not specifically address this matter.

'PLANNING BOARD RECOMMENDATION

The Planning Board reviewed this matter and draft amendments at their meeting on April 20, 2021. The Planning Board voted 6-0 to recommend approval of the text amendment as presented. Subsequently, at their meeting on April 20, members of the Board did not object to the modification noted by Staff.

'STAFF RECOMMENDATION

To make the conversion process more flexible and proceed more efficiently, it is Staff's recommendation that the following amendments to the UDO be adopted:

- That a Section 8.6.6.7.6. be added to Section 8.6.6.7., Exclusion of Lot Coverage Calculations, as follows:

8.6.6.7.6. Where ~~For~~ a preexisting use, ~~is required by the Town to convert~~ when the service orientation of a dumpster ~~is being converted~~, or where a preexisting use is required by the Town to obtain when a dumpster is required to be obtained, consistent with the applicable requirements of the Town Code, any additional lot coverage required by the Town to be created for the location and servicing of such dumpster in excess of the maximum allowable lot coverage and necessary to meet the Town's minimum requirements for a dumpster pad, as determined by the Public Works Director of his/her designee, not to exceed the amount required by the Town, shall be exempt from the lot coverage requirements of this UDO.

Pursuant to Section 3.5.4.2. of the UDO, the Board of Commissioners may proceed to vote on the proposed ordinance, refer it to a committee for further study, or take any other action consistent with its usual rules of procedure. Prior to voting to adopt or reject the proposed text amendment, the Board should adopt a statement approving the amendment and describing the amendment's consistency with the Town's adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, a statement rejecting the amendment and describing its inconsistency with the adopted Comprehensive Plan and explaining why the action taken is reasonable and in the public interest, or a statement approving the amendment and containing at least all of the following:

- A declaration that the approval is also deemed an amendment to the Comprehensive Plan. The Board of Commissioners shall not require any additional request or application for amendment to the Comprehensive Plan.
- An explanation of the change in conditions the Board of Commissioners took into account in amending the UDO to meet the development needs of the community.

- Why the action was reasonable and in the public interest.”

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, May 19, 2021 and on Wednesday, May 26, 2021, as required by law.

There being no one present who wished to speak, Attorney Leidy concluded the Public Hearing at 9:50 a.m.

Comr. Renée Cahoon questioned if this would also apply to the purchase of a recycling dumpster or only to garbage dumpsters. Director Zehner said that it only focuses on garbage dumpsters. Board members do want to include Sec. 6.77 to address the desire to add a recycling dumpster and then mirror the rest of the verbiage. Mayor Cahoon said he wants to encourage the addition of recycling dumpsters; Comr. Fuller agreed but doesn't want to encourage more lot coverage. Mayor Cahoon questioned which one is triggering the requirement the recycling or the garbage dumpster. As there are no time constraints on this ordinance, it can be brought back at a later time with additional language.

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance pertaining to front load dumpster pick up and lot coverage as presented with direction to staff to consider the placement of recycling dumpsters and bring back the appropriate language. 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 "E".

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

Update from the Planning Director

Planning Director Michael Zehner summarized his report which read in part as follow:

"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 June 2, 2021.

Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for April 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, April 7 - Board of Commissioners Meeting
- Thursday, April 8 - Board of Adjustment Meeting
- Monday, April 12 - Planning & Development Department Staff Meeting
- Wednesday, April 14 - Arts & Culture Committee Meeting
- Thursday, April 15 - Dare County Tourism Board Meeting
- Thursday, April 15 - DWMP Update Advisory Committee Work session
- Monday, April 19 - CAMA Land Use Coordination Call with DCM
- Tuesday, April 20 - Planning Board Meeting

- Tuesday, April 27 - Permitting, Inspections, and Code Enforcement Team Meeting
- Wednesday, April 28 - Planning & Zoning; Environmental Plng; Hazard Planning Staff Mtg

'RFQ for Estuarine Shoreline Management Plan

An RFQ seeking a consultant for development of an Estuarine Shoreline Management Plan for the Town was released on May 24, 2021, with responses due July 7, 2021 ([LINK](#)). Staff would request the Board's authorization to advertise a request for volunteers to serve on an advisory/steering committee for the project, with candidates to be presented to the Board for consideration and appointment.

'Outdoor Dining

The Board of Commissioners discussed temporary outdoor dining at their meeting on May 5, 2021 meeting, indicating their support to allow for the continued issuance of Temporary Use Permits until November 28, 2021 should the declared state of emergency be lifted. The Board additionally asked Staff to work on a text amendment to allow temporary allowances for outdoor dining regardless of a declared state of emergency. Staff will initiate this discussion with the Planning Board at their June 15, 2021 meeting.

'Planning Board - Pending Applications and Discussions

The Planning Board returned to in-person meetings on May 18, 2021; the meeting included an initial discussion of a scope for the Electric Vehicles Action Plan and preliminary discussion regarding amendments to the Town's Sign Ordinance. The Planning Board also discussed ways to better understand the changes in the Town's population (permanent, daytime, and seasonal) and implications that such changes may have on the provision of services; Staff showed the Board a video of one data solution that had been used for Nantucket <https://www.youtube.com/watch?v=TCpckTg7ATc>

'The Board's next meeting is scheduled for June 15, 2021. At this time, the agenda is expected to include continued discussion of the scope for the Electric Vehicle Action Plan, preliminary discussion regarding amendments to the Town's Sign Ordinance, and preliminary discussion regarding amendments to allow for temporary allowances for outdoor dining. Additionally, there are active pending conditional use permit applications for the property at 205 E. Baltic Street (a.k.a. the Dream Center) and The Soundside Event Site and associated properties; continuances were requested from the April meeting to the May meeting; however, further continuance requests are not unanticipated.

