



**PROPOSED AGENDA
OAK ISLAND TOWN COUNCIL REGULAR MEETING
TUESDAY, MAY 9, 2023 – 6:00 PM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL**

CALL TO ORDER - Honorable S. Elizabeth White

INVOCATION AND PLEDGE OF ALLEGIANCE - Councilman Blalock

PUBLIC HEARING(S) AND ACTION

PUBLIC HEARING I (AND ACTION): The purpose of the Public Hearing is to conduct a quasi-judicial hearing for a Special Use Permit for a mini-golf.

PUBLIC HEARING II (AND ACTION): The purpose of the Public Hearing is to receive citizens' comments on a Proposed Text Amendment to Section 8.10 of the Unified Development Ordinance - C-LD Commercial Low Density District Dimensional Requirements

[Text Amendment Application](#)

[Application for consideration of Zoning Ordinance addendum](#)

[OakIslandNCCodeofOrdinances](#)

[TCConsistency_CLDResHeight_042523.docx](#)

PRESENTATIONS, PROCLAMATIONS AND RECOGNITIONS

Presentation of the Proposed FY 2023-2024 Budget

Proclamation -- Older Americans Month

[OAM23_Proclamation](#)

Report from the Recreation Advisory Board on the Nature Trail behind the Recreation Center -- Bill Millard

Presentation -- Ed Lovett - Davis Canal Marsh Cleaners

ADJUSTMENT/APPROVAL OF THE AGENDA

PUBLIC COMMENT - GENERAL TOPICS & AGENDA ITEMS *Please state your name and address before addressing Council. Observance of the 3-minute time limit for Public Comments as described in Rule 4 (b) and 24 (2) (a) of the Council Rules of Procedure is appreciated. Written comments are also appreciated and should be submitted to the Town Clerk to be recorded in their entirety in the official Minutes. These may be given to the clerk following comments or via e-mail to lstites@oakislandnc.gov.*

COUNCIL REPORTS (MAYOR AND COUNCIL)

I. CONSENT AGENDA

- I.1 Approval of Minutes
 - [031423TownCouncilMinutes](#)
 - [021323TownCouncilMinutes](#)
 - [032023TownCouncilMinutes](#)
 - [041323TownCouncilMinutes_Budget](#)
 - [041323TownCouncilMinutes_BchMgtPlan](#)
 - [041923TownCouncilMinutes](#)

II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY

III. COMMITTEE APPOINTMENTS

- III.1 Appointment to the ABC Board
 - [Loman_Scott](#)

IV. ADMINISTRATIVE REPORTS (TOWN MANAGER AND TOWN ATTORNEY)

Department reports are available on the Town's website at www.OakIslandNC.gov/DEPT

V. OLD BUSINESS

- V.1 Discussion of Unified Development Ordinance Audit Recommendations
- V.2 Approval of Amendments to ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES[4] to Align the Ordinances with the New Policy for Boards Committees.
 - [OrdinanceAmendments-Committees](#)
- V.3 Consideration of Resolution in Opposition to Certain Proposed Legislative Bills
 - [Resolution_Legislation](#)
- V.4 Consideration of Amendment #7 to Contract with W.K. Dickson (stormwater improvements) and the associated Budget Ordinance Amendment
 - [2023-02-24_Amendment 7_Crowell St DIS Design](#)
 - [BudgetOrdinanceAmendment](#)
- V.5 Consideration of Task Order Amendment for Moffatt & Nichol for Drafting the Town's Beach Management Plan (for the NC Coastal Resources Commission)
 - [Beach Management Plan SVL Amendment_F](#)

VI. NEW BUSINESS

- VI.1 Consideration of a Contract with the ABC Board for Law Enforcement
 - [ABC_LEOcontract](#)
- VI.2 Consideration of Renewing the Lease of the Town's Building in the Yaupon Beach area to Matthew's Ministry
 - [MatthewsMinistryLeaseRenewal_2023](#)

VI.3 Consideration of Requesting a Charter Amendment to Remove the Recall Provision

[Sec._5.4.___Recall_of_Elected_Officials](#)

VI.4 Consideration of Allowing Gas-powered and Additional Electric Vehicles to be Used on the Beach as Assistance Mobility Devices

[ARTICLE_II.___GOLF_CARTS_AS_MOBILITY_ASSISTANCE_DEVICES](#)

VII. ADJOURN

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	PUBLIC HEARING I (AND ACTION): The purpose of the Public Hearing is to conduct a quasi-judicial hearing for a Special Use Permit for a mini-golf.
DATE:	May 5, 2023
DEPARTMENT:	Planning

Subject Summary: Background

Rafi Adi, has applied for a Special Use Permit to for a mini-golf. The Town Council considered this application at the March 20, 2023 meeting and continued the request until the May meeting to allow the applicant time to supplement the proposal. The applicant has requested additional time to gather the information that Town Council requested at the March 20, 2023 meeting.

Staff recommends Town Council remove the item from the agenda, and the Town will re-advertise the hearing once the applicant has supplemented his original application and is ready to move forward.

Suggested Motion: Motion to remove the request for a Special Use Application from the agenda until the applicant has supplemented the original application with the requested information.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	PUBLIC HEARING II (AND ACTION): The purpose of the Public Hearing is to receive citizens' comments on a Proposed Text Amendment to Section 8.10 of the Unified Development Ordinance - C-LD Commercial Low Density District Dimensional Requirements
DATE:	May 5, 2023
DEPARTMENT:	Planning

Subject Summary: Background

The Town has received an application from Leon Hicks for a text amendment to Section 8.10 of the Unified Development Ordinance, which regulates dimensional standards for the Commercial Low Density zoning district.

The proposed amendment would create new dimensional standards for residential lots exceeding 0.4 acres.

The Planning Board reviewed the proposed amendment at the April 20 meeting and voted to recommend denial, finding that it was inconsistent with the adopted plans of the Town as well as not reasonable or in the public interest.

Summary

The applicant has proposed three modifications to Section 8.10.

First, the proposal changes the existing dimensional standards table to 8.10.1.1.

Second, it adds a new table and creates section 8.10.1.2. This table is labeled for residential lots exceeding 0.4 acres. The table includes increased setbacks and a greater allowance for building height.

Finally, it creates section 8.10.2.3 which details the standards found in the new 8.10.1.2 and clarifies that the increased setbacks only applies to structures greater than 35 ft.

Adopted Plan Consideration

The Town of Oak Island Comprehensive Land Use Plan is silent on building heights on the mainland. However, there are several related goals that can be considered.

Implementing Action I.121 encourages the Town to maintain its current building height limits on the island, but does not include the mainland in this recommendation.

Action I.116 recommends the Town encourage overall land use and development patterns that support retention of the Oak Island small town character, its existing quality of development, and its family atmosphere.

Action I.20 encourages the Town to prepare a UDO and to consider within the UDO:

- A simpler, more flexible, and more easily administered regulatory document
- Balance the needs of new development and existing neighborhoods

Reasonableness Considerations

The C-LD zoning district comprises approximately 2,375 acres of the Town of Oak Island's jurisdiction. There are approximately 190 parcels within the C-LD that meet the 0.4 acre threshold established by the proposed ordinance, the majority of which are being used for commercial purposes along Long Beach Rd and NC 211.

The current ordinance contains height exceptions within the C-LD zoning for commercial structures that provide an allowance for increased setbacks at a ratio of 2 feet additional setback for each 1 foot over the 35-foot maximum. This allowance can be used up to a hard maximum of 55 feet.

While the proposed ordinance allowance is simpler than the existing commercial allowance for heights greater than 35 feet, it still adds complexity to the UDO by requiring acreage calculations and additional setbacks and height allowances to be considered for residential development within the C-LD zoning. Further, it complicates the existing height limitations that are currently based on special flood hazard areas.

Based on the added complexity to the ordinance, staff does not recommend approval of the proposed ordinance amendment.

Attachments:

[Text Amendment Application](#)

[Application for consideration of Zoning Ordinance addendum](#)

[OakIslandNCCodeofOrdinances](#)

[TCConsistency_CLDResHeight_042523.docx](#)

Suggested Motion: Motion to deny the proposed text amendment as recommended by the Planning Board and to adopt the associated consistency statement.

TEXT AMMENDMENT APPLICATION

TOWN OF OAK ISLAND
Planning Department
4601 E. Oak Island Drive
Oak Island, NC 28465



Date: 3/7/2023

Fee: \$500.00

Any application for an amendment to the Unified Development Ordinance shall be filed with the department of development services at least 45 days prior to the date on which it is to be introduced to the planning board. Each application shall be signed by the applicant and be in triplicate.

Section 1: Applicant Information.

Petitioner Name: Leon Hicks

Mailing Address:
4024 Barnes Bluff SE
Southport, NC 28461

Phone: 910-368-1818c Email: leonhicks365@gmail.com

Section 2: Text to be Changed.

Article/Chapter 8 Section 10.1 & 10.2

Add title or header to reference table "8.10.1-1", Add table
for lots greater than 17,000 sq ft "8.10.1-2", and add to section 8.10.2 a third sub-bullett
Described in attachment 8.10.2-3

Section 3: Type of Text Change.

- ☒ a change in wording to existing Section(s)
☒ an addition to Section(s)
☐ a deletion of wording at existing Section(s)

Please attach a draft amendment containing the Section number to be amended as well as draft changes, additions, or deletions to that Section.

Section 4: Statement of Justification

Please attach a narrative that justifies the proposed amendment change and promotes the public health, safety, and general welfare.

Section 7: Applicant/Owner Signature

In filing this Text Amendment Petition, I hereby certify that I am authorized to submit this application and that all of the information presented in this application is accurate to the best of my knowledge, information, and belief.

Signature: Leon Hicks

Date: 3/7/2023

Application for consideration of Zoning Ordinance addendum

Section 4: Attachment

The text amendment being proposed is to increase the height restrictions on private residences in the CLD zone to 45' thereby establishing a standard height regardless of VE/AE status within this specific zone for lots exceeding .4 acres in dimension. The current height restriction of 35' creates an undue burden for architects and builders designing larger Individual residences on larger lots. Larger homes with a 35' height restriction results in flatter roofs that are not only less attractive, but also creates increased risk of storm damage. This is particularly the case in modern construction where interior rooms often have 10' or larger ceiling heights. Currently, in order to accommodate practical design considerations for residential houses being constructed in VE areas have a 41' height restriction and AE areas have height restrictions of 35'. These variations complicate the permitting process for both the town as well as its residents, especially in instances where the building plat of house is partially in both the AE and VE area. Lastly, flatter roofs also limit usable attic storage space. Therefore, the substance of this request is to modify the current language governing height restrictions in the CLD zone to include the following recommended text changes and addition:

8.10.1 (header information) add the word Residential – Residential Dimensional Requirements, and change the reference number to 8.10.1-1

Add another table 8-10-1-2 – Residential Dimensional Requirements Lots Exceeding .4 Acre

(A) Lot Area	17,000 sq ft
(B) Front yard set back	30 ft
(C) Side yard set back	15 ft
(D) Rear yard set back	30 ft
(E) Building height	45 ft
(F) Accessory building	20 ft

8.10.2 (add a sub-bullet 8.10.2.3): Private Residences in the Mainland C-LD District.

Private residences height limits on lots that exceed 17,400 sq ft (.4 acres or larger) shall not exceed 45'. Private residences of a height greater than 35' shall have set backs of at least 30' from the street, 15' on the sides, and 30' rear setback.

This height simplification request will greatly benefit Oak Island mainland residents and mainland home builders by greatly simplifying the rules and regulations associated with height restrictions in the zone specified. Simplifying the process will also benefit the Town's Office of Permits by eliminating issues to be addressed related to height restrictions, specifically the number of individual requests for variances that have to be adjudicated and the day to day interactions required to explain the current regulations. This change will also greatly enhance the aesthetics of mainland communities within the designated zone by eliminating the flat roof appearance. This change will also greatly benefit future homeowners,

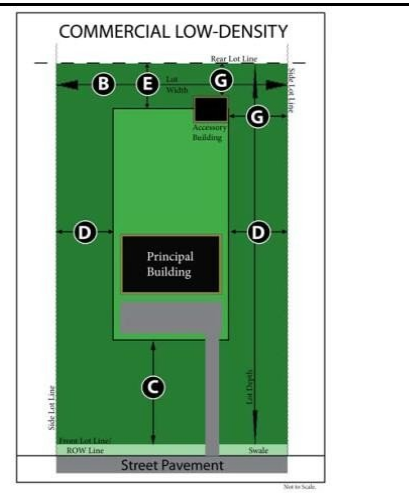
and their architects, by enabling interior rooms to be designed with greater height greatly improving the efficiency of air conditioning. Lastly, and equally important, steeper pitched roofs will benefit the homeowner and the community by being more resilient in high wind events.

SECTION 8.10 C-LD COMMERCIAL LOW DENSITY DISTRICT.

8.10.1. Dimensional Requirements

8.10.1-1

(A) Lot Area	7,500 sq ft
(B) Lot Width	100 ft
(C) Front Yard Setback	20 ft
(D) Side Yard Setback	
• Interior Lot	8 ft
• Corner Lot	25 ft
(E) Rear Yard Setback	15 ft
(F) Building Height Limits	
• Outside VE Zone	35 ft
• Inside VE Zone	41 ft
(G) Accessory Buildings	8 ft



Add another table 8-10-1-2 – Residential Dimensional Requirements Lots Exceeding .4 Acre

(A) Lot Area	17,000 sq ft
(B) Front yard set back	30 ft
(C) Side yard set back	15 ft
(D) Rear yard set back	30 ft
(E) Building height	45 ft
(F) Accessory building	20 ft

8.10.2. Mainland Height Requirements. Offices, motels, hotels, medical facilities, and multi-family residential buildings and structures up to a maximum of 55 feet in height may be permissible as a special use if the following conditions are met:

8.10.2.1. For every foot in height in excess of 35 feet, an additional two feet of setback must be provided above those required by this Ordinance for front, side, corner side, and rear yards in the C-LD district. Commercial building clusters must satisfy the fire code.

8.10.2.2. The Planning Board and Town Council may impose such additional conditions as they see fit, such as, but not limited to, fences and walls, street dedications, additional parking, vehicular access points, buffering, and landscaping improvements.

8.10.2.3 Private Residences in the Mainland C-LD District.

Private residences height limits on lots that exceed 17,400 sq ft (.4 acres or larger) shall not exceed 45'. Private residences of a height greater than 35' shall have set backs of at least 30' from the street, 15' on the sides, and 30' rear setback.

8.10.1. Additional Requirements. Refer to Section 8.14, Notes to Zoning District Development Standards.

8.10.2. Signs. Signs shall be permitted as provided in Article 10, Part IV.

8.10.3. Parking and Loading. Off-street parking and loading shall be provided, as required by Article 10, Part III.

8.10.4. Buffers. Refer to Article 10, Part IV.

8.10.5. Landscaping. For landscaping requirements, refer to Article 10, Part IV.

(Ord. of 10-9-2018)



**Oak Island Town Council
Statement of Consistency & Reasonableness**

TEXT AMENDMENT:

MAY 9, 2023

REQUEST:

Proposed Text Amendment to Section 8.10 of the Unified Development Ordinance

STATEMENT OF CONSISTENCY & REASONABLENESS FOR DENIAL:

- The Town of Oak Island Town Council hereby finds that the proposed text amendment is inconsistent with the 2017 Comprehensive Land Use Plan adopted January 10, 2017 as it is inconsistent with the Implementing Action I.20 that recommends the Town develop a UDO that provides a simpler, more flexible, and more easily administered regulatory document; as well as not reasonable and in the public interest as it would add complexity the to UDO for citizens and Town Staff.

The statement and motion was seconded and passed _____.

S. Elizabeth White
Mayor

Lisa Stites
Town Clerk

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Presentation of the Proposed FY 2023-2024 Budget
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary: Town Manager David Kelly will present the proposed FY 2023-2024 Budget. The budget is available online at www.OakIslandNC.gov/BUDGET.



PROCLAMATION Older Americans Month 2023

Whereas, the Town of Oak Island includes a growing number of older Americans who contribute their time, wisdom, and experience to our community; and

Whereas, communities benefit when people of all ages, abilities, and backgrounds have the opportunity to participate and live independently; and

Whereas, Oak Island recognizes the need to create a community that offers the services and supports older adults may need to make choices about how they age; and

Whereas, Oak Island can work to build an even better community for our older residents by:

- Not limiting our thinking about aging,
- Exploring and combating stereotypes,
- Emphasizing the many positive aspects of aging,
- Inspiring older adults to push past traditional boundaries, and
- Embracing our community's diversity.

Now, therefore, I, S. Elizabeth White, Mayor of the Town of Oak Island, do hereby proclaim May 2023 to be Older Americans Month. Further, I urge every resident to celebrate our older citizens, help to create an inclusive society, and accept the challenge of flexible thinking around aging.

Proclaimed this the 9th of May, 2023.

S. Elizabeth White, Mayor

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Report from the Recreation Advisory Board on the Nature Trail behind the Recreation Center -- Bill Millard
DATE:	May 5, 2023
DEPARTMENT:	Council Member

Subject Summary: Councilman Craft placed this item on the agenda to hear a report from Bill Millard, member of the Recreation Advisory Board.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Presentation -- Ed Lovett - Davis Canal Marsh Cleaners
DATE:	May 5, 2023
DEPARTMENT:	Mayor

Subject Summary: Mayor White placed this item on the agenda; Ed Lovett with the Davis Canal Marsh Cleaners will make a presentation.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT: Approval of Minutes
DATE: May 5, 2023
DEPARTMENT: Administration

Subject Summary: Approval of the Minutes for the following meetings is recommended:

- February 13, 2023 -- Public Hearings & Regular Meeting (recessed to March 20, 2023)
- March 14, 2023 -- Regular Meeting
- March 20, 2023 -- Reconvened Public Hearings and Regular Meeting of February 13, 2023
- April 13, 2023 -- Special Meeting/Budget Workshop
- April 13, 2023 -- Special Meeting - Beach Management Plan
- April 19, 2023 -- Special Meeting/Budget Workshop

Attachments:

[031423TownCouncilMinutes](#)
[021323TownCouncilMinutes](#)
[032023TownCouncilMinutes](#)
[041323TownCouncilMinutes_Budget](#)
[041323TownCouncilMinutes_BchMgtPlan](#)
[041923TownCouncilMinutes](#)

MINUTES
TOWN COUNCIL REGULAR MEETING
TUESDAY, MARCH 14, 2023 – 6:00 PM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor S. Elizabeth White, Mayor Pro Tempore John W. Bach, Council members Sheila M. Bell, Bill Craft, and Mark U. Martin, Town Manager David Kelly, Town Attorney Brian Edes, and Town Clerk Lisa P. Stites, MMC.

Mayor White called the meeting to order at 6 p.m. and noted that Council member Charlie Blalock was not able to be present.

Councilman Martin gave the invocation and led the Pledge of Allegiance to the flag.

ADJUSTMENT/APPROVAL OF THE AGENDA

Ms. Stites asked Council to add a Letter of Intent to the Corps of Engineers; it was placed on the Consent Agenda. Mayor White removed the Disclosure of Interests Statement from Old Business 5.4 (Committee Policy items, etc.). **Mayor Pro Tempore Bach made a motion to approve the agenda as amended, Councilman Martin seconded, and the motion carried unanimously.**

PUBLIC COMMENT - GENERAL TOPICS & AGENDA ITEMS

Mariah Brazil, 113 SE 15th Street: Ms. Brazil said that Oak Island was not like other locations with paid parking. She said there were a plethora of issues with right-of-way (ROW) parking that could be addressed now, and that ROW parking north of Davis Canal was causing the most angst. Ms. Brazil said that families and businesses depended on ROW parking. She said lots of the driveways that were too narrow and too short for additional vehicles. She said Council to consider charter boat captains who bring their boats home for the next day, yard sales, open houses, baby showers, funeral luncheons, etc. She asked Council to reconsider the decision eliminating ROW parking island wide.

Katherine Landers, 1407 E. Oak Island Drive: Ms. Landers asked Council to reconsider the decision to ban right-of-way parking island wide. Ms. Landers said she has a small, short driveway and she can't find a solution. She said she cannot have a second driveway, and she would have to remove trees to park in the yard. She also said she owned a charter boat business, and had nowhere to park to get ready for upcoming charters. She also asked what would happen when her children came to visit, and asked if they would have to pay to park and be shuttled to her house.

Laura Morgan, Bluffton, SC: Ms. Morgan said they were delighted to be bringing the Pledge the Pink event to Oak Island October 19-22. She said 1,500 registrants attend every year. She said that South Carolina no longer has a shoulder season or an off season and that they had searched high and low, and found this wonderful community. She said she had not seen such a lovely and welcoming community in her life. She said Pledge the Pink has been around since 2010 and has raised more than \$2 million to benefit 50 to 100 charities every year. She said their fundraising goal this year was \$750,000. She said that staff and friends and families of volunteers would also be coming. She said that the majority of those houses had already been rented. She said that they also plan to try and take back the world record for the largest pink flamingo flock. She said they will put out 7,500 flamingoes in Middleton Park. Ms. Morgan said no streets would be closed for the event. Ms. Morgan also spoke about the events planned. She said they were so proud to be bringing this event to town.

Terri Cartner, 101 SW 23rd Street, written comments provided as follows: I first spoke to you about the Beach Management Plan at the Oct. 4th Public Hearing & Special Meeting. I suggested that the timeline for moving through this material was too rushed. I also asked that the Town take the time to get information about the BMP out to the taxpayers in a form we stakeholders would understand. Tonight, I'm reiterating the same concerns I expressed on Oct. 4th. The minutes from that meeting reflect Councilor Bach's opinion that the Town needed to do more due diligence and to potentially receive additional public comments. And Council did approve a 100-day deferment. Councilor Bell suggested that waiting the 100 days would allow for another public hearing. Mr. Kelly agreed that another public hearing could be held. To my knowledge, no additional information has been provided to taxpayers, no additional meetings have been held, including another public hearing. And this matter is before you tonight to be passed. Again, I say to you, this is a very complicated plan. It's not light reading. It's not easy to understand as a layperson. It does have long and far-reaching implications for Oak Island for many decades to come. Give us additional information, answer questions we may have:

1. Give us full disclosure about how many houses were non-compliant BEFORE the August 1st change to the development line. I contend this didn't become an emergency overnight. We've spent decades not managing our beach in a responsible way.
2. Show us a timeline of how this plan works.
3. Tell us the risks and benefits of implementing or not implementing this plan. What happens if we do? What happens if we don't.
4. Educate us about a "federal beach" designation? Educate us about an "engineered" beach. Talk to us about the success or failure of the groin at Ocean Isle.
5. Consider forming a "Coastal Commission" or "Coastline Preservation" advisory group? (Reference Sand Advisory Group).

If it's about the \$10k grant to assist in creating a BMP and the looming deadline for submittal, then give the money back or try asking for an extension. 10 grand is a drop in the bucket when compared to the overall cost of this plan. Since Oct. 4th (and even before), the Town has not fulfilled its obligation to be transparent and responsible to the taxpayers by helping us fully understand this issue. Please do not advance this item tonight.

Gail Baker, 110 NE 16th Street: Ms. Baker said she spoke to many people in the last several months about right-of-way parking. She said that people on the west end of the island would have to remove trees to add parking, and that some people have business vehicles and would lose their place to park them. Ms. Baker said that people have teenagers and need to park their cars as well. She said that no one people did not know had ever parked in the right-of-way in front of their homes and there had never been a problem. She asked Council to allow resident ROW parking with a placard or allow residents to monitor the right-of-way in front of their homes and report violations of non-residents' parking.

Scott Stephenson, 103 NW 1st Street: Ms. Stephenson said he was looking at right-of-way parking from a different perspective. He said that many times during the season, he relied on ROW parking to access the beach, and north of Oak Island Drive, to attend get togethers. He said his concern was for the businesses that thrive on tourism and asked if there was a study done to see how many tourist dollars were associated with a car parked at a beach access. He said there were businesses that needed those dollars. He said that this had gone too far, and he asked how many of those ROW spaces near the beach are used by residents and how many paid parking spots would be used by residents. He wondered if it would be all resident parking and the Town wouldn't make money. Mr. Stephenson said he didn't see the need to ban ROW parking, particularly on the northwest side.

Richard Morrison, 146 NE 3rd Street: Mr. Morrison said he had friends who had a gravel parking pad in the right-of-way and that was the only parking they had, and they would have to move trees to have other parking. He said that he looked at a survey, and it says the Town has 60 feet of right-of-way, 20 feet of

road and 20 feet in front of the adjacent yards. He said that the right-of-way was not his front yard, and he asked why he had been mowing it. He said if the Town would not allow people to park in the right-of-way, the Town would have to mow it. He said that there were not enough spots near the boat ramp, and they will not have room to park their trailers. He asked if it was illegal to park in the area between his driveway and the road. He said that he chose to live here because it is a family place. He said it was not like other beach towns because there are residents here. He said now the Town was telling people they couldn't use the first 20 feet of their property to park their boats or vehicles.

Danny Thompson, 235 NE 64th Street: Mr. Thompson said he had submitted some questions for the March 2 meeting but that he didn't get any answers. He said that at SE 64th Street, in the past, they had eight parking spaces designated on SE 64th Street, but they could park 30-40 vehicles in there with using the right-of-way, as most of them were using golf carts. He said there is not an access at SE 65th or 66th, so 64th gets quite a bit of activity. He said that staff had said they would look into a request to add spaces there, and that as of now, somebody had looked into it because one space was removed. He asked Council to consider other solutions, such as adding low-speed vehicle spaces.

David Bodenheimer, 5119 Minnesota Drive, 3001 W. Beach Drive and 3321 W. Beach Drive: Mr. Bodenheimer said when he testified about the Beach Management Plan in October, he said that the draft plan was too hasty, risky and costly. He thanked Council member Bach for his motion and Council's vote to add 100 days to consider this. He said he understands that the Town had a positive meeting with the Coastal Resources Commission and that the CRC wants a plan, not an unreasonable plan. Regarding the cost, he said he asked Moffatt & Nichol what the cost would be and was told it would cost about \$140 million. He said that he trusts the cost issue had been fully considered by Council and that it was in the Town's ability; he said he hoped they would look at a plan that would fit the Town's budget for the next 30 years.

Durral Gilbert, 5423 West Beach Drive: Mr. Gilbert said he supported adoption of the Beach Management Plan. He said he wanted to be sure homeowners weren't left out of this consideration. He asked them to imagine if, without notice, they found out that there was a decision to return to the 1998 Static Line. He said that property owners can't do anything to substantially improve their homes. He said one homeowner wanted to put in new hurricane windows and siding, but the cost exceeded 49 percent of the value of the home, so they were not allowed to do it until they got a second appraisal. He said that wasn't to add a second floor or a new deck. Mr. Gilbert said they need to remember the number of homes that are 30 or 40 years old that were not built to today's hurricane standards. He said that very few lenders would underwrite a loan for a house where the value of the collateral is not assured. He said that people would sell homes for less than they could otherwise and the town would turn into a rental jungle. He said retirees would not move here if they wouldn't be able to stay in their home, and that young families won't move here if they know that the beach home can't survive a storm of a fire, etc. He asked Council to consider the people who were being impacted through no fault of their own.

Barry Golob, 6615 West Beach Drive: Mr. Golob said that with the majority of coastal towns having plans, the question was, why don't we already have one. He said that the Town already had a plan in place and ready to go in 2016, when it finalized the shoreline management plan, so why has it taken so long to get to a vote. He said the simple answer was money. He said the fear has been committing to a 30-year plan and how to pay for it, and that discussion had been going on since they bought their house in 2013. As presented by Moffatt & Nichol, the answer was clear -- we can't afford not to do it. Mr. Golob said the job of the Town Council was to protect the Town's citizens, all of the citizens, and there were 800 beachfront property owners. Mr. Golob said that this plan would benefit everyone, those who rent, which he does not, those who enjoy the beach with friends and family, and those who want increased property values, more retail establishments, etc. to enjoy. He said that people don't come here for the

water park or the Easter egg hunt. They come for the beach, and they need to maintain the beach as the economic driving force for the Town. As for the money, Mr. Golob said the Plan shows how the funds can be raised. He said even with this \$5 million coming in every year in accommodations tax and the sand tax, that would be \$30 million every six years toward a beach nourishment program. He also said the loss of the oceanfront homes would hurt the Town's property values. He asked Council to vote yes on the Beach Management Plan.

Carl Thomason, 4005 E. Beach Drive: Mr. Thomason said they first bought a home in 2016, and they embraced everything the town had to offer. In 2021, they decided to move here permanently. He said that what happened between October 2021 and October of 2022, the CRC made its decision, and they immediately researched how it would impact their property. He said they learned that a lot of people were addressing the issue and they closed on their property, believing that a Beach Management Plan would be accepted by the CRC. He said the beach serves as a draw not only for visitors, but also future residents. He said the beach acts as a long-term catalyst for the economic growth and success of all Oak Island small business owners. Without the beach, they don't have a business. He said that some people say that they should let Mother Nature take its course. Several years ago, that was an option, but now that beach development had been allowed, he didn't think they had any choice but to maintain the beach. He said when they were saying no to a beach management plan, they were saying yes to a lot of loss tax revenue because many beachfront property owners would petition the County for lower taxes. He said that

Dena Thomason, 4005 E. Beach Drive: Ms. Thomason said that part of the reason they made Oak Island their home was partially because of the beach, but also because of the people here. She said they truly care about each other. She said there are more than 500 families who are at risk for losing their homes, and she asked Council to please adopt the Beach Management Plan. She said it would be easy to say let's delay it but for those 500 families at risk of losing their homes. She said in the Oak Island she has come to know, when a neighbor is in trouble, we don't say let's delay but how can we help.

Andy Spradley, 114 SE 6th Street, for the Beach Preservation Society: Mr. Spradley said the Silent Auction fundraiser would be on April 8 at 801 Ocean Event Center. Mr. Spradley also encouraged everyone to volunteer with the organization and consider serving on the Board.

Christina Dooley, no address given: Ms. Dooley said she wanted to speak about something strategic; she said Council used that word a lot, but she didn't think they knew what it means. She said that as a town, they don't think strategically. As a Town, they were always reactive and not proactive. An example was removing right-of-way parking all over the island; she said that was reactive. Ms. Dooley said that they were not thinking big enough, that they were just thinking about how to quell the uprising when citizens get upset. She said that paid parking does not make parking or access to the beach safer. She said that making people park in spaces and enforcing that makes it safer. She said let's call it what it is, a money grab. She said people come to meetings, they email, they call and they don't get answers. She asked why they don't get answers. She said strategic planning was the ability to lead ourselves in a way that advances the organization's missions and goals and creates advantage for the long-term. She asked if there was a vision for the Town and if everyone had the same vision and if they were not all going in the same direction, they would get nowhere. She said they have talked about beach management and paid parking for years and years and they get nowhere because they don't all have the same vision. Ms. Dooley asked Council to start thinking bigger.

Pam Hicks, 202 NE 64th Street: Ms. Hicks said that most of them on 64th Street access the beach at SE 64th Street, which has very few spaces. She said they have a lot of people using that access and they will not be able to park as residents. She said that residents who live here and pay taxes would like to be able to access the beach without issues. She asked if there had been a study to see if all of the spaces to see if

they were being utilized. She said that they used to have two golf carts in a space at SE 64th Street, and that having residents take up all the spaces would take away from the Town's revenue.

Matthew Laucks, 216 NE 64th Street: Mr. Laucks said the 64th Street access was important to the residents on that street. He said they had 16 homes with full-time residents. He said that most of them use golf carts to get to the beach and park perpendicular to the road. He said that with only parking one golf cart per space, it wouldn't allow for enough spaces for the full-time residents or visitors. He said he and his neighbors don't think that's fair. He offered a solution – add an additional 12-15 golf cart only spaces. He said that would allow his neighborhood to have the spaces and leave the larger spaces available for paid parking.

