



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
REGULAR MEETING
WEDNESDAY, OCTOBER 6, 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, October 6, 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 Pro Tem Michael Siers; Comr. Renée Cahoon; Comr. Webb Fuller; and Comr. Kevin Brinkley

Board members Absent: Mayor Ben Cahoon

Others present: Town Manager Andy Garman; Attorney John Leidy; Amy Miller; Kelly Wyatt; David Ryan; Eric Claussen; Phil Webster; Randy Wells; Karen Snyder; Kate Jones; Holly White; Mike Norris; Kenneth Chapman; Edwin Maldonado; Paul "Trey" Lipscomb; Billy Moseley; Michelle Gray; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Pro Tem Siers called the meeting to order at 9 am [Mayor Cahoon was not present due to another obligation.]. A moment of silent meditation was followed by the Pledge of Allegiance.

ADOPTION OF AGENDA

MOTION: Comr. Brinkley made a motion to approve the October 6th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 - 0 (Mayor Cahoon was not present.).

RECOGNITION

NEW EMPLOYEES - Public Facilities Maintenance Supervisor Mike Norris introduced Water Service Technician Kenneth Chapman and Sanitation Equipment Operator Edwin Maldonado who were welcomed by the Board to Town employment.

FIFTEEN YEARS - Police Chief Phil Webster introduced Officer Paul Lipscomb who was congratulated by the Board for fifteen years of service.

PROCLAMATION - Fire Prevention Week October 3 - 9, 2021

Fire Chief Randy Wells read the Fire Prevention Week proclamation as follows:

"WHEREAS, the Town of Nags Head is committed to ensuring the safety and security of all those living in and visiting our town; and

'WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

'WHEREAS, home fires killed more than 2,770 people in the United States in 2019, according to the National Fire Protection Association, and fire departments in the United States responded to 339,500 home fires; and

'WHEREAS, smoke alarms sense smoke well before you can, alerting you to danger in the event of a fire in which you may have as little as 2 minutes to escape safely; and

'WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

'WHEREAS, Nags Head residents should be sure everyone in the home understands the sounds of the alarms and knows how to respond; and

'WHEREAS, Nags Head residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

'WHEREAS, Nags Head residents will make sure their smoke and carbon monoxide alarms meet the needs of all their family members, including those with sensory or physical disabilities; and

'WHEREAS, Nags Head first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

'WHEREAS, Nags Head residents that are responsive to public education measures are better able to take personal steps to increase their safety from fire, especially in their homes; and

'WHEREAS, the 2021 Fire Prevention Week theme, "Learn the Sounds of Fire Safety," effectively serves to remind us it is important to learn the different sounds of smoke and carbon monoxide alarms.

'NOW, THEREFORE BE IT RESOLVED that October 3 – 9, 2021, is Fire Prevention Week throughout this Town, and I urge all the people of the Town of Nags Head to "Learn the Sounds of Fire Safety" for Fire Prevention Week 2021 and to support the many public safety activities and efforts of Nags Head Fire Rescue.

'All Town residents and visitors are invited to attend the annual Nags Head Fire Department Open House, held at the Douglas A. Remaley Fire Station 16 on Thursday, October 7, 2021, from 5:30 PM to 7:30 PM."

PUBLIC COMMENT

There was no one present who wished to speak during Public Comment.

PROCLAMATION - Fire Prevention Week October 3 - 9, 2021 (Continued)

Mayor Pro Tem Siers proclaimed Fire Prevention Week as October 3 - 9, 2021.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Adjustment #4 to FY 21/22 Budget
- Consideration of Tax Adjustment Report
- Approval of minutes
- Consideration of three-year contract with Zambelli for Town fireworks display
- Consideration of resolution declaring tax exempt vehicle reimbursement financing

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

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

- Consideration of resolution in support of the adopted CAMA Land Use Plan (housekeeping item)

MOTION: Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was not present.).

Budget Adjustment #4 to 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 Zambelli contract for Fourth of July fireworks for the next three years was approved as presented. The agenda summary sheet read in part as follows:

"Provided for Board consideration on October 6th is a multi-year fireworks contract with Zambelli Fireworks Manufacturing Co for 4th of July Fireworks Displays through July 2024. Costs would be \$25,000 for 2022, \$27,500 for 2023, and \$27,500 for 2024.

'Request Board approval of attached contract ensuring fireworks displays for the next three years.

'Approval would obligate the Board to appropriate funds as indicated for the July 4th fireworks display through fiscal year 2024/2025.'

The vehicle reimbursement agenda summary sheet read in part as follows:

"Attached please find a resolution for consideration of reimbursement for advanced moneys used for the acquisition of vehicles and equipment - prior to tax exempt financing. These items were identified and approved in the FY 21/22 Budget. Financing of this project is expected to be through an installment purchase contract.

'Request Board adoption of attached resolution. Maximum amount to be contracted for the project is \$189,000. Town is expected to reimburse itself within 60 days of adoption of the resolution from a portion of the financing proceeds.'