'Additional Updates

- **CAMA Land Use Plan Update** - Staff worked with DCM staff on May 12, 2021 to coordinate final revisions to the Land Use Plan. Staff is working to complete final revisions and develop a schedule for local adoption.
- **Outdoor Lighting; Street Lights** - The Board recently adopted amendments to the Town's UDO pertaining to outdoor lighting and the lighting of signs. In their review of the amendments, the Planning Board did indicate an interest in wanting to consider additional changes in the future. A related consideration that has been identified by Staff is that the current ordinance prohibits "Outdoor miniature lights on strings except from mid-November until mid-January, provided that such lighting does not create glare or is a nuisance to adjacent properties;" it has been noted that this prohibition does not necessarily relate to many of the string lights being installed throughout Town, and whether or not those installations are undesirable.

'Related, Town Staff was recently contacted by Dominion Energy regarding plans to convert the Town's streetlights to LED. Staff is expecting to review LED fixtures that have already been installed in Town, as well as review potential sites for the use of "amber" fixtures that are more consistent with the needs of nesting turtles. The Board of Commissioners requested the locations of LED fixtures to allow for their

review, and Staff is working to compile detailed information on the location and specifications for these fixtures.

- **Electric Vehicles Action Plan; Level 2 Charger** - As noted above, Staff held a preliminary discussion with the Planning Board concerning the scope of the Electric Vehicles Action Plan; Staff has received interest from Duke University in having a Masters student from the Energy and Environment Program work on this project.

Staff continues to consider opportunities and work with vendors to source a charger for location on Town property through a "host" arrangement.

- **Town Workforce Housing Study & Plan/RFI** - The RFI seeking solutions for the Town's lifeguard housing needs was released on April 21, 2021, with responses due on June 7, 2021.

- **LID Manual; Review of Residential Stormwater Regulations** - In their review of a text amendment to update the UDO to reference the recently updated *Low Impact Development and Stormwater Reference Manual*, to replace the *Low Impact Development Solutions to Reduce Stormwater Runoff Manual*, and to adopt the same, the Board continued consideration until their July 7, 2021 meeting and requested that Staff coordinate with the building community. These actions are pending, and will likely include a larger discussion concerning the recommendations for updates to the residential stormwater regulations made by Staff and the Planning Board.

- **Skate Park Renovation - Phase 1** - A survey seeking input from the community with regard to potential future improvements to the Skate Park was conducted from March 9 to April 26, 2021. A total of 551 responses were received. A summary of the responses is attached for the Board's review.

- **Decentralized Wastewater Management Plan** - To this point, three meetings have been held with the project Advisory Committee. Much of the effort to this point has involved the collection of relevant data and information, the identification of stakeholders, issues, and opportunities, and the development of an engagement plan. Victor D'Amato, who was serving as the lead project manager with Tetra Tech, has recently departed Tetra Tech for the North Carolina Division of Water Infrastructure; existing project staff has backfilled Mr. D'Amato's role, including Mary Clark, who was a consultant on the original DWMP.

- **Dowdy Park Farmer's Market** - The first Market of the season will be held on Thursday, May 27 from 9a to 1p. Markets will be held every Thursday, through Thursday, September 9.

- **Draft Scope for Estuarine Shoreline Management Plan** - As noted above, an RFQ has been released, with responses due July 7, 2021.

- **Islington Street Beach Access** - With the exception of signage, we have been notified that the improvement of the Islington Street Beach Access has been completed. Staff will begin working to close out the grant with DCM.

- **GIS Platform Update, Phase 1** - An RFI seeking information on GIS services was released by the Town, also on behalf of the towns of Kill Devil Hills, Kitty Hawk, Southern Shores, and Duck, resulted in 10 responses. Interviews with the respondents began on May 17 and will be completed on May 28.

- **ETIPP Project/Program** - As previously reported, Staff was notified on April 19, 2021

of the Town's acceptance into the Energy Transitions Initiative Partnership Project (ETIPP) Community Technical Assistance Program offered by the U.S. Department of Energy and the National Renewable Energy Laboratory (NREL) for assistance in addressing electric utility resilience for the Town and the Outer Banks, with a focus on renewable energy sources. Project scoping meetings have been held on May 6 and May 24, and a final project scope is expected to be approved on June 17.

- **NC AIA Activate Technical Assistance** - Staff is working to coordinate next steps on the ACTIVATE technical assistance award from the North Carolina Chapter of the American Institute of Architects; the project would develop best practices for building design related to renewable energy and energy and water efficiency.

- **Flood/Tide Gauges** - As previously reported, the Town had submitted a letter of support to participate in a joint grant to fund additional tide gauges to be located in Town, as well as other locations in Dare County. The Town was notified on January 3, 2021 that the collaborative request was selected for funding, and Town Staff subsequently coordinated the installation of a gauge on a dock in the Village at Nags Head; once online, there will be three gauges in the Town providing up-to-date tide and flood data: the gauge located in the Village, one at Jennette's Pier, and another at Little Bridge.

- **LID Stormwater Demonstration Project** - As previously noted, the Town was notified that it was successfully awarded \$2,500 in cost share assistance from the Dare Soil and Water Conservation District through the Community Conservation Assistance Program for the development of a rain garden at Town Hall to improve local water quality and serve as a Low Impact Development demonstration and education project. Staff is waiting on direction from the District regarding design before initiating installation.

- **Provisions for the Registration of Events Held at Residential Properties** - When it is appropriate, Staff would request feedback from the Board of Commissioners as to whether they would like to consider for adoption provisions requiring the registration of events held at residential properties. As noted in the memorandum to the Planning board ([LINK](#)), a more comprehensive review and amendment of Chapter 4, *Amusements, Entertainments, Mass Gatherings and Commercial-Outdoor Recreational Uses*, may be necessary given issues that have arisen; provisions addressing events at residential properties could be addressed separately now, or be incorporated into this more comprehensive review and amendment.

