



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, SEPTEMBER 1, 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, September 1, 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; Holly White; Eric Claussen; Amy Miller; David Ryan; Phil Webster; Greg South; Randy Wells; Shane Hite; Egan Mansfield; Jerry Hvozdovic, Chase Hundley; Marcelo Mora; Roberta Thuman; Michelle Gray; Dr. Jack Bagwell; Dean Tim Sweeney; and Town Clerk Carolyn F. Morris

**CALL TO ORDER**

Mayor Cahoon called the meeting to order at 9 am. He asked for a moment of silence for those affected by the tragedies in Afghanistan and in Louisiana; this was followed by the Pledge of Allegiance.

**ADOPTION OF AGENDA**

MOTION: Comr. Fuller made a motion to approve the September 1<sup>st</sup> agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

**RECOGNITION**

PRESENTATION - Update from College of the Albemarle (COA)

Dr. Jack Bagwell, President; Mr. Timothy Sweeney, Dean

Dr. Jack Bagwell, President of College of the Albemarle, provided a powerpoint presentation with an update of the new Dare County COA facilities and what services are provided; he stated that Albemarle COA addresses seven (7) counties that are very diverse areas – this construction will serve more across the platform with more programs. All facilities will be consolidated in the building opening in Manteo. Locally Dean Tim Sweeney is the person to contact with questions.

Comr. Renée Cahoon expressed her appreciation of Dean Sweeney and the work he does for the community.

Dean Sweeney thanked the Board for the opportunity to speak and emphasized the scholarship program which provides financial aid to students in a program called Dare Guarantee. This program allows students to attend community college for two years at no cost. The presentation was well received by Board members and they thanked Dr. Bagwell and Dean Sweeney.

## **NEW EMPLOYEES**

Public Works Director Eric Claussen introduced the following new employees: Facilities Maintenance Technicians Egan Mansfield, Jerry Hvozdovic, and Chase Hundley who were welcomed by the Board to Town employment.

Director Claussen also introduced Sanitation Equipment Operator Marcelo Mora who was welcomed by the Board to Town employment. He noted that Sanitation Equipment Operator Edwin Maldonado was unable to attend this morning's meeting.

## **FIFTEEN YEARS**

Police Chief Phil Webster introduced Police Sergeant Greg South who was recognized by the Board for fifteen years of service.

## **PUBLIC COMMENT**

Mayor Cahoon read the emailed comment from W Soundside Road resident Michelle Chimento which read in part as follows:

"Thank you for continuing to hear comments regarding Soundside Road traffic and parking relative to Jockey's Ridge State Park.

"The "no parking/tow away" signage has reduced vehicular parking on Soundside Road. There are fewer vehicles now than prior to the signage, however, people continue to park between the signs at sunset and remain with or in their cars, rather than parking for the day. This is an improvement.

"I must say that I take issue with landscapers (specifically, Morgan Blake Enterprises last week) working along Soundside Road being ticketed. Most of our driveways cannot accommodate their trucks and trailers and they're forced to park along the road for 10-15 minutes at each stop. I understand we cannot cherry pick who is and isn't ticketed, but I have never had a problem with service vehicles parking to do their jobs.

"I appreciate the 3-way stop created at the JRSP beach access. I am amazed that people exiting the park aren't stopping. I have seen drivers roll right through, even though I slow practically to a stop directly in front of their bumper. This is very frustrating because as I've said before, my son rides his bike past the entrance and it's a serious safety concern.

'I believe everyone is aware that no "no parking" signage has been installed along the drive lane at the JRSP access. My gut tells me that a pedestrian will have to be injured before the Park takes action. That is not acceptable.

'Speeding continues. I would love to see the actual vehicular speed flash below the 25 mph and 15 mph speed limits. I've seen these signs along Kitty Hawk Road and in other Dare County locales. They are reasonably small and can be permanently affixed to the posted speed limit sign. I would even contribute financially to the purchase of these for use along Soundside Road. I appreciate your continued focus on our neighborhood issues and your efforts to resolve them."

There being no one present who wished to speak, Attorney Leidy closed Public Comment.

## **CONSENT AGENDA**

The Consent Agenda consisted of the following items:

Consideration of Budget Adjustment #3 to FY 20/21 Budget  
Consideration of New Year (FY 21/22) Tax Adjustment Reports  
Approval of minutes  
Consideration of resolution authorizing the surplus and donation of Police Dept items to COA  
Consideration of three-year Cintas contract for Public Works uniforms  
Consideration of amendment #2 to Beach Nourishment Capital Project Ordinance for beach sprigging  
Housekeeping item - Consideration of Traffic Control Map amendment re: E. Dove Street

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

Budget Adjustment #3, as approved, is attached to and made a part of these minutes as shown in Addendum "A".

The New Year (FY 21/22) Tax Adjustment Reports, as approved, are attached to and made a part of these minutes as shown in Addendum "B".

The resolution authorizing the surplus and donation of Police Dept items to College of the Albemarle, as adopted, read in part as follows:

"WHEREAS, the Board of Commissioners of the Town of Nags Head, North Carolina desires to surplus and dispose of certain Town owned property; AND

'WHEREAS, the Police Department has twenty (20) Motorola XTS 2500 radios and eight (8) Ballistic Vests which were taken out of service in 2020.

'NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Nags Head that:

'In accordance with GS 160A-280. *Donations of personal property to other governmental units*, the following described Town owned property is hereby declared surplus and authorized to be donated to the College of the Albemarle (COA):

'Fixed Asset Number	Description	Original Cost (\$)	Reason for Surplus	Disposal Method
'N/A	Motorola Model XTS 2500	N/A	Radios are at end of life, can no longer find replacement parts	Donation
'N/A	Ballistic vests (8)	N/A	Expired vests that have degraded with age and use"	Donation

The agenda summary sheet requesting three-year Cintas contract for Public Works uniforms, as approved, read in part as follows:

"At the September 1<sup>st</sup> Board of Commissioners meeting, staff is requesting approval to execute the attached contract with Cintas to provide Fleet Maintenance staff with uniform services and shop towels for a multi-year contract from 09/02/2021 to 09/02/2024 at a cost of \$51.91/week.

This contract allows for staff to come to work each day in clean uniforms without the responsibility of personally cleaning chemicals and grease from personal clothing."

The agenda summary sheet re: Amendment #2 to Beach Nourishment Capital Project Ordinance for beach sprigging, as approved, read in part as follows:

"At the August 4, 2021, Board of Commissioners meeting, staff presented consideration of continuing the dune vegetation cost share program. Board consensus was to fund the program up to \$20,000. Additionally, Interim Town Manager Andy Garman brought forward for Board consideration a request from Mr. Donny King on behalf of Better Beaches OBX for Nags Head funding up to \$15,000 towards purchasing beach grass sprigs. Better Beaches OBX would coordinate their service with the Town, volunteering to plant the sprigs in Nags Head. Staff had indicated to the Board a capital project amendment would be brought forward for these items in September as they were approved.

'Amendment #2 to the Beach Nourishment Project Capital Project Ordinance for beach sprigging, as adopted, is attached to and made a part of these minutes as shown in Addendum "C".'

The agenda summary sheet re: the Traffic Control Map amendment for E Dove Street, as approved, read in part as follows:

"At the August 4<sup>th</sup> Board of Commissioners meeting, the Board passed a motion designating E Dove Street as a No-Parking, Tow-Away Zone. This agenda item formalizes that action with an ordinance amending the Traffic Control Map.

'Attached please find the ordinance amending the Traffic Control Map for the Board's consideration on September 1<sup>st</sup>. Also attached please find a map of E Dove Street."

The traffic control amendment, as adopted, read in part as follows:

"BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that the Nags Head Traffic Control Map is hereby amended as follows:

- 'PART I. That in accordance with action taken at the August 4, 2021 Board of Commissioners meeting, that a No Parking - Tow Away Zone be designated for both the north and south sides of E. Dove Street.
- 'PART II. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.
- 'PART III. This ordinance shall become effective upon notation being made on the Nags Head Traffic Control Map and the erection of appropriate signage."

## **PUBLIC HEARINGS**

### Public Hearing to consider adoption of the Town of Nags Head CAMA Land Use Plan Update

Attorney Leidy introduced the Public Hearing to consider adoption of the Town of Nags Head CAMA Land Use Plan Update. He opened the Public Hearing at 9:22 a.m.

