



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, JULY 7, 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, July 7, 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; Phil Webster; Randy Wells; Shane Hite; Margaux Kerr; Ed Snyder; Roberta Thuman; Michelle Gray; Ralph and Sandy Barile; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am. A moment of silence was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Fuller made a motion to approve the July 7th Board agenda as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

RECOGNITION

Planning Director Michael Zehner introduced Planner Margaux Kerr who was recognized by the Board for five years of service.

Planning Director Michael Zehner introduced Code Compliance Officer Ed Snyder who was recognized by the Board for five years of service.

Town Clerk Carolyn F. Morris introduced Public Information Officer Roberta Thuman who was recognized by the Board for 20 years of service.

Interim Town Manager Andy Garman introduced former Public Works Director Ralph Barile who was recognized by the Board for his 38 years of service to the Town; Mayor Cahoon presented the Long Leaf Pine Award to Mr. Barile who then received a standing ovation.

PROCLAMATION - National Night Out - August 3, 2021

Police Chief Webster summarized the upcoming August 3rd National Night Out and invited everyone to attend scheduled events at Dowdy Park on August 3rd at 5:30 p.m.

Mayor Cahoon read the proclamation as follows:

"WHEREAS, the National Association of Town Watch is sponsoring a unique, nationwide crime, drug and violence prevention program on Tuesday, August 3rd, 2021 called "National Night Out"; AND

'WHEREAS, the Annual National Night Out provides a unique opportunity for the Town of Nags Head to join forces with thousands of other communities across the country in promoting cooperative, police-community crime prevention efforts; AND

'WHEREAS, the Nags Head Community Watch Association plays a vital role in assisting the Nags Head Police Department through joint crime, drug and violence prevention efforts in the Town of Nags Head and is supporting "National Night Out 2021" locally; AND

'WHEREAS, it is essential that all citizens of the Town of Nags Head be aware of the importance of crime programs and the impact that their participation can have on reducing crime, drug and violence in the Town of Nags Head; AND

'WHEREAS, police-community partnerships, neighborhood safety, awareness and cooperation are important themes of the "National Night Out" program.

'THEREFORE, I do hereby call upon all citizens of the Town of Nags Head to join the Nags Head Community Watch Association and the National Association of Town Watch in supporting the 37th Annual National Night Out on August 3rd, 2021.

'FURTHER, Let it be resolved that I, Ben Cahoon, do hereby proclaim Tuesday, August 3rd, 2021 as "National Night Out" in the Town of Nags Head, Dare County, North Carolina."

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

PUBLIC COMMENT

No one spoke during Public Comment.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #1 to FY 21/22 Budget
Consideration of Tax Adjustment Report

Consideration of Business License and Registration Fee debt release

Approval of minutes

Consideration of resolution authorizing equipment exchange between Nags Head and Duck Fire Depts

Consideration of resolution authorizing higher federal micro-purchase thresholds

Consideration of resolution declaring the intention to reimburse the cost of certain expenditures

Consideration of housekeeping modification to adopted Pay and Classification Plan

Request for Public Hearing to consider Special Use Permit/Change of Use Application to operate a Religious Complex within Croatan Center Shopping Center (former Radio Shack)

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

Budget Adjustment #1 to the FY 21/22 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

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

The Business License and Registration Fee debt release summary sheet, as approved, read in part as follows:

"Attached please find a list of businesses for license/registration fee release as well as a memo from Tax Collector Linda Bittner. This report is provided for the Board's information and is in accordance with Town Code Sec. 12-33 Releases (below).

'Sec. 12-33 - Releases. If it is determined that upon the issuance date of a renewal license or registration the business has been discontinued, the finance director may release a tax of less than \$100.00. The tax collector shall annually report to the board of commissioners releases made pursuant to this section and the tax collector's annual report shall be recorded in the minutes of the board of commissioners. This report will be included with the annual request to the board to write off uncollectible accounts pursuant to section 12-32."

The list of affected businesses is attached to and made a part of these minutes as shown in Addendum "C".

The Resolution authorizing equipment exchange summary sheet, as approved, read in part as follows:

"The attached resolution authorizes the exchange between the Town of Nags Head (Scott Air Packs 75 SCBA (Self Contained Breathing Apparatus)) and the Town of Duck Fire Dept (fire hose) - both with a total value of \$1,000 each. The exchange is in accordance with GS 160A-271 which requires resolution adoption at a regular Board meeting with 10 days public notice.

'In addition to the resolution, also attached please find a copy of the public notice and General Statute 160A-271."

The resolution authorizing the equipment exchange, as adopted, read in part as follows:

"WHEREAS, The Town of Nags Head owns five Scott AP 75 SCBA (value of \$200 each) with a total value of \$1,000; AND

'WHEREAS, The Town of Duck Fire Department in Dare County owns fire hose valued at \$1,000; AND

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

The summary sheet re: the resolution authorizing higher federal micro-purchase thresholds, as approved, read in part as follows:

"The newly promulgated micro-purchase threshold regulation suggests that a unit of local government in North Carolina may raise its micro-purchase threshold via annual self-certification to \$30,000 for the purchase of "apparatus, supplies, materials, or equipment" or the purchase of "construction or repair work," and to \$50,000 for service contracts other than those subject to the Mini-Brooks Act.

'The Town of Nags Head is eligible to raise the micro-purchase thresholds to the levels identified below, which are consistent with North Carolina law:

- '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 \$0.

'This regulation allows the Town to align its federal micro-purchases subject to Uniform Guidance (\$10,000 threshold) with the informal purchase thresholds consistent with North Carolina law and the Town of Nags Head purchasing and bid requirements policy.

'This will make conformity standards clear and consistent in working with projects at any funding level (local, state, or federal).

'The self-certification must be made on annual basis. A best practice is to adopt the self-certification at the beginning of each fiscal year."

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 \$0.
2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until June 30, 2022 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 declaring intention to reimburse cost of certain expenditures, as adopted, read in part as follows:

"WHEREAS, The Town Manager and the Finance Director have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on tax exempt financing.

'BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

'Section 1. The project is the financing of the acquisition of vehicles and equipment as identified in the fiscal year 2021-2022 budget.

'Section 2. The project is to be financed. The currently expected type of financing (which is subject to change) is an installment purchase contract. The currently expected maximum amount to be contracted for the project is \$1,725,000.

'Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund and Water Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

'Section 4. This Resolution shall become effective immediately upon the date of its adoption."