- **Grants and Assistance**

- Staff had submitted a request under the Hazard Mitigation Grant Program (Tropical Storm Michael) to update the Town's Emergency Operations Plan. While staff originally learned that funding under that event was no longer being considered, and that the request may be considered under funding decisions related to Hurricane Dorian, we have now been informed that it is being considered for funding under a separate storm event, DR-4543-NC, associated with severe storms, tornadoes, and flooding that occurred in February 2020.

- Staff submitted a Letter of Interest ("LOI") under the Hazard Mitigation Grant Program related to Hurricane Dorian for the acquisition of property, and assisted Fire Chief Wells in the submission of an LOI for replacement of a generator; we have been notified that the generator request has been selected for further consideration and is under review by FEMA. With respect to the acquisition of property, Staff has been informed that previous insurance claims would be subtracted from any potential purchase price, which may make the potential offer price unacceptable to the property owner.

- On April 16, 2021, Staff submitted a pre-application for a CAMA Access Grant for

improvements to the Epstein Beach Access. Staff was notified on May 13, 2021 that the Town was invited to submit a Final Application for the Epstein Street Public Beach Access, due by August 16, 2021.”

Estuarine Shoreline Management Plan - By affirmation, Board members agreed to authorize staff to advertise for volunteers to serve on an advisory/steering committee for the Estuarine Shoreline Management Plan - to be returned to the Board for consideration of appointment.

Registration for events for residential properties - Board members opted to wait and see if there is still an issue with events at residential properties before taking any further action.

Adoption of Town Land Use Plan (LUP) - Comr. Renée Cahoon questioned why Nags Head is the only community without an adopted LUP; Planning Director Zehner reported that staff recently met with the State to discuss their comments and how to move forward. Board members indicated that they are looking forward to having a Land Use Plan in the next few months for consideration.

Consideration of American Flood Coalition membership

Planning Director Michael Zehner summarized staff’s memo which read in part as follows:

“The Town’s resilience efforts were recently featured as a case study by the American Flood Coalition in a guide titled, *Adaptation For All: How To Build Flood Resilience For Communities Of Every Size*. Following the publication of the guide, the American Flood Coalition hosted a virtual webinar launch in March 2021. David Ryan, Town Engineer, and Mayor Ben Cahoon participated on behalf of the Town. The webinar can be viewed at <https://www.youtube.com/watch?v=qPxtfEmztew>.

‘As a follow up to these efforts, the Town has been invited to become a member the American Flood Coalition (<https://floodcoalition.org/>). The American Flood Coalition is a nonpartisan coalition advocating for solutions to flooding and sea level rise and is comprised of 254 members from 20 states. Attached to the memo are several documents that explain the mission, goals, and policies along with member benefits. Staff has drafted the attached resolution supporting membership in the American Flood Coalition for consideration by the Board of Commissioners. Staff will be available at the June 2, 2021 meeting to answer any questions.”

Mayor Cahoon noted that membership gives the Town a vehicle for activity at the federal level; no obligation just an opportunity to join others in the same situations.

MOTION: Comr. Renée Cahoon made a motion to adopt the resolution confirming membership in the American Flood Coalition organization as presented. The motion was seconded by Comr. Fuller which passed unanimously.

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

“WHEREAS, Town of Nags Head (the “Town”) desires to protect human life, safety and health; minimize expenditure of public money for costly flood control projects; minimize the need for rescue and relief efforts associated with flooding; minimize prolonged business losses and interruptions; minimize damage to public facilities and utilities; minimize damage to private and public property due to flooding; maintain the natural and beneficial functions of floodplains; and mitigate flood risks in Nags Head; and

‘WHEREAS, flood prone areas of the Town are subject to periodic inundation which results in loss of life, property, health and safety hazards, disruption of commerce and governmental services, extraordinary

public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare; and

‘WHEREAS, proactively investing to prevent flooding is a wiser use of resources than spending on flooding recovery, as exemplified by FEMA research showing that \$1 spent on disaster prevention saves up to \$7 in recovery costs, and

‘WHEREAS, national coordination and support are necessary for communities to fully address the challenge of flooding and sea level rise, and the American Flood Coalition provides a platform advocating for national solutions to flooding and sea level rise that invest in and protect our coastal communities, and

‘WHEREAS, the American Flood Coalition is a no-cost forum for best practices and source of support in developing local and state-level responses to flooding and sea level rise that will enhance the Town’s resilience effort, and

‘WHEREAS, flooding and sea level rise are important issues that our residents deserve to understand and the American Flood Coalition provides opportunities and tools to communicate with residents on flooding challenges and solutions, and

‘WHEREAS, joining the American Flood Coalition will aid and further the Town of Nags Head’s efforts to protect against flooding without requiring any financial support or dues from the Board of Commissioners, and

‘WHEREAS, the goals and mission of the American Flood Coalition are consistent with the policies of the Town of Nags Head Comprehensive Plan (2017) to ensure the Town is a disaster resilient community that can survive, recover from, and thrive after a natural or man-made disaster; and

‘WHEREAS, the Board of Commissioners finds that joining the American Flood Coalition will promote the safety and welfare of residents and ensure the prosperity of the economy by accelerating solutions to sea level rise and flooding, and

‘NOW, THEREFORE, BE IT RESOLVED, as follows:

‘The Town of Nags Head Board of Commissioners recognizes the need to advance national solutions to sea level rise and flooding and will work as a member of the American Flood Coalition to safeguard the welfare of Nags Head.’