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

"The Coastal Area Management Act ("CAMA") requires each of the 20 coastal counties to adopt and receive approval of a land use plan ("CAMA Land Use Plan") developed in accordance with guidelines established by the Coastal Resources Commission, as outlined in the attached *Matrix for Land Use Plan Elements* ("the Matrix"). While not a requirement of CAMA statutes or regulations, the Town and most communities have established that the locally adopted Comprehensive Plan would also serve as the community's CAMA Land Use Plan. While the Town's Comprehensive Plan is not a regulatory document, the Division of Coastal Management may use the Town's CAMA Land Use Plan as the basis to approve or deny CAMA permits; this was a consideration of Staff in the development of the draft Plan, and based upon conversations with DCM and Plan content, Staff believes the scope of the document to serve as a regulatory document has been appropriately and narrowly focused.

'The Nags Head Comprehensive Plan is an official policy document adopted by the Town of Nags Head to strategically plan for and enhance the quality of life and physical character of the community. Development of the Town's Comprehensive Plan involved a two-year, long-range planning effort that updated the 2010 Land Use Plan and incorporated numerous other studies and documents. An Advisory Committee was appointed to assist Staff and the consultant with the project. During the two-year period, there were approximately 20 Advisory Committee meetings, 5 Community Meetings, and over 75 stakeholder interviews to gather public input. The Comprehensive Plan was adopted by the Board of Commissioners July 5, 2017.

'The Town has been working with Division of Coastal Management ("DCM") staff since 2019 to pursue adoption and certification of the Comprehensive Plan as the Town's CAMA Land Use Plan. Attached is a flow chart that explains the certification process. While this has been a lengthy process, Staff has addressed all comments and requested changes issued by DCM and associated agencies in the review of drafts, and is able to move forward with the certification process. Certification of the Town's CAMA Land

Use Plan requires the Town's adoption of the draft Plan following a public hearing. The draft Plan, showing tracked changes from the Town's adopted Comprehensive Plan, may be viewed [HERE](#); upon adoption, a clean version of the document would be forwarded to DCM.

It is important to note that following certification of the Town's CAMA Land Use Plan, it will be necessary for the Planning Board and Board of Commissioners to readopt the Town's Comprehensive Plan, incorporating the changes made to the Comprehensive Plan through the CAMA Land Use Plan certification process.

#### MODIFICATIONS TO THE PLAN

The majority of changes to the Comprehensive Plan requested by DCM were related to grammar, spelling, pagination, numbering, organizational titles, general clarifications, and technical corrections to the Matrix. A summary of significant changes by section is outlined below:

- Section 1: Context & Setting
  - Clarification that the CAMA designated plan could be used to approve or deny CAMA permits.
  - Clarification on how the Plan should be used. (1.1.4)
  - Addressing CAMA specific Key Issues as outlined in 15A NCAC 7B.0801. (1.1.8.)
  - Clarification and update of Permanent & Seasonal Populations Trends (1.1.4. B., page 1-10).
    - Addition of methodology used to determine seasonal population trend.
    - Updated seasonal population.
  - Clarification of existing land uses by both acres and parcels and reconciliation with existing land use map (Table 1.2.1.E.1, page 1-14 – 1-17).
  - Provide characteristics of existing land use classification (page 1-15)
  - Describe Dominant Growth Related Factors (page 1-16)
  
- Section 2: Character Areas
  - Clarifying language to indicate that Fresh Pond is a Small Surface Water Supply Watershed AEC.
  
- Section 3: Natural Resources and Resiliency
  - Describe Areas of Environmental Concern (AEC) (pages 3-50 – 3-51; 3-64 – 3-68).
  - Provide description of soil characteristics (3.3.2 Soils, page 3-75) and limitations for septic tanks and other factors related to development (page 3-133).
  - Description of areas of inundation for SLOSH modeling (Flooding, Storm Surge, page 3-84, 3-86).
  - Recommendation for inclusion in the plan from Division of Marine Fisheries- Investigate further avoidance and/or minimization measures as well as mitigation for unavoidable impacts to submerged aquatic vegetation (Action NR-16f, page 3-107 and Action NR-2a, page 3-60).
  - Clarification that Policy NR-21 is only intended to apply to the oceanfront shoreline (page 3-128).
  - Provide the water quality classification and related use support designation for the Atlantic Ocean (page 3-132).
  - Address water quality monitoring associated with the Division of Marine Fisheries shellfish growing areas and water quality conditions including but not limited to the following: (pages 3-135 – 3-140 and 3-148).
    - Discussion of current situation and trends on permanent and temporary closures of shell fishing waters.
    - Discussion of environmental conditions of Clean Water Act 303(d) list)

- Discussion of status and changes of surface water quality according to the 2007 Pasquotank River Basin wide Plan.
  - Discussion of areas experiencing chronic wastewater treatment malfunctions.
  - Discussion of areas with water quality or public health problems related to non-point and point source pollution.
  - Discussion of private wastewater systems.
- Provide a more detailed discussion of Nags Head's employment by industry type and occupation (page 3-158 – 3-159).
  - Include and describe the Outer Banks National Scenic Byway in Cultural Resources Section (page 3-184).
  - Provide information on the most recent transportation plans and levels of service for roadway segments (page 3-223).
  - Include map of South Nags Head existing and planned multimodal transportation systems (page 3-231).
  - Describe future water supply needs based on population projections (Section 3.8.4. Water Operations and Distribution, pages 3-261 – 3-263).
  - Describe water supply watersheds or wellhead protection areas (Section 3.8.4. Water Operations and Distribution, page 3-262).
  - Section 5: Appendices
  - Addition of reference materials needed to support CAMA documentation.

**STAFF RECOMMENDATION**

Staff recommends adoption of the draft CAMA Land Use Plan.

**PLANNING BOARD RECOMMENDATION**

The Planning Board discussed the Plan at their July 20, 2021 meeting and recommended approval unanimously."

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

**MOTION:** Comr. Renée Cahoon made a motion to adopt the draft CAMA LUP as modified. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Comr. Fuller confirmed with Director Zehner that the LUP and the Comprehensive Plan are usually reviewed together so the next review would be in 2027. However, Director Zehner noted that staff will review the timeline to make sure it is consistent/correct.

Public Hearing to consider a text amendment to the Unified Development Ordinance pertaining to lot coverage associated with recycling dumpsters

Attorney Leidy introduced the Public Hearing to consider a text amendment to the UDO pertaining to lot coverage associated with recycling dumpsters. He opened the Public Hearing at 9:34 a.m.

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

"As the Board of Commissioners will recall, an amendment was recently adopted to address the siting of dumpsters, exempting associated lot coverage in certain instances:

*8.6.6.7.6.* For a preexisting use, when the service orientation of a dumpster is being converted, or when a dumpster is required to be obtained, consistent with the applicable requirements of the Town Code, any additional lot coverage in excess of the maximum allowable lot coverage and necessary to meet the Town's minimum requirements for a dumpster pad, as determined by the Public Works Director of his/her designee, shall be exempt from the lot coverage requirements of this UDO.

"When discussing this amendment, the Board requested that Staff also pursue a similar exemption for lot coverage associated with dumpsters for recyclables. The circumstances associated with recycling dumpsters are slightly different than those associated with the former text amendment, as there is no requirement that recyclables be separated, and therefore no requirement that a dumpster be provided. However, Staff perceived that the intent of the majority of the Board was to remove potential barriers to recycling, where lot coverage limits may preclude a property owner from being able to locate a dumpster on a property.

"The Planning Board considered this amendment at their meeting on July 20, 2021, where Staff presented two options, both generally the same, but codified differently. While one member of the Board did express concerns about exemptions from lot coverage having the effect of cumulatively increasing actual lot coverage, which may result in stormwater issues, the Board ultimately recommended approval of the amendment unanimously (the version adding a new code section). Staff did note that while the amendment would exempt this area from lot coverage, that the dumpster location and pad would still be subject to location limits, as well as stormwater regulations

#### 'CODE CONSIDERATION

Allowable lot coverage, related to zoning district and use types is established within Section 8.2.1., *Dimensional Requirements*, of the UDO. Section 8.6.6., *Lot Coverage*, of the UDO establishes specific requirements for the administration of lot coverage, and Section 8.6.6.7., *Exclusion of Lot Coverage Calculation*, as follows, outlines those instances where lot coverage may otherwise be exempted or excluded.

#### *'Exclusion from Lot Coverage Calculation.*

- When access easements are provided in accordance with Section 10.47, Limiting Access to US 158, US 64/264, NC 12, and SR 1243, and Section 10.51, Requirements for and Contents of Preliminary Plat and Supporting Documents, a maximum of twenty (20) feet for two-way and fourteen (14) feet for one-way improved access surface areas shall be excluded from individual lot coverage calculations. This exemption shall also apply to existing legal lots of record meeting the lot frontage requirements of Section 10.47 and further provided that the requirements of Section 10.51 are met and where such access has been approved by the planning and development director and recorded on a subdivision plat in accordance with this UDO. This exception shall be applicable only for single-family and two-family uses for access only and shall not be used for the parking of vehicles and shall be noted in the covenants and deed restrictions required by Section 10.51.