The vehicle reimbursement resolution, 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 amended 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 \$189,000.00

'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 Request for Public Hearing agenda summary sheet, as approved, read in part as follows:

"Steve Pauls of Farmdog Surf School has submitted a text amendment request to the Unified Development Ordinance, which, if adopted would permit "Beach Recreation Equipment Rentals/Sales" as a permitted use within the C-4, Arts and Culture District. Currently, the Beach Recreation Equipment Rentals/Sales use is only permitted as a by-right use within the CR, C-1 and C-2 zoning districts. There are no supplemental regulations for this use and a parking standard has already been established.

'The 2017 Comprehensive Land Use Plan designates this area as Neighborhood Commercial and is within the Gallery Row, Community Center Character Area. This plan states that appropriate land uses within this area include Commercial Uses 10,000 square feet or less, Retail, and Equipment Rentals.

‘Staff Recommendation/Planning Board Recommendation

Planning Staff finds the proposed use is consistent with the 2017 Comprehensive Land Use Plan and the desire of this area to be a central node for community activity to include amenities and services that can meet a variety of daily needs for residents and visitors. Based upon this analysis, Planning Staff recommends adoption of the proposed text amendment as requested.

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

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

“At their meeting on May 5, 2021, the Board of Commissioners requested that planning staff work on a text amendment to accommodate temporary allowances for outdoor dining, regardless of a declared state of emergency. Staff was asked to consider amendments that would allow for outdoor dining on a temporary or seasonal basis in a more flexible and simplified manner, allowing this where parking was not a reduced below that which is required and/or when seating is not increased in excess of available and required parking, or in excess of wastewater capacity.

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

‘Staff Recommendation/Planning Board Recommendation

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

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

The Resolution in support of the adopted CAMA LUP, as adopted, read in part as follows:

“WHEREAS, from 2015 through 2017, the Town of Nags Head drafted a Coastal Area Management Act (CAMA) Land Use Plan, and conducted a series of public workshops and meetings as part of a comprehensive public participation program under the leadership of the FOCUS Nags Head Advisory Committee; and

‘WHEREAS, on July 20, 2021, the Planning Board recommended approval of the adoption of the draft Plan; and

‘WHEREAS, the Town of Nags Head conducted a duly advertised public hearing on the draft Plan at the Regular Meeting of the Board of Commissioners on September 1, 2021; and

'WHEREAS, at the Regular Meeting on October 6, 2021 the Board of Commissioners of the Town of Nags Head, North Carolina found the policies and Future Land Use Map in the draft Plan to be consistent with the Town of Nags Head desired vision for the future and unanimously approved to adopt the draft Plan; and

'WHEREAS, the adopted Plan will be submitted as required by state law to the District Planner for the Division of Coastal Management under the North Carolina Department of Environmental Quality and forwarded to the Executive Secretary; and

'WHEREAS, a review of the adopted Plan by the Coastal Resources Commission will be scheduled; and the CRC will then decide on certification of the locally adopted Plan; and

'WHEREAS, a certified copy of the Town of Nags Head CAMA Land Use Plan will be forwarded to the Office for Coastal Management for federal approval.

'NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners for the Town of Nags Head, North Carolina has adopted the draft Plan; and

'BE IT FURTHER RESOLVED that the Town Manager of the Town of Nags Head is hereby authorized to submit the adopted Plan to the State for certification as described above."

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

Update from Planning Director

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

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on October 6, 2021.

'Attached for the Board's review is the *Planning and Development Monthly Report for July 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, August 31 - DWMP Stakeholder Interviews
- Wednesday, September 1 - Board of Commissioners Meeting
- Thursday, September 2 - Farmer's Market
- Monday, September 6 - Planning & Development Department Staff Meeting
- Wednesday, September 8 - Committee for Arts & Culture Meeting
- Thursday, September 9 - Last Farmer's Market of 2021 Season
- Thursday, September 9 - Board of Adjustment Meeting
- Thursday, September 9 - ETIPP Technical Assistance Kickoff
- Thursday, September 16 - DWMP Advisory Committee Meeting
- Monday, September 20 - Planning & Development Department Staff Meeting
- Tuesday, September 21 - Planning Board Meeting

'The Board of Commissioners held a public hearing and adopted the CAMA Land Use Plan at their September 1, 2021 meeting. In anticipation of moving into the required CAMA 30-day comment period, staff was made aware of the need to have a formal resolution of plan adoption. This resolution has been placed on the October 6, 2021 Consent Agenda for consideration and action by the Board of Commissioners. Once the resolution is adopted, this will then begin the required CAMA 30-day comment period in advance of Division of Coastal Management certification.