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From May 5th Board meeting - Public Hearing held May 5th - Second Reading - Consideration of establishment of four proposed municipal service districts for beach erosion control, flood and hurricane protection works, and flood control and drainage projects

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

“At the May 5th Board of Commissioners meeting a Public Hearing was held to consider the establishment of four proposed municipal service districts for beach erosion control, flood and hurricane protection works, and flood control and drainage projects. The Board passed a motion to adopt the ordinance as presented and to establish four additional municipal service districts (Districts 3, 4, 5, and 6) by making numerous findings as noted in the ordinance to include compliance with the requirements of GS 160A,

Article 23. The ordinance was scheduled to return for a Second Reading, as required by law, at the June 2nd Board meeting.

Below is backup from the May 5th Board meeting:

At its February 3rd meeting, the Board passed a motion to direct staff to prepare the maps/study/report to implement the following municipal service districts:

District 3 – Encompassing all properties situated east of South Croatan Highway between Bonnett Street and Gulfstream Street/South Virginia Dare Trail.

District 4 – Encompassing all properties situated between Gulfstream Street/South Virginia Dare Trail and the southern town limits.

District 5 – Encompassing all properties situated east of South Virginia Dare Trail between Eighth Street and Bonnett Street.

District 6 – Encompassing all properties situated east of South Croatan Highway between Eighth Street and Bonnett Street.

And to authorize the Beach Nourishment Project, Alternative #1, which involves a FEMA project supplemented with Coastal Storm Damage Mitigation (CSDM) fund grant revenue.

At the March 3rd meeting, the Board received a report and map delineating the proposed municipal service districts and a Public Hearing on the proposed Municipal Service Districts was scheduled for the May 5th Board of Commissioners meeting at 9 am. These items can be found on [the Town's website](#).

Attached please find a map of the proposed districts. The Town Clerk has certified that the MSD Report has been available for public inspection in the office of the Town Clerk for four weeks prior to the public hearing; the affidavit from the *Coastland Times* which documents adequate notice provided of today's Public Hearing has been prepared and forwarded to the Town."

Mayor Cahoon expressed concern about reaching out to the community to make sure the message concerning the creation of these districts is out there. After conversation with the Town's Public Information Officer, Roberta Thuman, Mayor Cahoon and Ms. Thuman produced a video which has been posted for public viewing – he feels that there is no reason why someone who wanted to know couldn't find out this information. He feels that people really do understand and knows that their money is being spent on the beach.

MOTION: Comr. Renée Cahoon made a motion to establish four additional municipal service districts by making the following findings:

1. The Town of Nags Head has fully complied with each and every requirement of Chapter 160A, Article 23 of the North Carolina General Statutes needed to define and create each of the Districts defined below and determines and finds same as a fact.
2. The Nags Head Beach Erosion Control and Flood and Hurricane Protection Works and Drainage Projects Municipal Service Districts for erosion control and flood and hurricane works are hereby defined and created pursuant to North Carolina General Statute Sec. 160A-537 in accordance with the following description:

District 3 – Encompassing all properties situated east of South Croatan Highway between Bonnett Street and Gulfstream Street/South Virginia Dare Trail.

District 4 – Encompassing all properties situated between Gulfstream Street/South Virginia Dare Trail and the southern town limits.

District 5 – Encompassing all properties situated east of South Virginia Dare Trail between Eighth Street and Bonnett Street.

District 6 – Encompassing all properties situated east of South Croatan Highway between Eighth Street and Bonnett Street.

and being the property as shown within the boundaries set forth on that certain map attached hereto as Exhibit "A" and incorporated herein by reference, to which reference is made for a more complete and accurate description of the boundaries of the Nags Head Beach Erosion Control and Flood and Hurricane Protection Works and Drainage Projects Municipal Service Districts as defined in this Ordinance.

3. The Town of Nags Head may engage in any or all of those activities that may lawfully be conducted within a municipal service district defined and created pursuant to North Carolina General Statute Sec. 160A-536(a)(1) and (3) to provide beach erosion control and flood and hurricane protection works and drainage projects.

4. The Town may also levy property taxes within the service districts in addition to those throughout the town in order to finance, provide or maintain for the districts, services provided therein, in addition to or to a greater extent than those financed, provided or maintained for the entire town.

And to adopt the ordinance as presented. The motion was seconded by Comr. Fuller which passed unanimously.

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

Mayor Cahoon noted that the ordinance adoption creates some stability for the Town and keeps the Beach Nourishment project moving forward.

NEW BUSINESS

Committee Reports

Gov-Ed Channel Committee - Comr. Renée Cahoon reported on the recent in-person meeting; more communities are now involved in the Committee so there are more entities utilizing the funds.

Jennette's Pier Advisory Committee - Comr. Brinkley reported on the recent meeting: the Waves To Water competition will be held in April 2022; Coastal Studies Institute (CSI) (Lindsay Dubbs and Mike Muglia) gave a presentation - Comr. Brinkley is to discuss later with the Mayor a day/time when CSI could provide an update to the Board of the projects going on at the Pier.

Coast Guard recognition of Lifeguard Austin Fallon - Friday, June 4th is the Coast Guard presentation at Jennette's Pier recognizing lifeguard Austin Fallon for his dramatic rescue during summer of 2019.

Consideration of appointment to Arts & Culture Committee

The agenda summary sheet read in part as follows:

"At the June 2nd Board of Commissioners meeting, request appointment/reappointment be made to the Arts and Culture Committee.

"Currently, the terms of two (2) Arts and Culture Committee members, Ginny Flowers and Samantha Lock, expire on June 6, 2021. Both would like to be reappointed for an additional three-year term.

"Attached please find the Tracking Chart with the current roster for the Arts and Culture Committee as well as the committee policy."