- Portions of built-in railing benches constructed in accordance with Appendix B, Town of Nags Head Residential Design Guidelines extending beyond the building footprint shall be excluded from individual lot coverage calculations.

- When an existing or proposed commercial parking lot is designed and or modified to allow two-way vehicular traffic and pedestrian flow between adjoining commercial properties in commercial zoning districts the following exclusions of lot coverage shall apply provided the lot coverage exclusions of this section shall not apply to lot coverage within cross-easements located within an estuarine AEC:
- Up to two hundred twenty (220) square feet of the lot coverage within the shared vehicular travel area included within a recorded cross-easement may be excluded from the lot coverage calculation of each lot for the purpose of constructing the shared vehicular travel access.
- Up to seventy-five (75) square feet of lot coverage for handicap accessible, pedestrian sidewalk area within a shared cross-easement may be excluded from the lot coverage calculation of each lot for the purpose of constructing the shared pedestrian sidewalk.
- Up to a maximum of two hundred (200) square feet of lot coverage if one or more bicycle racks are located on improved surfaces in compliance with the requirements of subsections 10.15.1.2., 10.15.2.5., and/or 10.92.15.3.
- Municipally owned walkways, boardwalks, multi-use paths and sidewalks are exempt from the lot coverage requirements of this UDO.
- For a preexisting use, when the service orientation of a dumpster is being converted, or when a dumpster is required to be obtained, consistent with the applicable requirements of the Town Code, any additional lot coverage in excess of the maximum allowable lot coverage and necessary to meet the Town's minimum requirements for a dumpster pad, as determined by the Public Works Director of his/her designee, shall be exempt from the lot coverage requirements of this UDO.

#### 'POLICY CONSIDERATIONS

The Municipal Services Element of the Comprehensive Plan addresses recycling, providing the following associated policy and actions:

- MS-13 Provide for the most effective and economical collection and disposal/recycling of commercial and residential solid waste that meets community expectations for cleanliness and appearance. The town should work to provide service to all generators of solid waste emphasizing reuse and recycling practices over disposal.
- MS-13a: Explore expansion of the town's recycling program to add new types of waste items as recycling technology evolves and markets for recycled materials develop.
- MS-13b: Research and plan for expansion of town-wide recycling service to commercial properties and/or those properties not serviced by the existing residential curbside service in order to meet the town's stated goal of 40 percent waste reduction by 2022 (from the Solid Waste Management Plan).
- MS-13c: Monitor recycling tonnage from the town's residential program and employ methods such as education programs to improve recycling participation. This could include working with rental agencies, property owners associations, and directly with homeowners to provide marketing and educational materials on the town's program.
- MS-13d: Explore programs and/or develop and enforce regulations that limit the timeframe residential carts sit adjacent to roadways.
- MS-13e: Monitor community growth and demands for service and plan for recommended increases

in manpower and equipment when necessary. Additional measures or benchmarks are needed to determine when demand exceeds the capacity of current resources to maintain service levels.

- MS-13f: Consider technologies including RFID tags to improve collections data which will provide the town with information that it can use to refine service levels.
- MS-13g: Actively engage staff in the update to the Solid Waste Management Plan and review its goals for recycling and waste reduction.
- MS-13h: Develop and conduct progressive educational programming aimed at reducing waste and promoting reuse and recycling.

The Comprehensive Plan also includes policies and actions valuing existing lot coverage limits as a way to address development intensity or density, as well as stormwater management.

#### PLANNING BOARD RECOMMENDATION

As noted, the Planning Board voted unanimously to recommend approval of one of the two options for the text amendment as presented by Staff.

#### STAFF RECOMMENDATION

While the Comprehensive Plan includes policies valuing lot coverage limits, Staff is of the opinion that those are perhaps intended to address the development intensity or density of uses directly, rather than solid waste collection, and specifically recyclable collection aspects of a developed site. Regardless, it is important to note that while potentially exempted from lot coverage limits, such areas would still be subject to location limits, and may also be subject to stormwater regulations. And further, exempting such lot coverage would work to advance policies and actions related to solid waste, reuse, and recycling. Therefore, Staff is of the opinion that an associated amendment is consistent with the Town's adopted Comprehensive Plan and is reasonable and in the public interest, and recommends adoption of an amendment to add a Section 8.6.6.7.7., as follows, to follow the recently adopted section pertaining to refuse dumpsters:

- For the siting of a dumpster for the collection of recyclables, any additional lot coverage in excess of the maximum allowable lot coverage and necessary to meet the Town's minimum requirements for a dumpster pad, as determined by the Public Works Director or his/her designee, shall be exempt from the lot coverage requirements of this UDO.

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

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

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

There being no one present who wished to speak, Attorney Leidy closed the Public Hearing at 9:38 a.m.

MOTION: Comr. Renée Cahoon made a motion to adopt the ordinance amending the Unified Development Ordinance pertaining to lot coverage and recycling dumpsters as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

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

### Update from Planning Director

Planning Director Zehner summarized his monthly 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 September 1, 2021.

### Monthly Activity Report

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:

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

### 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.” The attached is a draft Project Scope for a Phase 1 project to plan for eventual renovations and/or improvements to Whalebone Park. 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.

#### 'Planning Board - Pending Applications and Discussions

The Planning Board's most recent meeting was held on August 17, 2021 and included consideration of a sketch plan for a cottage court development at 3006 S. Virginia Dare Trail, preliminary discussions concerning a potential text amendment to the Soundside Residential Overlay District requirements, an interview of the Board as stakeholders for the update of the Town's Decentralized Wastewater Management Plan, and review of the draft scope for the Whalebone Park - Phase 1 project.

'The Board's next meeting is scheduled for September 21, 2021. At this time, the agenda is expected to include continued discussion regarding the amendments to allow temporary accommodations for outdoor dining, and may include consideration of the site plan and special use permit for the cottage court development at 3006 S. Virginia Dare Trail, a text amendment to the Soundside Residential Overlay District regulations, and discussion with the Home Builders regarding the LID Manual and residential stormwater regulations.

#### 'Additional Updates

- Decentralized Wastewater Management Plan - To this point, five 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. During the week of August 16, ten separate meetings were held with individual and group stakeholders.

The most recent meeting held on August 19, 2021 included a discussion concerning the focus of data collection and analysis, and the goals of data collection and analysis activities, as well as a discussion of the takeaways from stakeholder interviews held thus far.

The next meeting of the Committee is scheduled for September 16, 2021, with the focus expected to be on the results of data collection and analysis, and presentation of conclusions. In the interim, additional interviews with identified stakeholder groups are expected to have been completed.

- 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, and Staff is working to make a final selection to begin contract negotiations.

CAMA Land Use Plan Update - An item is included on the Board of Commissioners September 1, 2021 agenda to hold a public hearing and consider adoption of the draft CAMA Land Use Plan. Adoption will result in the Plan being sent to the Division of Coastal Management for certification.

- Electric Vehicles Action Plan - There has been no update since the last Director's Report. 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 - 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.
- LID Manual; Review of Residential Stormwater Regulations - As directed by the Board of Commissioners, Staff has contacted representatives of the Outer Banks Home Builders Association to request a meeting to discuss the LID Manual and the Town's residential stormwater regulations. Staff has suggested that this meeting be held prior to scheduling a further discussion with the Planning Board. A meeting is expected to be held in September, with discussion with the Planning Board anticipated for September 21, 2021.
- ETIPP Project/Program - A final project scope was approved on July 23, 2021. The technical assistance component will begin with a kickoff meeting scheduled for September 9, 2021.
- NC AIA Activate Technical Assistance - A kickoff and project scoping meeting was 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 and partners are currently identifying and collecting relevant data, identifying stakeholders, and preparing a questionnaire for the public.
- Flood/Tide Gauges - 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 - Included on the Board of Commissioners' agenda for September 1, 2021 is consideration of an updated Town Street Lighting Policy; if adopted, 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 - Following the market on August 26, there will be two more markets held on September 2 and September 9. Yoga classes continue to be held on Tuesdays at 7pm, and are expected to continue to mid-October. One additional band is scheduled to perform on Wednesday, September 1, 2021. Staff is evaluating whether funds are available to hold two

Friday-night movies in September and 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).