Nancy McMurray, 6607 West Beach Drive: Ms. McMurray asked for Council's support for the Beach Management Plan. She said that Council had heard comments from people who are passionate about the beach and said there should be investment in supporting the beach. She said the economy was based on having a vibrant beach and without a Beach Management Plan, there would be houses that were not rebuildable, there would be a loss to the tax base; she also said that many businesses depend on having a vibrant, solid beach, such as housekeeping companies, electricians, carpenters, HVAC companies, rental companies, shops, restaurants, a new fitness business, etc.

Scott McMurray, 6607 West Beach Drive: Mr. McMurray also asked Council to support the Beach Management Plan. He said that without it, more than 80 percent of the beachfront homes would not be rebuildable.

Gail Burr, written comments provided as follows: Hello - My name is Gail Burr. I live at 500 Country Club Dr here in Oak Island. I am the President of the Oak Island Beach Quilters. I appreciate the major revision to the Clubs and Organizations Facility Use Agreement. I would like to make a few suggestions: I have two major items for consideration. Number 1: The first one is to clarify Annual Room Usage and Set-up/Break-Down fees. Under Oak Island Recreation Department Agrees To Section, Item #1 (on page 3), remove the statement "Equipment set up will be the responsibility of the club/organization. Under Hours, Item # 2 (on page 3), remove While supplies will be provided, the set up and breakdown of said equipment will be the responsibility of the club/organization". Under Fees and Security Deposits, Item #5 (on page 3), Separate out Annual Room Usage fee stating Non-dues paying clubs/organizations and 501(c)3 clubs/organizations do not pay an annual room usage fee. Dues paying clubs/organizations pay a \$200 annual room usage fee. What about those clubs/organizations that not-for-profit but do not have a 501(c)3 federal tax status? Separate out Set-up/Break-down fees stating If the 501(c)3 club/organization wants the facility staff to set-up/break-down the room, the fee is \$10.00 per room usage. If the dues paying club/organization wants the facility staff to set-up/break-down the tables, the fee is \$15.00 per room usage. What is the charge for a non-dues paying club/organization? May a club/organization get a waiver due to senior/financial status? Should the club/organization supply an arrangement/layout plan(s)? Where does the club/organization state the number of tables/chairs necessary? The second item is regarding cancellations. Although it is unlikely that this may happen, Cancellations, Item # 2 (on page 4), I strongly believe the addition of "If another location cannot be found and the club/organization cannot obtain a refund for their expenses (e.g., an outside instruction), said expenses will be reimbursed by the Town of Oak Island." because the cancellation is NOT the fault of the club/organization. Other considerations: Every facility I have rented from in the past has based their fees on a sliding scale that included number of meetings, hours of meetings, and size of space. I think this should be considered. Limited parking available at the Rec Center now that will only be more so when the new parking regulations go into effect. Is two (2) days enough time for the review of Social Distancing Plan and Participant Safety Plan reviews if they are necessary in the future? Does an event require both a Facility Use Agreement and a

Special Events Permit? Consider combining Item # 14 on page 1 with Paragraph 5 on page 2. Thank you for your time.

Donna Means, NE 37th Street: Ms. Means said she strongly opposed the beach nourishment proposal. She said they pay a sand tax and that there was another tax on the water bill. She said that there were very few more than 40-year-old oceanfront homes, that they were either washed away and declared unbuildable and then all of a sudden they were buildable and we have all these big houses out there. She said some of the homes that were deemed unbuildable, the original owners were not happy that there were ginormous houses on their lots that were unbuildable. She said that her wind and hail insurance had doubled in ten years and that she had never filed a claim. She said the reason her insurance had doubled was Hurricane Isaias and the insurance companies had to pay for all the damage not only here but in Florida and on the Gulf. She said she loves going to beach and she didn't mind paid parking because she thought they would get rid of some of the riff raff that comes here leaving dirty diapers in the parking lots and all kinds of trash on the beach because they were too lazy to throw it away. She said she was opposed to beach nourishment and that the homeowners should plant sea grass and vegetation; she said they should make an effort to protect their homes.

Stan Meihaus, 2729 W. Beach Drive, written comments provided as follows: Dear Town Council Members: I am writing to express my support for the Beach Management Plan, which I understand you will discuss at your meeting this evening. I am out of town and unable to attend the meeting in person. If you are like me, the August ruling of the CRC came as a surprise. That the State of NC would disallow most beachfront development immediately, and would also apply much stricter rules for beachfront homeowners in repairing their property, is even more surprising. As a beachfront homeowner, this affects me directly. It seems that the price of returning to the status quo ante is a Beachfront Management Plan. While I do not approve of their tactics, I see the point of the State. We ask them, and FEMA, for money frequently for beach renourishment and repair. They seem to be saying they are willing to continue to provide that funding, so long as they have a local responsible partner with a long-term plan. That seems reasonable. I know there are the inevitable comparisons to cost overruns of the long-ago sewer project. In you and in a more professional town management, I think we as a town can handle that risk. We are growing rapidly, and we need to be willing and able to step up to long-term projects like this. And there is urgency. Hurricane season is only 10 weeks away. We need to approve our plan, and get it in front of the CRCC for their approval, before June 1. We have had adequate time to discuss this—since August 1, basically. Please call for the vote tonight and approve the plan as submitted by Moffat and Nichols.

Bill and Sue Stewart, 4505 W Beach Drive, written comments provided as follows: Madame Mayor/Town Council Members - While I will not be able to attend tonight's Town Council meeting, I implore you to take up a full discussion and decide on our Beach Management Plan as the focus of tonight's agenda. Our town has a responsibility to protect its residents' homes, businesses and properties. The lack of an approved Beach Management Plan puts the town's economic viability which is driven almost exclusively by its proximity to the ocean and Inter-coastal Waterway. The lack of an approved Beach Management Plan also jeopardizes the viability of the oceanfront as a home to permanent and seasonal residents. As you all probably know, the CRC's decision to drive communities, like Oak Island, without an approved BMP to tie new construction (and repair/rebuild/renovation of existing homes above 49% of appraised value) after 1 Aug 22 to the 1998 Static Vegetation Line versus the Forward Line of Vegetation established locally based on the actual property. We, as a community, should have forestalled this issue by implementing a BMP before the new regulation took effect or provided all affected residents with the information necessary to make an informed decision on a plan of action. Regardless, the ultimate impact is that about 85% of the oceanfront home/business sites (800-plus) are now considered Non-Conforming and, based on the SVL setback rules, 50% of the Non-Conforming homes/businesses would be sited on properties that would be Non-Buildable. This inability repair/renovate/rebuild would represent

a significant financial and emotional impact, not only to the individual home/business owner, but also to the town's tax base as homes will be left untouched thereby dropping the appraisal values of all oceanfront/ocean view properties. An approved BMP would demonstrate the Town's commitment to the long-term viability of our waterfront while providing the peace-of-mind all home and business owners near/along the oceanfront should have about their investments in Oak Island! Your support for approval of a Beach Master Plan is essential for our community's future. Thank you!

Edward (Tod) Eddy, 5711 West Beach Drive, written comments provided as follows: I have reviewed the Beach Management Plan and strongly encourage the Town Council to adopt it as rapidly as possible. I applaud the effort that has gone into its formation. It is a viable framework for action, setting certain milestones and timelines without unduly tying the hands of the Town Council and the community. My wife and I are recent transplants from California. We moved to Oak Island after our daughter and her family, who live near Charlotte, fell in love with the place, as have we. Oak Island initially impressed us as a thoughtfully managed town, balancing the preservation of a small-town atmosphere with the need for a vibrant economy. Delays in the adoption of the Beach Management Plan however, give us cause for concern. We are quite interested in investing on our own in shoreline development and have taken steps to do so (consulting with landscapers and obtaining a grant to strengthen our home to minimize hurricane damage), but are reluctant to proceed until a beach management plan is adopted and approved. Our understanding is that most local townships have adopted such plans, ensuring a stable framework for a vibrant economy, and we are struggling to comprehend why adoption of the proposed plan for Oak Island has been delayed. I implore you to act promptly to adopt the proposed plan. I do not want to see the future of Oak Island washed out to sea, both literally and figuratively.

COUNCIL REPORTS (MAYOR AND COUNCIL)

Councilman Martin said that the Cape Fear RPO Director was leaving to move on to another opportunity. He said that Patrick Flanigan would be missed, and that he had been an advocate for a feasibility study for greenways. The new person will start in April. He said that they continue to pursue the carbon-reduction program.

Councilman Craft said that the Environmental Advisory Committee would have an oyster reef training on March 17 in Veterans Park. The group would also participate in Arbor Day on April 13 and Earth Day April 14; there would be a recognition for 26 years as a Tree City scheduled as well. He also encouraged participation in Pledge the Pink or becoming involved with the Beach Preservation Society.

Councilman Bell spoke about the re-dedication of the Kevin Bell Skate Park, planned for Saturday. She spoke about the history of the park, its rebuilding, and the plans for Saturday's celebration.

Mayor Pro Tempore Bach asked everyone to keep Councilman Blalock in their thoughts this evening. Mayor Pro Tempore Bach said that it was difficult to build consensus. It was difficult to see a wind and hail premium 170 percent higher than last year. He said there were lots of long-term needs, such as infrastructure and roads, but at the core of what we need to do was manage growth effectively, which means having reliable, sensible and sustainable policies. He said that he didn't think they would get to a point where everyone says this is a wonderful plan; that was not how it works. He said the people have a choice at the ballot box. He said Council was working as hard as possible to manage competing priorities. He said a perfect example of that was the concern on one side about a Beach Management Plan and its cost and who pays for it and on the other hand, the dangers of inaction. He said they appreciate feedback, and they do read emails and try to reply.

Mayor White said that she was continuing to learn to do her job effectively, and she was taking a number of courses through the UNC-Chapel Hill School of Government. She said hopefully that would help her help Council and the Town move things forward more effectively. She also said she, along with Mr. Kelly, Mr. Hatten and Ms. Stites, met with Sen. Rabon and Rep. Miller. She said they'd had positive meetings, and that both were working very hard on the Town's behalf. Mayor White also encouraged everyone to at least look at the skate park and encouraged everyone to attend the event this weekend.

I. CONSENT AGENDA

- I.1 Authorization for staff to advertise delinquent taxes ([AdvertiseDelTaxes_Memo](#))
- I.2 Approval of Minutes ([MinutesApproval_Memo](#), [012623TownCouncilMinutes](#), [013123TownCouncilMinutes](#), [022023TownCouncilMinutes](#))
- I.3 Budget Ordinance Amendment ([BOA FY 2023 - Transfer to Capital Reserve funds from sale of fire truck](#))
- I.4 Letter of Intent for the U.S. Army Corps of Engineers (for the Town to participate in a study for a Federal beach program).

Mayor Pro Tempore Bach made a motion to approve the Consent Agenda as amended. Councilman Martin seconded, and the motion passed unanimously.

II. ITEMS REMOVED FROM CONSENT AGENDA, IF ANY (none)

III. COMMITTEE APPOINTMENTS

III.1 Board of Adjustment (two terms ending March 2026): **With votes from Council members Bell, Craft and Martin, John McLendon was appointed, and with votes from Mayor Pro Tempore Bach and Council members Bell and Martin, Ed Hardy was reappointed.** Applicant Mark Spicer received votes from Mayor Pro Tempore Bach and Councilman Craft, but was not appointed. Applicants Charles Farley and Steve Yuhasz were not appointed.

III.2 Board of Adjustment (unexpired term ending March 2024): **With votes from Mayor Pro Tempore Bach and Council members Craft and Martin, Charles Farley was appointed.** Councilman Bell voted for Silvia Van Dusen, who was not appointed.

III.3 Recreation Advisory Board (three terms ending March 2026): **With votes from Mayor Pro Tempore Bach and Council members Bell, Craft and Martin, Carrie Lenzen was appointed, and Wayne Brookover was re-appointed. Mayor Pro Tempore Bach and Councilman Bell voted for Lisa Nolin, and Council members Craft and Martin voted for Gail Burr. Since the vote was tied, a second vote was held, and the vote was again tied. Council consensus was to reconsider the applications at the April meeting.** Other applicants(s): Emily Dickinson.

IV. ADMINISTRATIVE REPORTS (TOWN MANAGER AND TOWN ATTORNEY)

Department reports are available on the Town's website at www.OakIslandNC.gov/DEPT

Mr. Kelly said that Otto Connect would be in Town Hall starting tomorrow to sell season passes; he reviewed the schedule for office visits, and the process thereafter. He said there was a strong chance of rain Saturday, so they would consider moving the skate park grand re-opening to Sunday. He said live oak trees and palm trees had been planted at the skate park, and live oaks had been planted around

Middleton park and behind Town Hall. Public Works had been working on parking spaces on the west end and would move to the east end toward Middleton.

V. OLD BUSINESS

V.1 Consideration of the Beach Management Plan to be Submitted to the Coastal Resources Commission ([BeachManagementPlan_Memo, OKI_BMP_20230309](#))

Sam Morrison, with Moffatt & Nichol, gave a brief presentation on the Beach Management Plan to be presented to the Coastal Resources Commission (CRC). The presentation is attached and is hereby made a part of these Minutes. He said the Beach Management Plan, really a static line exception, would allow the Town to use the first line of stable vegetation to measure oceanfront setbacks from rather than the pre-project line, if the Town maintains the beach. Mr. Morrison said there was a public meeting, that comments have been included in the Plan, and the Plan is now ready for submittal to the CRC. Mr. Morrison said a lot of work Moffat & Nichol had already been doing was incorporated into the Plan. Mr. Morrison said the Plan is just a Plan and that it would be reevaluated in five years. The Town is already planning a nourishment project for 2024-2025 and has \$20 million in funding from the State for that project; they believe the stable vegetation line could be established in 2025. He said that if the Plan is renewed for five years, the first anticipated maintenance project would come up in 2028, and the Plan shows the financial plan for paying for that maintenance project; if the Town did not do a maintenance project, the CRC could decide not to renew it in 2033.

Answering a question from Councilman Craft, Mr. Morrison said that they anticipate what is planted in 2025 would be recognized as the stable line of vegetation. He said that it could be earlier than that on a lot-by-lot basis. Mr. Morrison said that the Town had started spending money on vegetation after the 2021 project, though the 2022 project planting did much better, and that they were talking about planting again in 2024. Mr. Kelly said that the planting for this year had been discussed a couple of months ago. He said that staff with the Division of Coastal Management (DCM) had said that they would consider vegetation taking two years to be considered stable. Mr. Kelly said everything the Town was doing, individuals could do as well, such as planting and fertilizing the dunes. The Town's CAMA Local Permitting Officer (LPO) would mark the line of vegetation. Answering a question from Councilman Craft, Mr. Morrison said there were homes on the beachfront that would benefit immediately from the Plan being adopted, though for the majority of homes, it will take time to establish the vegetation. Mayor White said that if the stable line of vegetation were established for a property, that could change after a storm; Mr. Morrison said that was correct, that the property could become nonconforming. Mayor White said she didn't want anyone to think it was a done deal. She said that people who live on the beach assume the risks of the sand and vegetation and withstanding storms. Mr. Morrison said for this line, any time a permit is requested, the area would be surveyed and the stable vegetation marked. Doug Huggett, also with Moffatt & Nichol, said a setback would have to be resurveyed if development were delayed after a permit was issued. Mayor White said it seemed the Town would do well to protect the sand after the FY 2024-2025 project, and she only saw vegetation in the plan; she asked if there were other measures that could be taken as well. Mr. Kelly said this was a Beach Management Plan with a template to follow, and that the Town's Beach and Inlet Management Plan would include more of those measures. Councilman Craft asked why they would wait until June instead of getting on the CRC's April agenda. Mr. Morrison said the deadline for that meeting had passed; DCM needs the Plan six weeks ahead of the CRC meeting. Answering a question from Councilman Craft, Mr. Morrison said the historical data shows a maintenance project would be needed in six years.

Mayor Pro Tempore Bach said he had two concerns – the level of commitment and the cost. He said what he was hearing tonight was that the nourishment project would provide some level of protection to the

523 homes in peril. Mayor Pro Tempore Bach asked how reliable the \$34 million figure for the first maintenance project was, considering it was six years out; Mr. Morrison said they had based it on historical data. Mayor Pro Tempore Bach said that taking the sand tax and the accommodations tax and money from the General Fund, we're guestimating the cost. Answering a question from Mayor Pro Tempore Bach, Mr. Morrison said it was a mid-line number, if not a little conservative. Mayor Pro Tempore Bach said if he took the most conservative path, \$20 million, could they make due with that because that was what they could afford; if they only had \$20 million, what could they do? Mr. Morrison said they could see the condition of the beach now, then the project is done in 2024-2025, and then it recedes, then when they do a project five years later with \$20 million, they won't get back what they had. He said that the maintenance would be triggered based on erosion. Mayor Pro Tempore Bach asked if the Town could just walk away from the Plan; Mr. Morrison said the Town's Plan could just not be renewed in 2033. Mr. Morrison confirmed that renewal was based on the Town's commitment and CRC approval. Mayor Pro Tempore Bach said it was not a 30-year contract; Mr. Morrison said that it was a 30-year Plan. The CRC wants to see the Town's commitment but will reevaluate the Plan every five years. Mr. Edes said the removal of the Development Line could have significant impacts and the Beach Management Plan is the only vehicle that would allow the Town to reestablish something similar to the Development Line to allow houses to be rebuilt; Mr. Huggett said that was correct. Councilman Craft said that the CRC wants to see a plan that's feasible. He asked if the Town could commit to \$4 million a year instead of \$6 million, and if Moffatt & Nichol could work with that. Mr. Morrison said that what they're providing the CRC is what it takes to maintain this beach, so if the Town had less money and a trigger hit, the CRC might see that the Town was still trying to maintain the beach; he also said that at some point, the Town can't just fund the beach at half and maintain the beach. Councilman Bell said what they wanted to hear was that they were not putting the citizens in jeopardy of spending millions of dollars down the road. She said they understand what they need to do, but they don't want to commit future generations. Mr. Morrison said that the Beach Management Plan would essentially extending the exemptions the Town had, but that the Plan is required, and that at any time, if the Town moves away from the Plan, the CRC could remove the exemptions. Councilman Craft asked if the Town sets a lower annual funding amount, would there be a shortfall and the CRC would say the Town was no longer in compliance; Mr. Morrison said that if the Town continues to underfund beach maintenance, the beach would retreat and they would not be able to maintain the first line of stable vegetation.

Councilman Martin said his understanding was that the CRC would not hold the Town to any funding model as long as the Town puts forth a Plan. Councilman Martin said his concern was that there was really no guarantee at the CRC level, the Council level, or even the engineering firm on what may transpire in the next six years. He said that the volume and cost numbers in the engineer's projects have increased. He said he would prefer to use a reduced number for accommodations tax revenue, such as \$2 million, and a total of \$3.5 million per year, which was real world money being collected today, not a projection; that would be \$21 million in six years toward a maintenance project. Councilman Martin said if he looks at the volumes, in six years, we would need 1.3 million cubic yards when we're putting 1.6 million cubic yards out in 2024. He said he didn't think they'd have to replace 83 percent of the beach. He found it hard to consume as a taxpayer that the Town would have to replace the beach every six years. Councilman Martin said that he struggled committing this Council and future taxpayers to more than \$40 million, approaching \$40 million, for a maintenance event if the Town would not be held accountable by the CRC. He said that the Town could show the CRC we have a maintenance plan, but that real world events would dictate what maintenance the Town has to do. He said he was in favor of moving forward with the Plan, but with reducing the maintenance funding to \$21 million. He also said that he would be concerned that planning on future draws from the General Fund for a maintenance project, that could put the Town at risk of having money for emergency situations. Mayor Pro Tempore Bach said we needed to live within our means. Mr. Morrison said the projections were based on data of the Oak Island beach's annual loss, and that if the trigger point were not met in 25 years, then the Town wouldn't need to do a

maintenance project in that time period. Mr. Morrison said that with a lower amount of funding, the Town may not be able to replace the sand needed once the maintenance project was triggered. Councilman Craft said after Hurricane Matthew, the Town got \$10 million from FEMA. Mr. Morrison said that they would always have other potential sources of funding. Mr. Morrison said the trigger for the need to nourishment was quantity-based, not finance based. Mayor Pro Tempore Bach asked how it would work if the Plan only included what Council was willing to fund; Mr. Morrison said that the CRC was not looking for a specific financial commitment, but rather a financial commitment to maintain the beach, and it was still a matter of having the wherewithal to do a maintenance project when it is needed. He said, to Councilman Martin's point, if 720,000 CY is what was needed, the Town would be wasting money on mobilization costs, and it would be better to wait until the trigger of 1.3 million CY was needed. Councilman Martin said that what Council was saying was that they didn't want a \$34 million, 1.3 million CY maintenance plan -- they wanted a \$21 million, 720,000 CY plan, and that they understand that may not get them to seven years but that it may extend beyond seven years. He said he was struggling with the fact that every six years, they need to rebuild the beach. Mr. Morrison said that if they wanted to design a plan around \$21 million, they could do it, but their projections say that they would need to do a maintenance project four years later instead of six.

Mayor Pro Tempore Bach asked when they had to make a decision by to get on the June agenda. Mr. Huggett said they needed six weeks for DCM to review it. Mayor Pro Tempore Bach said he was very unsettled about the finances, that Council has a fiduciary duty and that the engineers have a duty also. He said he thought they needed another meeting to clarify what it being done, because he didn't think the public understood that we could walk away from this plan. He said that he didn't think there was enough information about the risk/reward analysis for doing \$21 million. Councilman Martin agreed that there were too many unknowns including the makeup of the CRC Board in the future. He said his concern was that they were being told they wouldn't be held accountable, but he doesn't have faith in that, which is why he wanted to use \$21 million for the maintenance program. Councilman Martin said he also had concerns with delaying a decision again. Mayor Pro Tempore Bach said he could agree with that, but that they still needed a public meeting to explain the risk/rewards, etc.

Mayor White said that if the historical data projects one set of losses, and the Plan is submitted with triggers that are less than the actuals, was that something the CRC would consider. Mr. Morrison said the trigger for a maintenance was a volume of sand, and the Town could change whether it wants a 5-year storm level of protection, or a 25-year storm level, but that the trigger is still figured on the volume of sand outside that level of protection and how you get back to that point. Councilman Martin said he was willing to go with funding \$4 million a year toward a maintenance project, which would be \$24 million, or close to 900,000 CY of sand, which was one of the projections Moffatt & Nichol had included.

Councilman Martin made a motion to approve a Beach Management Plan as a response to the CRC under the funding model of \$24 million at the six-year interval to be submitted to the CRC, subject to additional documentation and review by Council in April. Mr. Edes suggested an alternative motion, to direct engineers to come back with a \$24 million model for six years with backup data for Council to consider at the April meeting, with it to be sent to the CRC if approved then. Mr. Morrison said he couldn't say tonight that \$24 million will get them six years. Councilman Martin said that they had showed 900,000 CY, and Mr. Morrison said he couldn't say tonight that would get them to six years. Councilman Martin amended the motion to use Mr. Edes' language, which Mr. Edes restated. Mayor Pro Tempore Bach seconded the motion and it passed unanimously.

Mayor White said she appreciated everyone's thoughtfulness, though she was disappointed that they were not bringing the public along. She said she understood the urgency to get the Plan on the June CRC

meeting and said that was mission imperative. She suggested Council have a special meeting to lay out what is being considered.

V.2 Consideration of Report from UDO Audit (presented by Wes MacLeod, Local Government Services Director with the Cape Fear Council of Governments) ([UDO_AuditReport_Memo, 2023-02-17 UDO Update Priorities](#))

Wes MacLeod, Local Government Services Director with the Cape Fear Council of Governments, gave a presentation on his recommendations following an audit of a Unified Development Ordinance. A copy of the presentation is attached and is hereby made a part of these Minutes. Mr. MacLeod spoke about the process he, staff, and the Planning Board went through to tackle the UDO audit in six meetings. A 26-page report was provided, but that this was a list of over-arching priorities that came from that report; Mr. MacLeod read through the recommendations, which were listed as follows:

1. *Clarify the location of accessory structures. Conflicting provisions allow for the placement of detached garages and carports forward of the front façade of the principal structure (Section 2.12 and Section 8.14.9).* Mr. MacLeod said that every day that people put in structures forward of the principal structure, it potentially creates more non-conformities moving forward.
2. *Consolidate and clarify setback exceptions. There are a number of exceptions to the required setbacks throughout the UDO. Some of the exceptions are in conflict with one another. A thorough review and consolidation of all setback exceptions is needed.*
3. *Comprehensively evaluate the parking requirements within the Community Business (CB) zoning district. Current parking requirements may restrict future redevelopment and/or changes of use for existing buildings. An appropriate balance should be achieved to ensure adequate parking is provided while also encouraging redevelopment and reuse of existing building stock.*
4. *Update the development review process to allow more subdivisions and site plans to be approved by the UDO Administrator and/or Planning Board. Consider removing all Town Council approval responsibility for administrative decisions. Anticipation of substantial subdivision approval requests is likely to occur in the coming years. Relieving the Town Council of this responsibility will allow for more efficient governance, reduced staff time, and a more streamlined development approval process.* Mr. MacLeod said with large tracts of land and development approvals coming forward, and with administrative approvals, if the applicant meets the terms of the ordinance, the Town must approve it. He said that this recommendation came from him and from staff, that the Planning Board did not necessarily want this responsibility.
5. *Modernize the table of permitted uses. In general, reduce the number of similar uses in the table such as “accounting agencies” and “advertising agencies” in favor of a generalized “office” use. In addition, ensure all uses provided in the table have an applicable definition.*
6. *Comprehensively review all signage requirements and consider modifications to support historical use applications while considering modernization of size and sign types for future use.* Mr. MacLeod said freestanding pole signs were being used less in many jurisdictions, but they sort of have a beach theme to them, so there would be a lot of work in deciding what kind of signage to allow going forward.
7. *Evaluate the various positives and negatives regarding future street dedication and ownership. Establish a policy for public versus private streets within future subdivisions. In addition, establish street construction standards to reduce future maintenance liability for any new streets – whether public or private.* Mr. MacLeod said they were seeing across the region that even though streets may be private, they are constructed inadequately or not properly maintained and then the residents ask the

local governing board to take the streets over, and that was becoming an increasing liability for local governments.

8. *Incorporate temporary use and business license requirements (Chapter 10) and tree preservation provisions (Chapter 32) contained in the General Code into the UDO.*
9. *Consolidate zoning district dimensional requirements. Create an overarching dimensional standards table to convey all respective setback, height, and lot size requirements for each zoning district. This should replace the repetitive and unnecessary listing of each respective zoning district's various dimensional requirements.*
10. *Review Commercial Recreation (CR) zoning district uses – including the availability of private swimming pools and commercial uses. Given the interest in residential development in the CR district, consider rezoning CR areas to an applicable residential zoning district where single-family residential development is currently located.* Mr. MacLeod said there was a significant area of CR in the Yaupon section, most of which has been developed as single-family.

Councilman Craft asked if #4 had been addressed a few months ago. Mr. MacLeod said a number of changes had been brought to Council, but not this particular item. Mayor Pro Tempore Bach asked for Mr. MacLeod's top three picks. Mr. MacLeod said he would say #4 would be in the top three. He said accessory structures would be #1 on the list, though it was a simple item. He also said clarifying streets, how they will be handled, if public or private, etc. was important (#7), and that #3 would also be on that list, making it a top four. Mayor White asked what the next steps would be, and Mr. MacLeod said it would be up to Council to direct that. Mr. Kirkland agreed, and asked Council to keep in mind that some of the items, such as modernizing the Table of Uses, could take several months, or Council could ask for some of the smaller items to be handled along with an update of the Land Use Plan. Mayor White said the LUP does need to be updated, but she wondered if there were some smaller items that could be handled. Mayor White asked for the Planning Board's notes on the items to be addressed as well and that she hoped the Planning Board would continue to double up on meetings to handle some of these ordinance amendments. Mr. Kirkland said he was looking for a consensus from Council as to how to proceed. Councilman Martin suggested tabling making a decision on this and echoed the Mayor's request for the notes as to the other ordinance amendments recommended. Councilman Bell referred to Mr. Kirkland's statement about the Table of Uses and said that until more uses were defined, it made staff's job more difficult; Mr. Kirkland said that #5 would be in his top three for priorities. No action was taken.

V.3 Discussion of Previously Approved Amendments for Right-of-Way Ordinances ([RightOfWayOrdinances_Memo, PARKING_AsAmended_Jan2023](#))

Councilman Craft said he wanted to revisit the ban on right-of-way parking north of Oak Island Drive. He said that south of Oak Island Drive, there are parking areas for people to go to the beach, and that north of Oak Island Drive, he didn't think people would park in the right-of-way (ROW) on Holly Drive and take all their stuff to the beach. He said he didn't see that penalizing half the island's residents because a few people might cheat the system. He said on page 4, Sec. 28-42(A)(1)(b) he suggested adding "on the south side of Oak Island Drive." Mr. Kelly suggested simply eliminating 28-42(A)(1)(b). Mayor Pro Tempore Bach said that he thought there should be one standard across the island. He said they needed to protect the residents near Oak Island Drive as he thought people would park near Oak Island Drive to go to the beach. He also said that historically, Town Councils have struggled with enforcing the ROW ordinances and getting the ROW cleaned up. Mayor Pro Tempore Bach said that he would support that amendment, but he recommended that the enforcement personnel who would have patrolled the northern section for parking violations would enforce the ROW ordinances and endeavor to open every street end on Yacht Drive, which is public right-of-way. Councilman Martin confirmed that boats would still not be allowed in the right-of-way and he asked if Council would want to bring back the 72-hour rule. Mr. Kelly said that boats parked in the ROW must be attached to a vehicle, so the ones left in the street ends are in violation,

though he would have to check if there was a time period attached to that regulation. Mr. Kirkland said if that section were stricken, there would be no rule for how long parking could be in the ROW. Councilman Martin said he thought they would see a lot of people trying to cheat the system. Councilman Craft said that smart people on the north side of Oak Island Drive would park their own cars in the ROW and that would take care of it. Mr. Kelly asked Police Chief Morris if he had a recommendation for a timeframe to allow ROW parking; Chief Morris didn't have a recommendation as the police would have to mark tires to enforce it. Councilman Martin asked for a consensus to make it 24 hours. Councilman Martin also said that if they see that a lot of people parking in the ROW to avoid paid parking, he wanted assurance from Council that this would be revisited immediately. Councilman Craft and Mayor Pro Tempore Bach agreed. Councilman Martin addressed a comment made by a citizen earlier, saying that homeowners could park in their driveways. Consensus was to direct staff to bring a proposed ordinance amendment next month.

V.4 Discussion and Consideration of Proposed Code of Ethics, Policy ([CommitteePolicy_Memo, Oak Island Committee-Policy, OKI Disclosure of Interests Statement, Resolution Adopting Board and Committee Code of Ethics, Oak Island Committee-Application, Town Council Code Of Ethics 071310](#))

Councilman Martin said that his understanding was that the policy would go into the Handbook and that it was not changing the ordinances. Councilman Martin recommended removing age and gender questions on the application; he also asked to change the years living to years as resident. Councilman Martin also asked to remove the word "local" before references as applicants may have experience in other areas. Ms. Stites also suggested moving the references down to print on the second page and leaving that second page out of the agenda packet, so references' phone numbers were not online. **Mayor Pro Tempore Bach made a motion to put the business item before Council, with the changes noted in discussion. Councilman Craft seconded and the motion passed unanimously.** Ms. Stites said that staff would review the ordinances and bring any needed amendments to Council.

V.5 Consideration of a Resolution In Support of Maintaining a Living Shoreline Project at Veterans Park ([ResolutionLivingShoreline_StaffMemo, Resolution_LivingShoreline](#))

Councilman Martin made a motion to adopt a Resolution in Support of Maintaining a Living Shoreline Project at Veterans Park, Councilman Craft seconded the motion and it passed unanimously.

VI. NEW BUSINESS

VI.1 Consideration of Recreation Center Use Agreement ([UseAgreementMemo, Recreation Room Usage Agreement](#))

Councilman Bell said she wanted this to be considered at a budget workshop. Mr. Kelly said that staff had brought it back because it was an item that was discussed last year, but that they could discuss it during the budget workshops. **Councilman Bell made a motion to discuss this item during a budget workshop, Councilman Craft seconded and the motion passed unanimously.** Councilman Martin asked Recreation Director Heather O'Brien to work with the Advisory Board to reconcile some of the issues mentioned during public comments.