The summary sheet re: the modification to adopted Pay and Classification Plan, as approved, read in part as follows:

"The Town's Pay and Classification Plan was adopted June 16, 2021. Attached please find a revised Plan for Board consideration at the July 7th Board of Commissioners meeting with two modifications:

'Ocean Rescue Supervisor/Firefighter position moved to a Salary Grade 12 in accordance with recommendation from The MAPS Group

'Becky Veazey of The Maps Group concurred with staff after an internal comparison of duties between the Ocean Rescue Supervisor/Firefighter and Fire Captain positions, that the position should be moved to Salary Grade 12

'Fire Engineer position renamed to Fire Lieutenant position

- In accordance with recommendation from The MAPS Group
- It was felt that the Fire Lieutenant position more accurately reflects the rank structure in place

'The Office Manager positions in Police and Public Works have been revised to grade 8 based on additional review by the MAPS group."

The request for public hearing summary sheet, as approved, read in part as follows:

"Special Use Permit/Change of Use application submitted by Outer Banks Community Church for the interior remodel of a vacant commercial unit (Building C, Unit 12) of Croatan Center Shopping Center for use as a Religious Complex. The property is zoned C-2, General Commercial and is located at 4711 S. Croatan Highway, Nags Head.

'Staff Recommendation/Planning Board Recommendation

Planning Staff recommends approval of the Special Use Permit/Change of Use application as presented.

'At their June 15, 2021 meeting the Planning Board voted unanimously to recommend approval of the Special Use Permit/Change of Use application as presented."

PUBLIC HEARINGS

Consideration of adoption of Town of Nags Head Low Impact Development and Stormwater Reference Manual and Amendment of the Recommended Standard Details Manual (Public Hearing not required)

Planning Director Zehner summarized the agenda summary sheet which read in part as follows:

"This agenda item includes two parts; the first is seeking the Board's adoption of the updated Low Impact Development Manual and Stormwater Reference Manual, along with adoption of the amended Recommended Standard Details Manual to remove the residential stormwater management references (which are now included within the Low Impact Development Manual and Stormwater Reference Manual; the second is proposing text amendments updating various sections of the Stormwater, Fill and Runoff Management Ordinance of the UDO to reference the Low Impact Development Manual and Stormwater

Reference Manual as well as the updated North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual.

'The Board originally considered these items at their meeting on May 5, 2021. The Board passed motions to continue consideration of both items and the public hearing to the meeting scheduled for July 7, 2021, pending discussions with homebuilders concerning the Low Impact Development and Stormwater Reference Manual and amendment of the Recommended Standard Details Manual. The Mayor, Planning Board Chair, and Staff met with homebuilders on June 16, 2021.

'Staff Recommendation/Planning Board Recommendation
Planning Staff recommends adoption of the Low Impact Development Manual and Stormwater Reference Manual, the amended Recommended Standard Details Manual, and the text amendments to the UDO as proposed.

'At their March 16, 2021, meeting the Planning Board voted 6-0 (with one member abstaining) to recommend approval of the actions as presented."

The memo concerning the Low Impact Development manual read in part as follows:

"OVERVIEW AND BACKGROUND

This agenda item includes two parts; the first is seeking the Board's adoption of the updated *Low Impact Development Manual and Stormwater Reference Manual* ("LID Manual"), along with adoption of the amended *Recommended Standard Details Manual* to remove the residential stormwater management references (which are now included within the LID Manual; the second is proposing text amendments updating various sections of the Stormwater, Fill and Runoff Management Ordinance of the UDO to reference the LID Manual as well as the updated *North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual*.

'As noted in the forward to the LID Manual,

"In 2013, the Town of Nags Head began work with the N.C. Coastal Federation to develop a Low Impact Development manual as a reference document for local citizens and developers as part of Town efforts to improve stormwater management and as a technical resource for application of Town Stormwater regulations. This project is based on the LID manual for the coastal towns of Columbia, Cedar Point and Cape Carteret. The Town of Columbia worked in direct partnership with the N.C. Coastal Federation to complete an LID manual. The Town of Cedar Point worked in partnership with the Town of Cape Carteret, the N.C. Coastal Federation, engineering consultants WithersRavenel, N.C. Division of Water Quality and the LID Technical Review Team to complete the CedarPoint/Cape Carteret manual. We would like to thank these three communities and their partners for sharing their work and providing a model for us to follow.

'In 2019, the Town of Nags Head initiated an update of the Low Impact Development Manual with assistance from the N.C. Coastal Federation to reflect modifications to the Town's residential stormwater management ordinance."

'As noted, the LID Manual was updated for consistency with amendments to the Town's residential stormwater regulations in 2018, and it is recommended that along with adoption of the LID Manual, and adoption of an amended *Recommended Standard Details Manual*, that amendments to the ordinance be adopted to reflect the LID Manual; additionally, references to the *North Carolina Stormwater Best Management Practices Manual (NCDEQ BMP Manual)* are outdated, and should instead refer to the *North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual*.

The Planning Board reviewed these recommended actions at their March 16, 2021 meeting. The Board discussed public awareness of the LID Manual, especially for those wanting to improve stormwater conditions that may not be subject to a permit, incentives associated with making stormwater improvements, and concerns associated with the long-term maintenance of stormwater control measures. Following discussion, the Planning Board voted 6-0 (with one member abstaining) to recommend approval of the proposed text amendments, which contemplated adoption of the LID Manual and amendment of the Recommended Standard Details Manual.

The Board of Commissioners originally considered these items at their meeting on May 5, 2021. The Board passed motions to continue consideration of both items and the public hearing to the meeting scheduled for July 7, 2021, pending discussions with homebuilders concerning the LID Manual and amendment of the Recommended Standard Details Manual. It should be noted that Staff updated the LID Manual to add former Commissioner John Ratzenberger and current Commissioner Kevin Brinkley to the acknowledgements.

On June 16, 2021, Mayor Cahoon, Planning Board Chair Megan Vaughan, Interim Town Manager Andy Garman, Director of Planning & Development Michael Zehner, Town Engineer David Ryan, Deputy Planning Director Kelly Wyatt, and Engineering Technician Kate Jones, met with homebuilders Tom Haddon and Jason James (a third homebuilder was invited but did not attend the meeting; additionally, Staff contacted Duke Geraghty with the Outer Banks Home Builders Association to make him aware of the meeting and to encourage him to communicate any input from the Association through Mr. Haddon and Mr. James). The intent of the meeting was two-fold: to discuss the update of the Town's LID Manual (and the associated changes to the UDO to change references), and to review and discuss the Town's residential stormwater regulations more broadly.

With respect to the LID Manual actions, following the meeting, Mr. Haddon acknowledged that it was mainly a "housekeeping" effort. With regard to the larger discussion on the residential stormwater regulations and processes, the group discussed the following points for future consideration by the Town: Work to make the application/worksheet process easier; consider providing the form online, making it interactive, with links to SCM cutsheets and additional information.