- Grants and Assistance
  - There has been no update since the last Director's Report. 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.
  - 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.
  - As authorized, Staff submitted a final application for a CAMA Access Grant for improvements to the Epstein Beach Access on August 16, 2021.
  - Staff is anticipating submitting an LOI for the FEMA Building Resilient Infrastructure and Communities ("BRIC") grant program, which focuses funding on projects to make infrastructure more resilient. This LOI would be due October 1, 2021.

#### 'Upcoming Meetings and Other Dates

- Thursday, August 26 - Farmer's Market
- 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 - Farmer's Market
- 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 Whalebone Park Scope was presented and read in part as follows:

#### 'Introduction & Goals

The intent of the Whalebone Park - Phase 1 project is to evaluate the need for renovations and/or improvement of Whalebone Park. This project would serve as a continued implementation of the Town's *Comprehensive Plan*, *Town of Nags Head Parks and Recreation Plan*, and the *Nags Head Pedestrian Plan*.

The Park is located in the Whalebone Junction Character Area, a busy commercial, recreational, and seasonal lodging node that serves as both a welcome point and destination for visitors into the Town of Nags Head. The primary goals of this project are to:

1. Identify current issues and constraints that prevent the Park from being utilized as intended or limit the Park's opportunities as a resource.
2. Identify opportunities to improve the active/passive recreational and cultural use of the Park; and
3. Determine what connections to amenities outside of the Park should be prioritized and improved, and what amenities can be provided in the Park that would be resources to the Whalebone Junction Character Area.

Through achieving these goals, recommendations would be developed that would inform design and construction under a future implementation phase.

#### Funding

Funds allocated in the FY21-22 budget: NA; the adopted budget indicates that Phase 1 involves a study to determine opportunities for the improvement of Whalebone Park, a precursor to the FY22-23 programmed project (Phase 2; \$250,000 in grant funding to be sought) for renovation and improvement of amenities at the Park.

#### Resources

Michael Zehner, Director of Planning & Development, and Kate Jones, Senior Environmental Planner will serve as the primary Town Staff assigned to this project, and coordinate management of the project. Additionally, Staff expects to engage the members of the Town's Planning Board and Committee for Arts and Culture through the duration of the project.

#### Scope

The scope for the project, including the primary tasks, are as follows:

#### Tasks

Inventory Whalebone Park existing conditions and assess existing use.

Coordinate stakeholder input and public input from the broader community with regard to the use and redevelopment of the park.

Identify constraints that impact the use of the park.

Identify opportunities to improve the use and function of the Park for both tourists and year-round residents.

Identify potential funding options for improvements.

Develop and present findings and recommendations to Board of Commissioners for acceptance/agreement.

Tasks under future Phases are anticipated to include:

#### Park Program Recommendations and Feasibility Tasks

Based on findings from Phase 1 and input/action by Board of Commissioners, develop a request for

proposals for conceptual design/development by a consultant.

'Identify and investigate opportunities for partnerships in the renovation of the Park.

'Present findings to Board of Commissioners for acceptance/agreement and/or prioritization before proceeding to next phase.

*'Conceptual Design Development Tasks*

Select consultant to develop a conceptual plan(s) for the Park. This may include multiple plans that are developed with varying degrees of improvements and modifications.

'Gather public and stakeholder feedback for the conceptual designs.

'If applicable, identify budgetary needs for design and construction costs, work to formalize identified partnerships, and/or make initial preparations for procurement efforts.

'Present findings and final report to Board of Commissioners for acceptance/adoption."

Comr. Renée Cahoon stated that the biggest issue she sees at Whalebone Park is overall maintenance, the need for shade, and the need for a restroom facility.

In response to a question from Comr. Renée Cahoon, Director Zehner is to make sure the Board has access to all Planning Board minutes.

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

From Aug 4<sup>th</sup> Board meeting - Consideration of revised Street Lighting Policy

Planning Director Michael Zehner summarized his memo concerning Street Lighting Policy which read in part as follows:

"At their August 4, 2021 meeting, Staff presented further information to the Board relative to Dominion's planned conversion of streetlights in the Town from High-Pressure Sodium ("HPS") lamps to LED. Based upon the following points and feedback provided by the Board, Staff has prepared the attached draft amended and updated Town *Street Lighting Policy*:

1. The Policy should be flexible enough to account for future changes in technology;
2. It would not be an issue if streetlights provided slightly more light on the ground;
3. A Correlated Color Temperature ("CCT") of 3,000K is acceptable; nothing greater;
4. There is no fixture preference, necessarily, except that fixtures closer to the ocean should be "friendly" to turtle nesting and Dark Sky compliant;
5. There should be streetlights at every westside intersection of a residential subdivision street with US 158; traditional colonial style would be acceptable.
6. The decorative shoebox style light is preferred over the cobra style light.
7. The contemporary style light is not appropriate at beach access rights-of-way.

'Please note, the current policy refers to Section 38-156 of the Town Code, which was the citation for lighting requirements for subdivisions prior to the UDO. The new section within the UDO is Section 10.71,

as follows, which provides the same requirements as the former section. Generally, the Policy included the same requirements, so a reference to a specific code section has been removed.

#### SECTION 10.71 STREET LIGHTING.

##### 10.71.1. Number; Locations.

The subdivider shall install street lighting having a suggested separation of three hundred (300) feet and maximum separation of five hundred (500) feet, including at least one light at each intersection or street bend of sixty (60) degrees or more. Installation shall be on the street right-of-way; provided, however, that within the SED-80 district, street lighting shall neither be required nor permitted.

##### 10.71.2. Specifications.

Streetlights must have the following minimum specifications: 3,300-lumen mercury vapor lights mounted on noncorrosive poles, which poles are designed to accommodate underground wiring and of strength and corrosive resistance equivalent to pre-stressed concrete.

##### 10.71.3. Design.

The design of the streetlight units may be selected by the subdivider with the requirement that the design shall be standard throughout the subdivision and be of compatible design with the street lighting of existing adjoining subdivisions, as determined by the Planning Board.

##### 10.71.4. Location of Power Lines.

The location of electric power lines for streetlights shall be underground. The cost of the installation of underground wiring shall be borne by the subdivider.

Staff would suggest the Board's review of the draft revised Policy, adoption of the Policy if determined to be acceptable, or direction if further refinements are preferred.

#### 'Amber Lights

As previously noted, Dominion has offered to provide a demonstration installation of "amber" light fixtures (identified as being more "turtle-friendly"). The Board previously indicated their support for this and it is expected that Dominion will be moving forward with a demonstration at all of the locations identified below as being potentially suitable:

- Gallery Row Access
- Abalone Access
- Blackman Access
- Bladen Access
- Curlew Access
- E. Tides Drive (2 lights)
- Gulfstream Access"

**MOTION:** Comr. Brinkley made a motion to approve the Street Lighting Policy as presented with the 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. The motion was seconded by Comr. Fuller.

Mayor Pro Tem Siers confirmed with Director Zehner that the policy only relates to street lights.

**CONTINUATION OF MOTION:** The motion passed unanimously.

The Street Lighting Policy, as approved, is attached to and made a part of these minutes as shown in Addendum "E".

Comr. Fuller asked that the Board continue to be informed of any residential lighting issues involving neighborhood properties that staff receives.

In response to Mayor Cahoon, Interim Manager Garman is to follow up with Dominion Energy for an update on the new utility poles that were to be installed along US 158.

In response to Comr. Renée Cahoon, Police Chief Webster is to contact the S Nags Head Comfort Inn concerning a blue LED light that she can see from her store to make sure it is legal.

From Jul 7<sup>th</sup> Board meeting - Appointments to Estuarine Shoreline Management Plan Advisory/Steering Committee

The agenda summary sheet concerning appointments to the Estuarine Shoreline Management Plan Advisory/Steering Committee read in part as follows:

"In support of the development of the Town's Estuarine Shoreline Management Plan, the project scope included the appointment of an advisory or steering committee. The role of the committee will be to provide overall guidance on the development of the Plan, providing direction to staff and the assigned consultant, to help identify and engage stakeholders, and to attend community meetings. Members will attend periodic meetings over a 12-month period dependent on the project schedule. Ten (10) applicants applied to participate as advisory committee members for the Estuarine Shoreline Management Plan. Staff has attached the information submitted by applicants for the Board's review and consideration.

'Staff Recommendation

Planning Staff recommends that the Board consider and appoint volunteers to the project Advisory/Steering Committee."