VI.2 Consideration of a Policy to Allow Remote Participation for Members of Certain Advisory Boards ([CommitteeRemoteParticipation_StaffMemo, PolicyToAllow_RemoteParticipationAtMeetings](#))

Mayor Pro Tempore Bach said they had this discussion some time ago, and that the proposed policy incorporated counsel's advice. Mayor Pro Tempore Bach said that given the experience with COVID, and given the familiarity most people have with working online occasionally, this policy made sense for

people who were volunteers, other than the Board of Adjustment. Mayor White said that with the 24-hour requirement, she asked if that would that give staff and the applicant adequate time to ensure there was a viable video and audio connection. Mr. Edes said that there may not be more time if there is an emergency situation, but also, there may not be enough time to establish the connection. Councilman Martin asked if they needed to differentiate between three meetings, or three consecutive meetings. Councilman Bell said she had reservations about it, but she would go along with this. **Councilman Martin made a motion to approve the policy for board and committee members that volunteer, that they may connect remotely to attend a meeting, but amend the text to say that they can't be three consecutive attendances through remote connection. Mayor Pro Tempore Bach seconded the motion and it passed unanimously.**

VII. CLOSED SESSION to Consult with the Town Attorney to Preserve the Attorney Client Privilege and to Discuss Specific Personnel Pursuant to N.C.G.S. 143-318.11(a)(3) and (6).

Councilman Bell made a motion to go into Closed Session at 10:03 p.m. to Consult with the Town Attorney to Preserve the Attorney Client Privilege and to Discuss Specific Personnel Pursuant to N.C.G.S. 143-318.11(a)(3) and (6). Councilman Martin seconded the motion and it passed unanimously.

VIII. ADJOURN

Council returned to open session at 10:30 p.m.

Mr. Edes asked Council to approve a motion for a resolution to authorize the Town Attorney to file code enforcement abatement actions for the following parcel numbers and addresses: 235JC008, 123 NE 19th St.; 220NA079, 3742 Oakwood Dr.; 236EA028, 3950 Old Bridge Rd.; 235IJ002, 1406 E. Oak Island Dr.; 250DB048, 26 Yaupon Way; 236EA034, 3918 Old Bridge Rd.; 235KL041, 122 NE 37th St.; and 35KM01701, 219 NE 39th St. Councilman Bell made that in the form of a motion, Mayor Pro Tempore Bach seconded and the motion passed unanimously.

Councilman Craft motion to adjourn at 10: 41 p.m. Councilman Bell seconded, and the motion passed unanimously.

S. Elizabeth White, Mayor

Attested: _____
Lisa P. Stites, MMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 and the Town website so that the Citizens and the Public may view and listen to the meetings in their entirety.

MINUTES
TOWN COUNCIL REGULAR MEETING
MONDAY, FEBRUARY 13, 2023 – 6:00 PM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor S. Elizabeth White, Mayor Pro Tempore John W. Bach, Council members Sheila M. Bell, Charlie K. Blalock, Bill Craft, and Mark U. Martin, Town Manager David Kelly, Town Attorney Brian Edes, and Town Clerk Lisa P. Stites, MMC.

Mayor White called the meeting to order at 6 p.m. She acknowledged the size of the crowd and asked for everyone's patience and cooperation. Councilman Charlie Blalock gave the invocation and led the Pledge of Allegiance to the flag.

PUBLIC HEARING(S) AND ACTION

PUBLIC HEARING I (AND ACTION): The purpose of the Public Hearing was to conduct a quasi-judicial hearing for a Special Use Permit for a hotel ([Narrative_Boardwalk Place - Application, Scott D Stewart - Boardwalk Place Project Director - Designer - Qualifications StatementSDS, Boardwalk Place - Site Design Program Exhibits](#))

Mr. Edes reviewed the quasi-judicial process, saying it was applicable to both hearings on the agenda. Mr. Edes said that a decision for a quasi-judicial matter must be based on the competent and substantial evidence received during the hearing. He said if anyone had received emails or read about the item on social media, that could not be considered. Mr. Edes said that the applicants were entitled to a fair and impartial decision-making body, which means Council had to keep an open mind. He also asked the conflict of interest questions, for the first Special Use Application, as follows: if anyone had any ex parte discussions with the applicant regarding the substance of the application; if anyone on Council had a financial interest in the subject matter; if anyone had a close familiar relationship with anyone associated with the applicant; if anyone had a business relationship with anyone associated with the applicant; if anyone had any reason they could not base a decision solely on the evidence presented tonight; all Council members indicated negative responses.

Mr. Edes said the hearing would be conducted similarly to a court hearing, and they would follow the North Carolina rules of evidence; the goal was to assure that the substantive and due process rights of the applicant and all those who testify were met. He said anyone who wanted to present testimony would be sworn in and subject to cross examination and questions from the Council. He said staff would speak, then the applicant would make a presentation, and they would hear from anyone who signed up who had standing. He said the meeting was open to the public, but that not everyone, legally speaking, has standing to talk about a particular issue, though he errs on the side of allowing people to speak and they can discuss it on a witness-by-witness basis. He said each witness would also be subject to cross examination and questions from the Council. Mr. Edes said the applicant had the burden of proof, and that the criteria was on pages 4 and 5 of the agenda packet. He said the applicants could present a summation of what they believed the evidence showed. Ms. Stites swore in all who indicated they would present testimony.

Planning Director Matt Kirkland addressed Council, saying the Special Use Permit was a request for a hotel. Applicant Demarest Company Landscape Architects, PLLC planned to locate a hotel on the corner of E. Dolphin Drive and 3rd Place East. Mr. Kirkland gave a presentation, a copy of which is attached and is hereby made a part of these Minutes. Mr. Kirkland reviewed the criteria for issuing a Special Use Permit (SUP). Mr. Edes clarified that Sec. 4.9.3 had some additional criteria, and the applicants' narrative referenced those criteria as well. Mr. Edes if Mr. Kirkland wanted to introduce pages 3-28 of the agenda

packet; those pages were accepted as Exhibit 1 without objection. The four pages from Mr. Kirkland's presentation were accepted as Exhibit 2.

Mr. Richardson asked Mr. Kirkland if the applicant had submitted a full and complete application in satisfaction of all of the Town's Code of Ordinance requirements for the Town Council's consideration for a Special Use Permit; Mr. Kirkland said that was correct. Mr. Richardson asked if there were any other technical specifications or other requirements that had not been satisfied by the applicant for submission to Council for consideration tonight; Mr. Kirkland said not to his knowledge.

Jeanine Flexner, 1730 West Pelican Drive. Mr. Edes asked Ms. Flexner how close her property was from the property that was the subject of this application; she said one mile. Mr. Richardson objected, saying her property was not adjacent and that one mile away was too far away to establish standing. Ms. Flexner said she goes through that intersection. Mr. Edes asked Ms. Flexner if she would endure special damages distinct from the rest of the community; she said she would, including traffic and safety because the intersection at Middleton and Dolphin is a problem from April to October. She said there was a line of traffic backed up on Beach Drive every single day, multiple times a day. She said pedestrian safety would be affected as well. She also asked what would happen during an evacuation. She said it was a public health and safety issue. Mr. Edes said she could testify as to her personal experiences but unless she qualified as an expert, there were certain things...the crowd interrupted. Mr. Edes said that under North Carolina law, she was entitled to testify about her personal observation and knowledge, however, there were certain areas, such as traffic impact, that unless you qualify as an expert, her testimony shouldn't be received. Mr. Edes asked Mr. Flexner if she had any specialized training in traffic patterns; Ms. Flexner said she did not but asked if there would be a traffic study before this was approved. Mayor White said she wouldn't tolerate disruptions from the audience. She said this was serious business that affects the Town and its residents. The Mayor said that if people disrupt the procedure, she would ask them to leave. Mr. Edes said that over Mr. Richardson's objection, he would find that Ms. Flexner had standing to at least cross-examine Mr. Kirkland. Ms. Flexner asked how the Court of Appeals could have approved the general standards for public safety, because how could they do that without a traffic study. Mr. Kirkland said that the burden of proving the four general standards fell on the applicant and the applicant would have to present testimony. Mr. Edes asked for clarification, that when Ms. Flexner referred to the Court of Appeals having approved certain standards, she was referring to the standard itself, not whether any particular application had or had not been approved. Ms. Flexner said she understood but wanted to make sure there would be a traffic study; she did not have additional questions for Mr. Kirkland. Mr. Richardson asked Mr. Kirkland if there was a requirement from the Town that the applicant commission and produce a traffic impact analysis study; Mr. Kirkland said that the Town did not have such a requirement. Mr. Richardson asked if, under Sec. 4.11.1.3 of the Town's ordinances, lay testimony, such as Ms. Flexner's, was not allowed as to the increase of vehicular traffic from proposed development and whether it would pose a danger to public safety; Mr. Kirkland said that was correct. Mr. Richardson had no further questions of Mr. Kirkland. There were no questions for Mr. Kirkland from Council.

Mr. Edes explained that people who testified would be subject to cross-examination, and if they signed up to testify, they would have that opportunity after the applicant presented its evidence. He said that they were not at the point for others' testimony yet. He said that people would have the opportunity, if they had standing, to provide testimony.

Mr. Richardson, attorney for Boardwalk Place LLC, addressed Council. He reviewed the speakers they would have during the hearing.

Project Director and Designer Scott Stewart addressed Council; a copy of his presentation is attached and is hereby made a part of these Minutes. Mr. Stewart spoke about his background and listed the individuals

who were present to also provide testimony. Mr. Stewart said that the property was in the Commercial Business district, which allowed 72 uses by right. The presentation was identified as Exhibit 3. A booklet with the team identified and a corrected narrative (to correct two typos) was identified as Exhibit 4. A set of four letters (BEMC; Cal Morgan, real estate appraiser; a two-page summary of the traffic impact analysis -- the 100-plus page study was also available; and a letter from Woods Engineering because the project requires a 13-foot podium to allow for ground floor parking under the buildings) was identified as Exhibit 5.

Mr. Stewart spoke about the property, and referenced Drawing 2, which was part of Exhibit 3. Mr. Stewart also referenced Drawing 4, also in Exhibit 3, to illustrate how parking would be installed. Mr. Stewart said that a hotel would generate less traffic than some of the uses allowed by right in that zoning district. Mr. Stewart also spoke about the traffic study, saying that Middleton Avenue, which is a state road, was operating at what is considered a safe level. Parking is planned for 198 spaces, and he spoke about the various setbacks for the property. Mr. Stewart also spoke about the environmental conditions; he said they could cover 30 percent of the area of environmental concern, or more than 11,000 square feet. He said the footprint fits into the area allowed to be used. Mr. Stewart also described the general design of the property, including the promenade area, a splashpad, retail and a restaurant. He said there were 53 rooms on the first floor of the hotel, with the pool and the promenade area, and retail and the restaurant on the other side. The second floor would have another 53 rooms (Drawing 7) and an overlook at the restaurant. Mr. Stewart also spoke about the landscape plan (Drawing 8) and said that he would strike the shrubs identified as invasive and use other plants on the Town's approved plants list. There is a heavy vegetative buffer planned for the side on 3rd Place East. He said they would reestablish a wetland area in an upland area of about 8,000 square feet. Drawing 10 showed the stormwater plan, and Mr. Stewart said they had done infiltration studies. He said that using an engineered stormwater plan required a certain elevation, and they would use that two-foot space for infiltration tanks. Drawing 11 showed the entire site, including a boardwalk across the wetland area to be created for education and wildlife sanctuary/viewing. Mr. Stewart said Drawing 12 showed the floorplans. He said that they have to consider what the land could support and said that the development will behave properly with the surrounding environment. He said that the boardwalk could connect to a canal boardwalk the Town may want to build. Drawing 13 showed various houses on Oak Island from which Mr. Stewart said they took inspiration for the architectural design for their plans. Drawing 14 showed the front side of the buildings. Drawing 15 showed the promenade level and the split between the hotel and the retail. He said there were 72 other uses allowed in CB, but that the hotel was near and dear to his heart, and that it would have a variety of uses and bring services to this immediate area instead of people going across the bridge constantly. Mr. Stewart said Drawing 16 showed the hotel courtyard area; he said it is encapsulated, so they control the noise, the lights, the privacy and the protection. Mr. Stewart also reviewed other Drawings from Exhibit 3 that showed the design for the buildings and landscaping. Mr. Stewart said they would pave 3rd Place East and provide 19 public parking spaces to the Town for access to the boardwalk park. Answering a question from Mr. Richardson, Mr. Stewart said the boardwalk would open to the public, as would the splashpad, restaurant, and retail shops. Mr. Richardson asked if any of the structures would exceed the Town's height restrictions; Mr. Stewart said it was all at 35 feet. Mr. Stewart resumed his review of the Drawings in Exhibit 3. Mr. Richardson asked Mr. Stewart if the outdoor dining area was away from residences; Mr. Stewart said that was correct, and that the Elks Lodge was next door. Drawing 32 showed 3rd Place East again, and Mr. Stewart said they would use low lighting. Answering a question about paving 3rd Place East, Mr. Stewart said they would coordinate with the Town to get the permits, etc. Drawing 33 showed a night view of 3rd Place East with foot candles. The last slide was a collage of all the proposed uses for the property.

Mr. Richardson asked Mr. Stewart if the Special Use Permit was only needed for the hotel; Mr. Stewart said that was correct. Mr. Richardson reviewed some of the other uses that are allowed in the Town's CB

district, including a grocery store, restaurants, movie theater, bars, ABC store, indoor athletic exercise facility, community center, dance hall, laundromat, schools, or dry cleaner. Regarding Mr. Richardson's question about parking, Mr. Stewart said that all of the 198 spaces were encapsulated. He said that the outside elevations were all the same. Mr. Richardson asked about Drawing 2, if that was a pedestrian sidewalk that the applicant was building for the Town. Mr. Stewart said that was correct and he confirmed that it was not required by the Town. Mr. Stewart said that for a project like this, they needed to make it pedestrian and cyclist friendly. He said they would be required to have five spaces for bicycles, but they planned 58. Mr. Richardson asked if there was anything about the project that would be compromised under CAMA or other environmental rules and regulations; Mr. Stewart said there was not. Mr. Stewart also referred to the cover page of Exhibit 3 and spoke about the pool lighting planned for this project.

Mr. Richardson reviewed what was included in Exhibit 4. He asked Mr. Stewart if the Town required a traffic study. Mr. Stewart said it did not, but that they did one anyway, looking at it as if this would be built on Oak Island Drive, or where it was planned, as a resort hotel in which the uses would complement each other. He said that the average projected number of trips was 56 at a peak hour for an average hotel, but was 37 for this kind of hotel with associated uses. Mr. Richardson reviewed the documents included in what was identified as Exhibit 5, and separated them out into Exhibit 5, the letter from BEMC; the Cal Morgan real estate appraisal letter as Exhibit 6, the Executive Summary from the traffic impact analysis as Exhibit 7, and the letter from Woods Engineering as Exhibit 8. Mr. Stewart said if the property was filled with retail uses, the traffic impacts would be more than double what the projected traffic use was for the hotel and retail. Mr. Stewart said that he understands that the Town had lost approximately 76 hotel rooms due to fire, a hurricane, etc., and that this project would only add about 30 rooms to what existed previously. Mr. Richardson moved to enter Exhibits 3-8 into the record.

Belinda Showfety, property owner of 122 and 124 East Beach Drive, which are across the street from the proposed development, asked to speak regarding the exhibits. Mr. Richardson did not object to Ms. Showfety having standing. Ms. Showfety said that she objected to not having enough information about the exhibits. Ms. Showfety asked if kayakers would still have access to Davis Canal once the walkway were built. Mr. Stewart asked where the kayakers put in; Ms. Showfety said they pull out behind the property. Mr. Stewart showed Drawing 12 of Exhibit 3 and said that the corridor she was using was not on their property. Ms. Showfety said that Mr. Stewart mentioned an easement for fencing and asked what those amounts were. Mr. Stewart said that the 3rd Place side was actually the front yard, that had a 20-foot setback and they would be planting a buffer. He said along East Dolphin Drive, there was the right-of-way and then the 8-foot setback. Instead of having parking there, they will have trees and landscaping. Mr. Stewart also discussed sewer capacity, saying they planned for 32,000 gallons/day and said they were building a lift station to take flow to the Middleton station. He said the lift station would be at the end of the service lane, near the dumpsters. Mr. Richardson asked Ms. Showfety if her question about the fence easements had been addressed. Ms. Showfety said that she had applied for a fence permit, and she said that her setback was quite a bit more than what the hotel was required to have. Ms. Showfety asked where the sewage was going to leave the island and who would pay for water and sewer (to be installed). Engineer Matt Haley said that they estimated 32,000 gallons per day according to North Carolina's standards. There are not existing facilities, so the applicant will provide a lift station; the cost for design, permitting and construction would be the cost of the developer and then the station and utilities would be dedicated to the Town, which was a very common practice. Ms. Showfety asked if the 32,000 gallons would then belong to her and the citizens. Mr. Richardson objected to the question and said the Town generates revenue from sewage treatment and it was not like the citizens would be taking a hit in the wallet; he moved to strike that question. Mr. Edes said the objection was noted and overruled. Mr. Haley said that the wastewater generated would be billed at the standard municipal rates just as for any other customers on the island. Mr. Richardson asked if the applicant paying for installation and then conveying it to the Town was a standard practice for developers, and Mr. Haley said it was. Mr. Richardson asked if

three restaurants were built than the hotel, would they generate wastewater, or a laundromat; Mr. Haley said that other uses could generate more sewage than the proposed use. Mr. Halley said the State of North Carolina has a document that provides specific flow rates generated by uses. Ms. Showfety asked if they had looked into what affordable housing would be available for employees. Mr. Stewart said they had not looked into that. Mr. Edes said that was digressing to something other than the criteria to be met. Mr. Richardson said the original objection Ms. Showfety noted was some unspecified objection to the applicant's Exhibits 3-8.

Roger DePuyt: Mr. DePuyt said he was here representing the Elks Lodge and that he wanted to express two concerns. He said that they had spoken with CAMA about infilling property to the north of the parking lot and were told that was not a possibility. Mr. Richardson said that he objected because it was hearsay and that the speaker was a lay witness and could not give testimony regarding specialized knowledge with respect to CAMA. Mr. Edes said that this time was for objecting to the exhibits offered by the applicant; Mr. Edes said that Mr. DePuyt would have a chance to testify later. Mr. DePuyt said that they had conversations with the property owner and were led to believe...Mr. Richardson objected and said that was inadmissible hearsay and had nothing to do with the hearing or the exhibits being offered into evidence. Mr. Edes asked Mr. DePuyt if he had objections to Exhibits 3-8. Mr. DePuyt said that this property encroached onto property they were told they could purchase. Mr. Edes said they had heard Mr. DePuyt's objection, but recommended Exhibits 3-8 be accepted into evidence; there were additional objections to the exhibits.

Chip Frazier, 706 West Dolphin Drive, one-half mile from the intersection with Dolphin Drive, spoke regarding the exhibits. Mr. Richardson said that the distance away would not satisfy the standing requirements and that Mr. Frazier had not testified as to what special damages he might have apart from the general public. Mr. Edes overruled. Mr. Frazier asked if the transportation study was one of the exhibits, and Mr. Edes said it had been tendered. Mr. Frazier objected and said that a number of people had concerns about traffic. He said that everything had been very well explained but that one element of that was the traffic study, and except for a few comments, the thing that interested most people had not been explained, so he objected to the traffic study being admitted if it weren't explained. Don Bennett, licensed engineer, was asked by Mr. Edes to give his credentials. Mr. Bennett said he is a licensed engineer and worked with NCDOT for seven years and as a traffic engineer with the City of Wilmington for more than 20 years. He acknowledged that it was his seal on the document (Exhibit 7). Mr. Edes said that Mr. Bennett would qualify as an expert witness in a court of law. Mr. Edes overruled Mr. Frazier's objection. Mr. Frazier asked how people could rebut if they hadn't seen the document; Mr. Frazier was given time to read it, and Ms. Stites clarified that it was the 2-page executive summary from the study. Mr. Frazier said that it was a summary of what he assumed was a much larger document and there was nothing in it that helped him establish what was considered a peak hour in Oak Island compared to a peak hour from somewhere else, so he still objected. Mr. Richardson said that there was no requirement for a traffic impact analysis and that this entire discussion was not competent, substantial, or relevant for the purposes of this application. He said that they had done a traffic analysis voluntarily because they thought this would come up. He said Mr. Bennett was tendered as an expert and testified. He said that they have the entire study, but that he did not believe that should come before Council tonight since that it was not a requirement, as was heard from Town staff. Mr. Richardson asked that Exhibits 3-8 be accepted. Mayor White said that she understood that it was not a requirement, but the applicant had introduced it and she thought it was only fair that it be questioned. She said that the people asking about it were on the west side and that Middleton was their only ingress and egress. Mr. Richardson said that they had tried their best to address the concerns, including the misinformation that is out there. He said they would offer the entire sealed traffic impact analysis by Davenport Engineering as Exhibit 9. Mr. Bennett said that they collected data in January in accordance with protocols; he said those figures were adjusted based on NCDOT peak season standard adjustment factors. He said the numbers in the study had been adjusted to

represent peak season. Mr. Edes asked if NCDOT had guidelines to make seasonal adjustments and if Mr. Bennett had used those guidelines; Mr. Bennett said he had. There were no further objections to Exhibits 3 through 9 being accepted as evidence.

Council took a brief recess and returned to the record at 8:17 p.m.

Mr. Edes said he had spoken to Mr. Richardson during the break, and that he would recommend allowing those who wanted to provide testimony ask questions in addition to their testimony, kind of combine them, and hopefully close out the evidentiary portion of the hearing tonight. Mr. Richardson agreed. Mr. said the applicant had nothing else to present.

Chip Frazier, 706 W. Dolphin Drive: Opposition to Special Use Permit for Boardwalk Place: Section 4.9.3.5. of the Oak Island Code of Ordinances requires an applicant for a Special Use Permit to provide “competent, substantial evidence to establish the facts and conditions” for permit approval. Demarest Company Landscape Architects, PLLC (hereafter Demarest) did not do so when it applied for a Special Use Permit for Boardwalk Place. Section 4.9.3.6.1. states “the establishment, maintenance, or operation of the special use will not be detrimental to or endanger the public health, safety, or general welfare.” However, Boardwalk Place would provide guest parking for almost 200 vehicles and 60 bicycles that would be detrimental to or endanger the public health, safety, or general welfare. Therefore, this application should be denied. (Slide 1 - Middleton Overview) To support my conclusion, I offer the following observations. Boardwalk Place with its additional vehicles and bicycles will be detrimental to or will endanger my safety and the public health and general welfare because it will increase traffic congestion at intersections that I use daily. I live ½ mile from the intersections of S. Middleton Ave and Beach Drive, Dolphin Drive, and Pelican Drive. (Slide 2 – Middleton Intersections) Turning northbound onto S. Middleton Ave from W. Dolphin Drive or W Pelican Drive in a vehicle or trying to cross Dolphin Drive on foot or a bicycle is dangerous in the Spring, Summer, and Fall seasons--particularly on Saturdays from about 3 pm to 5 pm during the rental changeover period. At that time, there is heavy southbound & northbound traffic on S Middleton Ave & opposing westbound traffic on E. Dolphin Drive. In addition to visitors to Oak Island beaches, this route serves over 5,200 houses between 20th Street NE/SE and 30th Street NW/SW. (Slide 3 – LSV Lot) Exacerbating this traffic congestion is the heavy low-speed vehicle (LSV) traffic in this area. The LSV-only parking lot at the Middleton beach access is the only parking area exclusively for LSVs on OKI. LSVs must enter and depart that lot from E. or W. Beach Drive or S. Middleton Ave. Additionally, LSVs from north of Davis Canal must enter the southbound lane of S. Middleton Ave at White Lane SW to travel to the beach. This results in a high concentration of LSVs moving at less than 35 mph being mixed with regular vehicular traffic along that route. (See LSV Lot photo above.) Safety, public health, and general welfare at this gordian knot of traffic is further degraded throughout the year by visiting motorists and pedestrians who are unfamiliar with these hazards. In season, their confusion is compounded by frustration from traffic delays caused by the traffic light at Oak Island Drive and traffic congestion on Middleton between Maxwell Drive (St. James Plantation gate) and Pelican Drive, Dolphin Drive, and Beach Drive. (Slide 4 – Fire Station). Finally, increased traffic congestion on S Middleton Ave would impede emergency equipment responding from the Oak Island Fire Station at 101 E Oak Island Drive. It is the nearest fire station supporting 2,200 homes south of Davis Canal and west of 19th Place E., including 5 miles of beach. According to David W. Owens, at the University of North Carolina at Chapel Hill Institute of Government (April 2007), Ghidorzi Construction, Inc. v. Town of Chapel Hill (1985) determined that the Town Council is not required to consider future road improvements in making a decision about Special Use Permits. Additionally, North Carolina case law (Mann Media, Inc. v. Randolph County Planning Board – 2002; Cox v. Hancock – 2003; Howard v. City of Kinston – 2002; Ghidorzi Construction, Inc. v. Town of Chapel Hill – 1985; In re Goforth Properties, Inc. – 1985) suggests that evidence to support traffic impacts should consist of traffic studies and reports that include traffic counts and their effects on traffic safety at nearby

intersections, testimony from city planning staff concerning traffic control, and experience with the safety of walkers and cyclists. In the absence of competent, substantial evidence from Demarest to support its claim that the establishment, maintenance, or operation of the special use for Boardwalk Place will not be detrimental to or endanger the public health, safety, or general welfare, the request for a Special Use Permit should be denied.

Mr. Richardson asked Mr. Frazier if he was or had ever been an engineer or an attorney; Mr. Frazier said he was not. Mr. Richardson asked Mr. Frazier if any of his background included traffic analysis or project management; Mr. Frazier said he has a Master's degree in systems development and design, which he said covered options with respect to any system, be it a town or a can opener. Mr. Frazier said that he earned his degree in 1982. He acknowledged that he had not performed a traffic study nor been admitted in any court proceeding as an expert in traffic studies, analysis or impact. Answering a question from Mr. Richardson, Mr. Frazier said if you count the number of vehicles on West Dolphin Drive back to Maxwell Drive it numbers 150 cars on any given Saturday from 3-5 pm; he said he did that count in June of 2022. Mr. Richardson asked if he had compared that count to the numbers for a grocery store, and ABC store or a bar, etc.; Mr. Frazier said that he had not. Mayor White reminded the audience that this was a legal process and asked them to respect those participating regardless of whether they like the questions or testimony. Mr. Richardson noted for the record that Mr. Frazier was a lay witness in violation of Sec. 4.11.1.3.2 by testifying, though he is not an expert, regarding increases in traffic due to potential development and how it would pose a danger to public safety, and there was no information or data provided.

Kelley Germaine, 6610 Kings Lynn Drive: Ms. Germaine said that there was lots of talk about projects being compatible with the Land Use Plan (LUP). Mr. Richardson said that he objected to a lack of standing because Ms. Germaine had not said what special damages she would suffer. Mr. Edes asked Ms. Germaine if she would suffer special damages, damages distinct from those alleged damages suffered by the community at large. Ms. Germaine said that she was chairman of the Land Use Plan, and that people kept saying this were compatible with the Plan but that they had gone away from the Plan. Mr. Richardson renewed his objection. Ms. Germaine said that everyone on the west end would suffer damages. Mr. Edes asked if there was anything peculiar or particular as it related to her; Ms. Germaine said trying to access Middleton to go anywhere, because that was the only way for her to get off the island. Mr. Edes recommended that Mayor White overrule the objection, and he asked Ms. Germaine to keep her testimony to personal observations. Ms. Germaine provided a copy of her comments. Ms. Germaine said the LUP recommended keeping the residential zoning intact at the Middleton intersections; balance needs of new development with existing neighborhoods; have parking that reduces impervious surfaces; limit impervious coverage to mitigate stormwater runoff; regulate location of development in ocean hazard areas; support reasonable, managed residential growth; commercial buildings consistent with the small-town atmosphere in size and with lighting; and encourage overall land use and development patterns that support retention of the Oak Island small-town character, its existing quality of development and its family atmosphere. She said the LUP was approved by the state in 2017 and has not been changed since. She said that with the sheer volume of people, accessing the beach would not be orderly or safe. She said the project would not be in harmony with the surrounding area, with single-family area. She said it would not improve the value of surrounding properties. She also said that there were other hotels with beach access. She said the Town had not been true to the LUP objectives. Mr. Richardson asked Ms. Germaine how long she had lived in Oak Island; she said 23 years. He asked if Ms. Germaine was familiar with the Driftwood Motel with 16 rooms, the Blue Water Motel with 28 rooms, the Ocean Crest Motel, and the Southwind Motel. Mr. Richardson asked Ms. Germaine if she was an engineer; Ms. Germaine said she was not and that his questions about traffic were not relevant since she didn't speak about that. Mr. Richardson said that the paper she handed out included information about traffic, and Ms. Germaine said she had not spoken about it though. Mr. Richardson asked Ms. Germaine

if she was an appraiser, or worked in law enforcement, or had any experience in stormwater runoff or in calculating pervious versus impervious surface; Ms. Germaine said no. Mr. Richardson asked Ms. Germaine if she thought zoning could be set aside by the Land Use Plan. Ms. Germaine said the zoning ordinance was supposed to have evolved from the LUP and the ordinances are being revised continually. Mr. Richardson asked if Ms. Germaine understood the zoning district for this property; she said she did and that where the Long Beach Pier had been, there were now houses. Mr. Richardson asked Ms. Germaine if this property had an ocean hazard designation; Ms. Germaine said all of the beach did. She said it was AE zone for this property. Mr. Richardson asked about the Town Center comments in her written comments. Ms. Germaine said she didn't speak about that. Mr. Richardson asked how her concerns about harmony would differ if the project were for an ABC store, bars, or a grocery store; Ms. Germaine said the volumes of people would not have been the same. Mr. Richardson asked if she had any first-hand experience that she could draw upon to support that statement; Ms. Germaine said she thought they wouldn't want the 106 rooms vacant. Mr. Richardson asked if she specialized training or work experience to support statements regarding the value of the adjoining properties. Ms. Germaine said that she had seen a number of friends and neighbors try to sell their homes, and the comps would probably reflect poorly with having a motel there; she acknowledged she did not have any expertise in that area. Mr. Richardson asked if she had any expertise in addressing harmony of this project with the surrounding areas. Ms. Germaine said no, other than that she has lived here for years. Mr. Richardson asked if she could point to anything in the application that did not meet the technical specifications and requirements for a Special Use Permit application; Ms. Germaine said she didn't contest that, and she also said that the illustrations were lovely, but they were only drawings and there was no guarantee that was what it would look like. Mr. Richardson asked if there was anything in the application materials that she could point to that was in violation of the ordinances of the Town; Ms. Germaine said not at this time, then said that it was not compatible with the Land Use Plan. Mr. Richardson objected to her written comments being accepted into evidence because they were based on lay testimony that was not qualified under the Town's zoning ordinance for quasi-judicial hearings and there were also multiple aspects of it that she said she was not advancing before Council, and for Council to see things she was not arguing would lead to confusion of the issues. Mr. Edes asked Ms. Germaine how many hours she had spent on the Land Use Plan. Ms. Germaine said they spent hours every few weeks for two years working on it. She said that they had Jake Vares part-time from the Cape Fear Council of Government and that there was a consultant that worked with them. Mr. Edes said that we were governed by the laws of North Carolina and that in regard to expert opinions, in order to give testimony on property values and traffic, you have to have specialized knowledge and training in that area. He said that acknowledging Mr. Richardson's objection to the document, with the admonition that anything on it related to an area in which she does not have specialized training should be considered as expert testimony, he recommended accepting the document. Mayor Pro Tempore Bach said that he also served on the Land Use Plan committee, and an estimate of the hours spent on it was 450 hours. Mr. Edes said Ms. Germaine's experience in working on the committee would qualify her as an expert on land use plans. Mr. Richardson said he was not trying to offend anyone but that he was trying to make sure that the proceeding is following due process.