MOTION: Mayor Pro Tem Siers made a motion to reappoint both Ginny Flowers and Samantha Lock to additional three-year terms on the Committee for Arts & Culture. The motion was seconded by Comr. Brinkley which passed unanimously.

Staff is to change the "Eligible For Reappointment" column on the Tracking Chart to read "Interested In Reappointment". In addition, reappointment letters are to be prepared for the Mayor's signature.

Consideration of renewal of contract with Town of Kill Devil Hills for maintenance of Eighth Street Beach Access

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

"The current 3-year agreement between Nags Head and Kill Devil Hills for the operation of the 8th St. Ocean Access expires on June 30, and a new agreement has been negotiated. The MOU provides for the operation, repairs, and improvements to the ocean access that is owned by both towns along the centerline of the right-of-way. The MOU provides for overall management of the site to be the responsibility of the Town of Nags Head with reimbursement for joint costs from Kill Devil Hills. The changes to the current agreement include the following:

1. B. Operations Plan (4) Routine repairs and maintenance of the parking lot, ramp, vegetation, crossovers, and trash collection. The fee charged Kill Devil Hills has been increased from \$500 to \$1000.
2. B. Operations Plan (5) Current language referred only to repairs as the result of a major storm or catastrophic event has been amended to include repairs and rehabilitation due to normal aging of the facility to be addressed as part of the budget process.

"The agreement has been reviewed and approved at the staff level by both towns, and the agreement would be for three years - July 1, 2021 - June 30, 2024."

MOTION: Comr. Renée Cahoon made a motion to approve the contract with the Town of Kill Devil Hills for Eighth Street Beach Access maintenance as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

Consideration of Police Officer Recruit Program

Police Chief Phil Webster summarized his memo which read in part as follows:

"The Town of Nags Head recruits from a shrinking pool of police candidates. Challenges of hiring staff include fewer Basic Law Enforcement Training (BLET) graduates, lack of interest in law enforcement as a career, increased cost of living in the Outer Banks and competition with local agencies. Offering a police recruit program allows the Town to hire an officer who is not certified through a BLET program. It expands our pool of candidates thereby giving us the ability to be more selective, attract diversity, and give an opportunity to individuals who cannot afford to acquire a certification on their own. For current Town employees the program opens a chance to explore a new career and demonstrates our commitment to their continued professional development.

'This program will allow the Town to hire an officer that will fill an open police position(s) as a police recruit. The recruit will be hired within a month of the first available (local) BLET program. In this program the recruit will gain the knowledge, skills, and abilities to become a successful police officer and once graduated become a full-time police officer. Recruits who do not complete the BLET course due to unanticipated circumstance, i.e., illness, injury, family emergency, may be retained and sent back through BLET at the discretion of the Police Department.

'A police recruit will be hired at a grade 4 and receive the minimum salary in that range while attending the BLET program. The department will cover the cost of books and supplies for the recruit. The average fees are currently \$2,274.50 which includes an already budgeted amount of \$700.00 for new hire medical and physical.

'Upon graduation from the BLET program (including passing the state exam) the recruit will be promoted to grade 7, Police Officer I and his or her one-year probation will begin.

'After one year the employee will be eligible for an in-grade increase based on the prior year performance. Current Town employees interested in a law enforcement career will forfeit their current position to become a police recruit. They will receive the minimum in the police recruit salary range.

'The candidate must go through a competitive hiring process including an interview panel. If selected a candidate would be subject to the same hiring process of a certified officer, including a background investigation, drug screening, psychological and medical exam, as well as the police officer physical abilities test (POPAT). As a condition of hiring the recruit would then apply and need to be accepted into the nearest available BLET class.

'When a recruit is hired into this program, their primary job assignment will be to complete the mandatory 640 hours of BLET and pass the state exam. While in BLET the recruit must:

- Check in with the training officer daily
- Attend all class training dates
- Provide weekly progress updates
- Be responsive to calls or emails from the department
- The recruit is not eligible for LEO 401K or LEO NC Retirement contribution until becoming a certified police officer
- They would be eligible for all Nags Head Town benefits offered to any fulltime employee
- Minimum age requirement is 20 years
- The recruit would be required to report to the Police Department for duty in the case of storm or prolonged class cancellation

'Transportation to and from BLET will be the responsibility of the police recruit. However, the Department/Town may at its own discretion provide the recruit a vehicle to drive from their residence to the BLET location. The provisioning of the vehicle will also be dependent on vehicle availability.

'Anyone hired into this program will be required to sign a Training Repayment Agreement. This agreement requires a Recruit to work as a police officer for two years after graduation from BLET to avoid repayment of the Town's significant expenses in training costs.

'The police recruit program would not supplant the departments' ability to consider certified or non-certified candidates for a police officer position. The department would retain the right to post job openings to consider certified, non-certified or both dependent on the need of the agency and the BLET program availability.'

Comr. Brinkley stated that he feels the program can be a good one if administered correctly; he questioned vehicle use which was noted would be on a case-by-case basis.

Comr. Fuller confirmed with Attorney Leidy that this type of contractual agreement with an employee, that is not the Town Manager, is common.

Mayor Cahoon said that he is in favor of being creative to help with obtaining new hires and wants to make sure the Town is protected.

Chief Webster pointed out that the recruit program may not even be needed if the pay study is implemented as recommended.

Mayor Cahoon suggested a pilot program with maybe up to three hires.

MOTION: Comr. Fuller made a motion to approve the Police Officer Recruit job description at a Grade 4 as presented. The motion was seconded by Comr. Brinkley.

Comr. Renée Cahoon noted that the position is already funded.

CONTINUATION OF MOTION: The motion passed unanimously.