Principal Planner Holly White summarized her memo which read in part as follows:

"The Estuarine Shoreline Management Plan was identified as an action in the Town's Comprehensive Plan (2017) and VCAPS Report (2017). In spring of 2020, staff applied for and received a National Fish and Wildlife Foundation Grant (NFWF) for \$75,000.

The grant, along with \$75,000 in matching funds and in-kind staff time from the Town, as well as assistance from the Coastal Studies Institute, will support the development of the Plan.

'As highlighted in the April 1, 2021 Planning & Development Director's Report, [HERE](#), a draft scope was prepared and subsequent RFQ released on May 24, 2021 soliciting consultant services to assist in the development of the Plan. The RFQ closed on July 7, 2021, with nine (9) responses being received. As noted in the Director's Report dated July 28, 2021, a Staff evaluation committee, with input from CSI partners, met to select respondents for interviews. Currently, Staff is in the process of finalizing interviews and selecting a preferred consultant. As authorized by the Board at their June 2, 2021 meeting, Staff released a call for Advisory Committee volunteers on July 2, 2021; the call closed on August 4, with ten (10) applications received. Commissioner Fuller previously expressed an interest in representing the Board as a member of the Advisory Committee.

#### 'ADVISORY COMMITTEE FORMATION

The role of the Advisory Committee will be to provide overall guidance on the development of the Plan, providing direction to staff and the assigned consultant, to help identify and engage stakeholders, and to attend community meetings. Members will attend periodic meetings over a 12-month period dependent on the project schedule. Ten (10) applicants applied to participate as Advisory Committee members for the Estuarine Shoreline Management Plan. Staff has attached the information submitted by applicants for the Board's review and consideration.

'In addition to the ten (10) volunteers, representatives of the Nature Conservancy, Jockey's Ridge State Park, and the Nags Head Golf Links have also indicated their interest in participating, and their appointment to the Committee would be recommended in support of the project scope and NFWF grant. Based on this, and Commissioner Fuller's participation, the Committee would begin with four (4) members, to be rounded out with additional members from the ten (10) volunteers, as appointed by the Board.

'In addition to the members of the Advisory Committee, Staff also recommends that the Coastal Federation be invited to participate and provide technical expertise during the planning process, in a similar capacity to the Coastal Studies Institute (CSI), while not serving as members of the Advisory Committee.

'Staff would invite the Board to review the attached applications submitted and select additional volunteers for appointment to the Advisory Committee. Staff appreciates the interest received from the community; while it is not likely possible for the Board to appoint all those who have expressed interest, it is important to note that significant public engagement is expected to take place in the development of the Plan."

**MOTION:** Mayor Pro Tem Siers made a motion to appoint the full docket (10 people) of those interested in serving to the Estuarine Shoreline Management Plan Advisory/Steering Committee. The motion was seconded by Comr. Brinkley which passed unanimously.

The appointees are as follows:

Adnan Jalil; Ann Daisey; Cola Vaughan; Louisa Farr; Mike Kelly; Michael O'Steen; Molly Harrison; Ralph Buxton; Randy Blanton; and Robert Netsch.

#### **NEW BUSINESS**

##### Committee Reports

Comr. Fuller - Dare County Tourism Board - The DCTB is moving forward with the development of the Soundside walkway, in cooperation with Nags Head.

##### Consideration of resolutions in support of annual fishing tournaments for Fraternal Order of Eagles (FOE) and Outer Banks Association of Realtors (OBAR)

The agenda summary sheet concerning annual fishing tournaments for Fraternal Order of Eagles and the Outer Banks Association of Realtors read in part as follows:

"Last year the Fraternal Order of Eagles and the Outer Banks Association of Realtors annual surf fishing tournaments did not take place due to the COVID-19 pandemic.

'Attached please find letters of request from Ed Snyder, Jr. of Fraternal Order of Eagles #4506 for a tournament on Saturday, October 30, 2021 and from Karen Pierce of the Outer Banks Association of Realtors for a tournament on Friday, October 15, 2021.

'Also attached please find the associated resolutions of support - for your consideration at the September 1<sup>st</sup> Board of Commissioners meeting."

Mayor Cahoon read the Fraternal Order of Eagles resolution as follows:

"WHEREAS, the Fraternal Order of Eagles, Aerie #4506 is sponsoring its annual Surf Fishing Tournament October 30, 2021; AND

'WHEREAS, in accordance with Section 8-83 (b) (3) of the Nags Head Code of Ordinances, the Fraternal Order of Eagles, Aerie #4506 submitted a request on August 19, 2021 for the Town of Nags Head to issue 30 (two permits per team of six) short-term beach driving permits to the Fraternal Order of Eagles, Aerie #4506 to be distributed to participants in its annual surf fishing tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue 30 short-term beach driving permits to be distributed to participants in its annual Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament to be held Saturday, October 30, 2021. These special permits will be valid for one day, Saturday, October 30, 2021.

'Only six (6) shall be allowed per team fishing in the tournament. Only three (3) vehicles per team allowed on the beach at any time during the tournament.

'The Fraternal Order of Eagles, Aerie #4506 is responsible for the distribution of all short-term beach driving permits for the 2021 Fraternal Order of Eagles, Aerie #4506 Surf Fishing Tournament. No short-term permits for the tournament will be issued by Staff.

'The name of the team and town to whom a permit is issued shall appear on each permit.

'Prior to the start of the tournament, the Fraternal Order of Eagles, Aerie #4506 shall provide the Nags Head Town Clerk with a list showing the team name or tournament official and the numbers of the permits issued to each.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Fraternal Order of Eagles, Aerie #4506.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'The short-term beach driving permit MUST be in the possession of the team at all times. The permit is not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach."

Comr. Brinkley clarified that only three vehicles per team are to be on the beach during the tournaments.

MOTION: Comr. Brinkley made a motion to adopt the resolution re: Fraternal Order of Eagles Surf Fishing Tournament [scheduled for Saturday, October 30<sup>th</sup>] as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

Mayor Cahoon read the Outer Banks Association of Realtors resolution as follows:

"WHEREAS, the Outer Banks Association of Realtors is sponsoring its annual Surf Fishing Scholarship Tournament October 15, 2021; AND

'WHEREAS, in accordance with Section 8-83 (b)(3) of the Nags Head Code of Ordinances, the Outer Banks Association of Realtors submitted a request on August 26, 2021 for the Town of Nags Head to issue 85 (35 teams, up to 6 per team plus 5 for judges and scorers) short-term beach driving permits to the Outer Banks Association of Realtors to be distributed to participants in its annual Surf Fishing Scholarship Tournament.

'NOW, THEREFORE BE IT RESOLVED by the Town of Nags Head Board of Commissioners that the Town of Nags Head is pleased to offer its assistance for the Surf Fishing Scholarship Tournament this year.

'BE IT FURTHER RESOLVED as follows: The Town Clerk is authorized to issue 80 short-term beach driving permits to be distributed to participants in its annual Surf Fishing Scholarship Tournament to be held Friday, October 15, 2021. These special permits will be valid for one-day Friday, October 15, 2021.

'Only six (6) shall be allowed per team fishing in the tournament. Only three (3) vehicles per team allowed on the beach at any time during the tournament.

'The Outer Banks Association of Realtors is responsible for the distribution of all short-term beach driving permits for the 2021 Surf Fishing Scholarship Tournament. No short-term permits for the tournament will be issued by Staff.

'The name of the team and town to whom a permit is issued shall appear on each permit.

'Prior to the start of the tournament, the Outer Banks Association of Realtors shall provide the Nags Head Town Clerk with a list showing the team name or tournament official and the numbers of the permits issued to each.

'A pamphlet (to be provided by the Town) on Regulations Governing Beach Vehicular Traffic in the Town of Nags Head shall be supplied with each permit distributed by the Outer Banks Association of Realtors.

'Each permit shall be displayed on the inside front windshield on the passenger side of the vehicle, even if a normal Nags Head Beach Driving Permit is already displayed.

'The short-term beach driving permit MUST be in the possession of the team at all times. The permit is not transferable.

'The Town of Nags Head Beach Driving Ordinance is to be strictly enforced by the Nags Head Police Dept.

'Should the weather or high tide call for the closure of the beach or a section of the beach, the Town Manager will close the beach.'

MOTION: Mayor Pro Tem Siers made a motion to adopt the resolution re: Outer Banks Association of Realtors Surf Fishing Tournament [scheduled for Friday, October 15<sup>th</sup>] as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

Consideration of resolution opposing the US Fish & Wildlife Service's proposed designation of critical habitat for the Red Knot Rufa

The agenda summary sheet read in part as follows:

"The US Fish & Wildlife Service is proposing the designation of critical habitat for the Red Knot Rufa. To the extent that this designation might close beaches during the Towns' and the County's beach nourishment project construction windows, it could significantly impact ability to construct projects and could increase costs if required to construct outside current scheduled windows. Carteret County has also expressed concern as to the effect this may have on their beach nourishment and dredging projects and has adopted a similar resolution.