Mayor White asked Mr. Edes to make sure speakers had been sworn in; he did so as speakers were called.

Joe Stanton, 110 E. Beach Drive: Mr. Stanton said he had owned property here since 1963. Mr. Edes asked Mr. Stanton if he contended he would suffer special damages if this permit were issued. He said that noise was one thing and that he would rather see a liquor store there. He said that his house was across the road, in front of the Elks Lodge. Mr. Edes said that was close enough proximity to have standing. Mr. Stanton said that when he bought his property, there were wetlands. He said in the 1970s, in the winter, when no one was down here, he heard they were going to make the property commercial. He said he went to the meeting, and he was the only one who went and objected to it. Mr. Stanton said that the property owner at that time put over a thousand loads of dirt in there and it still wouldn't perk. He said

that the hotel would be like 20 5-room houses. Mr. Stanton said the hotel would add sewage to the pump station on Middleton that wasn't working very well and smelled. Mr. Stanton said that most of the property in the area was residential, not commercial. He said that no one in his block wanted the hotel, but they weren't able to come to the meeting. He said he wouldn't mind seeing houses there, but not a motel where there would be parties and loud noises. Mr. Richardson asked Mr. Stanton if he was an engineer in noise; the audience again disrupted the hearing. Mayor White said Mr. Richardson had a legal right to represent his client and asked the audience to be quiet. Mr. Richardson asked Mr. Stanton if he had any engineering experience with measuring sound for purposes of a noise ordinance; Mr. Stanton said he did not and that he was about deaf himself. Mr. Richardson said that Mr. Stanton was concerned about noise, though he said he was about deaf himself. Mr. Stanton said he was also concerned about the property values, though he was not an appraiser, and that when things were built, they didn't look like the plans. Mr. Richardson said if this applicant stipulated that this project, whether built by this applicant or successors, would be built as shown, would that address his concerns; Mr. Stanton said not really.

Roger DuPuyt was called next; he had spoken earlier. Jennifer Bates was called but did not come forward or was no longer present.

Jeanine Flexner, 1730 West Pelican Drive: Ms. Flexner said that her father had built the year after Hurricane Hazel. She said that the reason her grandparents chose this place was that it was family oriented. She said that all of the traffic would knock down pedestrians trying to get to the beach. Ms. Flexner asked if they had seen the traffic on July 4th on Middleton, and they should see that before they try to build this project there. Mr. Richardson asked Ms. Flexner if she had any experience with traffic engineering; she said she did not but that she had seen it with her own eyes. Mr. Richardson asked Ms. Flexner if she believed bars were family oriented; Ms. Flexner said she did not, but that she agreed with the other gentleman. Mr. Richardson asked if she had done a traffic study, and she said the only study she had was her own eyes and waiting up to 20 minutes to go through the intersection at Middleton. Mr. Richardson asked if she was an appraiser or had worked in law enforcement, and Ms. Flexner answered no to both.

Joyce Griffin was called but did not come forward. Mr. Edes reminded Council that only comments heard during the Public Hearing could be considered. Wendy Calloway was called but did not come forward.

Bob Ciullo, 163 NE 3rd Street, approximately one-half mile from this property: Mr. Edes said he thought Mr. Ciullo would have standing. Mr. Ciullo said that he and his wife walk the two cutest dogs on the island every day past the lift station and five days out of seven, they can't even stop at the water bowls at the fire station because of the smell. He also said that he did not have experience as an appraiser or attorney, but he asked about harmony; he asked someone to define what harmony with the neighborhood is. He said the pictures were beautiful, but that the project was 16 times as large as the average lot on Oak Island; he said that this project would not be in harmony with the area. Mr. Ciullo questioned whether there was a public need for hotel rooms on the island. He said there were thousands of homes for rent, and also motels and hotels on and off the island. Mr. Ciullo said that the number of 106 rooms should be significantly reduced and that 106 rooms was not harmonious with the island. He said the permit should be rejected. Mr. Richardson said that Mr. Ciullo's concerns were that the smell of wastewater treatment that already exists would be worse; Mr. Ciullo said that was correct and he acknowledged that he did not have expertise in the area. He also acknowledged that he was not an appraiser or an attorney. Mr. Richardson asked Mr. Ciullo if he believed that Oak Island's ordinance had a showing of a need; Mr. Ciullo said he believed that should be considered. Mr. Richardson asked if Mr. Ciullo was aware that this property was not zoned residential; Mr. Ciullo said he was. Mr. Richardson asked Mr. Ciullo if he was aware of the other potential uses for the property and named some of them. Mr. Ciullo asked Mr. Stewart how this project would be in harmony with the surrounding area. Mr. Richardson said it was stated in the

narrative for the project and also in the appraisal. Mr. Richardson said that the property was adjacent to two commercial properties on the side. Mr. Ciullo said he was a member of the Elks Lodge. Mr. Richardson asked if it was true that the Elks Lodge had tried to buy some of this property, and Mr. Ciullo said he was not aware of that. Mr. Ciullo asked Mr. Stewart how the project would be harmonious with the area. Mr. Stewart said it was stated in the narrative. He also referred to the slide they showed with architectural elements borrowed from other structures in the area (Drawing 13 from Exhibit 3). He said that property was zoned CB and that they could not build single-family houses, so they have to do their best to blend in with the area.

Mark Loudermilk, architect, was asked to address how they used pictures of the surrounding area. Mr. Loudermilk said he graduated from Tennessee in 1994 and he had been doing this work almost 30 years. He said at his firm, they try to create places for people, not developers just trying to earn money off the project. He said they were trying to create several uses on the property in harmony with each other. He said that this would be a family hotel, and people could bring their kids, swim in the pool, go to the beach and eat at the restaurant walk to the beach and not ever leave the property. Mr. Loudermilk said they were doing their best to blend in with the surrounding community. He said that the buildings would screen the noise from the activities. Mr. Richardson asked if Drawing 16 had been taken from what was seen in Drawing 13, and Mr. Loudermilk said that was correct; he also confirmed that there would be low lighting and more landscaping and buffering than required. Mr. Stewart said that regarding harmony, when he approached Mark, he asked him, and all the team members, if they would go along with his development philosophy -- respect the view, don't become the view; ask permission, not forgiveness; and that it's a privilege, not a right, to develop land. He said the Publix parking lot was the same size as theirs, but they were hiding it. He said this project would be an example of what should be done. Mr. Ciullo said harmony was much more than being visually appealing, that it was fitting into the fabric of the neighborhood, and that a 106-room hotel was not harmonious.

Cal Morgan, certified appraiser and author of Exhibit 6, spoke about his background, saying he was a certified appraiser in North and South Carolina, in commercial and residential. He said he had testified in bankruptcy court, superior court, the NC Property Tax Commission and in several SUP hearings. Mr. Morgan said that you identify a commercial property, in this case, Publix, and find single-family homes adjacent to that property to see what they recently sold for and compare it to similar property not adjacent to the commercial property. Mr. Richardson asked Mr. Morgan if it was his opinion that this project would not injure the value of the surrounding properties; Mr. Morgan said that was correct. Answering another question from Mr. Richardson, Mr. Morgan said that this project would be less impactful on the surrounding properties than another commercial use. As cross-examination, Mr. Ciullo asked if this project would be more harmonious if it were 50 rooms rather than 106. Mr. Morgan said he thought the harmonious level would be the same. He said the property is zoned commercial, and only so many uses would be allowed on it. Mr. Morgan said he also heard people say that there were a lot of rental homes on the island, which were another type of hotel, so he thought this would be harmonious with the area. He also said that people staying in hotels on N.C. 211 drive to the beach, and drive to restaurants. At this hotel, people can walk to the beach, so he thought this project would have less impact than other uses.

Mr. Richardson asked Mr. Bennett to return to the podium, and asked him to explain how this project, the way it is designed, would generate less traffic than the other uses allowed for this property. Mr. Bennett said that the basics of a traffic study were determining trips generated by the development based on statistics. He said that for hotels, they use rooms, and for retail, it's based on size. He said that many of the sites used for statistics are suburban, which means that people are using their cars. He said that they assumed the average beach trip being two hours and added in those cars as well. He said that for the new intersection with 3rd Place West, the level service was A, which was roughly a 10-second delay for people turning into or leaving the site. Mr. Richardson asked if the traffic impact analysis had been required, the

outcome would be to show the governing body how what would be generated was below or above a certain threshold. Mr. Bennett said if it were above the threshold, you make an improvement to bring it back to what it was. For the worst-case scenario, Mr. Bennett said everything operates at level A or B, and B is about 12 seconds. He said that when NCDOT designs a new facility, they design it for D in the design year. Mr. Bennett said that the patrons would also be walking distance to the beach, the reason people come to the coast.

Mr. Frazier asked Mr. Bennett if the A and B delays were calculated at the hotel; Mr. Bennett said that and also 3rd Place East. Mr. Frazier asked if that included S. Middleton or E. Dolphin Drive; Mr. Bennett said that as the study was not required, the scope of the study was based on the property itself. Mr. Frazier asked if the study took into account the dramatic shifts in traffic flow, and asked if NCDOT took into account those variances. Mr. Bennett said that all traffic studies are performed to the parameters set forth by NCDOT. Mr. Bennett said that the NCDOT has identified some of those factors for addressing beach towns. Mr. Frazier asked if there were a way to expand the scope of the calculations and establish delays for something other than the hotel itself. He said that he didn't have questions about the data for the hotel, but he did wonder about the ripple effect on the nearby intersections. Mr. Bennett said they could capture it all the way out to I-40, but that generally, they limit their scope to the property. He also said that there could be more traffic with other uses on the property without having a traffic study; Mr. Frazier said he understood. Mr. Frazier said that was the weakness of traffic studies, as most people were concerned about the impact on S. Middleton, not at the hotel. Mr. Richardson asked Mr. Bennett if there was anything that would render his analysis incompatible with the standards for issuing such studies; Mr. Bennett said there was not.

At 10:14 p.m. Mr. Edes asked Council to discuss the mechanics of recessing the hearing. Mr. Richardson said any who were called but who did not come forward should be precluded from testifying at the reconvened hearing. He also said that anyone who already gave testimony and cross-examined should be precluded from speaking again. Ms. Stites called out the remaining names on the speakers sign-up sheet. Ms. Stites swore in the additional people who indicated they wanted to testify; the names of the names of those signed up to speak were shared with Mr. Richardson. Mr. Edes said the hearing would recess until March 20, 2023, at 6 pm. Mr. Edes reminded everyone that this was a quasi-judicial hearing. He asked people not to try to contact Town Council with additional evidence, and he asked Council not to read any such emails but to forward them to the Town Manager. Mr. Edes reminded Council not to discuss it with each other or with any constituents. **Mr. Edes recommended a motion to recess this evidentiary hearing until March 20, 2023, at 6 p.m.; that motion was made by Mayor Pro Tempore Bach, seconded by Councilman Craft and passed unanimously. Mr. Edes recommended a motion to recess the February 13, 2023 regular meeting and public hearing to March 20, 2023, to begin at 4 p.m.; Mayor Pro Tempore Bach made that motion, Councilman Bell seconded, and the motion passed unanimously.**

S. Elizabeth White, Mayor

Attested: _____
Lisa P. Stites, MMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 and the Town website so that the Citizens and the Public may view and listen to the meetings in their entirety.

MINUTES
TOWN COUNCIL REGULAR MEETING
MONDAY, MARCH 20, 2023 – 4:00 PM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL
Reconvening of recessed February 13, 2023 Public Hearings & Regular Meeting

Present: Mayor S. Elizabeth White, Mayor Pro Tempore John W. Bach, Council members Sheila M. Bell, Charlie K. Blalock, Bill Craft, and Mark U. Martin, Town Manager David Kelly, Town Attorney Brian Edes, and Town Clerk Lisa P. Stites, MMC.

Note about the March 20, 2023 Agenda

The March 20, 2023 meeting is for two public hearings either recessed or rescheduled from the February 13, 2023 meeting:

- Public Hearing for a Special Use Permit request for a mini- golf*
- course -- 4 pm Public Hearing for a Special Use permit request for a*
- hotel -- 6 pm*

The third Public Hearing originally scheduled for the February 13, 2023 Council meeting (for proposed amendments to the Unified Development Ordinance based on the UDO audit) will be scheduled for the April 11, 2023 Council meeting.

All other business items from the February 13, 2023 meeting were handled at the February 20, 2023 Special Town Council meeting or placed on the March 14, 2023 regular Council meeting agenda. The March 20, 2023 agenda also includes a Closed Session if needed.

Mayor White called the meeting to order at 4:01 p.m.

PUBLIC HEARING(S) AND ACTION

PUBLIC HEARING II (AND ACTION): The purpose of the Public Hearing was to conduct a quasi-judicial hearing for a Special Use Permit for a mini-golf ([SpecialUsePermit_MiniGolfMemo](#), [MiniGolf_Application_01302023](#), 5801 E Oak Island Drive putt putt golf course site plan):

Mr. Edes said the applicant was entitled to a fair and impartial decision-making body, and it was the applicant's burden of proof to prove through relevant, competent and substantial evidence that the application meets the criteria of the code. Mr. Edes asked the conflict of interest questions of Council members as follows: if any had made a site visit for the purposes of assessing this application, if any had any financial interest in the subject matter of this application, if any had ex parte with the applicant or any member of staff about the subject matter of this application, if any had family or close business relationship with the applicant, or if they could think of any reason other reason they couldn't be fair and impartial; all indicated negative responses to all of the questions.

Mr. Edes explained the quasi-judicial process, and Ms. Stites swore in all those who would present evidence.

Mr. Kirkland gave a brief presentation, a copy of which is attached and is hereby made a part of these Minutes. The application was for a mini-golf course. He said the parcel was between SE 58th and SE 59th Streets, Parcel 250AG00809. The proposed mini-golf is approximately 18,590 square feet. Mr. Kirkland also reviewed the Special Use Permit Standards for Council to use in considering the application.

Mr. Edes asked if pages 29-47 of the (February 13, 2023) agenda packet were the materials associated with this application; the items were accepted without objection as Exhibit 1. The four slides Mr. Kirkland presented were introduced as Exhibit 2 and accepted without objection.

Mr. Edes asked Mr. Kirkland his job title; Mr. Kirkland said he was the Planning Director, and he confirmed that he was familiar with the application and with the criteria for issuing a Special Use Permit. Mr. Edes asked Mr. Kirkland whether the application met the criteria for the SUP. Mr. Kirkland said that based on the information submitted, it did not meet the criteria.

Rafi Adi, applicant, said he was a business owner in Oak Island of Beach Life Beach Wear, and most of that shopping center, including the undeveloped 2.5 acres behind it. Mr. Edes asked if that vacant land was the subject of this application; Mr. Adi said it was. Mr. Adi said they opened an ice cream shop last year, and that children kept asking what else there was to play with. Mr. Adi said the theme for the mini-golf would be a sunken ship with a treasure chest, which would support the candy store.

Mayor Pro Tempore Bach said there were a lot of details absent in the proposal, such as: the lighting plan, especially as it is designed to not impact the development across the street; the plan for signage; assurances that the parking would be adequate; whether there had been a traffic study since this area would likely become more congested; controlling the noise; hours of operation; and the drawings presented were not stamped site plans. He said it was an intriguing idea, but there were a lot of details to be supplied.

Mr. Adi said there would be minimal lighting and he could show details for foot candles; he said that could be part of the approval. He said that there were 2.5 acres so parking would be available. He said they would put a free-standing sign on 58th Street. He said that they had opened a breezeway for traffic behind the store and they offer rear parking for the shopping center to ease traffic. He confirmed there was ingress and egress on 58th and 59th Streets.

Councilman Craft asked about the height. Mr. Adi said that they would comply with the height limits, and that he thought the ship would only be approximately 10 feet high. He said if this went well, they would ask for permission for an aerial park above the mini golf course.

Councilman Craft asked about the hours of operation and noise levels. Mr. Adi said the shopping center was open until midnight. He said there was also a restaurant on the 59th Street side that was not open right now but that it had music. He didn't think there would be a problem with noise but also said he could close prior to 11 p.m. if needed.

Councilman Martin said that Mr. Adi indicated in his materials that there would be audio effects. Councilman Martin said he didn't want to dictate hours of operation, but asked Mr. Adi to keep in mind the Town's noise ordinance.

Mayor White asked about flooding. She said that area flooded dramatically during even the slightest rain. She asked if he had considered using permeable surfaces to help control flooding. Mr. Adi said that in his other businesses, he uses French drains, and that helps with stormwater. Mayor White said she didn't think that would be enough and that the water comes up under the residences considerably. She said he would be taking what is a very permeable surface and making a good portion of it impermeable. She asked Mr. Adi if he would be willing to work with stormwater staff in developing a plan to not increase flooding. Mr. Adi said he would not mind speaking with staff about it, but that he didn't buy this property as vacant land; he said there was a garage there so that it was completely developed already and was impervious. Mr. Adi said that building would include stormwater plans as well. Councilman Bell said that

the applicant would have to meet all of the stormwater ordinances; she and other Council members noted he would also have to meet the sign, noise, and height ordinances, etc.

Mr. Edes asked Mr. Kirkland about UDO Secs. 4.9.3.6 through 4.9.3.6.8, which represent the criteria for Council to consider. He said Council had asked questions about information needed. He asked Mr. Kirkland if, for example, if the application had included a lighting plan, would that have helped staff assess whether the criteria had been met; Mr. Kirkland said it would. Mr. Edes asked the same for a parking plan, signage, height, drainage/flooding, and noise. Mr. Edes noted that the hours of operation could be addressed with a condition to the permit. Mr. Edes said it seemed there were a lot of open-ended questions. He said Council could hold the hearing open so the applicant could provide the additional information. Mr. Edes said Mr. Kirkland did not have enough information to give a favorable opinion that the application as submitted meets the criteria. Mr. Kirkland said Sec. 4.9.3.6.6 says that the special use shall, in all other respects, conform to all the applicable regulations of the district in which it is located. He said presumably, a site plan with that information is what he would need to make that determination. Mr. Edes said the applicant could move forward with the application and Council vote how they want to, or the applicant could meet with staff and try to address some of these issues, and the hearing could be recessed to review a modified application. Mayor White said that they didn't even have enough information to add conditions. Mr. Edes said Council could add conditions for lighting, parking, etc., but it would be better to do that on the front end rather than have Council establish a list of conditions. Councilman Martin asked Mr. Edes if he was implying that the Town could suggest hours of operation for a business in the commercial district. Mr. Edes said that he was saying it was legal to do so if Council ties it back to one of the criteria. Councilman Martin asked if Mr. Edes knew whether the Town had insisted on any other business have Council approval for hours of operations. Mr. Edes said he did not recall this Town doing that. Mr. Edes said that he didn't believe Council had enough information to establish conditions at this point. Councilman Martin also said if the business were in violation of the noise ordinance, the police would be called and would deal with it. Mr. Edes said a Special Use Permit would not trump the Town's ordinances already on the books. Mr. Edes said that these were areas in which the Council wanted more information. Mayor Pro Tempore Bach said that he did think the Board should discuss the hours of operation, though not today, as far as it relates to protecting citizens. He also said he thought the applicant should be given the opportunity to work further with the Planning Director. Responding to a concern from Mayor Pro Tempore Bach regarding noise, Mr. Adi confirmed there would not be explosion noises or mounted speakers. Councilman Bell said she would like the applicant to provide enough information to the Planner so he can form an opinion as to whether the application meets the criteria. Mr. Adi agreed to have the hearing recessed and said he was willing to work with staff.

Councilman Bell made a motion to recess this hearing until the May 9th, 2023, regular meeting. Mayor Pro Tempore Bach seconded, and the motion passed unanimously.

Councilman Bell made a motion to go into Closed Session at 4:46 p.m. to Consult with the Town Attorney to preserve the Attorney/Client Privilege Pursuant to N.C.G.S. 143-318.11(a)(3). Councilman Craft seconded and the motion passed unanimously.

Council returned to open session, and reopened the second Public Hearing at 6 p.m.

PUBLIC HEARING I (AND ACTION): The purpose of the Public Hearing was to conduct a quasi-judicial hearing for a Special Use Permit for a hotel ([SpecialUsePermit_HotelMemo](#), [Narrative_BoardwalkPlace - Application](#), [Scott D Stewart - Boardwalk Place Project Director - Designer - Qualifications](#) - [StatementSDS](#), [Boardwalk Place - Site Design Program Exhibits](#))

Mayor White called the meeting back to order and reconvened the Hearing from February 13, 2023. Mr. Edes reminded Council that this was a quasi-judicial process for a Special Use Permit application, and the decision was to be made based solely on the competent, relevant, and competent evidence received during the hearings.

Mr. Edes asked the conflict of interest questions of Council as follows: if any had made a site visit for the purposes of assessing this application; if any had ex parte conversations with anyone associated with the applicant or staff about the application; all indicated a negative response. Mr. Edes said he assumed since the previous month that no one had developed a financial interest and that no one had a new familial or business relationship, or had developed a reason they could not be fair and impartial and base decision sole on the evidence present; Council concurred.

Mr. Edes gave a brief review, saying there were still six people signed up to speak, and he read the names. He said that 10 exhibits had been accepted. Mr. Edes said that others indicated that they wanted to speak tonight, but that in fairness to the applicant, those people will not be able to speak tonight; he also confirmed with Ms. Stites that the hearing had been properly noticed.

Mr. Richardson said there was a typographical error in the Traffic Impact Analysis, and he proposed substituting the correct version as Exhibit 9A. That information was provided to the Town Clerk on February 14. Mr. Richardson reviewed the two typographical errors in the document (page 5 and page 17). Mr. Edes recommended that the exhibit be accepted, and to the extent that there were objections lodged for the introduction of Exhibit 9, they would assume those same objections apply as 9A and he recommended it be accepted; Mayor White agreed. Ms. Stites noted for the record that the people still to testify had been sworn in at the previous hearing.

Tom Lowe was called to speak. Ms. Stites said Mr. Lowe emailed and said he could not be present and that he wanted his questions answered via email. Mr. Edes recommended not allowing that email into evidence as Mr. Lowe was not present and whatever testimony he included in the email would not be subject to cross-examination.

Steve Kennington was the next speaker on the list. Mr. Edes said he had some questions for Mr. Kennington as to standing. Mr. Edes first reviewed what having standing meant, saying Mr. Kennington would have to demonstrate and allege that he would suffer special damages distinct from the community at large. Mr. Edes asked what property Mr. Kennington owned near this project; Mr. Kennington said the closest one he had was at 144 N. Middleton Avenue, approximately 3/10 of a mile away. Mr. Kennington said that he thought it would be a safety issue regarding traffic. Mr. Kennington said it would be applicable to everyone on North Middleton. Mr. Richardson said that Mr. Kennington did not meet the requisite for standing based on comments he, Mr. Richardson, had made at the previous hearing, and he renewed his objection. Mr. Edes said Mr. Richardson's objections were noted but he would let Mr. Kennington speak. Mr. Kennington said that he owns property across the state, and that he has seen developers build projects all over the state and then leave and then the people have to put in the infrastructure. Mr. Kennington said that the original plan for Middleton would have had turning lanes, and asked why the developers couldn't put in the infrastructure first. Mr. Kennington said that if 200 cars are trying to leave at one time, how would his family leave. He said that in the past 20 years, his property has flooded four times, and that there was substantially more water in Davis Canal now. He said he was also concerned about the sewer and didn't see how it would be 32,000 gallons and why the people should have to pay for it. He said that he didn't see how the Town owed these people a Special Use Permit. Mr. Edes asked Mr. Kennington if he had any specialized training in traffic or transportation, stormwater, or in sewer capacity. Mr. Kennington said he did not except that he knew the sewer project went \$200,000,000 over budget and that the system had problems since it was put in. Mr. Richardson asked Mr. Kennington

if he was an appraiser, an attorney, or an engineer; Mr. Richardson said he was not. There were no additional questions for Mr. Kennington.

Bianca Bazil and Wojciech Sobocinski were on the list to speak but did not respond when their names were called.

Edward Lovett, 139 NE 36th Street. Mr. Edes asked how close he lived to this project; Mr. Lovett said that he did not live near the property. Mr. Edes said that under North Carolina law, in order to be able to provide competent testimony, someone has to allege and show special damages, which are damages unique to the individual or his property that are distinct from damages the rest of the community would allegedly suffer if the permit were granted. Mr. Edes asked if Mr. Lovett contended that he would incur special or distinct damages by this project. Mr. Lovett said he was President of the Davis Canal Marsh Cleaners and he said he wanted to speak for 10 minutes to describe all of the damages done to his life and the lives of volunteers and citizens of Oak Island from hurricanes and storm debris on the David Canal. Mr. Edes asked Mr. Lovett if he contended that if the permit were granted and this development occurred, he would suffer damages distinct from the community at large; Mr. Lovett said no. Mr. Richardson said that based on Mr. Lovett's testimony, he asked that Mr. Lovett not be allowed to testify because he did not have standing. Mr. Edes said that Mr. Lovett did not even contend that he would suffer special damages and that under the law, that person would not have standing under these circumstances and he recommended moving on to the next person on the list. Mr. Lovett disagreed. Mayor White said that Mr. Lovett did not have standing and that his comments would not have bearing on this decision. Mr. Lovett said that this project would impact the entire community and that he was representing the Davis Canal. He said that no one on this island had spent more time on Davis Canal or removing more storm debris from the Canal than he has. He said he was there to offer testimony as a representative for the Davis Canal. Mr. Edes said that the law in North Carolina says that if you do not allege that you will suffer distinct damages, then you do not have standing to provide testimony in a hearing such as this. Mr. Lovett said he had given hundreds of hours coordinating volunteers to clean the Canal and that he was possibly the only expert on the Davis Canal present, and he believed he should be allowed to speak and share with Council important factors to consider. Mr. Richardson said his opinion was still that Mr. Lovett did not have standing. Mayor Pro Tempore Bach said that previously, they had let individuals speak. Mr. Edes said that the previous speakers at least alleged they would incur damages. Mr. Edes said that if Council allowed him to speak, he said that Mr. Lovett's testimony could not be considered competent or relevant since he doesn't have standing. Mayor White said that given the nature of the hearing, Mr. Lovett would not be allowed to speak. Mr. Edes asked Mr. Richardson if he objected to Mr. Lovett testifying; Mr. Richardson said he did, saying it was based on the fact that Mr. Lovett does not possess standing. He said Mr. Lovett said he doesn't live near the project, he hasn't suffered any special damages nor has he alleged he would suffer damages distinct from the rest of the community, and that was his sworn testimony.

Chuck Deeter was called but did not come forward.

Mr. Richardson distributed a copy of excerpts of the Town's Land Use Plan (LUP) to refer to during his summation. Mr. Edes marked it as Exhibit 11 for identification purposes. Mr. Richardson showed pictures of the Publix development. He said that he was showing this because it was something that was allowed by right. He also showed aerial pictures of the Publix supermarket and parking lot. He showed a picture that showed the footprint of the planned hotel, which is less than half of the Publix market and parking lot. He said that the developers were hiding the parking away from residents and visitors and what they were trying to achieve was smart growth, environmentally-sensitive growth, aesthetically pleasing development projects that meet the Town's needs as identified in the LUP.

Mr. Richardson also spoke about the Ocean Crest Motel property, and said that again, putting parking underneath for this project keeps the footprint smaller. The project keeps the parking lot away from visibility, keeps the sprawl to a minimum, and stays within the restrictions on height and density. He said that if you take a cross-section of the property, it shows that the height would be the same as the properties to the left and the right, including residential. He also showed renderings which showed what the property would look like on the sides, and said that it would be aesthetically pleasing with enhanced landscaping and enhanced buffering.

Mr. Richardson also reviewed items in the LUP. On Page E-2, Mr. Richardson showed that the beach was the number one asset; he also reviewed Goals 5, 6 and 7. Mr. Richardson said that all of the speakers, including Ms. Germaine, spoke about how nice the property would look. He read Goal 5, and said Council had heard nothing to rebut that, and that the developers would build the sewer infrastructure and make the needed stormwater improvements. Regarding Goal 6, Mr. Richardson said that the applicant would build a walkway so that people could enjoy the natural areas. He said they would also be building sidewalks so that the area would be more pedestrian and bicycle friendly. He also said there would be a splashpad for public use, which is specifically mentioned in the LUP. Mr. Richardson read Goal 7. Mr. Richardson next read from Page 1-1, "What is a Comprehensive Plan?" Mr. Richardson said this proposal satisfied not only the zoning ordinance but also the Town's comprehensive plan wish list. He said that the Town had already made the decision that this use was allowed in this zone with a Special Use Permit. He said that this was not a zoning change request, nor were there any legislative changes. Mr. Richardson next read from the Vision Statement (1-7). Mr. Richardson said that at the time of this plan, close to 90 percent of the homes on Oak Island were identified as seasonal homes or rental units. Mr. Richardson also spoke about the impact of visitors on the local economy. Mr. Richardson read from Page 2-16 regarding the vacation rental market. He said that's what this applicant is providing, based on the LUP. Referring to Page 3-34, Mr. Richardson said that the property offered walkability to the beach and offered retail onsite. Mr. Richardson also read from Page 3-44 regarding golf carts. Regarding Page 4-12, Mr. Richardson said that for a grocery store, cars were constantly coming and going, and that is not what would be happening at this property. Referring to Page 4-20, Mr. Richardson said that the project would include a walkway, sidewalks and improvements for SE 3rd Street, streetscapes. Referring to Page 4-21, Mr. Richardson said that the hotel included additional trees and landscaping. He said the renderings that were provided were what the developers intended to build. He said the nicer the project, the greater the chance that people are going to want to visit it. Regarding Page 4-22, Mr. Richardson said that the parking would be completely screened, and that there would be more buffering than is required by the ordinance. Regarding thermoplastic crosswalk (Page 4-25), Mr. Richardson said that was included in the development plan. Mr. Richardson said that Page 4-32 notes that a splashpad was an identified need, and that the Town could likely apply for a grant to install a kayak launch on NE 3rd Street. Under Economic Considerations, Page 4-48, Mr. Richardson said that the top two answers for reasons to live here were natural amenities and employment. He mentioned the planned natural amenities at the hotel and said that the hotel would offer jobs. Regarding the "economic development strategies" noted, Mr. Richardson said he did not know how anyone could do it any better for the Town than what this developer is offering. Mr. Richardson read Goals 4, 5 and 6 from Page 5-10. Reading from Page 5-11, Mr. Richardson said that the Plan says "Zoning regulations shall be made in accordance with a comprehensive plan." Mr. Richardson said that just a few questions into Mr. Kirkland's testimony, he confirmed that the application met the criteria standards. Mr. Richardson said that he had been doing this long enough to know that one of the things that always comes up is traffic. He said that if they built a supermarket on that property, there would be 2,700 trips a day. He said that this project would generate 1,700 trips a day at the most, 1,000 fewer trips a day than a grocery store. He said they opened the door by offering the traffic study, yes, because that they knew the complaints were going to be about traffic. He said that they knew that the issuance of a Special Use Permit doesn't depend on a traffic study. He also said that they knew that the only way to deal with that was to get out in front of it. Mr. Richardson said that the general concerns expressed about

traffic don't add up compared to the study by the expert. He said that the mere fact that they offered that, and that people spoke about it, had no bearing on this decision. He said that under the Town's ordinance, they weren't required to do it. He said they had heard Mr. Bennett and about his experience, and they had heard nothing opposing that other than Ms. Germaine talking about the LUP and general concerns about traffic. Mr. Richardson said that he also wanted to talk about the standards for a Special Use Permit. Mr. Richardson referenced a blog post from the UNC School of Government by Jim Joyce. Mr. Richardson said that they met the Town's ordinances by providing substantial, material and competent evidence. He said what they presented went above and beyond what was necessary. He said that the best he could ascertain from the previous part of the hearing, the concern was traffic, and that traffic was not one of the considerations under the Town's ordinance. He said that if people wanted to see more traffic, build another grocery store on the property.