Storm Debris Removal

- Debris Removal Contract Renewal
- Debris Monitoring Contract Renewal

Town Engineer David Ryan summarized the agenda summary sheet which read in part as follows:

"Each year the Town of Nags Head enters into pre-positioned agreements for Debris Removal and Debris Monitoring and Recovery Services. An active agreement is currently in place with Santee Modular Homes, Inc. (Santee, SC), for Debris Removal Services and with Tetra Tech, Inc., (Maitland, FL) for post-storm debris monitoring services. The existing agreements permit an option to renew the agreement for up to (3) additional (1) year periods at the same terms, conditions, and rates. The agreements will only activate once a "Notice to Proceed" has been issued by the Town.

'It is important to note the terms for the Debris Removal Services agreement includes a provision for a mobilization time of 24-48 hrs. from the issuance of a Notice to Proceed. The procurement for each one of the service providers was conducted in accordance with the provisions of 2 CFR Chapter II. Pursuant to CFR 200.319, non-Federal entities must conduct procurements in a manner that prohibits the use of local geographic preferences in the evaluation of bids or proposals.

'Staff would request to extend Santee Modular Homes, Inc. and Tetra Tech Inc. services for debris removal and monitoring services under this agreement. If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute two (2) separate agreements; one (1) with Santee Modular Homes, Inc. for Debris Removal Services and one (1) with Tetra Tech Inc. for FY 21/22."

MOTION: Comr. Fuller made a motion to authorize the Interim Town Manager to execute the agreements for both the Debris Removal Contract and the Debris Monitoring Contract Renewals as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

Engineering Services Task Order for Old Nags Head Cove AC Watermain Replacement, Paving and Drainage

Town Engineer David Ryan summarized the agenda summary sheet which read in part as follows:

"The Town has been working towards project construction with a more holistic approach. The approach includes incorporating additional construction elements into project design, i.e. utility, roadway, drainage, during the planning process. The FY-21/22 capital improvement program (CIP) includes a large-scale neighborhood level watermain replacement project within the Old Nags Head Cove Subdivision. The programming for this project will couple the replacement of approximately 13,584 l.f. of 6" dia. asbestos cement (AC) watermain in combination with asphalt pavement overlay and associative drainage construction. The area of work will be focused on the portion of the neighborhood south of W. Danube St.

'Due to the duration of project construction, which estimated at 16 weeks, supporting services have been initiated to begin work earlier in the offseason months. WithersRavenel, the Town's recently selected on-call engineer, has initiated the field survey work to assist with the development of the project construction documents. This work is currently ongoing.

'The remaining balance of the engineered design work is comprised of geotechnical investigation, design services, permit assistance, bidding, construction administration, project management and construction observation services. A fee proposal has been submitted, Task Order #2, in the amount of **\$159,740.00** to complete the balance of the engineering services.

'Staff has worked with WithersRavenel in the development of the fee proposal to operate within the budgeted project allowance and recommends acceptance of the total scope of work presented in Task Order 2. If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute Task Order 2 – Old Nags Head Cove Engineering Services."

MOTION: Comr. Brinkley made a motion to authorize the Interim Town Manager to execute the Task Order 2 for the Old Nags Head Cove AC Watermain Replacement, Paving and Drainage in the amount of \$159,740 to proceed with the design services for the project, as requested. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney Leidy confirmed with Mayor Cahoon that his items will be included in the Closed Session to be addressed at the appropriate time.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Interim Town Manager Garman - Update on July 4th Fireworks

Interim Manager Garman reported on the upcoming July 4th Fireworks which are scheduled for the Nags Head Fishing Pier at 9:25 p.m. He expressed appreciation to Pier Owner Andy McCann for his continued support of the fireworks display which are done by Zambelli International. The rain date is July 5th.

Interim Town Manager Garman - Beach Nourishment

- 2021 Annual Beach Condition Survey Contract / 2021 Annual Monitoring Contract

Town Engineer David Ryan summarized the agenda summary sheet which read in part as follows:

"Annually, the Town subcontracts surveying and engineering services to perform an annual beach condition survey and engineering data analysis in accordance with the Town's Beach Monitoring & Maintenance Plan. The survey scope of work includes the base project data acquisition of 126 profiles in conjunction with additional transect information data acquisition north of the project area, south of the project area and within reaches 3 and 4. The additional data acquisition was authorized to be added to the work plan in June 2020.

'A fee proposal in the amount of \$63,100 has been submitted by McKim & Creed to complete the base bid work in addition to options 1,2, and 3. The fees remain unchanged from FY 20/21.

Field data acquired by McKim & Creed will be provided to the coastal engineer, Moffat & Nichol, and will be analyzed to review annual shoreline changes, annual volume changes, project performance, background erosion rates, dune behavior and evaluation of long-term trends. This information will be synthesized into a report format and submitted to the Town by mid-September.

'A fee proposal, Task 9.1, in the amount of \$57,119 for the monitoring and analysis has been submitted by Moffat & Nichol to analyze the annual survey data and report preparation. The fee for task 9.1 remains unchanged from FY 20/21. Optional Tasks 9.2 and 9.3 have been included in the fee proposal and will only be authorized by the Town in the case of a federally declared storm event.

'Staff recommends acceptance of the total scope of work presented in the McKim & Creed fee proposal and acceptance of Task Order 9.1 of the Moffat & Nichol Proposal. If the Board of Commissioners is in agreement with the staff recommendation, a motion will be in order to authorize the Town Manager to execute McKim & Creed, Town of Nags Head Beach Monitoring Surveys, Summer 2021 and the Moffat & Nichol Town of Nags Head 2021 Beach Monitoring and Analysis, Task 9.1."