- Work to provide education to the building community on the intent and goals of the regulations, as well as guidance on developing stormwater plans and making application.
- Consider opportunities to offset costs to property owners for the implementation of stormwater plans/SCMs.
- Consider opportunities for parity with neighboring lots that may not be required to provide stormwater plans/SCMs.
- Consider opportunities to recognize existing neighborhood stormwater management.
- Consider ways to reduce impacts to usable lot area; preferred options are usually more expensive.
- Consider whether development with pilings accommodates more stormwater infiltration, and therefore requires fewer requirements.
- Consider whether the grade of adjacent property can dictate fill limits and/or stormwater plan requirements.
- Consider whether pools and small projects can be exempted from stormwater plan requirements based on existing conditions.
- Consider whether the preservation of wetlands can be used to offset stormwater requirements.
- Consider variable options for lots that are either significantly small or large.
- Consider the added costs associated with the construction process, and that these costs are in

excess of those seen in other towns.

- Work to improve owner/client understanding of the requirements.

Staff would recommend continuing this larger discussion, including consideration of the 13 points, with the Planning Board, involving Mr. Haddon, Mr. James, and others, and return potential amendments to the Board if so directed.

CODE CONSIDERATIONS

Currently, multiple references exist (primarily in Sections 10 and 11 of the UDO) to the Town's *Stormwater Best Management Practices Manual*, *Recommended Standard Details Manual*, and the *North Carolina Stormwater Best Management Practices Manual*.

Code Sections that are to be updated are as follows: 10.12.3.2, 10.92.14.3., 10.95.2, 11.3.2.5, 11.5.2.3., 11.5.4.3.1.3., 11.9.1, 11.9.2, and 11.9.3. (See section under Staff Recommendations for suggested changes)

Additionally, there are several applicable definitions within the UDO associated with these updates and the Town's regulations thereof, as follows: Low impact development solutions to reduce stormwater runoff, or the Town BMP manual

- North Carolina DEQ Stormwater Design Manual
- Permeable pavement
(See section under Staff Recommendations for suggested changes.)

POLICY CONSIDERATIONS

The Town's 2017 Comprehensive Plan references the LID Manual, and the relationship to the Town's stormwater regulations. Additionally, the Plan includes a policy to "Educate and involve the public in stormwater management." Staff is of the opinion that adoption of the update LID Manual and amendment of the UDO to reference the same is consistent with the intent and policy goals of the Comprehensive Plan.

The LID Manual contains information that ensures a level of construction and performance consistency in stormwater control measures that are based on relevant practice and research. Additionally, it is important that the UDO accurately reflects current and relevant regulatory documents.

PLANNING BOARD RECOMMENDATION

At their March 16, 2021, meeting the Planning Board voted 6-0 (with one member abstaining) to recommend approval of the proposed text amendments, which contemplated adoption of the LID Manual and amendment of the Recommended Standard Details Manual.

STAFF RECOMMENDATION

Staff would recommend the Board's adoption of the *Low Impact Development Manual and Stormwater Manual, Second Edition - May 2021*. Additionally, Staff would recommend the Board's adoption of the amended *Recommended Standard Details Manual, Effective Date: August 5, 2015, Revised Date: May 5, 2021*.

With respect to the amendments to the UDO, Staff would recommend adoption of the following amendments:

- That Section 10.12.3.2. be amended to update the reference to the "NCDEQBMP manual" to the "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual".

- That Section 10.92.14.3. be amended to update the reference to the "Recommended Standard Details Manual" to the "Low Impact Development Manual and Stormwater Reference Manual."
- That Section 10.95.2. be amended to update references to the Town's "Stormwater Best Management Practices Manual" and "North Carolina Stormwater Best Management Practices Manual (NCDEQ BMP Manual)", to the "Low Impact Development Manual and Stormwater Reference Manual" and "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual," respectively.
- That Section 11.3.2.5. be amended to update references to the "North Carolina Best Management Practices Manual", the "Town of Nags Head Best Management Manual", and the "Town of Nags Head Recommended Standard Details Manual", to the "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual" and "Low Impact Development Manual and Stormwater Reference Manual," respectively.
- That Section 11.5.4.3.1.3. be amended to update the reference to the "Recommended Standard Details Manual" to the "Low Impact Development Manual and Stormwater Reference Manual."
- That Sections 11.9.1., 11.9.2., and 11.9.3. be amended to update references to the "Town of Nags Head Recommended Standard Details Manual" and "NCDEQ BMP manual", to the "Low Impact Development Manual and Stormwater Reference Manual" and "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual," respectively.
- That the terms and definitions for "Low impact development solutions to reduce stormwater runoff, or the Town BMP Manual," "North Carolina DEQ Stormwater Design Manual", and "Permeable Pavement, as contained in Appendix A, Definitions, be amended to reference the "Low Impact Development Manual and Stormwater Reference Manual" and "North Carolina Department of Environmental Quality (NCDEQ) Stormwater Design Manual," respectively.

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."

Background was presented by Town Engineer David Ryan at the Board's May 5th meeting.

Mayor Cahoon said that he met with homebuilders to discuss the proposed changes in what was a very productive discussion.

Comr. Renée Cahoon asked to hear from Mr. Duke Geraghty who was in the audience since he represents the Outer Banks Homebuilders Association. Mr. Geraghty stated that he is the only paid employee for the association. In June, Mr. Geraghty said that he received an email from the Planning Dept indicating that a meeting with several builders would be taking place with some revised rules; afterwards he received a summary of the meeting with an additional 13 items listed. He said that staff is trying to resolve a problem with stormwater in a Town that is 90% built out. He would like the Board to postpone consideration of the UDO text amendments until after a discussion/meeting with those affected so everyone can understand what changes are being proposed – so the last people who built are not the ones who are the most affected. Mr. Geraghty stated that this is the recommendation from the Homebuilders Association.

Mayor Pro Tem Siers said that the issue needs to be clearly understood by everyone as it has been going on for a long time.

Comr. Renée Cahoon agreed stating that more work is needed before adoption - to include discussions with the homebuilders.

Comr. Brinkley thanked staff and those who participated in the meeting; he was disappointed in the limited group that was involved in discussions; he also questioned the 13 new items to be considered; he pointed out that he would not be voting in favor of the proposed ordinance.

Comr. Fuller agreed with Board member comments, he would like the process to be more simple. He feels that the Town is migrating into engineering solutions on individual lots.

It was Board consensus to take no action concerning the Low Impact Development and Stormwater Reference Manual and the Amendment of the Recommended Standard Details Manual.

Public Hearing to consider text amendments to the Unified Development Ordinance to update references in the Stormwater, Fill and Runoff Management Ordinance for regulatory reference manuals

Attorney Leidy introduced the agenda item which was a Public Hearing to consider text amendments to the Unified Development Ordinance to update references in the Stormwater, Fill and Runoff Management Ordinance for regulatory reference manuals.