Mr. Richardson also referenced a court case that involved the City of Asheville in which the City had denied an application based on the board members inserting their own opinion in excess of the expert testimony. The City appealed to the N.C. Court of Appeals and the Supreme Court, but the trial court decision was upheld. He read some of the case law that the case established.

Mr. Richardson said the question was whether the applicant, with all of the expert testimony and items provided, met the criteria, and the answer was yes. He said that was their legal decision to make, not a factual decision, because it was a quasi-judicial hearing. Mr. Richardson said that he knew people were concerned about development but what had been submitted would serve as a guide for future applications in this Town as almost the standard by which others should be judged. Mr. Richardson said that coming into the first hearing, he read comments online that said this would be some huge structure, and that was not true as the developers would stay under the 35-foot height limit. He said they were giving up a floor to allow the parking under the building. Mr. Richardson said he respectfully asked Council to approve this permit. He asked if this hotel was denied, what would ever be allowed as a hotel in the Town's CB district and ordinances.

Councilman Craft asked about setbacks. Scott Stewart said that originally, they thought Dolphin Drive was the front, but in talking to staff, they were told that the front would be 3rd Place East. He said it actually turned out to be an asset, and they designed a promenade walkway, so people have access to the marsh walkway. Councilman Craft asked about the dumpsters, if waste from the restaurants would be there for a few days. Mr. Stewart said the dumpsters would be on the area of the property where it would not endanger the health, safety, or welfare of anyone. Mr. Richardson said it would also be screened so it wouldn't be used as a public dumping site. Councilman Craft asked about bicycle racks. Mr. Stewart said they were originally including them for the facility, but the Town requires a certain amount as well, so they will have space for 60 bicycles to be parked. Councilman Craft asked about the 19 spaces to be installed on 3rd Place. Mr. Stewart said that they would put in those spaces for the Town to use in the paid parking system. Councilman Craft asked about the landscaping and who would keep that up. Mr. Stewart said there would be a maintenance program for the facility. Mr. Stewart said that unless the Town wanted to participate, the facility would be maintained by the owner. Councilman Craft asked about the lighting and the effect on neighbors. Mr. Stewart referred to Drawing 32 of Exhibit 3 and Drawing 33, which showed the same area at night with the lighting, and explained what kind of lighting would be used. Mr. Stewart also referred to Drawing 26 of Exhibit 3, which showed the marsh walk. He said the gazebos would be up lit. Mayor Pro Tempore Bach said there were things he wanted to make sure were on the record, such as the developers building to the sketches offered with only minor changes if needed, and that the owners would maintain the marsh walkway. Mayor Pro Tempore Bach asked if they would consent to yearly inspections of the amenities, and Mr. Stewart said he thought that would be protocol.

Mayor Pro Tempore Bach asked what kind of warranty there would be for the lift station they would be building. Matt Haley, Cape Fear Engineering spoke about the lift facility, which he said would be built to the Town's standards, and once certified by the Town, it would be deeded to the Town. He said that typically, there was a one-year warranty. Mayor Pro Tempore Bach asked if the applicant would be willing to indemnify the Town if the new infrastructure impacts the existing system. Mr. Richardson said if that was standard, he would be fine with it, but if it was unique for this project, then he would submit that his client should be treated like everyone else. Mr. Stewart said that he had Mr. Haley meet with the Town's engineering consultant to discuss capacity, what the impact would be, etc.

Mr. Richardson offered a letter from Cape Fear Engineering regarding the sewer plans for the property as Exhibit 12.

Mr. Richardson also said he wanted to note that the splashpad would have similar hours of operations to Town parks, and that those hours would be the same for hotel guests. He noted that the pool would be for hotel guests only.

Mayor Pro Tempore Bach asked about signage. Mr. Stewart said that he would rather respect the view than become the view. Mr. Richardson said signage would comply with the ordinance. Mr. Stewart said that hopefully, this project would be one they could point to later and say 'this is what we expect.'

Mayor Pro Tempore Bach asked if this project was connected to a chain. John Stewart with Boardwalk Place LLC said that as it stands, the hotel project was not connected to any chain. He said that it was designed to Hilton Garden Inn standards, which he said would generally be considered a plus. John Stewart said that no decision had been made as to whether it would remain a boutique hotel or become part of a chain. Mr. Richardson said that there was nothing in the ordinance that said they had to commit to remaining a boutique hotel. Scott Stewart said that if the permit is approved, the first step would be to find a service provider that would fit into their vision for the property.

Councilman Bell asked if the intent was to build all of this at once, saying her concern was the sidewalks, parking and crosswalks. Scott Stewart said that the facility would be done in phases, and they would first have to do all the geotechnical surveys and do the columns for the promenade deck, as it would support the two sides. Next would come the stormwater, then the hotel, then the restaurant and the retail. He said they would do it all at the same time, but it could take two years. Councilman Bell she wanted to know if they got the C/O for the hotel, would the sidewalks and parking be finished. Scott Stewart said they would. Councilman Bell said that she was concerned the hotel would be done and then the Town wouldn't have the sidewalks and parking, but they said the parking would come first.

Councilman Blalock said he wanted to be comfortable that what they saw was what they would get, and he said he thought that had been answered.

Councilman Martin said he had two comments. Last month, he said there was a comment from a gentleman who said he was concerned about the noise, and wanted to remind them about the noise ordinance. He also said he appreciated the design for the parking under the building, but he did have concerns about managing access to that parking so people wouldn't use it for beach parking. John Stewart said they would use a technology-based system to manage onsite parking. Councilman Martin referred to Drawing 2 in Exhibit 3. He asked if the intent was that where there would be a sidewalk there would also be a crosswalk. Scott Stewart said that they would have to work with the Town to ensure that the pedestrian areas were defined; he confirmed that they were willing to install crosswalks.

Councilman Martin asked if the project would have to bypass an existing vacuum station and go directly to Station 1. Mr. Haley said that was correct. He said the station has a capacity of 3,000,000 gallons per

day, and that there was sufficient capacity for this project. He said that the project would generate 32,000 gallons per day, roughly 1 percent of the station's capacity.

Mayor White asked about supervision for the marsh walk, saying there were likely alligators, and that there was a situation last year with people feeding the alligator behind a store and throwing rocks at it. She asked how the area would be supervised at night and if there would be cameras installed. She also said she was concerned about litter. Scott Stewart said that was an interesting challenge and that they would work on that. Mr. Richardson said that with all of the Town parks, he was sure the Town had to handle those issues as well. Mr. Richardson said it would be the role of hotel staff to monitor the property. John Stewart said that it would not be a problem with installing cameras. He said that there would be trash receptacles, and they would work with the Town also.

Mr. Edes asked the applicant agreed that if the SUP were issued, the project will be built to the drawings in Exhibit 3; Mr. Richardson said that was correct. Mr. Edes also asked if they agreed that all parking would be screened; Mr. Richardson said that they stand by everything in their narrative. Mr. Edes asked about the lighting; Mr. Richardson said that Scott Stewart uses a heavy emphasis on non-intrusive lighting; Scott Stewart said it was on Drawing 4. Mr. Edes also said the pool was for hotel guests only; Mr. Richardson said that was correct and that the other amenities would be for the public (restaurant, retail spaces and the associated courtyards, splashpad). Mr. Edes also asked if the applicant agreed that the infrastructure noted in Exhibit 12 would be the responsibility of the applicant; the applicant agreed. Councilman Martin asked for a commitment to the sidewalk improvements and the sidewalks; Mr. Richardson said they had that commitment from the applicant, though they will have to obtain permits from other agencies as well. Mr. Richardson and Scott Stewart said they agreed to a crosswalk from Middleton to East Dolphin as long as they get permission from NCDOT. Councilman Martin asked if they could add as a condition that the applicant agree to an annual inspection as to maintenance and vegetation.

Fire Chief Lee Price was sworn in. Answering a question from Councilman Bell, he said that the hotel would be required to have a fire inspection once a year. He said that the Department could include an inspection of the walkway if Council wanted that as well. Mayor Pro Tempore Bach said that the applicant was committing to a maintenance program. Mr. Richardson said they would agree to annual inspections including the marsh walk if other businesses were subject to annual inspections. Scott Stewart also spoke about Drawing 27, he said they would like the option of installing wire rails instead of timber as he thought it would be safer and last longer. Mr. Edes noted that would be an exception to the drawings offered. Mayor White reiterated her desire to have cameras on the marsh walk. John Stewart said that they would install cameras, but would prefer the Town's Police Department to monitor. Town Manager David Kelly was sworn in and said if the Town would be putting in a kayak launch or something, they could work with the applicant. He said that who would handle problems could depend on if the problem was coming from hotel guests or the public. John Stewart said that they would monitor the hotel property, but that the access to the marsh walkway would be off 3rd Place East. Mr. Kelly said if there was public use of the walkway, then the Town would be involved. Mr. Richardson said that to ensure that people aren't using the walkway after hours, there would have to be a gate that could be locked. He said that there was no way to cover every possible scenario, but that the police would be called when needed. He said the walkway would be an asset, and it might be worth having the police periodically patrol it. John Stewart said that Oak Island's parks were not locked at night; Councilman Bell said the one at the end of West Oak Island Drive was. John Stewart said since there was one public access and they could certainly have a gate. Mayor White said she just wanted an awareness of making sure people were not being stupid. Mayor White and John Stewart agreed that it should be a shared responsibility. Mr. Richardson said there were many ways to address that, such as signage about cameras, about not feeding the alligators, etc. Scott Stewart said that they would have to monitor and maintain it as it would be a draw to the area.

From the audience, Chip Frazier said that he was sworn in on the 13th, and that tonight all the testimony tonight was one-sided and that there had not been any opposing points of view, but that there were opposing points of view. Councilman Bell said that they had four and a half hours of opposing testimony last month and that it was only fair to give the applicants a chance. Mr. Edes said Mr. Frazier was not a party to the action, and that Mr. Richardson's summation was argument, not testimony. He said the testimony the applicant presented tonight was in response to questions from Council.

Mr. Edes recommended suspending the hearing while Council deliberated in case there were any additional questions. He referred Council to pages 4 and 5 in the agenda packet which listed the SUP criteria. He also reminded Council that if the evidence was not controverted, under North Carolina law and the ordinance, the applicant shall receive a permit. He said the Council could append reasonable conditions and that the applicant had already agreed to several.

Councilman Martin made a motion to approve the Special Use Permit for the hotel project also known as Boardwalk Place with the conditions documented by Mr. Edes. Mr. Edes read the conditions as follows: If approved, the project will be built in accordance with the renditions and drawings contained in Exhibit 3 with the exception that the wildlife reserve fencing can be replaced with wiring instead of wood; the applicant will put the thermoplastic or some sort of crosswalk at Dolphin and Middleton; all assertions in the project narrative will be a condition of approval, and by way of example but not using an exhaustive list, 19 parking spaces on 3rd Place East, a splashpad, the public will have access to all of the amenities with the exception of the pool and courtyard by the pool which are hotel amenities; the applicant shall construct the infrastructure as described in Exhibit 12; the applicant shall submit to a yearly inspection and maintain the wildlife preserve in a safe and structurally integral manner. Mayor Pro Tempore Bach said that there was an additional condition that had been discussed, that the applicant will provide a warranty for the sewer facility. Mr. Edes said that just because a structure is dedicated, it doesn't mean it has to be accepted unless it meets the Town's specifications; Mr. Richardson said that was correct. Mr. Edes said he would add the condition that upon acceptance, the developer will give a one-year warranty to the Town; Mr. Richardson consented to that condition. Councilman Craft seconded the motion. Mayor White led a roll call vote and the motion passed unanimously. Mr. Richardson was asked to prepare the order.

Councilman Bell made a motion to close the Public Hearing. Mayor Pro Tempore Bach seconded the motion and it passed unanimously.

II. ADJOURN: Councilman Bell made a motion to adjourn at 8:27 p.m. Councilman Craft seconded and the motion passed unanimously.

S. Elizabeth White, Mayor

Attested: _____
Lisa P. Stites, MMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 and the Town website so that the Citizens and the Public may view and listen to the meetings in their entirety.

MINUTES
TOWN COUNCIL SPECIAL MEETING – BUDGET WORKSHOP
THURSDAY, APRIL 13, 2023 - 10:00 AM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Pro Tempore John W Bach, Councilman Sheila M. Bell, Councilman Charlie K. Blalock, Councilman Bill Craft, Councilman Mark U. Martin, Town Manager David Kelly, and Town Clerk Lisa P Stites, MMC. Mayor White was not present.

II. Special Meeting Item

Mayor Pro Tempore Bach called the meeting to order at 10 a.m. and said Mayor White had a commitment out of town today. He said the budget process was ultimately about making decisions, and those decisions represent our values. He said that we live in a world of limits and though there are many needs and desires, not all of them would be fulfilled. Mayor Pro Tempore Bach said Council had a retreat earlier this year and talked about drivers in the budget, such as personnel and infrastructure needs, and also external factors, such as an inflated economy and a potential recession, and the revaluation of property.

II.1 Budget Workshop – discussion of the FY 2023-2024 proposed budget

Mr. Kelly said today they would review the proposed budgets for Town Council, Admin, Police, animal control, Fire, and if time permits, outside agencies. Mr. Kelly said that they knew it was a reval year, and that they had been looking at the 19 or so department/other budgets to see how they could maintain services and potentially to go revenue neutral. He said there would be some growth as well, such as personnel and plans for utilities, etc.

Town Council (10-410): This was an election year, and money was included to cover the Town's expenses for that. Mr. Kelly said that the Council salaries had not increased since 2018, and staff recommended a 3-percent increase. He said typically, an increase in Council salaries wouldn't go into effect until January so that the next Council would get that increase, not the current Council. Mr. Kelly said that there was also an increase in travel and training; the Mayor was attending a class today and there were some other things she planned to attend, and staff would have to bring a budget ordinance amendment forward. There was also increased funding in advertising so that the Town could advertise the 25th anniversary in 2024. There were increases in legal fees and fees for the audit. Mr. Hatten said the Town was selected last year by the State to do an audit of the pension fund, so he included additional funds for that in case that is done again this year.

Councilman Bell asked if the Council salary increase would be done after the election, and Mr. Kelly said that was up to Council, but that usually it would take effect in January. Councilman Bell asked if the increase in travel and training was for the entire Council; Mr. Kelly said that was correct. He said it is not broken up between the Mayor and Council, and that trips to the League annual meeting would also come from that line item, for example. Mayor Pro Tempore Bach suggested that as an accounting procedure, when one of the elected officials is requesting funds for education or travel or purchase of supplies, a request be made to management and that be shared with the entirety of Council. He said he thought that would be a useful and simple procedure, so Council was aware of the activities of the other Council members as they serve the greater body. Councilman Bell agreed. Mr. Hatten said requiring prior approval was how they handled employee requests; Council concurred. Councilman Martin said he would oppose a pay raise for Council. He said he was also concerned with the Council development budget as it had already doubled year-over-year last year and continues to grow; he said he would support a more detailed understanding of how that money was being utilized. Councilman Bell asked if they could see a breakdown of how those funds had been spent so far; that will be provided at the next meeting.

Councilman Bell asked what the revenue neutral tax rate would be. Mr. Kelly said it was roughly 14.8 and lots more decimals. Councilman Bell said that was a rough number at this point as people were still filing appeals, etc.

Mayor Pro Tempore Bach asked if the legal fee amount included all of the fees; Mr. Hatten said that was correct. Answering a question from Mayor Pro Tempore Bach, Mr. Kelly said that the bills from Mr. Edes were current through 2021. Mayor Pro Tempore Bach suggested Mr. Kelly send a letter demanding the bill; Council suggested setting a 90-day time limit in which to submit a bill. Mayor Pro Tempore Bach also said that the Town should issue an RFP for legal services to see what is available. Councilman Martin said setting a timeframe for which to receive invoices was a good idea for all service providers. Mr. Kelly said that the legal fees included the regular Council meetings etc., and also legal services for Human Resources.

Councilman Martin said the current budget had included money for public art; Mr. Kelly said that staff did not get direction from Council as to how to proceed. Mayor Pro Tempore Bach said that was correct, and that Council did not follow through, but that that should still be pursued. The current budget had included \$3,000 for art, and Mayor Pro Tempore Bach asked Councilman Craft and Councilman Martin to work out how to proceed. Mr. Kelly said that Mike Emory had given Council a few options, and that could be recirculated.

Administration (10-420): Mr. Kelly said an Economic Development Coordinator had been hired and would start in May. Mr. Kelly said Assistant Town Manager would be a new position; the Town continues to grow, and the Manager's job has grown as well. He said that hopefully, when he retired, that person could step into his role. There was a vehicle in the budget for the Economic Development Director and the Assistant Town Manager to share. Mayor Pro Tempore Bach asked for more on the need for an Assistant Town Manager. Mr. Kelly said with the developments coming online, agreements that need to be negotiated, the Town was growing internally as well, and to be able to seek grants, keep up with the day-to-day operations, he said that he can't continue overseeing things like he did years ago. Mayor Pro Tempore Bach said that growth was an issue, and that the operations were more complex than five years ago. Mayor Pro Tempore Bach asked what specific things an Assistant Town Manager would do. Mr. Kelly said HR, fire and police would likely still report to the Manager, but the other departments would report to the Assistant Town Manager. He said that this would be part of a succession plan. Mayor Pro Tempore Bach said he'd want to see the person in that position perform successfully before saying there was succession; Mr. Kelly agreed. Councilman Craft said he would be in favor of someone learning what Mr. Kelly knows. Councilman Bell said that historically, they have had an assistant town manager at times, and that someone else should know what the Manager knows; Council concurred. Councilman Craft said that they also need to think about the succession plan for Finance Director as well. Mr. Kelly said that they had put money in the budget for contracting part-time with Mr. Hatten if he is retired when the finance software changeover begins.

Councilman Martin asked about the drone expenditures, noting that the expenses did not come close to the budgeted amount. Mr. Kelly said that's why the amount was reduced for the proposed budget. Mr. Kelly said that amount would cover maintenance, cloud storage and new hard drives, etc.

Regarding travel, Mayor Pro Tempore Bach asked if there would be a form and approval process. Mr. Hatten said that they already have the form. Mr. Kelly said that, as an example, if Councilman Craft decided to go to the League meeting next year, and Council decides he would be the one to represent the Town, then he would be the one to attend. Mr. Kelly said if an elected official turns in a request for travel, was it up to him to approve, or does the Council want to decide. Mayor Pro Tempore Bach said Council would decide. He said that as they interact with agencies and the State, they want to make sure they have

message consistency and that they are providing a message that is reflective of Town Council and the Mayor, and that the elected leadership is aligned. He said if they don't know if people are going to conferences and what they will represent, it could be problematic.

Mayor Pro Tempore Bach asked if the amount for the Employee Assistance Program, and asked if the Town was offering a robust program. Mr. Kelly said that the information is provided to employees, but that otherwise, management stays out of that. Mr. Hatten said he only sees the amount for cost, not specific details. Additional information will be provided regarding the program.

Regarding the golf course, Mr. Kelly said that when they got to the golf course budget, they would see the amount of the transfer.

Councilman Craft asked why the drone position was still part-time. Mr. Kelly said Water Rescue had drone service as well and respond to certain calls as well. He said the Town had also been using the drone to locate missing shingles or boards on the walkway. He said that the amount of work needed would not support a full-time position.

Council took a brief recess and returned at 10:55 a.m.

Police: Mr. Kelly said last year they discussed growth and they had all seen the delays with the mainland developments, and there would be future needs. Mr. Kelly said they would add a sergeant to the detective division. There are a few vacant positions, and he would have the Chief address that. Mr. Kelly said they had been replacing vehicles according to the replacement schedule, and if the new position is approved, there would a vehicle in the budget for it.

Police Chief Morris said last year, there were several vacant positions, and they had advertised for them. He said that to get people who had already been trained was very difficult. He said, for example, that he spoke with a very qualified officer in Wake Forest who was interested in coming here, until she found out about the cost of living here. He said that they had started paying people to attend Basic Law Enforcement Training (BLET), and that was a common practice. He said that the people they are sending through BLET already live here, so that's a benefit. He said they were fortunate to get two new patrol positions last year, but it takes 9-12 months to actually get someone out on the street working. The Chief also spoke about the costs for uniforms and equipment, such as weapons, body armor, etc. He said they have also calculated the cost for upfitting a patrol car, such as window tinting, graphics, etc. He said that it costs \$15,000 to outfit a police officer, and the vehicle, with the upfitting, costs \$75,000. Mr. Kelly said that the budget also includes boxes for securing the guns in vehicles, and the Chief explained how that would work.

Answering a question from Mayor Pro Tempore Bach, Chief Morris said that one of the things he did upon arriving as Chief was to do an assessment of the department. He said that he thought it would be better to pull one of the positions out of the detectives division to put another person on patrol. He said that the Lieutenant over the detective division would be taking over more a services support role, taking control over evidence and beach patrol. There will then need to be a layer of supervision in the detectives division; that sergeant would still work as a detective as well.

Councilman Craft asked about unemployment insurance; Mr. Hatten said that he would update those numbers closer to the end of June, along with workers' compensation. The Chief and Council had additional discussion about staffing and assignments.

Councilman Martin asked if there was some level of commitment for the Town to send someone through BLET; Chief Morris said that was correct, and that it was a 3-year commitment. Councilman Martin

asked if the Town was competitive in recruitment. Chief Morris said he thought we were doing a good job with the starting salary. He said that the Town couldn't compete with the Sheriff's Office or a larger city department. He said larger departments have SWAT teams, helicopters, etc., and Oak Island was not going to have that. Councilman Martin asked about officers' safety regarding locking gun up in vehicles. Chief Morris explained how weapons are stored in the vehicles and how they are accessed. Councilman Blalock asked about the part-time employees; Chief Morris said that those officers supplement when they have an officer in court, on vacation, etc. Mr. Kelly said the part-time employees are also used on beach patrol.

Mayor Pro Tempore Bach asked about growth on the mainland. Chief Morris said eventually, there would be two officers on patrol each shift for the mainland areas, and that it would take probably a couple of years to build to that level. Mayor Pro Tempore Bach said that they need to plan for that growth. Mayor Pro Tempore Bach also asked about certifications, and Chief Morris said that it takes hundreds of training hours to become certified. He said that some agencies do offer a percentage raise upon reaching certification.

Councilman Craft said the growth planned for in this budget was not for the mainland, and Chief Morris said that was correct. He said if there were five on a shift, that really didn't mean five; people would call in sick, or be in court, or spend 2.5 hours arresting someone and going to the jail. He said that he also wanted to provide more of a police presence on the beach, and with three on a shift, they can't do that. He said they answered 700-plus calls every month April through December last year. They will have nine seasonal employees on beach patrol; all of them worked last year, so they are already trained. They will have three UTVs on the beach this summer.

Animal Control (10-512): Mr. Kelly said that this was for the contract with Brunswick County to provide animal control services.

Mayor Pro Tempore Bach asked about the contract services under Police: Chief Morris said that this service would provide officers access to a team of police attorneys 24 hours a day seven days a week. Council expressed support for this plan.

Fire Department (10 -530): Mr. Kelly said that the budget includes adding part-time personnel for the season, including part-time positions to provide some additional services on the beach. Mr. Kelly said that there are four other engines, and three of those would be sold with the fourth kept as a spare. He said that the debt service increase is for that second truck. Mr. Kelly said they were looking at some reorganization as well. He said they had stopped paramedic service last year because they couldn't staff that level; they started using basic level firefighters instead. They had implemented an engineer's position for the person who drives the truck; that gives promotion opportunities within the department. He said the Chief was also using a paid training program like the Police Department.

Chief Price said that the employees in new positions would be trained in water rescue and work Thursday through Sunday, 9 a.m. to 6 p.m. They would have a truck and check emergency accesses, look for rip currents, etc., but not actually patrol on the beach. Chief Price said the department worked well with Oak Island Water Rescue. He said with having dedicated personnel, it would mean getting to the emergency faster, especially in medical emergencies.

Mayor Pro Tempore Bach said he thought the department looked top heavy with eight ranking officers for 24 full-time employees. Chief Price said that the Chief and Assistant Chief work Monday through Friday. He said each shift has a captain and a lieutenant, working out of different stations.

Councilman Martin asked if the additional personnel on the beach would have authority to enter the water. Mr. Kelly said that those people would not be lifeguards, that they would not be grabbing a buoy and running out like Baywatch. Mr. Kelly said that the Chief had asked for a personal watercraft, though it was not included in the proposed budget. He said there were some remaining ARP funds that could be used for that if Council chooses.

Councilman Bell asked about overtime; Chief Price explained how overtime is built into the budget because of the shift schedules. There is also unscheduled overtime such as if a firefighter works over during an emergency, etc. Mayor Pro Tempore Bach said he was frustrated that they have to run a department with that much overtime. Mr. Kelly said that when one shift is doing training, the shifts that are off are also brought in to do that training. Chief Price said developing a schedule to eliminate overtime would mean adding personnel. Answering questions from Councilman Craft, Chief Price explained the work schedule for firefighters. Councilman Martin said that the way Oak Island schedules fire departments with overtime was not unique; he said that thankfully, they do budget and plan for it. Councilman Blalock and Chief Price also noted that the 24-hour shifts also mean time away from families.

Outside agency funding will be addressed at a future workshop.

III. Adjourn: **Councilman Bell made a motion to adjourn at 10:04 a.m. Councilman Craft seconded the motion and it passed unanimously.**

S. Elizabeth White, Mayor

Attested: _____
Lisa P. Stites, MMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 and the Town website so that the Citizens and the Public may view and listen to the meetings in their entirety.

MINUTES
TOWN COUNCIL SPECIAL MEETING
THURSDAY, APRIL 13, 2023 - 6:00 PM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor Pro Tempore John W Bach, Councilman Sheila M. Bell, Councilman Charlie K. Blalock, Councilman Bill Craft, Councilman Mark U. Martin, Town Manager David Kelly, and Town Clerk Lisa P. Stites, MMC.

Mayor Pro Tempore Bach called the meeting to order at 6 p.m.

II. Special Meeting Item

II.1 Consideration of the Beach Management Plan to be Submitted to the North Carolina Coastal Resources Commission ([BMP_Memo](#) OKI_ [BMP_20230309](#))

Mayor Pro Tempore Bach said that they would begin with a recap from the engineering firm, Moffatt & Nichol. He also said that the Town had been in discussion on this topic in August, September, October and March. He said Council had recessed the item for 100 days to continue their individual deliberations, and that they had been in contact with Moffatt & Nichol and citizens about the course of action to pursue.

Sam Morrison with Moffatt & Nichol gave a brief presentation of the Beach Management Plan (BMP or Plan); a copy of the presentation is attached and is hereby made a part of these Minutes. Mr. Morrison said a healthy, wide beach plus vegetation equals resilience against storms. He also spoke about the potential risk of not having a healthy beach, including the potential loss of 20 percent of the Town's tax base, jobs and other revenues.

Mr. Morrison said this was an opportunity for the Town to put beach maintenance into a plan and set the Town up for long-term success in maintaining a healthy beach. Mr. Morrison said that the BMP could also help restore some of the benefits that property owners lost with the elimination of the Development Line last August. He said without the Plan, approximately two-thirds of the oceanfront properties are considered non-conforming. He said that it could take up to two years for the vegetation to establish and be recognized, but even then, new construction could not be farther seaward than existing properties. The Town's Plan would have to be renewed with the Coastal Resources Commission (CRC) every five years.

Mr. Morrison said that the BMP includes the engineering and environmental studies to identify sand sources and acquire permits for implementation of beach and inlet management projects for the life of the 30-year Plan.

Mr. Morrison also spoke about the initial beach project, planned for FY 2024-2025. He said the next step would be consideration of establishing a FEMA engineered beach. He said that Cat B reimbursements from FEMA were only up to 6 CY/foot above a 5-year surge level. He said that's what the Town did in 2017-2018 with sand from an upland site. He said that the Cat G approval was for 100 percent (to date) reimbursement for all material lost. After the FY 2024-2025 project, there would be a decision point for the Town to decide whether to pursue an engineered beach designation. The BMP would be up for renewal in 2028 (if approved this year). He said that gives the Town the opportunity to make changes, such as adding new borrow sources that have been identified, and update the needs of the beach or financial capacity. Mr. Morrison also spoke about the maintenance projects timeline, saying the

first anticipated maintenance event would be 2030/2031. He said they recommend planning for a maintenance event of 1.36 MCY every six years. He said the Town has also entered an agreement with the Corps of Engineers for a feasibility study as to whether the Town is a prospect for a federal project. Mr. Morrison reviewed a graphic showing the beach with a dune and berm, and with an extended berm after beach nourishment. Mr. Morrison also reviewed how the calculations were done to reach the projected numbers for annual losses and sand needs, including accounting for sea level rise, and what would trigger the need for a nourishment maintenance project. Regarding the 6-year maintenance cycle, Mr. Morrison said the firm recommends using the data assuming one storm during that cycle.

Councilman Martin said he appreciated the new scenarios as they were presented, with the risk factors involved. He said Council had said several times that they wanted to understand the risks, including the risk of doing nothing. Councilman Martin said he wanted to make sure that everyone understood that the decision this evening was specifically in response to the CRC. He said what they are doing was showing the CRC an intent to maintain the beach, and he thought it was important that everyone understood these numbers were projections, so they should avoid discussions about not making a decision because they don't have all the answers. He said that one checkpoint would come in 2025, once they complete the project, and they would be to decide whether to pursue an engineered beach designation. Councilman Martin said there were multiple decision points in the future as tonight they were just showing intent for shoring up the beach and protecting an investment that the State has made and that the Town is making. He said this was not a contract to move forward with Moffatt & Nichol for a maintenance plan, or the permitting process to go get sand; those things would come later.

Councilman Craft said that he wanted to walk through this – the Town would do a FY 2024-2025 project with State and local funding. After the 2024-2025 project, they don't have to do anything else for six years but stockpile money until 2031. Councilman Craft said after the FY 2024-2025 project, the Town would be Cat G; Mr. Morrison said the Town would be eligible for that should they elect to do that. Councilman Craft asked if the FY 2024-2025 project was permitted; Mr. Morrison said they were working on permits. Councilman Craft asked if the dune height was seven feet; Mr. Morrison said it varies, but it was between 13 and 15.5 feet. He said on the east end, they don't have that height, but there is a greater berm width. He said the FY 2024-2025 project would extend the berm to protect the dunes.

Councilman Craft asked if there was anything being done to change the sand distribution cycle for the Wilmington Harbor projects, and Mr. Morrison said conversations were ongoing with the Corps of Engineers, but it would be up to Oak Island to fight that battle.

Mayor Pro Tempore Bach asked what confidence band they could put around the model, asking how long it had been used and how successful it had been. Mr. Morrison said that would be something better for Johnny Martin to answer. Mayor Pro Tempore Bach asked how long they had used this particular approach; Mr. Morrison said this approach had been used for decades.

Councilman Martin said that it was somewhat of a disappointment to see the State now request additional volumes based on the sea level rise category when there was no historical data that suggests that the North Carolina coastline is experiencing sea level rise. Councilman Martin also said his position had always been to take a conservative approach, but he also thought it was very important that a response to the CRC moves forward; he said he supported submitting the Plan to the CRC because of the significance to the economy, to property owners and to the future of the Town's financial success by protecting and strengthening our tax base and giving us the flexibility to still make good fiscal decisions when it comes to establishing budgets and tax rates and how to fund things.

Councilman Craft said that when he ran for office, he assured taxpayers they would not use an assessment to pay for a FEMA-engineered beach or maintenance. He said that the Finance Director has assured them that through Accommodations Tax, the sand tax, and the different sources of income the Town has that they are not reaching into the taxpayers' billfolds to be able to meet commitments, but we need to protect 600 homes on the beachfront. He said they are our neighbors and taxpayers, and the Town needs to send this to the CRC.

Councilman Blalock asked where the sea level rise stats come from. Mr. Morrison said they came from various agencies. He said that they had looked at numbers from 2000 to now and had seen documented sea level rise, but going forward, there were widely varying graphs.