MOTION: Comr. Renée Cahoon made a motion to authorize the Interim Town Manager to execute the contracts with McKim and Creed for the Beach Monitoring Surveys and with Moffat & Nichol for the Beach

Monitoring and Analysis in the amounts of \$63,100 and \$57,119 respectively, as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

- Year 2 Multi-Decadal Master Plan - Borrow Area Investigation Contract -

The agenda summary sheet read in part as follows:

"Moffat & Nichol is in the process of completing the work associated with Year 1 of the Town's Multi-Decadal Master Plan. The year 1 effort will provide the basis for outlining efforts in subsequent years with the focus on developing preliminary estimates on the current level of protection, storm analysis and associative level of protection for future projects, preliminary nourishment triggers, and estimation of long-term sand needs over a 50-yr horizon. Year 1 of the Multi-Decadal Master Plan will be presented to the Board of Commissioners at their July meeting.

"The initial focus of the Year 2 Multi-Decadal Master Plan will be comprised of additional field investigations needed to characterize offshore sand borrow areas suitable for future beach nourishment projects. The scope of work is comprised of a combination of geotechnical field investigations to assess sediment compatibility across the extents on the investigation area in association with hydrographic surveys, sidescan sonar and sub-bottom profiles. Field data will include the acquisition of necessary information to evaluate the potential for cultural/archaeological resources.

"This Phase 1A represents a portion of work to be conducted in Year 2. The remaining portion will be submitted for Board consideration at their July meeting. The intent of phasing the work is to initiate the offshore field work sooner, to take advantage of the calmer summer wave conditions. The submitted fee proposal for the completion of the scope of work for Phase 1A is **\$192,295.70**.

"It is important to note the Phase 1A field investigation is an expansion of the recently completed offshore borrow investigation which will be incorporated into the data set for future evaluation and analysis."

MOTION: Comr. Brinkley made a motion to authorize the Interim Town Manager to enter into a contract with Moffat & Nichol for the Phase 1A field work in the amount of \$192,295.70 as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

- Consideration of Beach Nourishment Capital Project Ordinance and associated Budget Amendment #15A for funding from Capital Reserve Fund

Finance Director Amy Miller summarized the request which is for consideration of the new capital project ordinance and budget amendment to move money to that new ordinance. The agenda summary sheet read in part as follows:

"Attached please find the Beach Nourishment Master Plan Capital Project Ordinance provided to fund the new Master Plan Capital Project. Also attached please find Budget Amendment #15A which provides funding from the Capital Reserve Fund."

MOTION: Come. Fuller made a motion to approve Budget Amendment #15A for funding from the Capital Reserve Fund and the Beach Nourishment Capital Project Ordinance as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Budget Amendment #15A, as approved, is attached to and made a part of these minutes as shown in Addendum "G".

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

Interim Town Manager Garman - Discussion of Town-owned property at Soundside Event Site

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

"At its May 20, 2021 meeting, the Dare County Tourism Board approved a contract to purchase the town's interest in the Soundside Event property. This agreement will also need to be approved by the Dare County Board of Commissioners at its June regular meeting. The Nags Head Board of Commissioners will now consider approval of the agreement.

'The agreement would include an initial payment of \$600,000 prior to June 30, 2021 with the rest of the payments occurring over the next 10 years with each closing prior to the end of the fiscal year. The agreement includes a minimum payment of \$100,000 per year with the balance due in the last year. The Dare County Tourism Board may pay more than the minimum payment as funds allow. With each payment, there will be a deed transfer between the parties based on the share of the property covered by each payment. The total purchase price is \$2,336,107.

'In addition to the agreement, also attached for Board consideration, is a resolution approving the agreement."

MOTION: Comr. Fuller made a motion to adopt the resolution approving the agreement with Dare County for the purchase of the Town's interest in the Soundside Event Site as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

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

"WHEREAS, North Carolina General Statutes §160A-274 authorizes the Town of Nags Head to sell real property to another governmental unit upon such terms and conditions as it deems wise, with or without consideration; and

'WHEREAS, The Town of Nags Head is the owner of the following properties: (1) a 17.949% undivided interest in Lot 1, Forbes Commercial Lots, with a property address of 6906 S. Croatan Highway, Nags Head, NC, Dare County Tax Parcel # 012422000; (2) a 17.949% undivided interest in Lot 2, Forbes Commercial Lots, with a property address of 6900 S. Croatan Highway, Nags Head, NC, Dare County Tax Parcel # 012422001, and (3) a 34.783% undivided interest in Lot 3, Forbes Commercial Lots, with a property address of 6800 S. Croatan Highway, Nags Head, NC, Dare County Tax Parcel # 008854000 (collectively, the "Property"); and

'WHEREAS, the Dare County Tourism Board, a North Carolina public authority created by the North Carolina General Assembly, which is a governmental unit for purposes of North Carolina General Statutes §160A-274, is the owner of the remaining undivided interests in the Property not presently owned by the Town of Nags Head; and

‘WHEREAS, The Town of Nags Head desires to sell all of its undivided interests in the Property to the Dare County Tourism Board on the terms and conditions set forth on the Agreement for Purchase and Sale of Land, a copy of which being attached to this Resolution (the “Agreement”), for \$2,336,107.00, to be paid in various installments in exchange for deeds from the Town of Nags Head between 2021 and 2031, all as set forth in the Agreement; and

‘WHEREAS, the Dare County Tourism Board desires to purchase the Property from the Town of Nags Head pursuant to the terms of the Agreement.

‘NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the Town of Nags Head as follows:

‘The Town of Nags Head hereby agrees to sell the Property described above to the Dare County Tourism Board for the sum of \$2,336,107.00, payable to the Town in installments as set forth in the Agreement.

‘The Town of Nags Head hereby approves the terms and provisions of the Agreement.

‘The Mayor or his designee and the Town Clerk are hereby authorized to execute Deeds and all necessary documents on behalf of the Town from time to time over the term of the Agreement in order to convey the Property to the Dare County Tourism Board pursuant to the installment schedule set forth in the Agreement.”