MOTION: Comr. Renée Cahoon made a motion to cancel the Public Hearing re: UDO text amendments to update references to Stormwater, Fill and Runoff Management ordinance for regulatory reference manuals. The motion was seconded by Comr. Brinkley which passed unanimously.

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

Update from Planning Director

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

“This memo provides an overview of selected Planning and Development Department activities, projects,

and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on July 7, 2021.

'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for May 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:

- Tuesday, May 4 - Technical Review Committee Meeting
- Wednesday, May 5 - Board of Commissioners Meeting
- Thursday, May 6 - ETIPP Kickoff and Scoping Meeting
- Monday, May 10 - Planning & Development Department Staff Meeting
- Wednesday, May 12 - Board of Commissioners Budget Workshop
- Wednesday, May 12 - Committee for Arts & Culture
- Thursday, May 13 - Board of Adjustment Meeting
- Tuesday, May 18 - Planning Board Meeting
- Wednesday, May 19 - Board of Commissioners Budget Workshop
- Thursday, May 20 - DWMP Advisory Committee Meeting
- Monday, May 24 - ETIPP Scoping Meeting
- Tuesday, May 25 - Permitting, Inspections, and Code Enforcement Team Meeting
- Thursday, May 27 - Farmer's Market
- Thursday, May 27 - Planning & Zoning; Environmental Planning; Hazard Planning Staff Meeting
- Friday, May 28 - Whalebone Park Site Visit with Committee for Arts & Culture

'Sign Ordinance Update Project

As identified within the Department's Work Plan, Staff is beginning to work on the update and amendment of the Town's sign regulations, which are contained in Article 10, Part III, *Sign Regulations*, of the Unified Development Ordinance (the "Sign Ordinance"). The focus of the updates and amendments will be on the general improvement of the Sign Ordinance, to add clarity to the provisions, improve internal consistency, and to make the Ordinance more *user-friendly* for Staff and the public; in short, it is hoped that this project will result in an updated format for the Sign Ordinance, including providing for sign allowances in tabular form and incorporating more visual guidance for Staff and the public. Generally, amendments are not intended to focus on regulatory changes (i.e., changes to the type, number, or size of signs allowed), but in considering the updates, the Planning Board or Board of Commissioners may wish to consider whether such changes may be warranted in some circumstances. The Planning Board discussed this project preliminarily at their meeting on May 19, 2021.

'Town Workforce Housing Study & Plan/RFI; Responses to Town Seasonal Workforce Housing RFI

As was relayed to the Board of Commissioners, three (3) responses were received to the Town's RFI for Solutions for Town Seasonal-Employee Housing Needs. Staff awaits further direction from the Board as to how we should proceed with respect to these, including whether the Board would like the staff committee to share any opinions or recommendations. Per the RFI, interviews and presentations with one or more of the respondents is an option, but not a requirement.

'LED Conversion of Streetlights; Amber Streetlight Demo

As noted previously, Staff has been discussing the conversion of the Town's streetlights to LEDs with representatives of Dominion Energy. Dominion has provided the location of streetlights that have been converted to LEDs so that the Town may consider whether there are preferred styles and/or specifications. Additionally, Dominion has offered to provide a demonstration installation of "amber" light fixtures (identified as being more "turtle-friendly"), requesting that the Town provide at least four (4) suitable

locations. Staff will provide additional information to the Board separately, for discussion at a future meeting.

'Related, with the change to LED technology, it will be necessary for the Board to consider updates to the Street Lighting Policy. A copy of the current Board of Commissioners' Policy is attached.

'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on June 15, 2021, and included consideration of a Special Use Permit for the Outer Banks Community Church (as a religious complex) to be located within a Commercial Mixed Use (Shopping Center) at 4711 S. Croatan Highway, continued discussion of the scope for the Electric Vehicles Action Plan, and preliminary discussion regarding amendments to allow for temporary allowances for outdoor dining.

'The Board's next meeting is scheduled for July 20, 2021. At this time, the agenda is expected to include continued discussion regarding amendments to allow for temporary allowances for outdoor dining and amendments to the sign ordinance, consideration of the draft CAMA Land Use Plan, and consideration of a site plan under the SED-80 zoning district requirements for the removal of trees at 468 W. Villa Dunes Drive.

'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 June meeting to the July meeting; however, further continuance requests are not unanticipated.

'Additional Updates

- Decentralized Wastewater Management Plan - To this point, four meetings have been held with the project Advisory Committee. Much of the work has involved the collection of relevant data and information, the identification of stakeholders, and the development of an engagement plan. Additionally, at the most recent meeting, the Committee had a focused discussion regarding the mission statement, vision, values, and goals for the Plan. The next meeting of the Committee is scheduled for August 19, and is expected to include a review of the data assessment and conclusions, as well as the results of stakeholder interviews, and preparation for public engagement meetings. Between now and the August meeting, Staff and the consultant expect to finalize the engagement plan and the draft mission statement, vision, values, and goals with input from the Committee.
- 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. Staff is preparing to release 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 at a future meeting.
- CAMA Land Use Plan Update - Staff anticipates presenting a final revised version of the CAMA Land Use Plan to the Planning Board at their July 20, 2021 meeting, with a public hearing for Plan adoption to be held at the September Board of Commissioners' meeting.
- Electric Vehicles Action Plan - As previously noted, Staff has received interest from Duke University in having students from the Nicholas School of the Environment's two-year professional Master of Environmental Management (MEM) work on this project. Staff held a preliminary discussion with the Planning Board on the potential scope for the project, and a subsequent discussion to present the outline of the project prepared by Timothy L. Johnson, Ph.D., Associate Dean for Professional Programs and Chair of the Master of Environmental Management Energy and Environment Program. Staff believes there is

consensus on the project between the Town and Duke University, and anticipates that 3 Masters students will be assigned to the project in the Fall Semester.

- Level 2 Charger - Staff continues to consider opportunities and with vendors to source a charger for location on Town property through a "host" arrangement. Additionally, Staff expects that resources or options may be identified through the EV Action Plan.
- LID Manual; Review of Residential Stormwater Regulations - Continued consideration of the LID Manual is on the Board of Commissioners agenda for July 7, 2021. As noted in the memorandum for that item, it is recommended that the Planning Board discuss additional potential improvements to the residential stormwater regulations and the plan review and approval process.
- GIS Platform Update, Phase 1 - Interviews with the respondents to the RFI seeking information on GIS services were conducted between May 17 and May 28. Staff is considering how to proceed.
- ETIPP Project/Program - A final project scoping meeting was held with National Lab technical assistance staff on June 23, 2021. A final scope is expected to be completed on July 6, 2021, with the project commencing soon thereafter.
- NC AIA Activate Technical Assistance - A kickoff and project scoping meeting was held with project partners on June 18, 2021. A final project scope is expected to be approved in the next few weeks.
- 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 on 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.
- 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. As outlined in a separate agenda item for the July 7, 2021 Board of Commissioners' meeting, 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.