'Mayor Pro Tem Siers, Commissioner Brinkley, Town Manager Garman and Planning Staff met with several members of the Outer Banks Homebuilders Association on September 15, 2021 to discuss the LID Manual and the Town's residential stormwater management regulations. Staff outlined broad opportunities to transition current stormwater management requirements from a volume-based approach to a more simplified approach. As a group, the members of the Homebuilders Association provided feedback that they would like the Town to consider solutions that did not necessitate the need to utilize an engineer, could be simple, flexible and more conceptual in nature while still achieving the overall goal of not shedding runoff onto adjoining properties or into the Town's right-of-way. Having heard the Homebuilders comments and concerns, staff is currently generating proposed edits to the stormwater management regulations and anticipate meeting with the Homebuilders to discuss these edits in the first week of October, likely Thursday, October 7th. Staff anticipates this text amendment to be heard by the Planning Board at their October 19, 2021 meeting. As the stormwater management regulations are drafted, staff will assess what revisions may be necessary to the LID Manual moving forward. An update will be provided to the Board of Commissioners at their October 6, 2021 meeting.

'The Planning Board's most recent meeting was held on September 21, 2021 and included consideration of a text amendment to add "Beach Recreation Equipment Rentals & Sales" as a Permitted Use within the C-4, Art and Culture Zoning District, consideration of a text amendment to allow temporary accommodations for outdoor dining, discussion of anticipated revisions to the Residential Stormwater Management Regulations and LID Manual and an update on the Electric Vehicle Action Plan.

'The Board's next meeting is scheduled for October 19, 2021. At this time, the agenda is expected to include consideration of text amendment for revisions the Residential Stormwater Management Regulations, consideration of a site plan for tree removal within the SED-80, Special Environmental District, and may include a text amendment to the Soundside Residential Overlay District regulations.

'Additional Updates:

- **Decentralized Wastewater Management Plan** - To this point, six meetings have been held with the project Advisory Committee. Much of the work has involved the collection of relevant data and information, the identification and interview of stakeholders, the development of draft mission/goal/objective statements for the Plan, and the development of an engagement plan. In total, twelve 1-hour interviews were held with individual and group stakeholder including Planning Board members, Board of Commissioner members, recreational users, realtors, state regulatory agencies, the Health Department, septic inspectors, and Town staff. A summary of key takeaways from the stakeholder interviews is being completed and will be provided to the Board of Commissioners at their November 3, 2021 meeting as part of an update being provided by members of the Advisory Committee and the consultant. A public forum will be held in November, details on the date, location, and format (in-person/virtual/hybrid) will be provided as soon as possible.
- **Estuarine Shoreline Management Plan** - Nine (9) responses were received to the Town's RFQ seeking a consultant for development of an Estuarine Shoreline Management Plan. A Staff evaluation committee, with input from CSI partners, selected 6 of the respondents for interviews. Interviews were conducted the week of August 9, 2021. The staff committee has selected the consultant team of

Biohabitats. The contract is being finalized and is anticipated to be submitted to the Board of Commissioners for authorization at the October 6, 2021 meeting.

- **Whalebone Park: Phase 1 – Planning** - The FY21/22 Adopted Budget & 22/23 Financial Plan included a CIP project for “renovation and improvement of amenities at Whalebone Park...budgeted at \$250,000,” with full grant funding to be sought. In support of this, the Budget also noted that the Planning & Development Department would “initiate Phase 1 of a study to determine opportunities for the improvement of Whalebone Park.” A Project Scope for a Phase 1 project to plan for eventual renovations and/or improvements to Whalebone Park has been completed. In developing the scope, Staff conducted site visits with members of the Committee for Arts & Culture and members of the Planning Board to discuss the needs and focus of any renovations or improvement of the park. It is noted that primary concerns are the overall maintenance of the park, providing adequate shade opportunities and the need for restroom facilities.
- **Electric Vehicles Action Plan** – 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 met virtually with the students and Dr. Timothy Johnson to discuss the project scope and background on September 10, 2021. During the next month, students will begin gathering data needed to initiate the project.
- **Level 2 Charger** - There has been no update since the last Director’s Report. Staff continues to consider opportunities and vendors to source a charger for location on Town property through a “host” arrangement. Additionally, Staff expects that resources or options may be identified through the EV Action Plan.
- **NC Resilient Coastal Communities Program** - Earlier in the year, the Town was notified that it was accepted into the North Carolina Resilient Coastal Communities Program, a technical assistance program under the Division of Coastal Management that endeavors to “allow communities to develop an in- depth understanding of their risk to coastal hazards. As a result, communities will be better prepared to take advantage of various future implementation funding opportunities.” VHB has been assigned as the Town’s consultant under this Program, and the Town’s efforts under the development of the VCAPS plan have been recognized as satisfying the two initial phases of the Program. A kickoff meeting with VHB is to be held on August 26, 2021. A kickoff meeting with VHB was held on August 26, 2021. Staff is working with the consultant to gather background information and data needed to begin the planning process. Completion of Phases 1 (Community Engagement and Risk/Vulnerability Assessment) and Phase II (Planning, Project Identification, and Prioritization) will position the Town for implementation funding available through Phase III of the Resilient Coastal Communities Program and the FEMA BRIC program.
- **ETIPP Project/Program** - The Department of Energy’s Energy Transitions Initiative Partnership Program (ETIPP) is assisting the Town. This project aims to analyze best available energy solutions to increase resilience at Nags Head critical facilities. Over the next 15 months, analysts from Sandia National Lab and the National Renewable Energy Lab will help the Town identify key energy resilience goals and identify cost-optimal energy solutions at Town critical facilities. A final project scope was approved on July 23, 2021. A kickoff meeting was held on September 9, 2021 with representatives from Planning, Police, Fire, and Public Works in attendance with a goal of identifying key stakeholders, critical facilities, and potential threats. Staff will continue to work with the technical assistance team to gather background information and data as this project kicks off.