'Attached please find a resolution opposing the US Fish & Wildlife Service's proposed designation of critical habitat for the Red Knot Rufa for the Board's consideration at the September 1<sup>st</sup> Board of Commissioners meeting.'

Mayor Cahoon read the proposed resolution as follows:

"WHEREAS, on December 11, 2014, the United States Fish and Wildlife Service (USFWS) listed the Red Knot Rufa shorebird as a threatened species under the auspices of the Endangered Species Act and disclosed that a compulsory critical habitat designation would be forthcoming in 2015; AND

'WHEREAS, the designation of critical habitat can impact a wide variety of coastal projects involving federal action, which include activities or programs of any kind authorized, funded, or carried out, in whole or in part by federal agencies pertaining to coastal and inlet management activities, such as dredging and beach renourishment projects that are permitted, and/or funded and implemented by the United States Army Corps of Engineers and hurricane recovery activities financially supported by the Federal Emergency Management Agency; AND

'WHEREAS, other federal actions can involve the administration of the National Flood Insurance Program, implementation of building codes, federal grants for public access and infrastructure improvements, and other programs/policies; AND

'WHEREAS, on July 15, 2021 and nearly seven years after listing the Red Knot Rufa as threatened, the USFWS is proposing to indiscriminately designate ALL of the Bogue Banks oceanfront shoreline (25.4 miles) as critical habitat identified as "Unit NC-4 (Emerald Isle-Atlantic Beach)", encompassing a total geographic footprint of 2,030 acres (1,908 acres State + 122 acres private); AND

'WHEREAS, Bogue Banks (Unit NC-4) has never been identified as an important stopover for the Red Knot Rufa in any previous publication authored by the USFWS; AND

'WHEREAS, the USFWS also specifically disclosed special management considerations for the Red Knot Rufa will be necessitated to address threats to critical habitat and are divided into seven categories, and moreover some the activities cited in these categories include; recreational beach use, beach driving, predation, beach nourishment, sand fencing, dredged material disposal, inlet relocation, and human-caused disasters; AND

'WHEREAS, these special management considerations therefore can unnecessarily and negatively impact the local, State, and federal economies; and the public's access and enjoyment of the beach; AND

'WHEREAS, not only has the USFWS proposed all of Bogue Banks to be designated as critical habitat but all of the remaining beaches of Carteret County as well which includes over 56 miles of oceanfront shoreline encompassing the entire Cape Lookout National Seashore as Units NC 2A, 2B, and 3, meaning all +81 miles of Carteret County oceanfront shoreline is proposed as Red Knot Rufa critical habitat; AND

'WHEREAS, the USFWS has also proposed to extend the continuous Red Knot Rufa critical habitat in Dare County along the entire oceanfront shoreline of the Cape Hatteras National Seashore as well as Units NC-1A and 1B, representing approximately 70 miles of oceanfront shoreline and when combined with the Carteret County reach of 81 miles; totals over a 150 continuous mile stretch of North Carolina oceanfront that is proposed as Red Knot Rufa critical habitat; AND

'WHEREAS, the proposed designation of a 150-mile continuous stretch of Red Knot Rufa oceanfront shoreline strongly implies the USFWS designation methodology is too sensitive and broad, and therefore is capturing all habitat instead of critical habitat for the Red Knot Rufa.

'NOW, THEREFORE, BE IT RESOLVED, that the Town of Nags Head is strongly opposed to the USFWS proposed designation of Red Knot Rufa critical habitat along the shorelines of Bogue Banks (Unit NC-4) as set forth in Document Number 2021-14406 of the Federal Register and will work with State and federal resource officials and elected representatives to ensure the critical habitat designation, as proposed, is not included in the final rule.

'BE IT FURTHER RESOLVED that the Town of Nags Head Board of Commissioners hereby requests the USFWS revisit the Red Knot Rufa critical habitat designation methodology in a manner resulting in a more fine-tuned designation of important habitats for the Red Knot Rufa rather than broad, indiscriminate continuous stretches of oceanfront shoreline; most notably, an unprecedented 150-mile continuous stretch in North Carolina."

Mayor Cahoon explained that although Nags Head is not specifically included, it does include Hatteras/Dare Country and this indiscriminate action could affect the Town and is not appropriate.

Comr. Renée Cahoon pointed out that the resolution is not narrowed down enough - it is too broad; she agreed that Dare County is impacted if there is any change to Hatteras beaches.

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution opposing the designation by US Fish and Wildlife Service of Red Knot Rufa as Critical Habitat, amending the first WHEREAS statement with "Carteret" from "Carteret" to "Dare". The motion was seconded by Comr. Brinkley which passed unanimously.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY**

### Town Attorney Leidy - Request for Closed Session

Town Attorney Leidy identified the items he had for Closed Session; Mayor Cahoon noted that Attorney Leidy's request for Closed Session will be addressed at the appropriate time in the meeting.

## **ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER**

### Interim Town Manager Andy Garman - Project updates

**a)** NCDOT Traffic Studies/Crosswalk Recommendations – Public Works Director Claussen presented a PowerPoint presentation which is attached to and made a part of these minutes as shown in Addendum "F". Highlights of the discussion include the following:

- Public Works Director Claussen first provided a verbal update: NCDOT has collected traffic volume counts and is currently conducting a traffic study for the intersection of Grey Eagle/US158; In addition, NCDOT is working with their Wilson Office to review options to improve traffic circulation and safety at the intersection of NC12/OOIR; Lastly, NCDOT will be installing the two lighted pedestrian pushbutton signs at the NC12 crosswalks at the Jennette's Pier and Bonnett Street locations.

- Director Claussen then presented an update on crosswalk recommendations with a PowerPoint presentation – The existing supplemental signs that are displayed below the pedestrian crosswalk signs do not meet the intent of the MUTCD; If used, the existing signs, shall be placed in the middle of the street on the yellow lane line, however, there are turning movement conflicts at 18 of the 42 pedestrian crosswalks along NC12; Another option was presented, using Yield to Pedestrian signs and Yield Bars, which could be installed more consistently along NC12; Staff has communicated with NCDOT on the appropriateness of these applications along the beach road and if NCDOT would be willing to install and maintain; Additionally, staff is to obtain the cost of additional pushbutton lighted pedestrian signage; and to analyze the installation of a new sidewalk connection between Baymeadow/US158 along the south side of Seachase as well as make recommendations to improve the pedestrian crossing at Seachase/NC12.

It was Board consensus for staff to provide additional updates from NCDOT at next month's meeting re: the above for final Board review/discussion.

Director Claussen is to find out additional information re: if DOT maintains pushbutton actuations for the lighted crosswalk signs; he also mentioned that a standalone trail/pedestrian counter could provide the Town with that data.

It was Board consensus for staff to provide additional details at next month's meeting re: both the Sea Chase short sidewalk and crosswalk pedestrian safety for further discussion.

Mayor Cahoon also noted that he does not want to lose sight of the need for a discussion on an appropriate speed limit for the Beach Road.

**b)** Beach Driving ordinance – Interim Town Manager Garman summarized his agenda summary sheet which read in part as follows:

"Attached please find a revised Beach Driving ordinance prepared by staff and reviewed by Town Attorney John Leidy. The draft ordinance is provided for Board review and discussion at the September 1<sup>st</sup> Board of Commissioners meeting."

Comr. Fuller clarified that vehicle definitions applies to whatever section/chapter of the code it is located; he wants to make sure that the beach driving pamphlets that are distributed emphasize that beach driving can be closed at any time, as conditions warrant. He wants the public to have that information in writing.

Comr. Brinkley said that he appreciated the changes that were made to the ordinance such as doing regular surveys and closing the beach as necessary; he also agreed there should be an aggressive police presence on the beach to avoid conflicts.

Mayor Cahoon confirmed with Interim Manager Garman that the Town of Kill Devil Hills is not opposed to these changes.

Comr. Renée Cahoon agreed with Comr. Brinkley's comments to have a strong police presence on the beach.

Mayor Pro Tem Siers agreed with the comments made by Board members; he asked about a possible cost increase; Staff is to follow up with the Town of Kill Devil Hills re: increase of cost of beach driving permits to \$30.

MOTION: Comr. Renée Cahoon made a motion to adopt the updated Beach Driving Ordinance as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

The Beach Driving Ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "G".