'Upcoming Meetings and Other Dates

- Thursday, July 1 - Farmer's Market
- Wednesday, July 7 - Board of Commissioners Meeting
- Thursday, July 8 - Farmer's Market
- Thursday, July 8 - Board of Adjustment Meeting
- Wednesday, July 14 - Committee for Arts & Culture Meeting
- Thursday, July 15 - Farmer's Market
- Tuesday, July 20 - Planning Board Meeting
- Thursday, July 22 - Farmer's Market
- Thursday, July 29 - Farmer's Market"

Update on Sign Ordinance Update project

It was Board consensus to address the sign ordinance update at a later time as there are a lot of other issues that need to be addressed.

Update on responses to Town Seasonal Workforce Housing Request For Information (RFI)

Director Zehner reported that three responses were received to the Town's seasonal housing RFI inquiries.

It was Board consensus that staff thank those who responded - for their time and submittals - and to return to this issue at some future point.

Estuarine Shoreline Management Plan Advisory/Steering Committee - Comr. Renée Cahoon said that she is interested in seeing a wide variety of people serve on this committee. Mayor Cahoon suggested to have others involved in the process, such as the homebuilders, as advisors.

Decentralized Wastewater Management Plan - Comr. Fuller requested a brief update of work being done on the Decentralized Wastewater Management Plan – Director Zehner said that the committee expects to wrap up the third week of August; the committee is currently reviewing existing conditions and water quality.

Streetlight conversion - Comr. Fuller said that the Town has historically put in low level lights where turning; Director Zehner noted that several sections in the UDO would need to be updated for light fixtures. Comr. Fuller said that he had not heard residents complaining until LED lights came out. Mayor Cahoon said that there is a big difference between the LED and regular lighting.

After discussion of various items on the Planning Director's report to include the sign ordinance, seasonal housing, and streetlights conversion, it was Board consensus to take no action at this time.

Discussion of FY 2021-2022 Public Beach and Coastal Waterfront Grant pre-application for Epstein Street Beach Access; Request for Public Hearing

The agenda summary sheet read in part as follows:

"The Town was invited to submit a final grant application for the Epstein Street Public Access through the Division of Coastal Management's ("DCM") Public Beach and Coastal Waterfront Access Grant Program. The Town's proposal involves the replacement and upgrade of the existing beach access at Epstein Street that was constructed in 1985. The Town proposes to replace the bath house and dune walkover with a similar walk over but with compliant ADA travel surface type.

"The Town was invited to move forward with a final application with \$200,000 in assistance from DCM. As a prerequisite of the final application, the Town is required to hold a public hearing to discuss the grant proposal and consider public comments prior to its decision to submit a final application."

The memo from Principal Planner Holly White read in part as follows:

"The Town was invited to submit a final grant application for the Epstein Street Public Access through the Division of Coastal Management's ("DCM") Public Beach and Coastal Waterfront Access Grant Program. Fourteen local governments within the 20 coastal counties submitted pre-applications totaling over \$2.8 million in grant requests. Approximately \$1 million in grant funding is available. The deadline for final applications is August 16, 2021. All final applicants will be notified of funding decisions in October 2021. It is anticipated that Governor's award letters will be sent in late December and contracts executed in January 2022.

"The Town's proposal involves the replacement and upgrade of the existing beach access at Epstein Street, that was constructed in 1985. The Town proposes to replace the bath house and dune walkover with a similar walk over but with compliant ADA travel surface type. Once construction has been completed, the dune system will be planted and stabilized with native plants. All existing site amenities will be replaced and upgraded. This includes replacement of traditional lighting with more energy efficient solar lighting, trash cans with both trash and recycling containers, upgrade of onsite wastewater system, new wheel stops for the parking area, and replacement of signage. Several new site amenities are proposed and include benches, bike rack, and ocean rescue garage for storage of equipment. Since the parking area is already turfstone, no modifications to the parking area surface are needed. Additional project materials are attached for your review.

"The Town was invited to complete a final application for DCM grant assistance for \$200,000.00 for Epstein Street Beach Access. The Town will also seek matching funds for Epstein Street from the Outer Banks Visitors Bureau. In the adopted Capital Improvement Program (CIP), the project was estimated at \$500,000 with an additional \$50,000 in design that the Board has already funded. The Board may need to reexamine local funding for this project once bids have been received and based on the total amount of grant funding available. Staff would recommend seeking funding from both DCM and Outer Banks Visitor Bureau, acknowledging that more local funding may be requested from the Board at a later date.

"As a prerequisite of the final application, the Town is required to hold a public hearing to discuss the grant proposal and consider public comments prior to its decision to submit a final application. Staff would request that a public hearing be held at the Board of Commissioners August 4, 2021, meeting to consider public comment and submission of a final application. Staff will be available at the meeting to discuss any concerns or questions."

Comr. Renée Cahoon expressed concern about the Epstein Street Beach Access building; Comr. Fuller questioned if a detailed report on the fitness of the building has been done.

MOTION: Comr. Renée Cahoon made a motion to schedule the Public Hearing on the FY 21/22 Public Beach and Coastal waterfront grant pre-application for Epstein Street Beach Access for the August 4th Board meeting. The motion was seconded by Comr. Brinkley which passed unanimously.

Mayor Cahoon asked for some background on the building such as details re: its condition and provide those findings to the Board.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From June 2nd Board meeting - Discussion of beach driving season

The agenda summary sheet read in part as follows:

"Potential conflicts between beach-goers and vehicles on the beach, and a longer beach season due to the 2020/2021 pandemic, prompted the Board to direct staff to prepare a white paper for discussion at the July 7th Board of Commissioners meeting.

'Attached please find a memo from Interim Manager Garman, a brief history of beach driving in the Town as well as some data obtained from outside agencies in preparation of the Board's discussion."

Interim Town Manager Andy Garman summarized his white paper which read in part as follows:

"At its June regular meeting the board requested that staff develop a white paper reviewing the beach driving season. Board members discussed the observed increase in conflicts between vehicles and beachgoers, particularly in October and April, in part due to growing rental occupancies in shoulder seasons.

'Staff met to review the issue and will suggest the following actions:

- Continue to collect data during the upcoming shoulder season. This shall include:
 - Beach population data.
 - Beach activity, including general vehicle usage and concentrations as well as observed conflicts between beachgoers and pedestrians.
 - Rental data with the goal of determining post-pandemic shoulder season occupancy.
- Publish revised informational materials for permit holders on beach driving practices. This will stress the importance of airing down, determining who has the right-of-way, reducing conflicts with pedestrians, and suitability of vehicles for beach driving.
- Coordinate with Kill Devil Hills to understand their observations as well as interest in aligning efforts.
- Review the town's beach driving ordinance and recommend modifications to the beach driving season as well as other changes, to include a reduction in maximum allowable speed.