- **NC AIA Activate Technical Assistance** - A kickoff and project scoping meeting were held with project partners on June 18, 2021 and a follow up meeting was held on July 20, 2021. The focus to this point has been on stakeholder and public engagement plans. Staff has worked with representatives from NC AIA to develop and distribute questionnaires for specific stakeholder groups and the community at large. Survey collection should be complete by late October. Once complete, staff will work with AIA representatives and the NC State School of design to develop residential best management practices for energy and water conservation.
- **Flood/Tide Gauges** – There has been no update since the last Director’s Report. Three gauges have been installed in the Town, one in the Village, one at Jennette’s Pier, and another at on Little Bridge. Staff is waiting for direction from the vendor before publicizing the gauges.
- **LID Stormwater Demonstration Project** - There has been no update since the last Director’s Report. 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.
- **LED Conversion of Streetlights; Amber Streetlight Demo** – At their September 1, 2021 meeting the Board of Commissioners approved the Street Lighting Policy as presented with one modification, to add a bullet under “General” indicating that Town-wide fixtures require full cut-off unless there is proof that costs are significantly greater. Staff will share the standards with Dominion. Additionally, as noted in the memo for this item, Dominion will be moving forward with a demonstration/pilot of amber “turtle-friendly” lights, to be installed in 8 locations in close proximity to the beach.
- **Dowdy Park Events/Farmers Market/Holiday Markets** – The 2021 Dowdy Park Farmers Market held its final market of the season on Thursday, September 9th and there are no more bands scheduled to perform this year. Yoga classes continue to be held on Tuesdays at 7pm and are expected to continue through mid-October. Staff has determined that funds are available to hold two Friday- night movies in October. This year’s Holiday Market dates are Saturday, November 27 (9a-12p), Saturday, November 27 (9am-12pm), Thursday, December 2 (3pm-6pm), and Saturday, December 11 (9am-12pm). After assessing the budget, it is unlikely additional holiday lighting can be purchased for Dowdy Park this holiday season.
- **Grants and Assistance**
 - Emergency Operations Plan - 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. Representatives from NC EM Hazard Mitigation Division reached out to staff for additional information as they are processing the grant which will be given to FEMA. State officials indicated that FEMA was interested in assisting the Town with this project and staff remains hopeful this work will be funded.
 - There has been no update since the last Director’s Report. 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.

- There has been no update since the last Director's Report. As authorized, Staff submitted a final application for a CAMA Access Grant for improvements to the Epstein Beach Access on August 16, 2021.
- Planning is not submitting an LOI at this time. Staff had anticipated utilizing projects identified through the NC Resilient Coastal Communities Program Phases I & II to submit for BRIC funding. However, due to delays with state contract office and project initiation, the project initiation was delayed. Staff anticipates the Town will be better positioned next year, through the NC Resilient Coastal Communities Program and completion of the Estuarine Shoreline Management Plan, to submit a Letter of Interest.

Upcoming Meetings and Other Dates

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

Ms. Wyatt's report was well received by Board members.

Update on Stormwater Ordinance Review Process

Senior Environmental Planner Kate Jones summarized her memo re: Stormwater Ordinance Review Process which read in part as follows:

“Earlier this year planning staff drafted and presented updates to the Town of Nags Head Low Impact Development and Stormwater Reference Manual for consideration by the Planning Board and Board of Commissioners. At their May 5, 2021 meeting, the Board of Commissioners unanimously passed a motion to continue consideration of these updates to the first meeting in July in order to review potential changes with several Nags Head homebuilders. Such a meeting took place on June 16, 2021. From that discussion came the following points and direction:

- 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/SCM's.
- Consider opportunities for parity with neighboring lots that may not be required to provide

stormwater plans/SCM's.

- 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 management requirements.
- Consider various 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.

'The Board of Commissioners, at their July 7th meeting, directed staff to further discuss stormwater ordinance changes with the Outer Banks Home Builders Association (OBHBA) with the goal of simplifying the requirements as well as the process for review and permitting.

'On September 15, 2021, members of Town Staff, Mayor Pro Tem Siers, and Commissioner Brinkley met with members of the OBHBA. At this meeting, staff outlined broad opportunities to allow for more flexibility within the stormwater ordinance.