BOARD OF COMMISSIONERS AGENDA

Comr. Webb Fuller - Discussion of beach driving season

Comr. Fuller reported on user conflicts between beach-goers and beach vehicles this past year - at both the beginning and the end of the beach driving seasons.

He asked the Board to request Public Safety to return at the July Board meeting with some quantitative data re: beach driving and sunbathers for Board discussion. This may end up leading to a shortening of the beach driving season.

Comr. Renée Cahoon asked the clerk to provide information concerning vehicle requirements for the annual Nags Head Surf Fishing Tournament. If only three vehicles are allowed per team, that would help reduce the number of vehicles on the beach.

Comr. Brinkley stated that he has received input from citizens re: vehicles speeding on the beach and other comments.

MOTION: Comr. Fuller made a motion to direct Public Safety to obtain the information requested re: beach driving and sunbathers and to direct the Town Clerk to obtain information re: number of vehicles allowed on the beach per Nags Head Surf Fishing Tournament team for the next Board discussion on the beach driving season. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Comr. Webb Fuller - Town ordinances and beach tents

Comr. Fuller emphasized the importance of the Board continuing to prioritize the enforcement of ordinances the Town has in place and to give direction to staff that relate to issues concerning the beach,

parking lots and the multi-use path. Comr. Renée Cahoon mentioned the requirement of 10' between beach tents. Comr. Fuller thanked Public Works for doing a great job on the beach with the illegal tents.

Comr. Webb Fuller - Bulk pickup

Comr. Fuller discussed with Board members the vegetation debris that is still in the rights of way to be picked up; he said there is a need for a more formalized process for bulk pickup. He said that he would be happy to work with Public Works and Code Enforcement to formalize what needs to be done for bulk pickup in the Town. He noted that Nags Head tends to be very friendly and allow debris to be put out and picked up even after the last day for pickup.

Mayor Cahoon suggested additional communications to make sure property owners know that there is an end to the bulk pickup each year. Comr. Renée Cahoon asked staff to bring back some suggested changes to the procedures for next year's bulk pickup season.

Comr. Renée Cahoon - Request for Closed Session

Comr. Renée Cahoon requested a Closed Session to preserve attorney/client privilege and confer with the Town Attorney about a legal matter in accordance with GS 143-318.11(a)(3).

Comr. Renée Cahoon - Beach accesses and bicycle racks

Bicycle racks are needed at all beach accesses and Comr. Renée Cahoon asked that staff make sure they are provided.

Comr. Fuller suggested pulling the bike rack out so that both sides of the rack can be utilized.

Comr. Renée Cahoon - Gray Eagle Street Beach Access

Comr. Renée Cahoon pointed out that a No Parking sign is placed at the Gray Eagle Street beach access parking lot; she asked that the sign – which pertains to the multi-use-path - be moved so people know they can use the parking lot.

Mayor Pro Tem Siers - Soundside Road/Jockey's Ridge Estuarine Access signage

Mayor Pro Tem Siers requested an update on the installation of the No Parking-Tow Away Zone signage on Soundside Road and Deering Street.

Public Works Director Eric Claussen reported that signage was placed every 200 feet on both sides of Soundside Road and Deering Street on the Friday before Memorial Day. Staff has worked with the Police Department on the message sign; signs still need to be installed on Thirteenth Street.

Comr. Brinkley asked Director Claussen to bring forward any recommendations from where he previously worked/his prior experience. Concerning sign spacing, Comr. Brinkley confirmed with Director Claussen that there are no sign spacing suggestions in the State uniform traffic manual.

MAYOR'S AGENDA

Mayor Cahoon - Town Manager Search

Mayor Cahoon reported that Developmental Associates, Inc. has been re-engaged for the Town Manager search; the contract with the company obligates them to undertake the search again at no additional cost to the Town.

RECESS FOR/RECONVENE FROM LUNCH

The Board recessed for lunch at 12:07 p.m. and reconvened at 1:30 p.m.

PRESENTATION - PAY/CLASSIFICATION STUDY

Becky Veazy of The Maps Group presented the results of her Pay/Classification Study. She pointed out that the bottom line is "Equal Pay for Equal Work". Ms. Veazy's slides are attached to and made a part of these minutes as shown in Addendum "I".

Ms. Veazy distributed her analysis entitled *Classification and Pay Study with Personnel Policy Recommendations* dated May 2021 to Board members and Department Heads.

It was pointed out that, for budget purposes, Finance Director Amy Miller can use 4.1% (Option 3) and the COLA of 2.6%. Final budget documentation is to be provided to Board members prior to budget adoption at the June 16th Recessed Meeting.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session to confer with the Town Attorney concerning matters of attorney/client privilege to include beach nourishment project condemnation cases, confidential personnel matters, and terms of potential property acquisition at 106 E Seachase Drive, in accordance with GS 143-318.11(a)(3), (6) and (5). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 2:52 a.m.

OPEN SESSION

The Board re-entered Open Session at 4:24 p.m. Attorney John Leidy reported that during Closed Session the Board did discuss various matters within the attorney/client privilege, real estate items, and other personnel matters but no actions were taken.

RATIFY INTERIM TOWN MANAGER APPOINTMENT

MOTION: Mayor Pro Tem Siers made a motion to ratify the letter by which Andy Garman was appointed Interim Town Manager. The motion was seconded by Comr. Brinkley which passed unanimously.

ADJOURNMENT

The Board recessed to Wednesday, June 16th at 9 am in the Board Room for a Recessed Meeting. The time was 4:26 p.m.

Date Approved: _____

Carolyn F. Morris, Town Clerk

Mayor: _____
Benjamin Cahoon