'As part of this effort, staff has collected the following data sets which are attached:

- Nags Head Occupancy receipts – 1999-2021 (Outer Banks Visitors Bureau)
- Monthly beach population estimates from NH Ocean Rescue Division – 2014-2020.
- Beach driving permits – 2012 – 2020.
- Average temperatures for April and October (Weatherspark).

- Chronology of Nags Head Beach Driving Regulations
- Daily occupancy percentages by month – 2015, 2019, 2020, 2021. This data is presented to provide the board with a relative comparison of monthly seasonal and shoulder season occupancy trends (yellow shading represents Easter Sunday). This is a representative sample of overall occupancy.

Observations

- Beach driving dates, fees, and regulations have not been modified in a number of years.
- Occupancy for all months has risen substantially since 1999; occupancy for shoulder seasons has also increased, particularly in October and April. Occupancy starts to decline towards the third week in October. In April, occupancy spikes in the weeks before and after Easter.
- October is a warmer month for air and water temperatures. Both months have daytime highs conducive to sunbathing and general beach usage. In April this is more consistent during the last two weeks of the month. Ocean water temperature is still conducive to swimming in October for the majority of the month. In April the ocean water temperature typically remains in the upper 50s to low 60s.
- Excluding 2020 when the KDH offices were closed to the public, beach driving permits nearly doubled since 2012. It should be noted that both Nags Head and Kill Devil Hills sell beach driving permits which allow for driving in both communities. In 2020, KDH town hall was closed and Nags Head sold significantly more permits.
- October of 2020 and April of 2021 had substantially higher occupancy numbers than prior years. This was directly related to the pandemic and the ability for remote work/school. Based on preliminary data for October of 2021, occupancy appears to reflect to pre-pandemic trends.
- Problems related to beach driving often stem from not airing down, improper equipment, speed, and narrow beach width.

From Nags Head Police Department:

Beach patrols are generally conducted by SPO Jimmy Pierce and SPO Shane Allen. These two officers were solicited for their comments and observations about the last beach driving season. Officer Pierce stated that from his observations the main area of concern is the portion of the beach between Bladen and 8th Street. He states, "this portion of beach has very soft sand and is difficult to drive on." He added that he saw, "numerous conflicts between them (beachgoers) and beach drivers" in this area.

Officer Allen observed the conflict between vehicles and beach goers on the warmer days in the season this past year, especially on the north end. He stated, "It makes it more difficult to drive when there are more people spread out on the beach. A lot of times, if you have to drive closer to the dune, the vehicle will begin to slide down, making it nearly impossible to steer. This creates a dangerous situation when people set out their stuff on a narrow section of beach."

The Police Department saw an increased level of activity over the last three driving seasons as seen in the following graph. The figures presented are for calls on the beach and may or may not be directly related to beach driving. It is indicative of the increased level of activity on the beach this past year during the driving season. Field contacts on beach patrol duties have increased as well during this same period.

'Summary

Beach driving is a cherished activity in Nags Head. Changes to the beach driving season should be carefully considered. Although Nags Head reported a higher level of beach calls/conflicts in 2020 than in prior years, 2020 was not reflective of normal conditions. It may be beneficial to monitor beach driving and collect data for the upcoming season with the goal of recommending any seasonal changes after that time. Given the number of stakeholders that would be interested in this discussion, staff would recommend a working group to review seasonal changes as well as other recommendations that could improve beach safety and reduce conflicts between drivers and pedestrians.

'Staff has contacted Kill Devil Hills about this issue; they are not currently reviewing their season. However, KDH staff are interested in hearing the results of the Nags Head discussion and may be willing to work jointly on review of policies related to beach driving. Since Nags Head and Kill Devil Hills jointly sell permits, we should work to align our regulations, fees, and practices as closely as possible.

'At this time, staff recommends an internal review of the town's current ordinance, improved communications to permit holders, and continued collection of data. Staff would recommend the formation of a working group to review seasonal changes and efforts to improve safety."

Comr. Renée Cahoon suggested staff reach out to the Nags Head Surf Fishing Club Tournament officials for a recommendation; she would like to see the number of vehicles per team on the beach be limited. The resolution adopted by the Board only limits the number of permits issued to each team.

It was Board consensus that the Interim Town Manager address the following:

- Use his discretion at closing the beach
- Review beach driving speed limit (Comr. Fuller suggested 15 MPH)
- Develop better monitoring protocols
- Use police enforcement to keep people driving on the correct portion of the beach (off the dunes)
- Consider marking the toe of the dunes with stakes during the NHSFC Tournament
- Review the beach driving ordinance and coordinate changes with the Town of Kill Devil Hills
- Ask for recommendation from the Nags Head Surf Fishing Club concerning ordinance changes
- Limit number of vehicles allowed on the beach during the Tournament
- For presentation at the August 4th Board meeting - or at the latest the September Board meeting

NEW BUSINESS

Committee Reports

Comr. Fuller - Dare County Tourism Board (DCTB) meeting

Comr. Fuller reported that he and Mayor Cahoon will be meeting tomorrow (July 8th) with the Dare County Outer Banks Event Site Committee to discuss possible alternatives for the development of that site.

Mayor Cahoon – Upcoming Mayors luncheon

Mayor Cahoon reported that he, the other mayors, and the County Board Chair will be meeting with State Rep. Bobby Hanig concerning issues of interest.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Town Attorney Leidy - Request to update Town Attorney fees

Attorney Leidy noted that his firm, Hornthal, Riley, Ellis, and Maland, serves at the pleasure of the Board; the last effective change to the billing/retainer agreement was July 1, 2015. Two meetings per month and phone calls with staff are covered by the monthly retainer fee. Proposed changes are as follows:

- \$2,600 per month retainer fee (currently \$2,300)
- \$220 per hour for legal services (currently \$190)
- \$130 per hour for use of paralegals (currently \$100)
- \$145 per hour for use of law clerks (currently not included in contract)

MOTION: Comr. Fuller made a motion to approve the requested increases in the Town Attorney contract as presented by Attorney Leidy. The motion was seconded by Comr. Brinkley which passed unanimously.

Town Attorney Leidy – Pandemic Statement of Emergency Governor’s Order of March 2020

Attorney Leidy pointed out that after Governor Cooper ends the pandemic statement of emergency, there will no longer be authority for the Board to participate in meetings via electronic means. Existing legislation does not allow it - he feels that the governing body may need to have this type of flexibility.