'Feedback was received to consider non-engineered solutions that are simple, flexible, and more conceptual in nature while still achieving the overall goal of protecting adjoining properties and/or the Town's right-of-way. Several homebuilders did note that they found the approach to stormwater management used by the Town of Southern Shores to be both simple and effective. Town staff agreed to review the Town of Southern Shores' requirements to determine if any aspects of their regulations could be integrated into our revisions. The homebuilders also expressed a desire for a simple, one- or two-page, bulleted guide on how to approach new residential construction in Nags Head that would be specific to the UDO, the stormwater ordinance, and our flood damage prevention standards.

'An update on the stormwater review process and associated meetings was provided at the Planning Board's September 21, 2021 meeting. Members of the Planning Board raised questions about the process and suggested that one or more Planning Board members and/or the former stormwater committee be included in these discussions.

'Additionally, the Planning Board cautioned against abandoning the town's stormwater management program.

'On September 22, 2021, staff had a conference call with Wes Haskett, Deputy Town Manager/Planning Director for the Town of Southern Shores, to discuss their stormwater ordinance.

'Takeaways from the call included:

- Their stormwater ordinance has been functioning in its current form for at least 5 years.
- The ordinance was amended more recently to allow for the exclusion of open slatted decking from lot coverage with the submission of an engineered stormwater plan. Since that amendment, 80% of residential stormwater plans are engineered to take advantage of the lot coverage bonus.
- The remaining 20% of residential permit plans are reviewed by staff, with decisions about stormwater requirements made on a case-by-case basis.
- Lots in Southern Shores are generally ½ acre or more.
- A 1.5-inch storm is referenced as the requirement in the ordinance; however, staff does not engage in calculating volumes.

'Staff is now working on drafting ordinance options which will be discussed with the OBHBA on October 7, 2021. Subsequently, ordinance options for formal consideration will be presented to the Planning Board at their upcoming October 19, 2021 meeting. Additionally, as the revised stormwater management regulations are drafted, we will assess what revisions may be necessary to the LID Manual."

Comr. Fuller pointed out that the Town of Southern Shores made determinations on 20% of their properties related to stormwater decisions arbitrarily. He wants to make sure our staff has a criteria to use.

Ms. Jones' report was well received by Board members who said that they look forward to a proposal that can proceed after staff's continued meetings with homebuilders.

Request for authorization to execute contract for Estuarine Shoreline Plan

Principal Planner Holly White summarized the agenda summary sheet which read in part as follows:

"This item is requesting the Board to authorize the Town Manager to enter into a services contract with Biohabitats for the development of the Estuarine Shoreline Management Plan. Staff released an RFQ to seek out qualified candidates for the development of the Plan. Following submissions from nine consultants, Staff began a selection process that included interviews with six of the most qualified consultants. Based on consultant interviews and proposals, Staff scoring indicated Biohabitats as the most qualified consultant. Biohabitats has partnered with Moffatt & Nichol and they will work together collectively to develop the plan through engagement of stakeholders and staff. Attached are the Statement of Qualifications submitted by Biohabitats and the scope of work for the project.

'Staff Recommendation

Staff recommends the Board's authorization to enter into a services contract with Biohabitats for the development of the Estuarine Shoreline Management Plan with a total project cost of \$150,000 and the proposed contract amount of \$139,500. The \$10,500 difference will be covered as part of the grant match

for in-kind services of staff time.”

Comr. Fuller asked if the request includes looking at accesses as well as living shorelines - Ms. White stated that if the site has a possible future use as a beach access then that would be designed as such. She confirmed that the committee will look for future potential use.

Mayor Pro Tem Siers confirmed with Ms. White that she, Interim Director Kelly Wyatt, and Senior Environmental Planner Kate Jones would be overseeing that the work required is completed monthly.

MOTION: Comr. Renée Cahoon made a motion to authorize execution of the contract for the Estuarine Shoreline Plan in the amount of \$139,500 as presented. The motion was seconded by Comr. Brinkley which passed 4 - 0 (Mayor Cahoon was not present.).

The Estuarine Shoreline Plan Scope is attached to and made a part of these minutes as shown in Addendum “C”.

Consideration of easement for W Soundside Road waterline extension for Tom Alexander; Dedication/conveyance of waterline to the Town

The agenda summary sheet for the W Soundside Road waterline extension easement read in part as follows:

“Attached please find, for Board consideration on October 6th, an Easement to the Town from the Alexanders for the Thomas B. Alexander Subdivision Plat on Soundside Road granting access for waterline maintenance, landscaping, or improvement. A resolution for Board review/adoption accepting the waterline improvements is also provided.

‘In addition a Road Maintenance Agreement is provided, for your reference, requiring the Alexanders to maintain their portion of Soundside Road to the standards approved by the Board of Commissioners. No action on this is required.

‘Please see attached staff memo for additional details.”