**c)** Summary of Waste Reduction Task Force items – Interim Town Manager Garman summarized his memo which read in part as follows:

"The Waste Reduction Task Force's charge included the following items:

- Waste reduction initiatives – Refuse, Reduce, Reuse, Recycle, Rot
- Efforts to reduce the waste stream and/or handle the waste stream cost effectively
- Responsible disposal practices
- Education
- Review of Town programs and services
- Recommendations to the Board on revised or new services

'As a result of the task force's efforts, the board has implemented a new subscription based curbside recycling service. The town is subsidizing the cost of the subscription at a rate of \$5 per household per month. This reduces the cost from \$14 to \$9 per month. The material is being collected and processed by TFC Recycling of Chesapeake. To date the town has 826 subscribers. The program has been a success; the initial goal to initiate the service was 440 subscribers.

'The rollout of the recycling program has presented numerous challenges for the town including collecting and reissuing recycling carts, coordinating with and monitoring TFC's activities to ensure compliance with the contract, working with TFC to educate residents, and issuing additional trash carts for residences. Now

that many of these initial efforts have subsided, staff remains focused on refinements to its sanitation services and community appearance.

'The task force's discussions were broad and touched on many areas beyond residential recycling. For the board's information, the following is a list of other initiatives the task force would recommend for town consideration. Some of these items have already been initiated.

- Commercial cardboard recycling program – the task force discussed a cardboard collection program for businesses. Cardboard can be taken to Dare County for free since the county has a market to sell the material. This reduces the town's overall tipping fees. This was considered a low cost/high return activity since there is a handful of sites that generate a significant volume of material. Staff has initiated this effort and continues to conduct outreach to encourage participation.
- Commercial glass recycling program – similar to cardboard, the task force discussed a glass collection program at commercial sites. This material can also be taken to the county free of charge. The county crushes the material and uses it for various purposes. Restaurants are required by law to recycle ABC glass. Staff has initiated this effort and continues to conduct outreach to encourage participation.
- Commercial single-stream recycling – the task force recommended in future years that the town consider a more formal recycling program for commercial businesses to reduce the town's tipping fee costs and reduce the town's overall disposal footprint.
- Residential composting – the task force discussed a number of programs related to composting, recognizing that food waste represents a substantial portion of the waste stream and cost due to its weight. The task force discussed education programs, distribution of composting bins to residents for home use, and establishing a composting site at the town's bulk yard where material could be processed.
- Education – the task force noted that education represents an essential element to the success of any of these initiatives. The town has engaged in a campaign with TFC recycling to educate residents on the benefits of recycling and the town's program. The campaign also focuses on proper recycling practices.
- Yard waste – the task force acknowledged to benefits and the high level of service provided to residents as part of the yard waste collection program. This material has historically been processed into mulch and offered back to residents. The yard waste collection program continues, however; due to site constraints at the town's bulk yard related to permitting and our ability to stockpile material, the mulch program has been temporarily suspended. As the town works through the public works master plan, we are evaluating alternative sites to deliver and process the town's yard waste material.
- Education on source reduction – the task force was interested in educational efforts focused on waste source reduction as an overall community value.
- Collaborative efforts with other local governments/county/other entities – the task force noted that, as the town considers future initiatives/services, we should continue to explore partnerships with other agencies to reduce costs and improve the regional capacity related to waste reduction.
- Development of waste reduction plan – the task force expressed interest in a more formal planning effort related to waste reduction which would establish goals, objectives, and action items for waste reduction over a specified time horizon.

'Recently, members of the waste reduction task force contacted me and expressed continued interest in assisting the town with its waste reduction efforts. This summary is being provided as information for the

board. No action is requested at this time. Board members are welcome to provide thoughts/feedback either during the meeting or directly to me at any time.”

Interim Manager Garman explained that this item was brought forward for the Board’s information. It was Board consensus that the Task Force did a great job but until there is a specific charge, there is no need to call them together.

Comr. Fuller thanked Interim Manager Garman and staff for looking into and informing the Board when there is more than a one-time violation. He appreciated that staff does monitor this and is willing to take appropriate action when needed – Interim Manager Garman said that he will also look at the bulk collection process – a meeting is to be scheduled in September.

**d)** Outer Banks Visitors Bureau grants for Epstein, Bonnett, and Barnes Streets - Interim Town Manager Garman summarized the agenda summary sheet which read in part as follows:

“Each year the Outer Banks Visitors Bureau offers [Tourism Impact Grants](#) to local governments for capital projects that assist with providing programs or services needed due to the impact of tourism. The town has previously been awarded these grant funds for projects such as multi-use paths, parks, and beach and sound access improvements.

‘For this grant, projects under \$50,000 require no match, projects under \$125,000 require a 25% match, and projects above \$125,000 require a 50% match. Match funds and expenditures may not be incurred prior to the date of grant submission, and preliminary design services do not count towards the local match.

‘Staff would ask the Board to consider authorizing the following three projects as part of this grant. All items requested for consideration have been adopted in the fiscal year 2021-2022 budget and Capital Improvement Program as grant funded through the Outer Banks Visitors Bureau. In order of priority:

- Epstein Street bathhouse construction replacement and upgrade of the existing beach access, including ADA travel compliant surface type dune walkover. The Town was invited to submit a final grant application for the Epstein Street Public Bathhouse Access through the Division of Coastal Management’s (“DCM”) Public Beach and Coastal Waterfront Access Grant Program for \$200,000 in assistance (\$50,000 less than the Town’s initial request). The Outer Banks Visitors Bureau grant request of \$250,000 would leverage the use of these funds as they would count towards the 50% match. However, if the grants were awarded, staff would seek additional funding from the Board in order to at least meet the 50% match requirement.
- Bonnett Street sidewalk extension. Approximately 350 linear feet of 5’ wide concrete would extend the sidewalk from the intersection of S. Wrightsville Avenue/Bonnett Street intersection through to S. Virginia Dare Trail (NC 12). The proposal will provide full east-west connectivity, by way of the existing 5’ concrete sidewalk along Bonnett Street. from S. Croatan Highway to the Bonnett Street Public Beach Access. This project was identified and ranked as priority #7 in the 2014 Pedestrian Plan and Town of Nags Head Comprehensive Plan. The total project cost is budgeted at \$62,070, and the grant request will be for \$46,553. Although no local match is required, the locally funded portion is budgeted from recreation facility fees in the capital reserve fund.
- Barnes Street sidewalk extension. Approximately 300 linear feet of 5’ wide concrete would extend the sidewalk from the intersection of S. Croatan Highway/Barnes Street intersection westward,

through to S. Meekins Avenue. The proposal will provide full east-west connectivity, by way of the existing 5' concrete sidewalk along Barnes Street, from Town Park to the Barnes Street Public Beach Access. This project was identified and ranked as priority #9 in the 2014 Pedestrian Plan and Town of Nags Head Comprehensive Plan. The total project cost is budgeted at \$56,202, and the grant request will be for \$42,152. Although no local match is required, the locally funded portion is budgeted from recreation facility fees in the capital reserve fund."

Board members spoke in favor of applying for the grants as listed.

#### Interim Manager Garman - Beach Nourishment Update

Town Engineer David Ryan presented an update on the next Beach Nourishment Project. He provided a bulleted timeline of major activities which read in part as follows:

#### "POST DORIAN BEACH NOURISHMENT SCHEDULE

- On or before September 7, 2021: Advertise to Bid
- September 16, 2021: Pre-Bid Conference
- October 7, 2021: Bid due date
- Mid-December 2021: Issuance of State & Federal Permits (*estimated*)
- On or before January 5, 2022: Complete Financing (*as required*)
- On or before January 5, 2022: Notice of Award
- On or before January 5, 2022: Execution of Construction Contract
- On or before April 1, 2022: Notice to Proceed
- On or before September 22, 2022: Construction Substantial Completion
- On or before October 4, 2022: Construction Final Completion

"Anticipated construction time for completion of beach fill is 30-45 days"

Engineer Ryan noted that the General Statutes recently changed and a minimum of three (3) bids is no longer required for beach nourishment projects.

Board members thanked Town Engineer David Ryan for the beach nourishment project update which includes January 2022 as the date for execution of the construction contract and April 2022 as the date to issue the Notice To Proceed.

#### Interim Town Manager - Request for Closed Session

Mayor Cahoon noted that Interim Manager Garman's request for Closed Session will be addressed at the appropriate time in the meeting.