Mayor Cahoon is to discuss possible legislation that would authorize this activity in the future at the upcoming Mayors luncheon when State Rep. Bobby Hanig is expected to be present.

Town Attorney Leidy - Request for Closed Session

Mayor Cahoon is to address Attorney Leidy’s request for Closed Sessions at the appropriate time in the meeting.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Interim Town Manager Garman - Presentation of Year 1 Report of Beach Nourishment Multi-Decadal Master Plan - Presented by Moffatt & Nichol

Interim Town Manager Andy Garman introduced the agenda item re: Year 1 Report of the Town’s Beach Nourishment Multi-Decadal Master Plan.

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

“Brian Joyner with the engineering firm Moffat & Nichol will be presenting the findings of Year 1 of the Town’s Multi-Decadal Master Plan. The year 1 effort provides 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.”

Bryan Joyner of Moffat & Nichol presented the Year 1 Summary of the Beach Nourishment Master Plan. His slides are attached to and made a part of these minutes as shown in Addendum "D".

In response to an inquiry from Mayor Cahoon, Interim Manager Garman told the Board that he spoke with Superintendent Hallac of the National Park Service concerning merging the southern end of the Town with Park service property a few weeks ago and Mr. Hallac indicated that they could discuss it.

Mayor Pro Tem Siers asked about the possibility of a groin on the south end; Mr. Joyner said they will be looking into that possibility.

Professional Services contract amendment for Year 2 of Beach Nourishment Master Plan

- Amendment #1 to Beach Nourishment Master Plan Capital Project Ordinance
- Amendment to FY 21/22 Budget

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

"At the June 2, 2021 Board of Commissioners meeting, Phase 1A of Year 2 of the Multi-Decadal Master Plan was approved to initiate hydrographic surveys, sidescan sonar and sub-bottom profile field surveys to map and characterize the offshore sand borrow area surveys. This work was phased to take advantage of the calmer summer wave conditions.

'This request contains the balance of the professional services fee proposal for Year 2 of the Town's Multi-Decadal Master Plan which is a continuation of the Year 1 services through additional borrow area field investigations, engineering, and modelling to progress the engineering side of the Master Plan. The scope of work is broken down into several phases. The attached memorandum outlines the scope of services and associative fees for the Town of Nags Head Multi-Decadal Master Plan- Year 2 – Task 10.

'Brian Joyner from Moffat and Nichol will be available to answer questions related to this fee proposal.

'Staff recommends acceptance of the total scope of work presented in the Moffat & Nichol submitted fee proposal in conjunction with the Capital Project Ordinance amendment and budget amendment requests. If the Board of Commissioners is in agreement with the staff recommendation, approval of the following actions is required;

1. A motion to authorize the Interim Town Manager to execute the Moffat & Nichol Town of Nags Head Multi-Decadal Master Plan- Year 2, Task 10 proposal.
2. A motion to approve the Capital Project Ordinance amendment.
3. A motion to approve the associated Budget Amendment."

The attached memo from Town Engineer David Ryan read in part as follows:

"At the June 2, 2021 Board of Commissioners meeting, Phase 1A of the Multi-Decadal Master Plan was approved to initiate hydrographic surveys, side scan sonar and sub-bottom profile field surveys to map and characterize the offshore sand borrow area surveys to commence with Yr-2 of the Town of Nags Head Multi-Decadal Master Plan. This work was phased to take advantage of the calmer summer wave conditions.

'This request contains the balance of the professional services fee proposal for Year 2 of the Town's Multi-Decadal Master Plan which is a continuation of the Year 1 services through additional borrow area field investigations, engineering, and modelling to progress the engineering side of the Master Plan. The scope of work is broken down into several subtasks with phasing assigned to the field investigations.

'Phase 1B will capture geological (vibracores with lab analyses, and sub-bottom profiling) and archaeological (magnetometer) data to meet current regulatory requirements. This survey data will support identification of available sand resources within the S1 Borrow Area in addition to engineering analysis to assess the suitability of sediments in the borrow area for future beach nourishment material and overall sand volume needs for future planning.

'Phase 2 will consist of supplemental sub-bottom profiling and magnetometer surveys and analysis will support N.C. State Historical Preservation Office approvals for dredging in the borrow areas and to depths necessary to identify long-term beach renourishment needs.

'Data from Phases 1 and 2 will be synthesized in the engineering analysis to determine and recommend beach and dune profile templates to best meet and sustain the Town's goals for protecting oceanfront structure and providing for public access and oceanfront recreational needs. The engineering analysis will be submitted in a report format with the results of the field investigations, sediment source study, beach nourishment preliminary design, phasing and renourishment intervals summarized in a detailed engineering report.

'Project management, town meetings and coordination services to discuss progress, findings and recommendations related to the various Task 10 work items.

'The submitted fee proposal for the completion of the balance of the Year 2 scope of work is \$1,737,907.

'Staff recommends acceptance of the total scope of work presented in the Moffat & Nichol submitted fee proposal in conjunction with the Capital Project Ordinance amendment and budget amendment requests."

Comr. Renée Cahoon confirmed with Finance Officer Amy Miller that Section 6 is not really needed in the Capital Project Ordinance Amendment. Section 6 reads in part as follows:

"The Finance Director is directed to report, on a quarterly basis, on the financial status of each project element in Section 3."

Scope of Work

MOTION: Comr. Renée Cahoon made a motion to authorize the Interim Town Manager to execute the agreement with Moffat & Nichol pertaining to the scope of work and fee proposal of \$1,737,907 as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Capital Project Ordinance Amendment

MOTION: Comr. Renée Cahoon made a motion to adopt the Beach Nourishment Master Plan Capital Project Ordinance Amendment #1 with the removal of Section 6. The motion was seconded by Comr. Brinkley which passed unanimously.

The Beach Nourishment Master Plan Capital Project Ordinance Amendment #1, as adopted, is attached to and made a part of these minutes as shown in Addendum "E".

Budget Amendment

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

Budget Amendment #1A, as approved, is attached to and made a part of these minutes as shown in Addendum "F".

Interim Town Manager Garman - Discussion of FY 21/22 Fire Truck purchase

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

"During the budget process, two options for a new quint were discussed by the board, a demo truck and a custom truck. Staff had requested a custom truck in the CIP with an estimated value of \$1,350,000. Subsequent to the CIP, the board requested that staff investigate the feasibility of a demo or pre-production truck and compare costs vs. benefits of these two options. At the June board meeting, the board requested that staff verify cost estimates with actual quoted prices. Staff has received quotes in both instances. The base cost of the custom truck is \$1,275,000. The base cost of the pre-production truck is \$1,224,900. In both cases, staff is requesting an additional \$115,000 on top of the base price to equip the vehicle. Therefore, the cost of the custom truck would total \$1,390,000. The pre-production truck would total \$1,339,000.