Councilman Bell said that having been a CAMA officer many years ago, and listening to all the information presented, she said she realized that they need to protect not only the first and second rows, but also the infrastructure.

Mayor Pro Tempore Bach said that if people were looking for assurances and certainties, they would not find them. He said the CRC did not precipitate this discussion, and that it had been going on for a long time. He said their actions had been piecemeal and they had not put forth a comprehensive plan, in part because of the staggering costs associated with it. He said this was a journey for him because he had been opposed to an engineered beach and he remains skeptical about that, though it would be a decision for the future. He said that the \$20 million in State funding was a tipping point, and they have the opportunity to build a maintenance plan on that huge project. He said when he thinks about the financial assumptions, he was willing to take the risk, because if we don't manage this risk, we can lose houses, hundreds of homeowners now have reduced-value property, the tax base could be significantly wounded, and we could lose our economy and even our way of life, because most of us were here because of the beach. Mayor Pro Tempore Bach said that on the other side, the cost was imposing, but was it greater than the cost associated with destruction or the cost associated with strategic retreat? He said he didn't think so. He said that we have an obligation to protect our citizens and our way of life. Mayor Pro Tempore Bach said this was a plan with a set of assumptions, many of which are untested, but it would meet CRC approval and it takes us forward and makes the Town eligible for additional State funding. Mayor Pro Tempore Bach said that the Finance Director's report that he gave Tuesday was conservative and did not include additional revenue sources such as paid parking and additional Accommodations Tax revenues with Boardwalk Place coming online within a few years. He also said there were other risks, such as a recession or dramatic events which alter consumer behavior. Mayor Pro Tempore Bach said he thought it was better to take action than to do nothing, because hope was not a strategy.

Councilman Craft made a motion to approve the Beach Management Plan and to direct Moffatt & Nichol and staff to submit the Plan to the NC Coastal Resources Commission. Councilman Blalock seconded the motion. Councilman Martin clarified that was for the one-storm assumption, and asked for the motion to be amended to say that was a minimum for the Town's commitment, so that if there were two storms, for example, and they needed more sand; he didn't want it to seem like a fixed amount. Councilman Craft said that he was of the opinion all along that with the Accommodations Tax, the increase in building, etc., that he thought if they put a number in and they could do more when funds were available. Mayor Pro Tempore Bach said that he thought that stating it was a minimum was not necessary as these were all projections. Councilman Craft agreed with Mayor Pro Tempore Bach. Councilman Bell said she understood what Councilman Martin was saying, that it would show that the Town was committed to protecting the initial investment. Councilman Craft said he would amend the motion if Councilman Martin could suggest the language. **After a brief discussion, the motion was**

amended as follows: to approve the Beach Management Plan at the recommended level of 1.359 MCY at a projected cost of \$33 million (for the maintenance projects) and to direct Moffatt & Nichol and staff to submit the Plan to NC Coastal Resources Commission. Ms. Stites polled the Council, and the amended motion passed unanimously.

III. Adjourn: **Councilman Bell made a motion to adjourn at 6:59 p.m. Councilman Martin seconded, and the motion passed unanimously.**

S. Elizabeth White, Mayor

Attested: _____

Lisa P. Stites, MMC
Town Clerk

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MINUTES
TOWN COUNCIL SPECIAL MEETING
WEDNESDAY, APRIL 19, 2023 - 10:00 AM
COUNCIL CHAMBERS - OAK ISLAND TOWN HALL

Present: Mayor S. Elizabeth White, Mayor Pro Tempore John W. Bach, Council members Sheila M. Bell, Bill Craft, and Mark U. Martin, Town Manager David Kelly, and Town Clerk Lisa P. Stites, MMC. Councilman Charlie K. Blalock was unable to be present.

Mayor White called the meeting to order at 10 a.m.

II. Special Meeting Items

II.1 Budget Workshop – discussion of the FY 2023-2024 proposed budget

Mr. Kelly started with the water budget, specifically with revenues. Mr. Kelly said if the revenues continue, there will not need to transfer as much at the end of the year. Mr. Kelly said that things have slowed down some and that these were still moving numbers at this moment. Mr. Kelly said that the County rates went up last year, and the Town opted not to increase its rates. He said staff recommended keeping the same rate this year again. Revenues had increased more than projected due to new houses being built.

Mr. Kelly said they he and Mr. Hatten continue to clean up where things are located in the budget. He said that some items had been moved out of Admin and into the department where the expenditure really is. He also said that the \$1 million increase was the County increase, though the Town's rate had not changed. There is an additional cost for software maintenance, and that is under contracted services. Councilman Craft asked if County water got more expensive because Leland pulled out. Mr. Kelly said that was one of the reasons; the County also had expenses for a reverse osmosis plant. Mr. Kelly said transfers to capital reserve were also included. Mr. Hatten said that part of the contract services was \$50,000 for a mandated study of the lead pipes on the island. Trey Bivins, Water Director, said that someone will have to look at every service line and look at whether it is lead or copper; they'll have to do an inventory of 9,800 homes. Mr. Kelly said what the Town has to analyze is five feet from the meter box. Mr. Bivins said the only lead pipe they know for sure is the one down the beachfront, though pieces of that have been replaced over time, after storms, etc. The number of pipes to be replaced and the cost are unknown at this point. Mayor Pro Tempore Bach said the Town had an unfunded mandate and no idea of the vulnerabilities. Mr. Kelly said the report wouldn't be submitted until October 2024, and as they go through the study, they'll learn more. Answering a question from Councilman Martin, Mr. Bivins said that after October 2024, the annual replacement percentage is 6 percent. Mr. Hatten said it's an item like this that make him stress the need to put money into reserves every year.

Wastewater: Mr. Kelly said that collection of sewer assessments was pretty much completed. He said they'll have to do a study on the system development fees as it is required every five years; if fee changes were appropriate, they could discuss it at the January Council retreat. Mr. Hatten said the sewer treatment amount includes the Town's portion of debt for the County plant.

Mr. Kelly also reviewed some of the other expenses in the wastewater department. He said there was a contract on the agenda today to seek grant funding, so hopefully some of these expenses would be covered by that grant money. Mr. Kelly said he had been looking at places for staff to grow within departments. He said there was also some reclassification of positions in this department, and that would come along with new requirements for certifications, etc.

Asked how much the reclassifications cost for all the departments, Mr. Kelly said on the tax supported side, probably \$22,000 and \$10,000 on the enterprise funds side. He said that wouldn't come all at once, as people

would have to attain certifications, etc. He said an organizational chart would be provided to Council. Mr. Kelly said that as the County absorbs more services from some of the smaller towns and creates new positions, the Town needs to look at what it offers to be able to keep people here. Mayor Pro Tempore Bach said that he wouldn't want to see it become too costly. He said that we have good people and should retain them, and he likes the strategy, but he wanted to see the data.

Resuming the discussion of the wastewater budget, Mr. Kelly reviewed planned capital expenses for \$590,000 for sewage pumps, control panels, work on the force main along E. Oak Island Drive, etc.

Recreation: Mr. Kelly said that there were still some decisions for Council, such as an amount for the new Rec Center and a request for new pickleball courts. He said there was not really much room behind Town Hall, and then there would also have to be additional parking, and there is limited space available for that. He said that they could look at other land for the Town to purchase for pickleball, but additional courts were not included in the budget at this point. Councilman Bell said they need to address the parking issue of non-residents who use the pickleball courts before adding more pickleball courts. Mr. Kelly said that would be a Council decision.

Mr. Kelly said there was a new permanent part-time position in the budget to help with events. Mr. Kelly said that the prices came back high for the pickleball resurfacing and that would be re-advertised. Councilman Craft asked about the planned improvements to the Rec Center restrooms, and Mr. Kelly said that would not get done this fiscal year and that money would be carried over.

Mayor Pro Tempore Bach said that he thought they needed to have a separate discussion on the Rec Center, because either they were going to rehab the existing structure, or they were going to build a new one. He said they need a decision and plan. Mr. Kelly said staff was awaiting direction. Councilman Craft said that the last time they discussed this, the Mayor said she was going to form a committee. Mayor White said that was going to do the scope of work and provide that to Council. Councilman Craft asked when they could expect that, and Mayor White said she would target May 1 for getting that complete. Mayor Pro Tempore Bach said that a rendering had been submitted and Council rejected it. He said they need to move on it, even if that means saying there was too much else going on and they can't do it right now. Mr. Kelly said staff would look at the calendar and see what was available for a special meeting to discuss the Rec Center.

Regarding the pickleball court repaving, Mr. Kelly said the project was sent out for bid again. Recreation Director Heather O'Brien said the bids came in \$70,000 higher than the original quote. Councilman Craft said that Rec Advisory Board member Paul DuBay came in with \$150,000 from a company. Councilman Craft said he had been told that the company was still willing to do it for that price. Ms. O'Brien said the company had not responded to the Public Works Director's request for bids.

Community Center: Mr. Kelly said that the money for the van would be transferred to next year's budget to go toward purchase of a mini-bus instead.

Council had additional discussion about a new Rec Center. Councilman Bell questioned whether an additional committee would help the process. Mr. Kelly said that staff could provide some more details about potential costs. Councilman Craft said they needed information about what different levels of cost could provide. Mr. Kelly said the first thing for Council to figure out would be whether the facility would be a community center, a recreation center, or both. Councilman Martin said that there should be two separate facilities, and that the Rec Center should be dedicated to fitness, and then the question would be what to work on first. He said they

should look at it from a higher view rather than trying to figure out what they could get for a certain amount of money. He also said the Town has more properties that could be considered as site locations.

II.2 Consideration of Contract for Administrative and Technical Services Provided in Engineering and Project Development (to acquire grant funding) ([Oak Island Agreement](#))

Mr. Kelly said the Town Attorney had reviewed the agreement. He said that there were other communities in our area applying as well, but hopefully Oak Island would still be awarded some funding. Mayor Pro Tempore Bach asked about the cost. Mr. Kelly said that if the Town acquires grant funding, the fee to the company would be 12 percent.

Councilman Bell made a motion to approve the contract with Environmental Service Consultants, Inc. for administrative and technical services provided in engineering and project development as presented, contingent upon final review by the Town Attorney. Councilman Craft seconded the motion. Councilman Martin asked about the timeframe, and Mr. Kelly said that a new agreement could be approved if the projects weren't completed by July 2024. **The motion passed unanimously.**

Mr. Kelly also asked for feedback from Council regarding a request for \$5,000 to go toward an attempt to set a Guinness World Record as part of the Pledge the Pink event planned for this fall. Councilman Craft said they had given their blessing to hold the event here, but that he didn't think it was the best use of the Town's money. Councilman Bell agreed. Mayor Pro Tempore Bach also agreed, saying that the Town shouldn't spend tax dollars to chase a world record for a non-profit charging money for people to participate. He said it was a worthy cause, but he couldn't see supporting a world record bid. Councilman Martin said that maybe they could ask some of the other agencies that do marketing for the Town to support it.

Councilman Bell made a motion to go into Closed Session at 11:17 a.m. to Discuss Specific Personnel Pursuant to N.C.G.S. 143-318.11(a)(6). Mayor Pro Tempore Bach seconded, and the motion passed unanimously.

III. Adjourn

Council returned to open session at 12:07 p.m. and Mayor White noted that no action had been taken in Closed Session.

Councilman Bell made a motion to recess the meeting until Friday, April 21, 2023 at 10 a.m. Mayor Pro Tempore Bach seconded the motion and it passed unanimously.

S. Elizabeth White, Mayor

Attested: _____

Lisa P. Stites, MMC
Town Clerk

Clerk's Statement: Minutes are in compliance with the open meetings laws. The purpose of minutes per the open meetings laws is to provide a record of the actions taken by a Council or a Board and evidence that the actions were taken according to proper procedures. All actions of the Council are recorded in the official minutes. Not all portions of Town of Oak Island meetings are recorded verbatim in the official minutes, with general discussion items, reports, presentations, and public comments being paraphrased or summarized in many instances. Public comments in writing should be submitted to the clerk via hard copy, electronic mail, or other means so as to ensure an exact verbatim account. The Town of Oak Island provides full coverage of meetings on Government Channel 8 and the Town website so that the Citizens and the Public may view and listen to the meetings in their entirety.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT: Appointment to the ABC Board
DATE: May 5, 2023
DEPARTMENT: Administration

Subject Summary: There is an unexpired term on the ABC Board, with the term ending in December 2024.

Applicant(s):

- Loman Scott

Attachments:

[Loman_Scott](#)

TOWN OF OAK ISLAND

Town Clerk

4601 E. Oak Island Dr. Oak
Island, NC 28465
Telephone 910-201-8004
lstites@oakislandnc.gov
FAX (910) 278-3400

COMMITTEE APPLICATION



Board/Committee:

ABC BOARD

Name:

LOMAN SCOTT

email:

PAWNMANCDP@hotmail.com

Home

Address:

209 KEZIAH ST

OAK ISLAND NC

28465

(Street)

(City)

(Zip Code)

Mailing Address if different:

910 713 2018

(Street)

(City)

(Zip Code)

Home Phone:

Fax:

Cell:

Same

Business:

Years resident of Oak Island:

yes

Do you have a family member employed by Town of Oak Island? If yes, name:

No

Applicant's Employer:

Retired

In accordance with the Town of Oak Island Personnel Policy, a person currently employed by the agency or department for which this application is made must resign his/her position with Oak Island upon appointment. Furthermore, the applicant should have no immediate family member employed by such agency or department.

Occupation:

Retired

Relevant Professional Activities:

Relevant Volunteer Activities:

FRIENDS OF PARKS

Why do you wish to
serve on this board/
committee?

TO BE OF SERVICE

Conflict of Interest: If a board member believes he/she has a conflict or potential conflict of interest on a particular issue, that member should state this belief to the other members of his/her respective board during a public meeting. The member should state the nature of the conflict, detailing that he/she has a separate, private, or monetary interest, either direct or indirect, in the issue under consideration. The member should then excuse himself/herself from voting on the matter.

What areas of concern would
you like to see addressed by
this committee?

Any

Qualifications
for serving:

8 years TOWN COUNCIL PLANNING BOARD

Qualifications: What knowledge, skills, experience or other abilities do you have to contribute?

Other Oak Island boards/
committees on which you
have or are serving:

Date:

5-2-23

Applications are kept on file for 12 months

Please use reverse side for additional comments

Signature:

I understand that any board or committee appointee may be removed
without cause by a majority of Town Council.

Please provide references' contact information on Page 2.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Discussion of Unified Development Ordinance Audit Recommendations
DATE:	May 5, 2023
DEPARTMENT:	Planning

Subject Summary: At the April 11, 2023 Town Council meeting, Town Staff gave a brief report of the three of the ten priorities that were identified by the Council of Governments that they would encourage the Council to consider working on. After that report, the consensus of Council was to receive information from Staff on a potential timeline for those three items. Staff has compiled a brief description of the work involved and an estimated timeline to complete.

- *Consolidate and clarify setback exceptions. There are a number of exceptions to the required setbacks throughout the UDO. Some of the exceptions are in conflict with one another. A thorough review and consolidation of all setback exceptions is needed.*
 - Month 1: Review UDO and UDO Audit material to document all setback exceptions.
 - Month 2: Bring findings to the Planning Board for discussion of findings as well as potential concerns and organizational recommendations.
 - Month 3-4: Draft ordinance amendments and bring recommendations to the Planning Board for discussion and recommendation to Town Council.
 - Month 4-5: Bring recommendations to the Town Council for discussion and adoption.
- *Consolidate zoning district dimensional requirements. Create an overarching dimensional standards table to convey all respective setback, height, and lot size requirements for each zoning district. This should replace the repetitive and unnecessary listing of each respective zoning district's various dimensional requirements.*
 - Month 1: Review UDO and Audit material, research best practices for potential organizational improvements.
 - Month 2: Bring findings to the Planning Board for discussion of potential organizational improvements and receive actionable feedback.
 - Month 3-4: Draft ordinance amendments and bring recommendations to the Planning Board for discussion and recommendation to Town Council.
 - Month 4-5: Bring recommendations to the Town Council for discussion and adoption.
- *Modernize the table of permitted uses. In general, reduce the number of similar uses in the table such as "accounting agencies" and "advertising agencies" in favor of a generalized "office use." In addition, ensure all uses provided in the table have an applicable definition.*
 - Month 1: Research best practices for organizing the Table of Permitted Uses.
 - Month 2: Discuss potential organizational strategies with the Planning Board and receive actionable feedback.
 - Month 3: Reach out to stakeholders regarding feedback related to organizational strategies.
 - Month 4: Review the Table of Permitted Uses and Definitions, begin drafting changes based on

feedback from Planning Board and stakeholders.

- Month 5-6: Bring recommendations to the Planning Board for discussion and recommendation to Town Council.
- Month 6-7: Bring recommendations to Town Council for discussion and adoption.

Staff included extra time once ordinances had been drafted for review for both the Planning Board and Town Council to account for additional feedback or recommended changes.

It should be noted that the first two items could potentially be consolidated, but that additional time for research and discussion would likely be necessary as the volume and complexity of changes would increase.

Follow up Action Needed: Review and direct Town Staff to begin work on one of the priorities.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Approval of Amendments to ARTICLE IV. - BOARDS, COMMISSIONS AND COMMITTEES[4] to Align the Ordinances with the New Policy for Boards Committees.
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary: At the March 14, 2023 meeting, Council adopted a new policy for appointed Board and Committees, and a number of related documents (a new application, Code of Ethics, etc.). The attached proposed ordinance amendments. to align the ordinances with the newly-adopted policy, were presented at the April 11, 2023 meeting. The vote to adopt the ordinances amendments was 3-2 in favor. According to N.C.G.S. 160A-75, to be approved on the date of introduction, an ordinance must be approved by a two-thirds vote. The proposed amendments are on the agenda again for the second reading; a simple majority vote is needed for approval. (Note: this date of introduction statute does not apply to land regulation ordinances located in 160D).

Attachments:

[OrdinanceAmendments-Committees](#)

Suggested Motion: I make a motion to approve the amendments to Article IV of the Code of Ordinances as presented.

Sec. 2-91. - Appointment/qualifications for appointment.

- (a) The town council shall appoint the members of ad-hoc or standing committees and boards from written applications submitted to the town clerk, except in the case of special provisions that may be applicable for individual boards as denoted within this article or its cross-references. The town clerk shall advertise all vacancies one week in the local newspaper.
 - (b) The town manager or his/her designee shall serve as the staff liaison to each of the town's ad-hoc or standing committees and boards.
 - (c) Reserved.
 - (d) All members appointed by the town council shall reside within the corporate limits of the town, unless otherwise denoted within this article or its cross-references.
 - (e) Reserved. No applicant will be considered for appointment to a board, commission, committee or authority where he or she has an immediate family member employed by such agency or department.
 - (f) Reserved.
- (Ord. of 1-12-2005; Amend. of 1-10-2006; Amend. of 10-13-2009; Amend. of 5-13-2014(2); Amend. of 12-17-2019(1); Amend. of 12-17-2019(2))

Sec. 2-92. - Replacement of members ~~for cause~~; attendance requirements.

a) For any ad-hoc or standing committee or board town council establishes, town council may discharge and replace any member, for good cause, including, but not limited to, poor attendance, lack of participation, disqualification, malfeasance and conflict of interest. Any Town Council appointee may be removed, without cause, by a majority of Town Council. Upon resignation or removal, the Town Council may select a replacement from the applications of persons who applied for the last vacancy on such board, committee, commission, or authority, without further notice, advertisement, or action by Town Council, or may advertise for applications to fill the vacancy.

(c) Unless otherwise denoted in this article or its cross-references, any member, of any ad-hoc or standing committee or board who fails to attend any three out of five previous regular meetings shall be considered to have resigned and may only be reinstated by action of the town council upon a written request approved by a majority of the remaining membership. If an ad-hoc or standing committee or board does not have regularly scheduled meetings, then all special meetings shall be considered regular meetings, for the purpose of computing attendance requirements pursuant to this section. whenever any appointee shall incur three unexcused absences, said appointee's failure to attend shall be reported by the presiding officer of the respective board, committee, commission, or authority to the Town Council. Such unexcused absences on the part of any appointee may, at the election of the Town Council, be deemed to constitute resignation on the part of the appointee from such board, committee, commission, or authority. Excused absences are defined as absences caused by events beyond one's control and are subject to approval by the Board on which the appointee is serving.

Sec. 2-94. - Member terms.

- (a) Members of all standing committees or boards shall be appointed to three-year staggered terms so that approximately one-third of the membership is appointed annually. However, members may continue to serve until their successors have been appointed. Any

~~qualified member may be appointed to successive terms without limitation.~~ No appointees may serve more than two consecutive terms. This policy may be waived if the Town Council determines that the removal of that individual would be detrimental to the functioning of that board, commission, committee, or authority.

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Resolution in Opposition to Certain Proposed Legislative Bills
DATE:	May 5, 2023
DEPARTMENT:	Mayor

Subject Summary: At the April 11 meeting, Council gave consensus for Mayor White, on behalf of the Town, to sign on to a letter opposing several proposed bills in the North Carolina General Assembly that would affect municipalities' abilities to regulate certain development. The Mayor asked to follow up this month with a formal Resolution, which is enclosed for Council's consideration. The proposed bills named in the letter were SB 317, HB 332, HB 474 and HB 409/SB 374. The Resolution from another town used as a sample also included House Bills 252 and 294 and Senate Bill 317; those have not yet been included in the Resolution. The text and status of pending legislation can be seen on the General Assembly's website, <https://www.ncleg.gov/>, and links to the specific bills are included below.

[HB 252](#)
[HB 294](#)
[HB 332](#)
[HB 409](#)
[HB 474](#)
[SB 290](#)
[SB 317](#)

Attachments:
[Resolution_Legislation](#)

Suggested Motion: I make a motion to adopt the Resolution in Opposition to Certain Proposed Legislative Bills and to direct Town staff to forward the Resolution to Sen. Rabon's and Rep. Miller's offices.



Town of Oak Island
4601 E. Oak Island Drive
Oak Island, NC 28465

(910) 201-8001

www.oakislandnc.gov

Mayor

S. Elizabeth White

Mayor Pro Tempore

John W. Bach

Council Members

Sheila M. Bell

Charlie K. Blalock

Bill Craft

Mark U. Martin

Town Manager

David Kelly

dkelly@oakislandnc.gov

RESOLUTION IN OPPOSITION TO CERTAIN PROPOSED LEGISLATIVE BILLS

WHEREAS, in Chapter 160D of the North Carolina General Statutes, entitled Local Planning and Development Regulation, G.S. 160D-201 states, “All of the powers granted by this Chapter may be exercised by any city within its corporate limits and within any extraterritorial area established pursuant to G.S. 160D-202;” and

WHEREAS, the Town of Oak Island adopted its current Unified Development Ordinance (UDO) on October 9, 2018 and has utilized its own planning and zoning ordinances for decades prior; and

WHEREAS, the Town of Oak Island continues to make amendments to the UDO based on the needs of the citizens, to help guide careful development within its Planning and Zoning jurisdiction; and

WHEREAS, the Town of Oak Island is concerned that multiple Bills are being considered in the North Carolina Senate and the House of Representatives would affect the Town’s ability to regulate planning and development; and

WHEREAS, the Town government works hard to find a balance between the need to protect its beautiful natural resources while also recognizing private property rights. House Bills 332, 409, and 474, and Senate Bill 317 would negate the Town rights, given under the North Carolina Statutes, to effectively provide the framework for citizens to continue to develop their town according to their vision; and

WHEREAS, while the Town of Oak Island certainly recognizes the need for more affordable housing, the Town would support localized and regional efforts to address the issue rather than State mandates.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of Oak Island hereby urges the North Carolina Senate and the House of Representatives, to deny House Bills 332, 409, 474, and Senate Bill 317.

BE IT FURTHER RESOLVED that the Town Council and citizens of Oak Island do hereby request that Senator Bill Rabon and Representative Charlie Miller actively lobby for municipalities to retain their ability to create and adopt planning and zoning ordinances that comply with and carry out their individual Land Use Plan and future goals.

Adopted this the 9th day of May, 2023.

Mayor S. Elizabeth White

Attested: _____

Lisa P. Stites, MMC

Town Clerk

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Amendment #7 to Contract with W.K. Dickson (stormwater improvements) and the associated Budget Ordinance Amendment
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary: The Town has been working with W. K. Dickson to implement a number of stormwater improvement projects aimed at addressing flooding in the Ocean Drive area on the east end of town. Work is being done in segments, and this contract amendment would focus on the Crowell Street beach access area. The work is described more specifically in the proposed contract amendment, and the contract amendment amount is \$104,057.00. The associated Budget Ordinance Amendment is also included for Council's consideration.

Attachments:

[2023-02-24_Amendment 7_Crowell St DIS Design
BudgetOrdinanceAmendment](#)

Suggested Motion: I make a motion to approve the contract amendment with W.K. Dickson for the Crowell Street beach access area stormwater project in the amount of \$104,057.00 and to approve the associated Budget Ordinance Amendment.



AMENDMENT NO. 7

ADDITIONAL SERVICES AUTHORIZATION

The following modifications to the contract ("Contract") for 20200803.00.RA dated December 23, 2020, Amendment #1, dated May 13th, 2021, Amendment #2, dated August 17th, 2021, Amendment #3, dated October 19th, 2021, Amendment #4, dated November 16th, 2021, Amendment #5, dated April 18th, 2022 and Amendment #6, dated February 7th, 2023 between Town of Oak Island (OWNER) and W.K. Dickson & Co., Inc. (CONSULTANT) are authorized.

1. **SCOPE OF SERVICES.** CONSULTANT shall provide additional services to include:

Please see attachment A, Scope of Work for Crowell Street DIS Design Services.

2. **TIME OF PERFORMANCE.** CONSULTANT's time of performance for the above additional services shall be extended 580 calendar days. The new completion date for the overall contract is 12/31/2024.
3. **COMPENSATION.** CONSULTANT shall provide the above Additional Scope of Work for a total fee of \$104,057.00. The total contract value is increased from \$190,955.00 to \$295,012.00.

Please see attachment A, Scope of Work for Crowell Street DIS Design Services - Basis of Compensation Table.

All services and associated compensation shall be in accordance with the above-referenced Contract for Services.

OWNER:

TOWN OF OAK ISLAND, NC

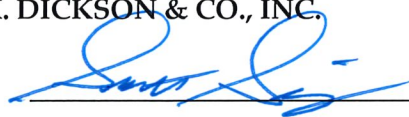
By: _____

Title: _____

Date: _____

CONSULTANT:

W.K. DICKSON & CO., INC.

By:  _____

Scott Sigmon

Title: Vice President

Date: 2-24-23

This instrument has been preaudited in the manner required by the "Local Government Budget and Fiscal Control Act".

By: _____

Finance Officer

Date: _____

ATTACHMENT A: Crowell Street DIS Design Services

SCOPE OF SERVICES

The CONSULTANT shall create design plans to construct a proposed infiltration system at the Crowell Street beach access that will reduce flooding on Ocean Drive. This proposed system, included as a sketch within the attached Figure 2, includes approximately 480 linear feet of 18" RCP (Reinforced Concrete Pipe), four (4) standard NCDOT catch-basins, small pump with wet well, 100 linear feet of a 6" PVC force main and an infiltration system, located underneath the existing beach access. The project will include the installation of infiltration chambers which will occupy approximately 2,677 square feet.

1. SCOPE OF SERVICES. CONSULTANT shall provide additional services to include the following:

1.0 Project Management

ENGINEER will manage the project in a manner so as to be responsive to the needs and schedule of the OWNER and assure the quality of the product. The following project management efforts will be conducted in coordination with the OWNER:

- A. Prepare and submit a project schedule for review and approval by the OWNER's project manager. The schedule shall be broken down by work tasks and milestone events. This schedule will be used throughout the life of the project as a project control system for the CONSULTANT and as a basis for status reporting to the OWNER.
- B. The CONSULTANT's Project Manager shall prepare and submit a monthly progress report to update the project schedule, list milestones achieved, provide current status of each major task, support and document schedule changes, update product costs, and justify changes to the schedule or proposed budgets. Monthly progress reports are due at the end of each month and shall accompany each invoice.
- C. Certify all project deliverables (signed, sealed and dated) by a professional engineer and/or surveyor registered in the state of North Carolina. Participate in project closeout and ensure it is completed on a timely basis.

- D. Coordinate and conduct QA/QC according to our in-house QA/QC plan and procedures including reviews at key stages of the project, independent project quality control reviews to assess conformance to project scope, data collection, methodologies, model output, budget, and schedule; and prepare QA/QC documentation.

2.0 Field Surveys

The CONSULTANT shall perform a topographic and location survey of approximately 56,126 square feet that includes the Crowell Street beach access and the Right-of-Way area on Ocean Drive which is approximately 601 linear feet long and 70 linear feet wide. This survey area is highlighted in Figure 1. The OWNER shall furnish to the CONSULTANT any available topographic and storm water infrastructure inventory data and Record Drawing data relative to the project to be used only as a verification tool. Horizontal surveys shall be tied to the North Carolina State Plane Coordinate System (North American Datum 1983) and vertical surveys shall be based on the North American Vertical Datum of 1988. The survey shall comply to meet the requirements for a planimetric survey to the accuracy of Class AA and vertical accuracy to the Class C standard as detailed in the Standards of Practice for Land Surveying in North Carolina, Amended August 1, 2014 and shall include:

- A. Conduct record research (deeds, easements and recorded plats) sufficient for field recovery of boundary corners for up to two (2) parcels within the project area for easement acquisition purposes only. A boundary survey for each parcel will not be performed.
- B. Field locate and map above-ground planimetric features including tree lines, electrical transmission and distribution lines, poles, retaining walls, lakes, ditches, buildings, drives, edges of asphalt and concrete pavements, fire hydrants, valves, curb and gutter, above-ground water appurtenances, storm sewer structures and sanitary sewer manholes/cleanouts. Pipe size, type of pipe, and invert elevations will only be obtained for storm sewer lines and gravity sanitary sewer lines that are identifiable and accessible without needing confined space entry or confined space certification.
- C. CONSULTANT will utilize a Level B survey that will employ non-intrusive geophysical technologies to designate the existence and horizontal positions of known and unknown utilities along the area of investigation. A combination of GPR and EM

technologies will be used for the investigation. Horizontal paint marks and any relevant features associated with the horizontal paint marks throughout the project area will be surveyed. The Level B survey will cover approximately 56,126 square feet.

- D. Conduct a topographic field survey and produce a 3-dimensional topographic map depicting 1-foot contour intervals. The vertical accuracy of the topographic map will be plus or minus 0.5 foot.
- E. Locate individual trees larger than 18" DBH (Diameter at Breast Height) as well as ornamental trees within the project boundary, if any.
- F. Locate flagged wetlands and jurisdictional streams within the project area, if any.
- G. CONSULTANT will provide necessary office computations and CADD production for the services outlined above.
- H. The CONSULTANT shall research local records and obtain existing documentation that defines the location or description of existing utility easements of record, including blanket easements within the project limits. The research will be performed to the best of the CONSULTANT's ability to determine easements of record. It should be noted that this does not represent a legal title opinion.
- I. The CONSULTANT shall provide three (3) "Quality Level A" (vacuum excavations or soft digs) services within the survey area along Ocean Drive. Precise horizontal and vertical information of the specified utility shall be provided to the OWNER as Certified Vacuum Excavation Reports for the specified test hole locations.

3.0 Infiltration Evaluation

In order to evaluate the infiltration capacity of a potential infiltration site, the CONSULTANT will conduct the following soil characterization testing to determine the viability of infiltration:

1. In-situ Saturated Hydraulic Conductivity
2. Seasonal High Groundwater table

It is anticipated that this analysis will be performed at four (4) locations within the Crowell Street beach access as shown in Figure 3.

4.0 Construction Plans and Contract Documents

The CONSULTANT shall prepare and provide all engineering drawings necessary for construction of the project. An informational submittal shall be made at 35% completion for the OWNER's review. A second submittal shall be made at 90% completion for final OWNER's review. The CONSULTANT shall await the OWNER's approval of the 90% submittal before completing the 100% documents.