## **BOARD OF COMMISSIONERS AGENDA**

### Mayor Pro Tem Siers – Soundside Road

Mayor Pro Tem Siers asked about the Soundside Road/Jockey's Ridge Access. Interim Manager Garman stated that an email will be forwarded to the Board the first of next week with an update on Soundside Road traffic counts, law enforcement reports, etc. from this summer.

### Mayor Pro Tem Siers - Fire safety in residential buildings

Mayor Pro Tem Siers reported on a recent meeting with builders concerning fire safety in large residential homes. Many fires start outside such as in mulch around the building. He will provide a more detailed report after the committee meets again.

### Comr. Renée Cahoon – Multi-use Path conflicts

Comr. Renée Cahoon said that she has observed golf cart conflicts with others such as pedestrians, bicyclists, and strollers on the multi-use path. She asked if the Town can request/require rental companies, she has noticed Ocean Atlantic Rentals as owner of the golf carts she has observed, to have stickers placed on golf carts indicating that they are not allowed on the path.

Mayor Cahoon said that he has seen skateboards, bikes, etc. on the path and in a discussion at a previous Board meeting the Board's directive was to not make changes to these regulations but instead to seek out those actually causing the issues.

Interim Manager Garman reported that the Town has received some complaints re: electric bikes on the path and that there is an internal staff transportation group that has met and feels there are issues with the way the ordinance is written. He stated that right now the law recognizes electric bikes as a bicycle. He also questioned if the two paths (US 158 and NC 12) should be treated differently.

It was Board consensus that staff review the multi-use path ordinance for clarity and bring back their findings and recommendations for Board discussion.

### Comr. Renée Cahoon – Upcoming Holiday Weekend

Comr. Renée Cahoon asked for more police presence this upcoming Labor Day holiday weekend during the surf tournaments at Jennette's Pier in addition to the multi-use path, crosswalks, etc. in the area between Surfside Hotel south to the Comfort Inn.

### Comr. Renée Cahoon – Suggestion for Outer Banks Visitors Bureau/Dare County Tourism Board

Comr. Renée Cahoon stated that the Outer Banks Visitors Bureau (OBVB) has done a good job with all the people now here; she would like to see steps taken to enhance the experience of visitors, residents, and property owners. She suggested that the OBVB provide a positive customer experience for everyone such as with an interactive app that would provide beach access information, such as their location. This would encourage visitors to follow the law and would be a good way to communicate.

Comr. Brinkley – Soundside Road

Comr. Brinkley thanked Soundside Road resident Michelle Chimento for her email concerning Soundside Road and the Jockey's Ridge Access. He is looking forward to continued Police Dept work in that area and in receiving reports from staff.

Comr. Fuller – Outer Banks Visitors Bureau/Dare County Tourism Board

Comr. Fuller agreed with the previous comments made by Comr. Renée Cahoon under her agenda - He stated that while the Tourism Board has done a great job at bringing people here in the shoulder season, he feels it is time that the DCTB should focus more on trying to represent and understand resident concerns in general. With the new sustainable tourism, there needs to be a focus on ways the new and old residents aren't put upon by the increasing number of tourists.

Comr. Renée Cahoon agreed noting that the legislation establishing the organization indicates one of its purposes is to mitigate the impacts of tourism for residents.

**MAYOR'S AGENDA**

Mayor Cahoon – Opposition to Senate Bill 105 re: environmental provisions in a Budget Appropriations Bill

Mayor Cahoon read the proposed resolution concerning Senate Bill 105 Budget Appropriations Bill which includes environmental provisions as follows:

"WHEREAS, the North Carolina General Assembly is considering the 2021 Appropriations Act Senate Bill 105, including Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," Section 41.47(a) entitled "Revisions to Outdoor Advertising Control Act" and Section 12.16.(a) entitled "Clarify Local Authority for Stormwater Ordinances"; AND

'WHEREAS, the harmful environmental provisions proposed in the Appropriations Bill is of great concern to the citizens and Elected Officials of the Town of Nags Head and other municipalities within North Carolina; AND

'WHEREAS, provisions within the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," to restrict local tree ordinances, would severely diminish or even eliminate the ability of local government to determine what is best for its community and the ability to protect the rights of existing property owners; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," would require all local governments to obtain special authorization from the General Assembly prior to enacting a tree protection ordinance and void all existing ordinances protecting existing trees that were established without special authority; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," is inconsistent with the State's laws regarding tree removal and preservation around outdoor advertising in addition to the State's historic preservation laws that allow local governments to protect the vegetation of historic sites; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," conflicts with G.S. 160D-921 regarding the ability of local jurisdictions to delay approvals following clear-cutting; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," creates a conflict with any prior development agreement planned development or special use permit approval that included tree preservation as a condition of approval; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," interferes with the ability of local governments to provide supplemental credit towards landscaping requirements for retained/preserved existing vegetation; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," is counterintuitive and counterproductive to the Town's efforts towards coastal resiliency; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," would severely restrict the Town's ability to maintain the natural beauty provided by indigenous trees and maritime forests characteristic of the barrier islands of North Carolina; AND

'WHEREAS, the proposed Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," could result in a more confusing regulatory framework as local governments would be required to receive individual express authority from the General Assembly; AND

'WHEREAS, the billboard industry regularly seeks to limit local government controls over signage; AND

'WHEREAS, the N.C. Sierra Club supports local government efforts to regulate billboards to protect trees and community aesthetics; AND

'WHEREAS, this provision, Section 41.47(a) includes language that was in a 2019 billboard bill (H 645) that was vetoed by Governor Cooper; AND

'WHEREAS, Section 41.47(a) would ease billboard relocations at the expense of local government control, and may threaten local ordinances that ban digital billboards; AND

'WHEREAS, Section 12.16.(a) would bar all local stormwater ordinances and riparian buffer protections that are not required by federal or state law; AND

'WHEREAS, Section 12.16.(a) would hamper local flexibility, and makes no sense at a time when many N.C. communities – *from the coast to the mountains* – are trying to protect residents from intensifying storms and flooding.

'NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the Town of Nags Head, North Carolina, expresses opposition to Senate Bill 105 Section 5.14(a) entitled "Property Owners' Rights/Tree Ordinances," Section 41.47(a) entitled "Revisions to Outdoor Advertising Control Act" and Section 12.16.(a) entitled "Clarify Local Authority for Stormwater Ordinances" and urges the North Carolina General Assembly and the Governor of the State of North Carolina to oppose the proposed legislation.

'BE IT FURTHER RESOLVED that the Board of Commissioners requests that the Honorable Senator Michael A. Lazzara and the North Carolina Senate prioritize removal of these harmful environmental budget provisions from Senate Bill 105, and if passed, that Governor Cooper veto the bill."

MOTION: Comr. Renée Cahoon made a motion to adopt the resolution opposing Senate Bill 105 re: Budget Appropriations Bill which includes environmental provisions, as presented. The motion was seconded by Comr. Brinkley.

Mayor Cahoon spoke against the addition of environmental provisions in budget legislation; Comr. Renée Cahoon agreed stating that a policy document has no place in a budget bill.

CONTINUATION OF MOTION: The motion passed unanimously.

## **CLOSED SESSION**

MOTION: Comr. Brinkley made a motion to enter Closed Session, pursuant to GS 143-318.11(a)(3), to confer with the attorney re: one or more matters protected by attorney/client privilege and to preserve that privilege to include the case of the Town v Hale and other condemnation litigation; pursuant to GS 143-318.11(a)(6) to discuss one or more confidential, personnel matters; and pursuant to GS 143-318.11(a)(5) to consider the acquisition of real property located at 105 W Seachase Drive. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 11:56 a.m.

## **OPEN SESSION**

The Board re-entered Open Session at 12:45 p.m. Attorney Leidy reported that the Board did discuss those items listed when entering Closed Session but that no actions were taken.

### **Appointment of Town Manager**

MOTION: Comr. Brinkley made a motion to appoint Andy Garman as Town Manager. The motion was seconded by Mayor Pro Tem Siers.

Mr. Garman was congratulated by Board members.

CONTINUATION OF MOTION: The motion passed unanimously.

Manager Garman thanked the Board for the opportunity they have given him and he stated he looked forward to continuing to work for the Board and in meeting their goals for the Town.

**ADJOURNMENT**

MOTION: Mayor Pro Tem Siers made a motion to recess to Tuesday, September 21, 2021 at 8:00 a.m. at the Villas Clubhouse on Villa Dunes Drive for a Board Retreat. The motion was seconded by Comr. Brinkley which passed unanimously. The time was 12:50 p.m.

\_\_\_\_\_  
Carolyn F. Morris, Town Clerk

Date Approved:     **October 6, 2021**    

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