'Originally when the CIP request was prepared, staff assumed we would be procuring a custom vehicle which would take 400 days to deliver. This aligned with the current replacement schedule for the vehicle. The pre-production truck would be received in October 2021, which would be ahead of the replacement schedule. The budget currently anticipates that both options would be financed in arrears. Therefore, the first payment would be budgeted for FY 2023.

'Staff believes the custom truck better suits the needs of the fire department. The Demo Pierce ladder does not have the ability to angle the ladder down and flow up. This is called a "store front blitz" which is a common practice in many commercial fires and would be useful with large fire such as the one in KDH. This keeps firefighters out of the collapse zones and allows the largest possible water stream into the roof and attic areas. Also, this truck would have the ability to flow 2,000 gpm. The pre-production truck would be limited to 1,500 gpm. Staff also believes the custom truck would provide better opportunities to value engineer the vehicle.

'With either option, there would be no budget amendment required at this time. The FY 2023 budget would be prepared to reflect a revised debt payment based on the final cost.

'BOC Action – Staff requests that the Board of Commissioners authorize Interim Town Manager Garman to execute the contract for the selected option."

Fire Chief Wells reported that the requested custom fire truck would more adequately provide service that would be able to deal with a threat; it would provide the ability for to extend over 100' and do what is called a store front flip to put in large volumes of water onto the fire without putting firefighters in danger – this vehicle allows firefighters to deliver that first "punch" efficiently and effectively - which would be used before firefighters even enter a burning building.

Comr. Renée Cahoon questioned why the Town would buy another one when the current truck has had so many issues.

Dep Fire Chief Shane Hite explained that the new Quint is far past the generation the Town currently has - a large amount of the engine problems with the current Quint have been corrected.

MOTION: Comr. Fuller made a motion to approve the necessary actions to acquire the custom built truck with the additional equipment as determined by staff at a cost not to exceed \$1.4 million. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 1 with Comr. Renée Cahoon casting the NO vote.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon - Discussion of request that NCDOT perform traffic study at US 158 and Grey Eagle Street

It was Board consensus to agree with Comr. Renée Cahoon to submit the following requests to NCDOT:

- 1) Perform traffic study at Grey Eagle/US 158 (during peak traffic season) to include possibility of looking at stoplights
- 2) Study possibility of installing median strip or something similar that would keep vehicles from turning left at Grey Eagle Street and US 158
- 3) Study possibility of no left turn when exiting S Old Oregon Inlet Road at NC 12 across from Sam and Omie's Restaurant

Comr. Renée Cahoon - Old Nags Head Place

Comr. Renée Cahoon asked for a status of the Homeowners Association (HOA) of Old Nags Head Place paying for their portion of the stormwater project planned for the subdivision. Interim Manager Garman reported that he and staff are scheduled to meet with the subdivision HOA next week.

Comr. Renée Cahoon - Dowdy Park shade

Comr. Renée Cahoon asked staff to look at some type of shade features for the Dowdy Park equipment. Some of the equipment is too hot for children to play.

Mayor Pro Tem Siers - Dowdy Park parking

Mayor Pro Tem Siers asked that staff start looking at the parking issues in the Dowdy Park area – specifically at the Bonnett Street and Wrightsville Street intersection. Mayor Cahoon suggested the possibility of installing parking signage seasonally so more parking is allowed in that intersection when school is not in session.

Mayor Pro Tem Siers - Discussion of large home safety concerns

Mayor Pro Tem Siers expressed his concern about the recent Kill Devil Hills house fire with over 40 people in it and the impact on the adjoining houses. He feels that at some point sprinkler systems should be

required for certain sized-houses, he doesn't want to see any fatalities due to larger unsafe houses. Even exit/emergency lighting for hallways would be a big help.

Comr. Fuller suggested the Board consider a resolution to be forwarded to the State legislature expressing our interest as a municipal government for extra safety measures for certain-sized houses.

It was Board consensus that a small task force made up of Mayor Cahoon and Mayor Pro Tem Siers be established in conversation with the local building community and the Dept of Insurance to touch on the issue of fire safety in the larger houses. This may include preparing a resolution, a sprinkler system requirement for specific house sizes, and exit/emergency lighting requirements.

Comr. Brinkley - Stormwater

Concerning the Low Impact Development Manual – Comr. Brinkley said that he hopes that the Board will actively make changes for stormwater, etc.

Comr. Brinkley - Sanitation

Comr. Brinkley commented on the NC 12 trash overflow of carts, etc. He has seen Interim Manager Garman and Public Works Director Claussen making sweeps of the Beach Road to pick up trash and while he appreciates this he wanted to know what is being done to mitigate the issues. Interim Manager Garman introduced Public Works Director Eric Claussen to provide an update noting that there have been a lot of discussions among staff re: sanitation issues.

Public Works Director Eric Claussen reported that he has initiated conversations with the property management companies and he rides the Beach Road frequently to see where the issues are. He is in the process of getting property managers to move carts back so they are not sitting on the Beach Road. He emphasized that Public Works is taking the issue very seriously and is trying to get a handle on the issues. Property managers have been sending out texts mid-week to remind renters of the trash collection dates and they are working on getting the proper number of carts to the appropriate houses.

As suggested by Mayor Pro Tem Siers, Director Claussen agreed to not limit it to the Beach Road.

Comr. Fuller thanked Public Works for their work on the beach with the tents and feels they are doing a great job. He indicated that he has seen a difference as staff continues to speak with property managers.

MAYOR'S AGENDA

Mayor Cahoon - Preparation for Tropical Storm Elsa

Mayor Cahoon requested a status of any actions taken in preparation of Tropical Storm Elsa.

Interim Manager Garman stated that dept heads responded to his inquiry yesterday afternoon and provided a list of actions they have done in preparation of Tropical Storm Elsa. At this time it appears to be a manageable storm. Trash schedules are being reviewed and Town items are being secured.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session pursuant to GS 143-318.11(a)(3) in order for the Board to consult with the Town Attorney regarding matters protected by attorney/client privilege and to preserve that privilege, including the cases of Town v Hale and other condemnation litigation as well as the 205 Baltic Street litigation. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:19 p.m.

OPEN SESSION

The Board re-entered Open Session at 12:47 p.m. Attorney Leidy reported that during Closed Session the Board did consult with the Town Attorney concerning various matters re: attorney/client privilege but no action was taken.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to recess to Monday, July 19th at 9 am in the Board Room for a Recessed Meeting (to meet with Developmental Associates re: Town Manager candidates). Comr. Fuller plans on attending remotely. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:48 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: **August 4, 2021**

Mayor: _____
Benjamin Cahoon