The CONSULTANT shall design and specify erosion control measures that are in accordance with the requirements of the North Carolina Department of Energy, Mineral and Land Resources (NC DEMLR) Erosion and Sediment Control Planning Design Manual. The CONSULTANT shall show erosion control measures and details on the plans. This contract assumes that an NC DEMLR Erosion Control Permit will not be required since the Limits of Disturbance are assumed to be under one (1) acre.

- A. Design Plans:** Design plans shall include, but may not be limited to, the following:
1. Existing conditions including roadway, planimetric features, structures, vegetation and utilities, as determined the completed field survey;
 2. Existing deed title lines, existing and proposed right-of-way lines, existing easements as provided by the OWNER. Proposed storm drainage easements, proposed temporary construction easements, and permanent conservation easements. Fee simple, right-of-way and/or easements shall be sufficient to encompass all improvements, including landscaping;
 3. Location (plan and profile) of proposed storm drainage features (channels, culverts, pipes, infiltration chambers, manholes, drop inlets, etc.);
 4. Location (plan and profile) of proposed pump, pump controls, wet well and force main;
 5. Location (plan and profile) of identified existing utilities and proposed utilities and shall indicate proposed underground and overhead utilities to be reconstructed and/or relocated as part of the project;
 6. Location of construction work areas and indication of which existing features

may be impacted by construction (fences, boardwalk, etc.) indicating the party responsible for removal and/or re-establishment;

7. Recommendation of construction materials to be used;
8. For each property, the tax code designation, the deed book and page number, parcel number, and street address as well as names of property owners per tax records;
9. Piping connection and construction details;
10. Pump criteria and suction connection details;
11. Erosion control plans;
12. Traffic Control Plans;

The CONSULTANT shall prepare plans on 22" x 34" plan and profile sheets at a scale of 1"=20' horizontal and 1"=2' vertical or as directed by the OWNER. The CONSULTANT shall furnish one (1) set to the OWNER for review and approval at each stage of completion. The OWNER will return to the CONSULTANT all pertinent comments summarized on a single plan set or an itemized word document. The CONSULTANT shall revise the plans as required by the OWNER in conformance with the review comments.

The CONSULTANT shall use OWNER standard details to the extent possible. NCDOT standard details will be used if there is not an appropriate OWNER standard.

- B. Cost Estimate:** Engineer's opinion of probable cost including quantity take-offs in the OWNER's standard format shall be provided. Probable construction costs shall be provided with the 90%, and 100% submittals.
- C. Contract Document Preparation:** The CONSULTANT shall utilize their standard specifications that will be combined with EJCDC Contract for Construction of a Small Project contract language. The CONSULTANT will provide the required

technical specifications and the contract front-end documents for this project. This contract, and associate specifications, will be provided to the OWNER for review during the 90% Submittal. The CONSULTANT shall await OWNER approval of the 90% submittal before completing the documents.

- D. Traffic Control Plans Road Closure/Detour Routing:** The CONSULTANT shall prepare traffic control plans for Ocean Drive Closure/Detour Routing that include a phasing sequence listing work to be done in each phase (if applicable), traffic control diagrams and details of each phase (NCDOT or consultant prepared drawing), and any special considerations, such as time limitations, hour of day limitations, or intermediate completion times/liquidated damages to construct the proposed improvements. The design must also address and include all traffic control devices, signs, restrictions, and pavement markings required during construction of the recommended improvements.

The traffic control plans shall conform to the following:

- Manual of Uniform Traffic Control Devices for Streets and Highways (MUTCD), current as of the date Final Traffic Control plans are begun as prepared by the National Advisory Committee on Uniform Traffic Control Devices, including subsequent revisions;
- The current edition of the “North Carolina Supplement to the MUTCD, Part VI; NCDOT;
- “The State Policy and Procedure for Traffic Control Through Construction Work Zones”; and
- The current edition of the “Highway Design Branch Roadway Design Standards”, with all subsequent revisions.

5.0 Permits

The CONSULTANT shall prepare the following:

- A. CAMA Minor Permit
- B. No-Rise Certification Letter

This task includes one sufficient response for each of the agencies above. One response will be prepared to satisfy requests for unique additional information to obtain permits and is therefore the basis of the negotiated permitting budget for the CONSULTANT.

It is assumed that environmental wetland and stream impacts will be minimized, and that environmental mitigation will not be required. If mitigation is required to offset unavoidable stream or wetland impacts, or other types of permits are needed, these services shall be negotiated as additional services outside the scope of this agreement.

It is assumed that the project will fall within CAMA jurisdiction and will require a CAMA Minor Permit. The CONSULTANT will coordinate with CAMA to verify the limits of CAMA jurisdiction following the delineation task and prior to the permit application task. The CONSULTANT shall submit components of the CAMA Minor Permit to the OWNER, including the associated GIS figures and the completed permit form, for the OWNER's review and approval. Then the CONSULTANT shall submit this Minor Permit application to CAMA and secure CAMA approval of the plans before completing the final construction documents.

It is assumed that the project will not need to be permitted by a USACOE Nationwide Permit(s) and 401 General Certification(s). If any 404 Permit and 401 Individual Certification are required, these services shall be negotiated as additional services outside the scope of this agreement.

A No-Rise Certification Letter is included within this permitting effort as this project is located within a VE and AE flood zone. Since no changes to the overall topography are expected as a result of this project, it is assumed that only a No-Rise Certification Letter will be required. No coastal hydraulic modeling is expected to be required for this certification. Any hydraulic modeling required to produce a No-Rise certification shall be negotiated as additional services outside the scope of this agreement.

Although the CONSULTANT has no control over and cannot be responsible for review times taken by jurisdictional agencies, the CONSULTANT shall respond to comments and requests for additional information from agencies in an expeditious fashion.

6.0 Project Meetings

The CONSULTANT shall have one (1) meeting with CAMA to facilitate information for the CAMA Minor Permit. The CONSULTANT shall attend a maximum of two (2) in-person meetings with the OWNER to update project progress and review design plans.

7.0 Bid Phase Services

The CONSULTANT will provide bid phase services including preparation of construction bidding documents, proposal bid forms, and bond forms; reproduction of the plans and documents for bidding; advertisement of the project for bid; conducting the pre-bid conference; issuance of up to one (1) addendum; clarifications and information as requested by bidders; maintenance of the bidder's log; conducting the bid opening; tabulation of the bids received; reviewing the bid packages for compliance with the contract requirements; and selection of the Contractor.

8.0 Golden LEAF Funding Application

The CONSULTANT shall prepare, on behalf of the OWNER, a Golden LEAF Flood Mitigation and Recovery Program Application for the Crowell Street DIS Project with elements including design and construction costs. It is assumed that this standard Golden LEAF Application form will be utilized for this effort. It is also assumed that if any flood damages are documented or evaluated outside of the proposed project survey area, then LiDAR elevations will be used.

It is assumed that the OWNER will submit final application through Golden LEAF online portal and provide any OWNER-specific data as required in support of the application.

9.0 Reimbursables

The fee for reimbursables during this phase of work shown in fee attachment is an estimate for use. Reimbursables shall include reproduction costs for plans, specifications, exhibits, color exhibits, general correspondence; postage and courier fees; travel, meals and lodging; and other miscellaneous expenses.

Basis of Compensation

A. Basic Services.

The OWNER shall pay the CONSULTANT for additional services set forth above, Scope of Services, for the Crowell Street DIS Design a Lump Sum Fee of One Hundred, Two Thousand, and Five Hundred and Fifty-Seven Dollars (\$102,557.00).

The OWNER shall pay the CONSULTANT for Reimbursable fees Not To Exceed One Thousand Five Hundred Dollars (\$1,500.00)

The total fee for these additional services is One Hundred, Four Thousand, and Fifty-Seven Dollars (\$104,057.00).

Phase	Description	LS Fee
1.0	Project Management	\$ 9,400.00
2.0	Topographic Survey Effort	\$ 24,153.50
3.0	Geotechnical Evaluation	\$ 2,200.00
4.0	Construction Plans and Contract Documents	\$ 38,067.00
5.0	Permits	\$ 10,419.00
6.0	Project Meetings	\$ 5,400.00
7.0	Bid Phase Services	\$ 7,928.00
8.0	Golden LEAF Funding Application	\$ 4,990.00
9.0	Reimbursables	\$ 1,500.00
Total		\$ 104,057.00

The CONSULTANT will bill the OWNER on the last day of each month for the fees and expenses incurred during that month.

- B. Additional Services. The OWNER shall pay the CONSULTANT for additional services which are not specifically called for in above, Scope of Services, in accordance with the CONSULTANT'S standard rates.
- C. Premium Rate Adjustment. Should OWNER request an accelerated schedule requiring CONSULTANT to work overtime hours, then a 1.25 premium rate adjustment shall be applied to current hourly rates or lump sum fees as appropriate. Accelerated schedule and premium rate adjustment shall be approved as part of compensation at time of contract execution or by written amendment.

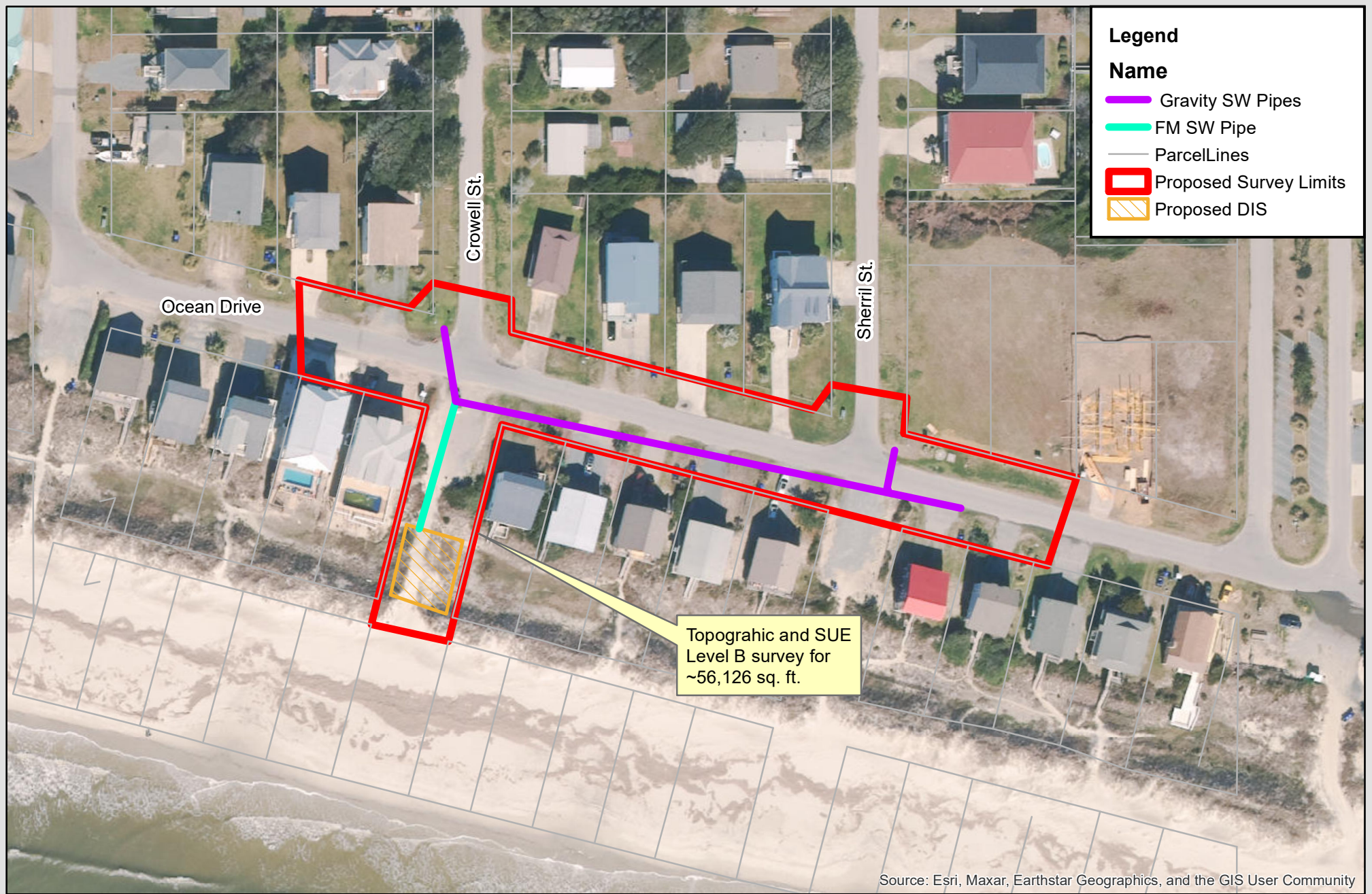
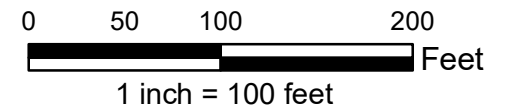
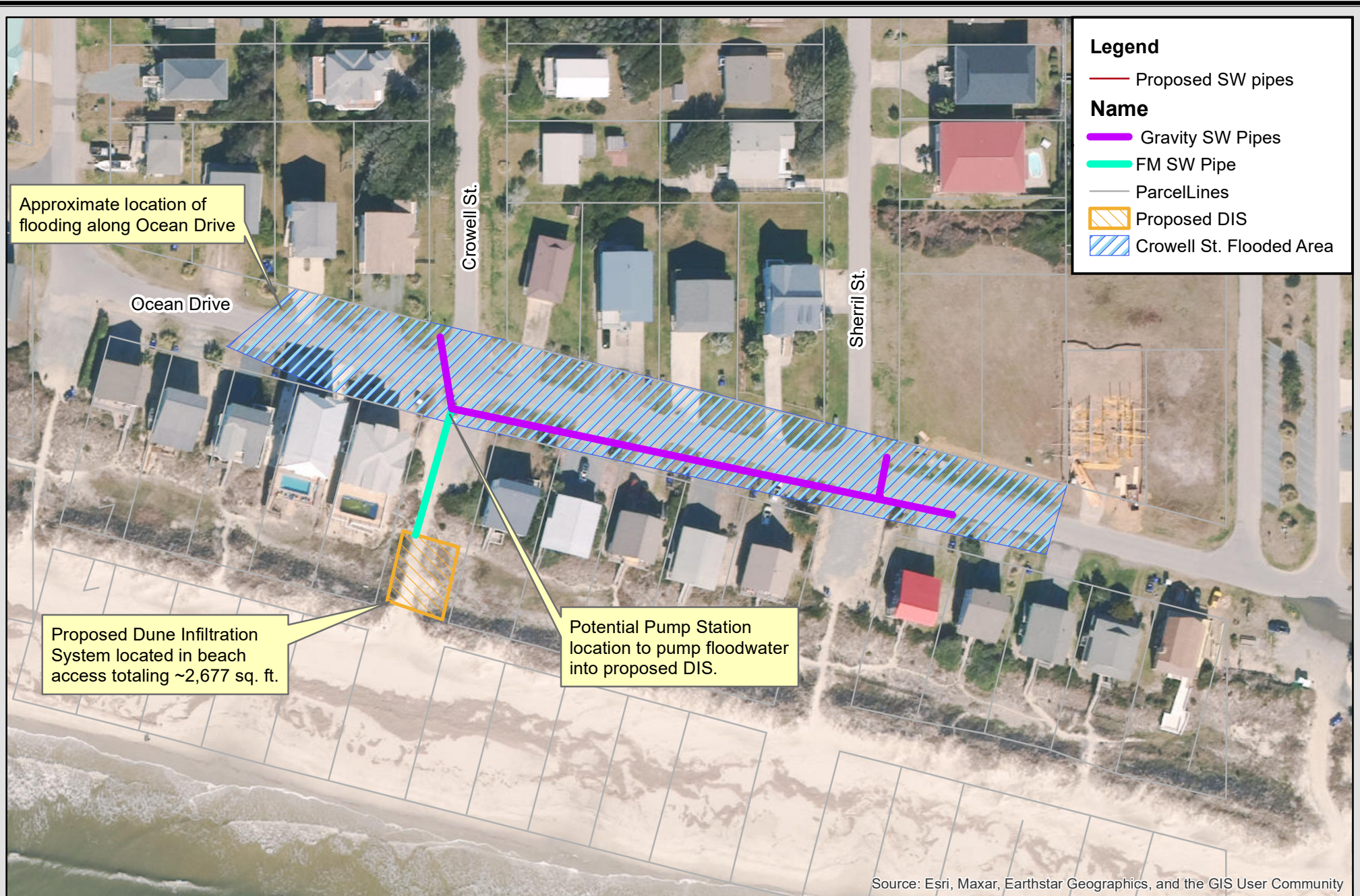
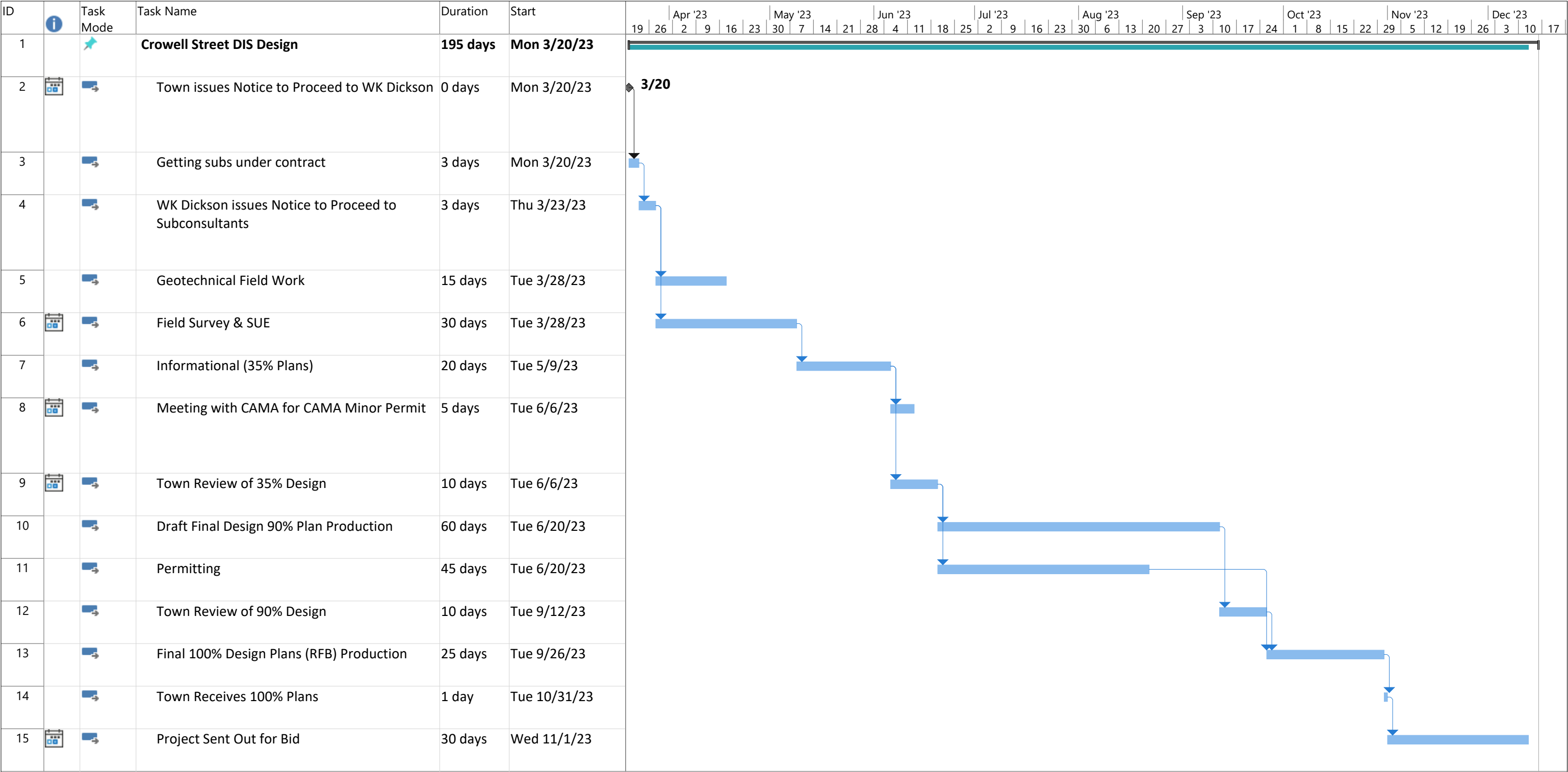


Figure 1
Crowell Street DIS
Proposed Survey Area









Project: Design Schedule
Date: Mon 2/13/23

Task

Split

Milestone

Summary

Project Summary

Inactive Task

Inactive Milestone

Inactive Summary

Manual Task

Duration-only

Manual Summary Rollup

Manual Summary

Start-only

Finish-only

External Tasks

External Milestone

Deadline

Progress

Manual Progress



TOWN OF OAK ISLAND
BUDGET ORDINANCE AMENDMENT
FISCAL YEAR 2022 - 2023

BE IT ORDAINED by the Town Council of the Town of Oak Island, North Carolina, in Council assembled, May 9, 2023, that the following Budget Ordinance Amendment be adopted for the purpose of transferring funds from the ARP Fund balance to provide funding for the Consultant (WK Dickson & Co., Inc) to perform additional services to create design plans to construct a proposed infiltration system at the Crowell Street Beach access that will reduce flooding on Ocean Drive. This will be Amendment No. 7 to the original contract.

I. STORMWATER FUND

A. Revenue Anticipated

Transfer from ARP Funds	32-300-9751	\$ 104,057	\$ 104,057
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B. Expenditures Authorized

Capital Outlay Improvements	32-562-5440	\$ 104,057	\$ 295,012
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II ARP FUND

C. Revenue Anticipated

Appropriated Fund Balance	51-300-9800	\$ 104,057	\$ 104,057
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D. Expenditures Authorized

Transfer to Stormwater Department	51-751-9611	\$ 104,057	\$ 104,057
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Adopted this the twentieth day of May 9, 2023

S. Elizabeth White, Mayor

Attest: _____
Lisa P. Stites, Town Clerk

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Task Order Amendment for Moffatt & Nichol for Drafting the Town's Beach Management Plan (for the NC Coastal Resources Commission)
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary: Following the elimination of the Development Line in August of 2022, the Town contracted with Moffatt & Nichol in September of 2022 to draft a Beach Management Plan to be submitted to the NC Coastal Resources Commission for consideration. The contract amount was for \$42,970. Moffatt & Nichol presented the draft plan in September of 2022, and a public hearing was held in October. Action was deferred for 100 days, and in March of this year, Council asked for additional information; Moffatt & Nichol incurred additional expenses in the amount of \$61,540. A detailed accounting of the revised scope of work/task order amendment request is included as an attachment.

Attachments:

[Beach Manangement Plan SVL Amendment_F](#)

Suggested Motion: I make a motion to approve the task order amendment as requested by Moffatt & Nichol in the amount of \$61,540 to complete preparation of the Town's Beach Management Plan.

April 7, 2023

David E. Kelly II
Town Manager
Town of Oak Island
4601 E. Oak Island Dr
Oak Island, NC 28465

**Subject: Task Order Amendment for Beach Management Plan – Vegetation Line
Town of Oak Island, North Carolina**

Dear Mr. Kelly:

Moffatt & Nichol (M&N) prepared a draft Beach Management Plan (BMP) in accordance with the amended Title 15A of North Carolina Administrative Code (NCAC) Subchapter 7H .0304;.0305; .0306; .0308; .0309; .0310 and Subchapter 7J.1200; .1202; .1203; .1204; .1205; .1206. The intent of the amended rule is for local communities to develop a policy approach of utilizing local and subregional Beach Management Plans to support delineation of the vegetation line (VL) to define the location of the oceanfront setbacks based on the community's long-term commitment to maintaining the beach through a managed beach nourishment plan. The August 8, 2022, proposal prepared by M&N consisted of preparing a draft BMP based on the guidance provided by the Department of Coastal Management (DCM) and one set of grouped comments received from the Town, Town Council, and public that would be collected through one public meeting.

The Town's goal when the work was authorized in August 2022 was to submit a draft BMP to DCM in October 2022 for a minimum 30-day review period by DCM before it was presented to the North Carolina Coastal Resource Commission (CRC) for approval during the November 2022 meeting. To expeditiously progress the BMP preparation, a representative of M&N provided an overview of the amended rule and BMP policy approach to Town Council and those of the general public on August 16, 2022. A draft BMP was prepared and submitted to the Town on September 23, 2022. M&N presented the draft BMP during a special Town Council meeting on September 27, 2022. The Town provided a similar presentation on October 4, 2022, during a Town Council meeting where the public could comment on the draft BMP.

During the October 4, 2022, presentation, members of Town Council and the public focused their comments and questions on the Oak Island Beach and Inlet Management Plan (BIMP) and how it affected the overall policy approach presented in the BMP. Due to the large number of comments related to the BIMP, the Town decided to delay submitting the BMP to DCM and CRC until Summer 2023 so that comments from Town Council and public could be adequately addressed in a timely manner.

M&N also prepared an application for a \$25,000 DCM planning grant on behalf of the Town to support the BMP development effort in October 2022. The Town was awarded the grant in November 2022.

On January 6, 2023, telephone call, the Town provided guidance on incorporating comments from the October 4 meeting in the updated draft BMP. M&N prepared responses to the comments and updated the draft BMP, which the Town received on February 15, 2023. The Town requested that M&N provide representatives to attend two virtual meetings with Town Council members (two Council members per call) on March 9, 2023 to provide them with summary of the updated draft BMP and address any questions they may have on the document. The Town also requested that an M&N representative attend the March 14, 2023 Town Council meeting to provide the remaining Town Council members and the public with the final update of the BMP. The outcome from the March 9th meeting indicated confusion between the BMP (a policy approach) and the BIMP (the management plan implemented to maintain the beaches).

April 7, 2023

This confusion between the two plans was again highlighted during the March 14th Town Council meeting, where several Council members raised concern with the appropriate maintenance volume and the associated time interval to maintain the beach. A subsequent virtual meeting on March 28, 2023, with Town Council members reinforced the issues associated with appropriate maintenance volume in the BIMP and how it shaped the BMP plan. M&N was requested to attend a meeting with Council members on April 5, 2023 to summarize the appropriate maintenance volumes and time intervals for the BIMP. During the April 5, meetings, the Town requested that M&N attend the Town Council meeting on April 13, 2023, to summarize the final version of the BMP. Once the Town Council approves the BIMP modifications, the BMP will have to be updated and submitted to DCM for review prior to CRC review in Summer 2023.

M&N is requesting a task order amendment to address the additional services provided since the draft BMP submitted in September 2022. A bullet point summary of the additional services as outlined in timeline above is provided as follows:

1. Attendance on September 27, 2022, Town Council special meeting (one M&N representative)
2. Preparation of slide materials for October 4, 2022, Town Council public meeting
3. Preparation of DCM Planning Grant application for BMP (Town awarded \$25,000 grant).
4. Three (3) coordination calls with Town.
5. Categorize and prepare responses to public comments.
6. Attend two March 9, 2023, virtual meetings (two M&N representatives)
7. Attend March 14, 2023, Town Council Meeting (one M&N representative)
8. Attend March 28, 2023, virtual meeting with Town Council members (three M&N representatives).
9. Attendance on April 5, 2023, meeting with Town Council members (two M&N representatives)
10. Attendance on April 13, 2023, Town Council meeting (one M&N representative)
11. Evaluation and modification of potential maintenance volumes to address Town Council occurs.
12. Evaluate the risk levels associated with the various maintenance volumes.
13. Modification to BMP including financial plan to incorporate requested beach fill maintenance volume changes requested by Town Council members.

Fee:

The additional coordination and attendance with representatives of Town Council, the development of responses to public comments, revisions to the maintenance volume calculations, modification of the BMP to address significant public comment and revisions to the financial plan in the BMP is summarized in the fee table below. The amendment request is \$61,540 which includes \$650 in additional travel expenses.

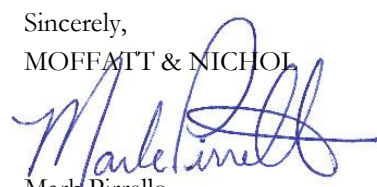
The effort and associated fee is based on Town Council passing the BMP during the April 13, 2023 meeting.

Task	Fee
Task 1A - Additional Meetings and Coordination	\$ 28,480
Task 2A – Modification of Beach Management Plan	\$ 32,410
Reimbursable Expenses	\$ 650

If you have further questions or need clarification of any of the above items, please feel free to contact Mark Pirrello or me anytime. As always, thank you for the opportunity to serve the Town of Oak Island.

Sincerely,

MOFFATT & NICHOL



Mark Pirrello
Project Manager

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of a Contract with the ABC Board for Law Enforcement
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary:

According to N.C.G.S. 18B-501(f), the local ABC Board can contract with the local police department for enforcement of ABC laws instead of hiring local ABC officers. The last known contract between the ABC Board and the Town's Police Department was from the 1980s, and the State recommends a new contract be implemented. A contract is included for Council's consideration, and the relevant general statute is pasted below.

N.C.G.S. 18B-501(f): Contracts with Other Agencies. – Instead of hiring local ABC officers, a local board may contract to pay its enforcement funds to a sheriff's office, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the designated officers of the contracting law-enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have. An agency contracted to provide ABC law enforcement shall designate no more than five officers to conduct inspections pursuant to this section and G.S. 18B-502. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement.

Attachments:

[ABC_LEOcontract](#)

Contract for ABC Law Enforcement

State of North Carolina

ABC Board: Oak Island

THIS CONTRACT is entered into on this the ____ day of _____,
by and between the Oak Island ABC Board (hereinafter “ABC Board”) and the Town of Oak
Island (hereinafter “Agency”) for the purposes set forth below:

WHEREAS North Carolina General Statute Chapter 18B requires that the ABC Board
either hire an ABC law enforcement officer or contract for ABC law enforcement with a local
law enforcement agency; and

WHEREAS the ABC Board is required by law to expend at least 5% of profits for ABC
law enforcement; and

WHEREAS the ABC Board is of the opinion that contracting with the Agency for ABC
law enforcement would constitute the most efficient use of its ABC law enforcement funds; and

WHEREAS the Agency agrees to provide ABC law enforcement in Oak Island in return
for the agreed funding:

NOW, THEREFORE, IT IS AGREED that:

1. The Agency shall provide ABC law enforcement within the boundaries of Oak Island
in return for the sum of \$20,000 annually, to be paid in quarterly installments. *This
amount shall be adjusted as needed to equal the amount required by North Carolina
General Statute 18B-805(c)(2) to be expended on ABC law enforcement.*
2. The Agency shall be solely responsible for hiring, equipping and supervising the
officer or officers who are charged with the duty of enforcing the ABC laws, and the
Agency agrees to indemnify, and hold harmless, the ABC Board for any liability
arising from the activities of said officers.
3. The Agency shall give priority to specific requests from the ABC Board for
assistance in such matters as ABC store security, protection of ABC store deposits,
and the investigation of internal and external theft [this list of duties should be
tailored to the ABC Board’s expectations].
4. The Agency shall report to the ABC Board by the 5th business day of each month on a
form developed by the Commission the following:
 - a. The number of arrests made for ABC law, Controlled Substance Act, or other
violations, by category, at ABC permitted outlets.

- b. The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.
 - c. The number of agencies assisted with ABC law or controlled substance related matters.
 - d. The number of alcohol education and responsible server programs presented.
- 5. This contract shall continue in effect until such time as either party desires to cancel the contract and gives notice of cancellation as follows:
- 6. This contract may be cancelled by either party upon 30-day notice to the other party, which notice shall be given in writing.

Effective the _____ day of _____, 2023.

_____ ABC Board

BY: _____
S. Elizabeth White, Mayor of the Town of Oak Island

Attested: _____
Lisa P. Stites, MMC, Town Clerk

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Renewing the Lease of the Town's Building in the Yaupon Beach area to Matthew's Ministry
DATE:	May 5, 2023
DEPARTMENT:	Administration

Subject Summary: In 2016, the Town entered into a lease agreement with Matthew's Ministry for the former Development Services/former Yaupon Beach Town Hall building. The lease has been extended since that time. Matthew's Ministry is a local non-profit organization that focuses on ending childhood hunger, providing food to children in need in Brunswick County Schools. The lease renewal would be for one year. The lease renewal incorporates the original lease as an exhibit, and it attached for Council's consideration.