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

“The Board of Commissioners at their July 7, 2004 meeting approved a three lot subdivision and granted an accompanying subdivision waiver request submitted by Mr. Tom Alexander for the 1.5 acre tract of land located at the terminus of Thirteenth Street on the north side of Soundside Road. The approval, in part, granted waivers to the street standards of the Town Code, allowing a private street of unspecified construction standards to be installed. This waiver stated that at the time the third lot in this subdivision is to be developed, plans for the construction of the private street must be reviewed and approved by the Board of Commissioners.

‘Mr. Alexander brought the street construction plans forward for approval by the Board of Commissioners at their July 17, 2009 meeting. At this time, the Board passed a motion to approve the street construction plans (Roadway and Waterline Design Plans dated July 7, 2009) with the condition that an agreement be recorded giving notice of responsibility for road maintenance to property owners.

‘Mr. Alexander has completed the construction of the private street and installation of the waterline as prescribed by the July 17, 2009 approved plans and is now seeking to dedicate the required easement and

convey the waterline to the Town of Nags Head as prescribed. The Town is in receipt of the required As-Built drawings, NC DEQ final approval of the project, as well as the necessary compaction tests. In addition, the Town Engineer has inspected the site conditions and notes compliance with roadway widths and pavement grades.

STAFF RECOMMENDATION

Staff submits that the construction of W. Soundside Road is compliant with the approved Roadway and Waterline Design plans approved by the Board of Commissioners at their July 17, 2009 meeting. Additionally, it is expected that the roadway maintenance agreement, as conditioned by the Board of Commissioners, will be executed prior to the Boards October 6, 2021 meeting. Staff recommends the acceptance of the easement on behalf of the Town and acceptance of the waterline improvements by resolution (attached)."

Ms. Wyatt noted that both documents have been executed by Mr. Alexander and were included in the Board's materials.

The resolution was read by Mayor Pro Tem Siers.

MOTION: Comr. Renée Cahoon made a motion to adopt the resolution accepting maintenance of the Thomas B. Alexander Subdivision Plat Soundside Road waterline extension as presented. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was not present.).

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

"WHEREAS, The Thomas B. Alexander Subdivision Plat waterline extension improvements on Soundside Road are presented to the Town for consideration of acceptance; AND

'WHEREAS, Staff has verified that the waterline extension improvements have been completed pursuant to the Roadway and Waterline Design Plans approved by the Board at their July 17, 2009 meeting; AND

'WHEREAS, The As-Built Plans for the completed waterline improvements have been provided to the Town; AND

'WHEREAS, Staff has determined that the completed waterline improvements are compliant and recommends acceptance by the Town.

'NOW, THEREFORE, BE IT RESOLVED that the Nags Head Board of Commissioners does hereby accept the conveyance of the Thomas B. Alexander Subdivision Plat Waterline Extension improvements for maintenance upon proper execution and recordation of the Waterline Easement and Road Maintenance agreements."

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From Sep 1st Board meeting - Follow-up on NCDOT Studies/Crosswalk discussions

The agenda summary sheet for this item read in part as follows:

"At the September 1st Board of Commissioners meeting, staff reported on studies being done by NCDOT at Grey Eagle/US158 and at NC12/SOQIR to include reviewing options to improve traffic circulation and

safety. Also discussed were the two lighted pedestrian pushbutton signs (from Little Bridge) at the NC12 crosswalks at Jennette's Pier and at Bonnett Street. Additionally, staff discussed with Board members an additional pushbutton lighted pedestrian sign and a new sidewalk connection between Baymeadow/US158 along the south side of Seachase, and improving the pedestrian crossing at Seachase/NC12.

'At the October 6th Board of Commissioners meeting, Town Manager Andy Garman will provide an update with the latest information re: NCDOT Studies/Crosswalk discussions.'

Town Manager Andy Garman summarized his, Town Engineer David Ryan, and Public Works Director Eric Claussen's memo which provides additional details and which read in part as follows:

'In 2013, the Town of Nags Head received an NCDOT Bicycle and Pedestrian Grant for the purpose of developing the Town's Pedestrian Plan and subsequently hired Alta Planning + Design to complete that process. Through collaboration with local residents, town staff, and regional representatives serving as the Steering Committee, the stakeholders identified several key areas for the plan to focus including Safety, Health, Economics, Mobility, and Environmental Stewardship. As a result of community interaction between the Steering Committee and citizens via both in-person sessions and social media interactions, the Town of Nags Head Pedestrian Plan was completed in 2014.

'The Pedestrian and 2017 Comprehensive Plans have been used as guiding documents to make pedestrian improvements across the community, including the multi-use path installation along the west side of Croatan Highway and sidewalk connections on various side streets. The Town uses this blueprint for decision-making processes, but as practices, needs, and alternatives evolve, staff will revisit priorities and make modifications as necessary. Additionally, small scale projects may become more attractive and be shifted up on the list when coupled with other pedestrian safety features.

'At the September Board of Commissioners Meeting, Public Works was asked to assess a sidewalk extension from Croatan Highway to Baymeadow Drive on the southside of Seachase Drive, which was previously identified as a priority project. This project will require collaboration with NCDOT to meet the ADA requirements, regarding the pushbutton and curb ramp locations at the existing Seachase traffic signal as it traverses the State right-of-way. In addition, a portion of the sidewalk on the east side of the highway will need to be reconstructed and curbing added so that the pedestrian path is better delineated and protected at the intersection. The approximate cost for this project is \$35,000 (see attached cost estimate) and, if directed by the Board, can be added to the other sidewalk work that the Town has scheduled this season on Barnes and Bonnett Streets. This project would be an example of expediting a previously identified need due to citizen requests, overall cost, and the connection to other safety needs as identified below.



'At the September Board Meeting, the Board asked Public Works to review the crosswalk at the intersection of S. Virginia Dare Trail and Seachase Drive, due to citizen concerns associated with the limited visibility of that crosswalk located within the curve. Public Works is committed to taking a methodical approach to these concerns, identifying the most effective improvement(s) to address the concern. Because of the recent installation of the lighted, pushbutton signs at the intersections of Bonnett Street and the Jeannette's Pier crosswalk by NCDOT, the most intuitive solution to meet driver expectations would be to install an additional lighted, pushbutton sign at this location for consistency



across the community. Staff has contacted the State, who is willing to acquire and install the new pushbutton sign at this location at an estimated cost of \$10,000. While these lighted, pushbutton signs may not be the answer for additional locations, staff does feel that this sign will bring addition awareness to drivers along this segment due the safety concerns associated with the lack of visibility along the horizontal curve.

'If the Board wishes to proceed with these two items, Public Works will coordinate with the Town Engineer to proceed with adding the segments of new sidewalk and curb ramps to the existing sidewalk projects to be completed within this fiscal year, as well as coordinate with NCDOT on the acquisition and installation of the new lighted, pushbutton sign at the intersection of Seachase Drive and S. Virginia Dare Trail to address of the safety concern of citizen's crossing in the curve. Lastly, staff is waiting on additional response from NCDOT on the requested traffic study at the intersection of Croatan Highway and

Gray Eagle Street, as well as the potential safety improvements at intersection of NC12 and Old Oregon Inlet Road."

Town Engineer David Ryan provided an update on the Bay Meadow to Hwy 158 sidewalk/crosswalk project.

Comr. Renée Cahoon asked about a timeline - she would like the projects completed before Easter 2022; she requested a further update at next month's Board meeting.

Comr. Renée Cahoon asked about the crosswalk solar lights so everyone can be seen by drivers when at a crosswalk - she wants to make sure they are installed at the Seachase Drive sidewalk and are included in next year's budget especially for crosswalks in darker areas.

Manager Garman said that the lights can be purchased to replace those that are not working now; he did point out the building supply issues that are being experienced.

It was Board consensus to agree with Comr. Renée Cahoon to look at all crosswalks that are in especially dark areas for placement/replacement.

Comr. Fuller also requested bid to take the sidewalk down to the entrance to the Village Golf Club – this would capture three busy neighborhoods.

It was Board consensus to agree to the following:

Continue with Hwy 158 to Baymeadow (on south side of Seachase Dr) sidewalk extension project
Continue working with NCDOT for lighted pushbutton sign at SVDT/Seachase
NCDOT traffic studies re: Hwy 158/Gray Eagle and NC12/SOOIR are still ongoing
Install sidewalk from Hwy 158 to Village Golf Club
Replace solar lights that are out at crosswalks so pedestrians/bicyclists can be seen
Include solar lights at crosswalks located in dark areas in next year's budget
Board members were interested in seeing completion of these projects prior to Easter 2022

NEW BUSINESS

Committee Reports

Comr. Renée Cahoon - There was a recent Governmental Access Channel Committee meeting that she was unable to attend; a report will be provided at the next Board meeting.

Mayor Pro Tem Siers - The Town's Stormwater Committee will be reactivated by Town Engineer David Ryan in the next couple of months - Mayor Pro Tem Siers is the Board liaison on this committee.

Comr. Brinkley - The next Jennette's Pier Advisory Committee meeting is scheduled for October 27th.

Comr. Fuller - Specific tasks for the Dare County Tourism Board Event Site Committee have been completed and he doesn't know if the committee will continue to meet.

Consideration of Board/Committee appointments

Board of Adjustment

MOTION: Comr. Renée Cahoon made a motion to delay the Board of Adjustment appointment until the next Board meeting. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was not present.).

Personnel Grievance Panel

MOTION: Comr. Renée Cahoon made a motion to reappoint Tina Adderholdt to another term on the Personnel Grievance Panel. The motion was seconded by Comr. Brinkley which passed 4 - 0 (Mayor Cahoon was not present.).

Planning Board

MOTION: Comr. Renée Cahoon made a motion to reappoint Megan Lambert to another term on the Planning Board when her current term expires in November 2021. The motion was seconded by Comr. Brinkley which passed 4 – 0 (Mayor Cahoon was not present.).