Attachments:

[MatthewsMinistryLeaseRenewal_2023](#)
[MatthewsMinistryLeaseExhibit_2023](#)

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

LEASE EXTENSION AGREEMENT

This Lease Extension Agreement entered into by and among The Town of Oak Island, hereinafter "Landlord," and Matthew's Ministry, hereinafter "Tenant," all hereinafter sometimes collectively referred to as "the parties".

WITNESSETH

WHEREAS, Landlord desires to extend the term of the current lease; **WHEREAS**, Tenant desires to remain as the lessee of the subject premises.

NOW, THEREFORE, in consideration of the mutual covenants, premises and payment described herein below and/or incorporated herein, the sufficiency of which is hereby acknowledged, the parties hereto enter into the Lease Extension Agreement on the premises located at 8500 East Oak Island Drive, in Brunswick County, Town of Oak Island, State of North Carolina, under the following terms and conditions:

1. Incorporation of Prior Lease. The attached prior lease is incorporated herein by reference as if fully set forth herein. All terms and conditions in said lease remain in full force and effect unless otherwise modified by this Lease Extension Agreement. Said lease is attached hereto and marked as Exhibit "A" for reference.
2. Lease Term. The term of this lease extension shall commence at 12:00 noon on June 30, 2023 (the date the current lease is set to expire) and shall terminate at 12:00 noon on June 30, 2024.
3. Deposit. Tenant shall not be required to pay a security deposit.
4. Rent. Tenant agrees to pay rent of \$1.00 for the year, payable upon the full execution of this lease.
5. Termination. This lease will automatically terminate June 30, 2023. Tenant shall vacate the Premises by the termination date unless a new written lease is executed prior to said date.
6. Entire Agreement. This Lease Extension Agreement (with the attached Exhibit "A") is the only agreement between the parties and all negotiations or oral agreement are contained herein or waived. No representations have been made to Tenant other than those contained within this contract.

Executed this the _____ day of May, 2023.

Tenant: _____ (seal)

Landlord (for the Town): _____ (seal)
David Kelly II, Town Manager

STATE OF NORTH CAROLINA
COUNTY OF BRUNSWICK

LEASE EXTENSION AGREEMENT

This Lease Extension Agreement entered into by and among The Town of Oak Island, hereinafter "Landlord", and Matthew's Ministry, hereinafter "Tenant", all hereinafter sometimes collectively referred to as "the parties".

WITNESSETH

WHEREAS, Landlord desires to extend the term of the current lease;

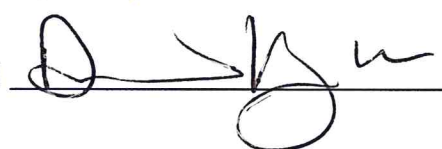
WHEREAS, Tenant desires to remain as the lessee of the subject premises.

NOW, THEREFORE, in consideration of the mutual covenants, premises and payment described herein below and/or incorporated herein, the sufficiency of which is hereby acknowledged, the parties hereto enter into the Lease Extension Agreement on the premises located at 8500 East Oak Island Drive, in Brunswick County, Town of Oak Island, State of North Carolina, under the following terms and conditions:

1. Incorporation of Prior Lease. The attached prior lease is incorporated herein by reference as if fully set forth herein. All terms and conditions in said lease remain in full force and effect unless otherwise modified by this Lease Extension Agreement. Said lease is attached hereto and marked as Exhibit "A" for reference.
2. Lease Term. The term of this lease extension shall commence at 12:00 noon on June 30, 2017 (the date the current lease is set to expire) and shall terminate at 12:00 noon on June 30, 2022.
3. Deposit. Tenant shall not be required to pay a security deposit.
4. Rent. Tenant agrees to pay rent of \$1.00 per year, payable upon the full execution of this lease and on or before June 30th of each year thereafter until June 30, 2022.
5. Termination. This lease will automatically terminate June 30, 2022. Tenant shall vacate the Premises by the termination date unless a new written lease is executed prior to said date.
6. Entire Agreement. This Lease Extension Agreement (with the attached Exhibit "A") is the only agreement between the parties and all negotiations or oral agreement are contained herein or waived. No representations have been made to Tenant other than those contained within this contract.

Executed this the ____ day of March, 2017.

Tenant  (seal)

Town of Oak Island  (seal)

STATE OF NORTH CAROLINA

LEASE AGREEMENT

COUNTY OF BRUNSWICK

This Lease Agreement Extension entered into by and among The Town of Oak Island hereinafter "Landlord" and Matthew's Ministry, hereinafter "Tenant(s)", all hereinafter sometimes collectively referred to as "the parties".

WITNESSETH

WHEREAS, Landlord desires to lease the subject premises to Tenant.

WHEREAS, Tenant desires to lease the subject premises from Landlord,

NOW, THEREFORE, in consideration of the mutual covenants, premises and payment described below, the sufficiency of which is hereby acknowledged, the parties hereto enter into this Lease Agreement with the lease of the premises located at 8500 East Oak Island Dr., in Brunswick County, Town of Oak Island, State of North Carolina, under the following terms and conditions:

1. Lease Term. The term of this lease extension shall commence at 12:00 noon on MARCH 1, 2016 (the date the original lease is to terminate) and shall terminate at 12:00 noon on June 30, 2017.

2. Deposit - Tenant shall not be required to pay a security deposit.

3. Rent. Tenant agrees to pay rent of \$1.00 dollar per year, payable upon the full execution of this lease.

4. Utilities. The Tenant shall pay for all water, electric, and sewage fees in connection with the use of the leased premises.

5. General conditions.

a) The lease shall not be assigned or sublet by Tenant without the written consent of the Landlord;

b) The premises shall be used for a non-profit/charitable enterprise;

c) Tenant may make alterations to the premises to accommodate needs of the tenant;

d) All permanent improvements shall remain with the property and become a permanent part of the real estate and as such the property of the Landlord;

e) Tenant covenants and agrees that he / she will take good care of the premises and upon the termination of the lease will surrender the said premises in as good order and condition as they were in at the beginning of this lease, ordinary wear and tear excepted;

t) Tenant will make no unlawful or offensive use of the premises;

g) Tenant will not violate any law or ordinance in connection with the property including noise and nuisance ordinances.

6. Default. Upon default, Tenant shall peaceably vacate the premises. For purposes of this Lease Agreement, an event of default shall include, but is not limited to, the following:

a) Non-payment of rent in accordance with this Lease Agreement;

b) Tenant's failure to abide by any term or condition contained in this Lease Agreement;

c) Tenant's or Tenant's guests disorderly, lewd or offensive conduct at or near the leased premises.

7. Loss. If during the term of this lease the leased premises are rendered uninhabitable by fire, hurricane, flood or other catastrophe, then the lease shall terminate.

8. Inspections. Landlord has the right, but is not required, to conduct monthly inspections of the leased premises upon reasonable notice and the right to immediate reentry and possession of the premises in the event of any breach of this lease or failure to pay the rent when due. Tenant also agrees to pay all court costs and attorneys fees incurred in eviction or collection proceedings.

9. Expiration / renewal. The lease is renewable upon terms agreeable to the parties. Tenant agrees that Landlord may have reasonable access to the property for inspection and to show the property to prospective Tenant ninety (90) days prior to the expiration of the lease term.

Tenant Initials

Landlord Initials

10. Insurance. Tenant warrants that he / she understands that Landlord has no insurance in place for the benefit of Tenant and Tenant is advised to purchase renters or other insurance to protect his / her property from any perils, including fire, theft and hurricane. Tenant further warrants that he/she has made full inspection of the property and agrees to release, hold harmless, defend and indemnify Landlord from any claims relating to the property including claims for personal injury or property damage.

11. Transfer of Landlord's Interest. In the event of the sale, assignment or transfer by Landlord of his interest in the Premises or in this Lease (other than a collateral assignment to secure a debt of Landlord) to a successor in interest who expressly assumes the obligations of Landlord under this Lease, Landlord shall thereupon be released and discharged from all its covenants and obligations under this Lease, except those obligations that have accrued prior to such sale, assignment or transfer; and Tenant agrees to look solely to the successor in interest of Landlord for the performance of those covenants accruing after such sale, assignment or transfer. Landlord's assignment of this Lease, or of any or all of its rights in this Lease, shall not affect Tenant's obligations hereunder, and Tenant shall look to the assignee as Landlord, provided Tenant has first received written notice of the assignment of Landlord's interest.

12. Abandonment. Tenant shall not abandon the Premises at any time during the Lease term. If Tenant shall abandon the premises or be dispossessed by process of law, any Personal Property belonging to Tenant and left on the Premises shall, at the option of Landlord, be deemed abandoned, and available to Landlord to use or sell to offset any rent due or any expenses incurred by removing same and restoring the subject premises.

13. Time of essence. Time is of the essence in this Lease.

14. Notices. All notices required or permitted under this Lease shall be in writing and shall be personally delivered or sent by U.S. certified mail, return receipt requested, postage prepaid. Notices to Tenant shall be delivered or sent to the address shown at the beginning of this Lease, except that upon Tenant taking possession of the Premises, then the Premises shall be Tenant's address for such purposes. Notices to Landlord shall be delivered or sent to the address shown at the beginning of this Lease and notices to Agent, if any, shall be delivered or sent to the address set forth in the attached Exhibit A.

All notices shall be effective upon delivery. Any party may change its notice address upon written notice to the other party given as provided herein.

15. Special Stipulations. There are no special stipulations between the parties.

16. Waiver of Rights. No failure of Landlord to exercise any power given Landlord hereunder or to insist upon strict compliance by Tenant of his / her obligation hereunder and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Landlord's right to demand exact compliance with the terms herein.

17. Exterior Signs. Any and all signs placed on the Premises by Tenant shall be maintained in compliance with governmental rules and regulations governing such signs and Tenant shall be responsible to Landlord for any damage caused by installation, use or maintenance of said signs, and all damage incident to removal thereof.

18. Landlord's Entry of Premises. Landlord may advertise the Premises "For Rent" or "For Sale" 90 days before the termination of this Lease. Landlord may enter the Premises at reasonable hours to exhibit same to prospective purchasers or Tenants and to make repairs required of landlord under the terms hereof or to make repairs to Landlord's adjoining property, if any.

19. Quiet Enjoyment. So long as Tenant observes and performs the covenants and agreements contained herein, they shall at all times during the lease term peacefully and quietly have and enjoy possession of the Premises, but always subject to the terms hereof. Provided, however, that in the event Landlord shall sell or otherwise transfer its interest in the Premises, Tenant agrees to adhere to any new owner or interest holder and shall, if requested by Landlord, execute a separate agreement reflecting such adherence, provided that said agreement requires the new owner or interest holder to recognize its obligations and Tenant's rights hereunder, absent a written agreement to the contrary signed by Landlord.

20. Indemnity: Insurance. Tenant agrees to and hereby does indemnify and save Landlord harmless against all claims for damages to persons or property by reason of Tenant's use or occupancy of the Premises, and all expenses incurred by Landlord as a result thereof, including attorney's fees and court costs.

21. Repairs by Landlord. Landlord agrees to keep in good repair any major appliances (stove, refrigerator and dishwasher, roof, foundation, H V A C system, underground utilities and sewer pipes as well as the exterior walls of the premises (exclusive of all glass and exterior doors in any way damaged by Tenant).

22. Repairs by Tenant. Tenant accepts the Premises in its present condition and as suited for the uses intended by Tenant. Tenant shall, throughout the initial term of this Lease, and any extension or renewal thereof, at its expense, maintain in good order and repair the Premises. Tenant agrees to return the Premises to Landlord at the expiration or prior to termination of this Lease, in as good condition and repair as when first received, natural wear and tear, damage by storm, fire, lightning, earthquake or other casualty excepted. Tenant, Tenant's employees, agents, contractors or subcontractors shall take no action which may void any manufacturers or installers warranty with relation to the Premises. Tenant shall indemnify and hold Landlord harmless from any liability, claim, demand or cause of action arising on account of Tenant's breach of the provisions of this paragraph.

22. ALTERATIONS. Tenant plans to make small alterations/improvements to the Premises at Tenant's sole cost. Tenant plans to install a double exterior door and plans to widen entry into two (2) rooms by cutting out walls to accommodate Tenant's needs. Landlord approves of these alterations to the Premises. All alterations, additions, and improvements will be accomplished in a good and workmanlike manner, in conformity with all applicable laws and regulations, and by a contractor approved by Landlord, free of any liens or encumbrances. Tenant shall repair, at Tenant's expense, any damage to the Premises caused by any alteration/improvement.

23. Condemnation. If the whole of the Premises, or such portion thereof as will make the Premises unusable for the purposes herein leased, is condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Landlord and Tenant as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation from the condemnor. It is further understood and agreed that Tenant shall not have any rights in any award made to Landlord by any condemnation authority.

24. Termination. This lease will automatically terminate June 30, 2017. Tenant shall vacate the Premises by the termination date unless a new written lease is executed prior to said date.

25. Entire Agreement. This lease agreement is the only agreement between the parties and all negotiations or oral agreements are contained herein or waived. No representations have been made to Tenant other than those contained within this contract.

This the ____ day of November, 2015.

Tenant

 (seal)

Town of Oak Island



EXHIBIT A
NOTICES

FOR LANDLORD:

FOR TENANT: Matthew's Ministry
c/o Kristie Disbrow
5149 Fernwood Drive Southport, NC 28461

EXHIBIT B
Condition of Premises

Tenant(s) has/have conducted a walk through of leased premises and acknowledge the premises and all appliances are in good condition unless otherwise listed below:

1.

2.

3.

4.

5.

6.

7.

8.

9.

10.

[Handwritten signature/initials across the list]

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Requesting a Charter Amendment to Remove the Recall Provision
DATE:	May 5, 2023
DEPARTMENT:	Council Member

Subject Summary: Councilman Martin placed this item on the agenda. The Town Charter was amended in 2011 to add the ability to recall elected officials. The Town requested Rep. Frank Iler, who represented the area at that time, to introduce a Local Act for the Charter Amendment. Once the Local Act was approved, the matter went to a referendum as part of the November 2011 election and was passed, making the Charter Amendment effective at that point. Town staff has reached out to staff at the General Assembly for guidance on the process to amend the Charter to remove that provision. The deadline for introducing bills for this session has passed, and the earliest a Local Act could be introduced would be next year. If Council chooses to pursue this Charter amendment, staff could be directed to begin that process on a timeline as directed by staff with the General Assembly. A copy of the recall provision from the Charter is included as an attachment and the entire Town Charter may be [seen here](#).

Attachments:

[Sec._5.4.___Recall_of_Elected_Officials](#)

Suggested Motion: I make a motion to direct staff to initiate the process for amending the Town Charter to remove the recall provision.

Sec. 5.4. Recall of Elected Officials.

- (a) The Mayor or any member of the Town Council of the Town of Oak Island may be removed from office in the manner provided for in this section.
- (b) A recall petition committee may file an affidavit with the Brunswick County Director of Elections containing the name of the elected official whose removal is sought and a general statement of the grounds alleged for removal. The Director of Elections shall provide the recall petition committee filing the affidavit with petition forms for demanding the removal of a Town elected official. The petition forms shall (i) be signed by the Director of Elections; (ii) be dated on the date of issuance; (iii) be addressed to the Brunswick County Board of Elections; (iv) contain the name of the persons to whom the forms are issued; (v) contain the name of the elected official whose removal is sought; (vi) contain a general statement of the grounds on which the removal is sought; and (vii) provide a place for signatures. The Director of Elections shall promptly deliver a copy of the petition issued by the Director of Elections to the Town Clerk, who shall enter the copy of the petition in a record book kept for that purpose. The record book shall be maintained at the Office of the Town Clerk.
- (c) A recall petition committee authorized under subsection (b) of this section shall be comprised of at least five members who are registered voters within the Town and who shall represent the signers of the petition. Each member of the recall petition committee shall sign the petition and shall be responsible for circulating the petition within the Town limits and for assembling and returning the petition to the Board of Elections as required by subsection (d) of this section.
- (d) A recall petition to be effective must be returned to the Board of Elections within 30 days after the filing of the affidavit. To be sufficient, a recall petition must bear the signatures of at least twenty-five percent (25%) of the registered voters of the Town as shown by the registration records of the last preceding general municipal election.
- (e) The signatures to the petition need not all be appended to one paper. Each signer shall add his or her signature and place of residence, giving the complete street name, street number, and town.
- (f) The Board of Elections shall investigate the sufficiency of any petition and certify the results of the investigation to the Town Council. The Board of Elections may employ persons as it deems necessary to undertake that investigation. The Town Council shall reimburse the Board of Elections for the reasonable cost of the investigation. The Board of Elections may adopt rules concerning the validation of signatures appearing on the recall petition.
- (g) The Board of Elections shall complete its investigation and issue its certification of the results of the investigation within 10 days after the filing of any petition. However, the Board of Elections shall not be obligated to conduct an investigation in any 30-day period immediately preceding or in any 10-day period immediately following a countywide election. If, by the Board of Elections' certification, the petition is shown to be insufficient, it may be amended within 10 days from the date of the certificate. The Board shall, within

10 days after any amendment, complete an investigation of the amended petition. If the certification of the results of the investigation shows the amended petition to be insufficient, a copy of the petition shall be returned to the recall petition committee filing the petition, without prejudice to the filing of a new petition.

- (h) Upon a determination that a sufficient recall petition has been submitted, the Board of Elections shall submit the petition to the Town Clerk, who shall submit it to the Town Council and shall notify the elected official whose removal is sought. If the elected official whose removal is sought does not resign within five days after receiving the notice, the Town Council shall order and fix a date for holding a recall election. Subject to the remaining provisions of this section, an election shall be held not less than 60 nor more than 90 days after the petition has been certified as being sufficient. If any other general or special election is scheduled within this period, the Town Council shall schedule the special election at the same time. If the provisions of general law prohibit the holding of a special election during this time period and no general or special election is otherwise scheduled during that period of time, then the Town Council shall schedule the special recall election for a date within 10 days after the last day of the period of time during which special elections are prohibited by general law.
- (i) The Board of Elections shall cause legal notice of the election to be published. That notice shall include the general statement of the grounds on which the recall is sought as alleged in the affidavit and shall make all arrangements for holding the election in accordance with general law. The recall election shall be conducted, returned, and the results declared as in other elections in the Town of Oak Island. The Town shall reimburse the reasonable costs of the recall election to the Board of Elections.
- (j) The question of recalling any number of elected officials may be submitted at the same election. However, as to each individual elected official, a separate petition shall be filed and there shall be an entirely separate ballot.
- (k) The ballots used in a recall election shall submit the following proposition:
"[] FOR [] AGAINST
The recall of (name and title of elected official)."
- (l) If less than a majority of the votes cast on the question of recalling an elected official are for recall, the elected official shall continue in office for the remainder of the unexpired term and, except as provided by subsection (n) of this section, shall be subject to recall as before. If a majority of the votes are for the recall of the elected official designated on the ballot, the elected official shall, regardless of any defects in the recall petition, be deemed removed from office on the date the Board of Elections certifies the results of the recall election.
- (m) If an elected official concerning whom a sufficient recall petition is submitted to the Town Council resigns before the recall election or is removed from office as a result of the recall election, the vacancy shall be filled in the manner provided by Section 4.3 or Section 4.4 of this Charter for filling vacancies in that office, except as provided in subsection (o) of this section. An elected official who resigns after a sufficient petition for his or her recall has been submitted to the Town Council or who is removed from office by the voters as a result

of a recall election shall not be appointed to fill the vacancy caused by that elected official's own resignation or removal.

- (n) No recall petition shall be filed in accordance with subsection (d) of this section against an elected official who has been subjected to a recall election, and not removed thereby, until at least six months after that recall election. No recall petition shall be filed in accordance with subsection (d) of this section against an elected official during the first three months of the term of that office or during the six months before the expiration of the term of that office.
- (o) If the recall of two or more members of the Town Council or the recall of the Mayor and one or more members of the Town Council are effected at a single recall election, the successors of the elected officials recalled shall be elected by the registered voters of the Town at a special municipal election, and the successors shall serve for the remainder of the terms of the elected officials recalled. The members of the Town Council who have not been recalled shall call that special election, which shall be conducted by the Brunswick County Board of Elections under the laws then governing elections in the State. If the recall of all or a majority of the members of the Town Council is effected at a single election, they shall continue in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as provided in this section. That election shall also be conducted by successors of the officials recalled shall be elected by the registered voters of the Town at a special municipal election, and the successors shall serve for the remainder of the terms of the officials recalled. The members of the Town Council who have not been recalled shall call that special election, which shall be conducted by the Brunswick County Board of Elections under the laws then governing elections in the State. If the recall of all the members of the Town Council is effected at a single election, they shall continue in office for the purpose, and only for the purpose, of calling a special municipal election for the election of their successors as provided in this section. That election shall also be conducted by the Brunswick County Board of Elections under the laws then governing elections in the State. The Town shall reimburse the reasonable costs of the recall election to the Board of Elections.

(Amend. of 2-8-2011)

**TOWN COUNCIL REGULAR
MEETING
AGENDA ITEM MEMO**

SUBJECT:	Consideration of Allowing Gas-powered and Additional Electric Vehicles to be Used on the Beach as Assistance Mobility Devices
DATE:	May 5, 2023
DEPARTMENT:	Council Member

Subject Summary: Councilman Craft placed this item on the agenda to take action to allow gas-powered and additional electric vehicles to be used on the beach as assistance mobility devices. Currently, the Town has ordinances specific to electric golf carts (not low-speed vehicles) for use as mobility assistance devices, and those ordinances are included as an attachment. Staff is seeking direction from Council regarding amending those ordinances; amendments could be prepared for Council consideration at the June meeting.

Attachments:

[ARTICLE_II.___GOLF_CARTS_AS_MOBILITY_ASSISTANCE_DEVICES](#)

ARTICLE II. GOLF CARTS AS MOBILITY ASSISTANCE DEVICES¹

Sec. 28-36. Purpose.

The purpose of this article shall be to establish a golf cart ordinance within the Town of Oak Island to promote the health, safety and welfare of persons operating golf carts within the town and to protect the safety of their passengers and other users of roads. Electric golf carts that comply with this article can be used for individuals with mobility impairment as an "other power-driven mobility device" subject to the rules and regulations contained in this article.

(Ord. of 10-7-2014, intro ¶)

Sec. 28-37. Definitions.

For the purpose of this article, the following words and phrases shall have the following meanings.

Golf cart means a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour.

State law reference(s)—Definition of same, G.S. 20-4.01(12a).

Driver's license means a valid license issued to operate a motor vehicle issued by North Carolina or any other state.

Financial responsibility means liability insurance coverage on a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina.

Low speed vehicle means a four-wheeled vehicle whose top speed is greater than 20 miles per hour but less than 25 miles per hour.

State law reference(s)—Definition of same, G.S. 20-4.01(27h).

Mobility impairment means the same as handicapped and shall be defined the same as G.S. 20-37.5(2).

"Handicapped" shall mean a person with a mobility impairment who, as determined by a licensed physician:

- (1) Cannot walk 200 feet without stopping to rest;
- (2) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistive device;
- (3) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume of one second, when measured by spirometry, is less than one liter, or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- (4) Uses portable oxygen;

¹Editor's note(s)—An ordinance adopted Oct. 7, 2014, did not specify manner of inclusion in the Code and has therefore been included as herein set out in art. II, §§ 28-36—28-40, at the editor's discretion.

State law reference(s)—Regulation of golf carts on streets, roads, and highways, G.S. 160A-300.6.

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- (5) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association;
 - (6) Is severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition; or
 - (7) Is totally blind or whose vision with glasses is so defective as to prevent the performance of ordinary activity for which eyesight is essential, as certified by a licensed ophthalmologist, optometrist, or the Division of Services for the Blind.

Operator. Only persons more than 16 years old and holding a valid driver's license may operate a golf cart on roads.

Utility vehicle means a motor vehicle that is (i) designed for off-road use and (ii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include an all-terrain vehicle or golf cart, as defined in this section, or a riding lawn mower.

State law reference(s)—Definition of same, G.S. 20-4.01(48c).

(Ord. of 10-7-2014, intro ¶)

Sec. 28-38. Qualifications.

- (a) Golf carts that are not equipped and registered as a low speed vehicle as required by the state motor vehicle law may only be operated within the Town of Oak Island by individuals with a mobility impairment. Those that are operating golf carts in areas other than the golf course, must do so in accordance with the following rules and regulations:
 - (1) Golf carts shall not be operated on or alongside a public road or street with a posted speed limit greater than 35 miles per hour. Golf carts shall not be operated on Oak Island Drive, Beach Drive or Ocean Drive.
 - (2) Golf carts may cross a road with a posted speed limit greater than 35 miles per hour at designated intersections or in a manner that is the most direct route in order to decrease crossing distance, i.e., no riding along a road or crossing at an angle. However, once this segment of road has been traversed, the golf cart is still required to travel only on or along a roadway with a speed limit of 35 miles per hour or less.
 - (3) Any person who operates a golf cart must be responsible for all liability associated with operation of the golf cart and must have liability insurance coverage which will cover the use of a golf cart in an amount not less than required by North Carolina law for motor vehicles operated on public highways in the State of North Carolina. The liability insurance shall remain in full force and effect and continuously throughout any period of registration with the Town of Oak Island.
 - (4) Any person who operates a golf cart must be at least 16 years of age or older. No person may operate a golf cart unless that person is licensed to drive upon the public streets, roads and highways of North Carolina and then, only in accordance with such valid driver's license. Golf cart operators must carry their driver's license on their person at all times while operating a golf cart on public roads.
 - (5) Any person who operates a golf cart on public streets and roads must adhere to all applicable state and local laws, regulations and ordinances, including but not limited to those banning the possession and use of alcoholic beverages and all impairing substances. In addition, no golf cart containing any open container of alcohol shall be operated on public roads.
 - (6) The operator of the golf cart shall comply with all traffic rules and regulations adopted by the State of North Carolina and the Town of Oak Island which govern the operation of motor vehicles.

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- (7) An operator may not allow the number of people in the golf cart at any one time to exceed the maximum capacity specified by the manufacturer. The operator shall not allow passengers to ride on any part of a golf cart not designed to carry passengers, such as the part of the golf cart designed to carry golf bags. No one is allowed to stand on a golf cart while it is in operation.
 - (8) In no instance shall a golf cart be operated at a speed greater than 20 miles per hour. No golf cart may be operated at a speed greater than reasonable and prudent for the existing conditions. No golf cart may be operated in a careless or reckless manner.
 - (9) Golf carts must be operated at the right edge of the roadway and must yield to all vehicular and pedestrian traffic.
 - (10) Parking:
 - a. Golf carts must park in designated spaces. All parking rules and limits apply. No parking on sidewalks is allowed.
 - b. Golf carts are allowed to park in handicapped parking spaces if there is a valid handicap parking sticker or placard displayed on the golf cart.
 - (11) Golf carts must have basic equipment supplied by the manufacturer, including a vehicle identification or serial number. Such equipment must include all safety devices as installed by said manufacturer, including rear view mirror and a low speed caution triangle with a minimum size of 12 inches or greater on all three sides that shall be made of reflective material. The triangle shall be mounted on the rear of the vehicle and permanently installed. In addition to the manufacturer installed equipment, golf carts must have the following safety features:
 - a. One reflector per side (reflectors must be at least three inches in width and height);
 - b. A parking brake;
 - c. Seat belts for all seating positions;
 - d. A windshield; and
 - e. The cart is limited to a maximum of three rows of seats.
 - (12) Golf carts may be operated only during daylight hours from one-half hour after sunrise to one-half hour before sunset.
 - (13) If the golf cart is not equipped with brake lights and/or mechanical turn signals, the operator must use standard hand signals to signal stopping or turning.
 - (14) Golf carts may not be operated when fog, smog, smoke or other conditions reduce visibility so that the golf cart is not visible for a distance of 250 feet.
 - (15) No golf cart shall operate on any street, roadway, or other public vehicle area that is closed due to special events, parades, or construction. The chief of police, or his designee, may prohibit the operation of golf carts on any street or road if the chief determines that the prohibition is necessary in the interest of safety.
 - (16) Golf carts may not be operated on any sidewalk, multi-use path, or designated bicycle path, except for golf carts operated by governmental or public service agencies for official purposes.
 - (17) Golf carts may not be used for the purpose of towing another cart, trailer, wagon or vehicle of any kind, including a person on roller skates, skateboard, or bicycle.
 - (18) Disqualified vehicles. All-terrain vehicles, four-wheel utility vehicles, go-karts, and other similar utility vehicles which are not manufactured for operation on a golf course, and/or a golf cart which has been modified so that it no longer meets the definition of golf cart may not be registered as a golf cart under

this article nor shall such vehicles be operated on the public roads, streets, and highways within the town, unless such vehicles are registered and permitted under the motor vehicle laws of North Carolina.

(b) Exceptions. The following are exemptions from the provisions of this article:

- (1) The operation of golf carts on private property, with the consent of the owner;
- (2) The operation of golf carts within private, gated, or limited access communities, unless the streets of the community are dedicated for public use and maintained by the town;
- (3) The use of a golf cart in connection with a parade, a festival, or other special event provided the consent of the sponsor is obtained, the police department is notified, and provided the golf cart is only used during such event; and
- (4) The use of golf carts by town personnel, other governmental agencies, and/or public service agencies on official business.

(Ord. of 10-7-2014, § 1)

Sec. 28-39. Registration, inspection and fee prior to usage.

- (a) All golf carts must complete a golf cart registration application and submit to the Town of Oak Island for approval. Before driving on public roads, the operator of a golf cart must have a valid issued registration/permit from the Town of Oak Island.
 - (1) Golf carts must be registered to a physical address in the Town of Oak Island. A vacation rental address may be used for registration.
 - (2) The application for a golf cart permit shall be accompanied by a certification of a licensed physician, ophthalmologist, or optometrist or of the Division of Services for the Blind that the applicant is handicapped. A valid removable windshield placard issued by any state within the United States can be used in lieu of this certification.
- (b) Each owner must provide proof of ownership, liability insurance, and a completed waiver of liability, releasing the Town of Oak Island from liability that may arise as a result of operation of a golf cart inside the Town of Oak Island. Copies of these documents must be in the golf cart at all times while in operation on public roads.
- (c) All applicants applying for a permit to operate a golf cart under this article are, by virtue of their application, representing to the Town of Oak Island that their golf cart has been inspected and is in good working order and meets all requirements of this article.
- (d) The registration sticker/permit shall be valid for no more than one year and must be placed upon the required low speed caution triangle.
- (e) Town staff is hereby authorized to issue a permit to all appropriate applicants, one per golf cart to be operated. When issuing this permit, town staff shall require the applicant to sign a statement certifying he or she has read the provisions of town's ordinance on golf cart usage as set forth in this article.
- (f) Lost or stolen permit/stickers are the responsibility of the owner and must be replaced before the golf cart is operated on a public road.

(Ord. of 10-7-2014, § 3; Amend. of 7-10-2018)

Sec. 28-40. Enforcement.

- (a) Violation of the provisions of this article shall be punishable with a civil penalty in an amount set out in the fee schedule and maintained at town hall.
- (b) The town may refuse to register and issue a permit, or revoke an issued permit, for the operation of a golf cart if the application contains any material misrepresentation.
- (c) Any person who knowingly allows an underage driver to operate a golf cart shall have their permit revoked. In addition, the town may also refuse to issue a future permit to someone who allowed an underage driver to operate a golf cart on public streets.
- (d) The town may refuse to register and issue a permit for the operation of a golf cart, or may revoke a previously issued permit, if equipment required by this article, especially safety equipment, has been removed from the golf cart or the vehicle identification or serial number removed.
- (e) The town may refuse to register and issue a permit for the operation of a golf cart, or may revoke a previously issued permit.

(Ord. of 10-7-2014, § 4)