The Town Clerk confirmed she would make sure all appointees were notified of the Board's actions.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Mayor Pro Tem Siers said that the request for Closed Sessions by Town Attorney Leidy will be considered at the appropriate time in the meeting - when all can be considered at one time.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Project updates

Update on Harvey site/Soundside Event Site Recreation Working Group

Town Manager Garman summarized results from a working group that convened a few weeks ago to discuss a joint Harvey site/Soundside Event Site that would create a wind/water/recreational area where a number of non-motorized activities can take place. He noted that Billy Mosely and Robert Netsch attended as part of the Working Group. A lot of uses for the Harvey site were identified. The Dare County Tourism Board may use these ideas in their plans for a soundside boardwalk. In addition, the Estuarine Shoreline Committee may also provide some ideas; there are great opportunities for this project which could take some of the pressure off of the Jockey's Ride estuarine site for both locals and tourists.

Update on Sign Inventory and Traffic Control Map

Town Manager Garman provided an update on the progress of the Traffic Control Map. There are inconsistencies between the map and what's on the ground; one of the components of this project is understanding all the signs in the Town and Public Works is now building a GIS inventory/database - this is being developed by staff and GTG Technologies. Manager Garman reported that Public Works Director Eric Claussen is proposing to bar code all the Town's signs so all sign info can easily be viewed. An additional value built into this project is an asset inventory and an enhancement of the Town's on-line GIS system. It is expected that the sign inventory will be completed by early November 2021 and at that time the update of the Traffic Control Map will begin with completion of a draft map expected by the end of 2021.

Update on Bulk Waste Process

Town Manager Garman reported that the Board had previously appointed Comr. Fuller to a Bulk Pickup Committee and the committee has met. It was determined that Easter will be included in the dates for bulk pickup as that is an important time for property owners to come and prepare their houses for the summer rental season. The Town has been broken up into four sections for a bulk pickup schedule. The

Town's web site includes the schedule as well as additional information to assist with bulk pickup such as what items are included and how they are to be placed for pickup. Comr. Renée Cahoon mentioned the house near Town Hall that has had what appears to be major construction materials left for the Town to pick up. Board members spoke in favor of the proposed bulk collection process and schedule.

CLOSED SESSION

MOTION: Comr. Brinkley made a motion to enter Closed Session to discuss the possible acquisition of real property located at 105 Seachase Drive; to consult with the Town Attorney regarding matters protected by attorney/client privilege and to preserve that privilege; and to discuss possible litigation in accordance with GS 143-318.11(a)(5) and (3). The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Cahoon was not present.). The time was 10:04 a.m.

OPEN SESSION

The Board re-entered Open Session at 11:25 a.m. Attorney Leidy reported that during Closed Session the Board did give instructions to Town staff and to the Town Attorney but no other actions were taken.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon - Follow-up to Sidewalks/Crosswalks discussion

Staff is to communicate with the Village at Nags Head Homeowner's Association re: lowering the speed limit on Seachase; for consideration at the November Board meeting along with the Police Dept's evaluation of this change.

Comr. Renée Cahoon - Large party houses

Comr. Renée Cahoon said that the Town needs to take the next step to address problems with large party houses as the rights of others nearby are being infringed upon - she specifically mentioned 6937 S Virginia Dare Trail. The issues include parking on the multi-use path and noise.

Comr. Renée Cahoon - Trash on Virginia Dare Trail

Comr. Renée Cahoon pointed out a problem with trash on Virginia Dare Trail in the same locations that had problems previously – this area has been addressed multiple times and is still an issue - the Town needs to get trash under control.

Comr. Renée Cahoon - Trash Carts

Comr. Renée Cahoon was awakened by her trash carts being rolled out this morning when that should take place in the evening per the Town's ordinance - she also noted that she rolls her own carts out.

Comr. Renée Cahoon - Visitors to Nags Head

Comr. Renée Cahoon pointed out that she has observed that many of the visitors coming to the area this summer do not observe traffic rules, multi-use path ordinances, crosswalk laws, etc.

Comr. Brinkley - National Night Out

Comr. Brinkley expressed his appreciation to the Town's Police Department for last night's National Night Out at Dowdy Park. He said it may be the largest National Night Out event held in the Town.

MAYOR'S AGENDA

Mayor Pro Tem Siers - Neighborhood Entrance Safety

Mayor Pro Tem Siers expressed the need for a study of neighborhood entrances as related to pedestrian/bicycle safety.

Mayor Pro Tem Siers - Upcoming Fire Prevention Night

Mayor Pro Tem Siers stated that he is looking forward to seeing everyone this Thursday night, October 7, 2021 at 5:30 pm at the Douglas Remaley Fire Station #16, for Fire Prevention Night.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Mayor Cahoon was not present.). The time was 11:50 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: November 3, 2021

Mayor: _____
Benjamin Cahoon