



APPROVED

**PLANNING BOARD
REGULAR MEETING
October 08, 2025**

The Planning Board for the Town of Duck convened at the Paul F. Keller Meeting Hall on Wednesday, October 08, 2025.

Present: Chair Marc Murray, James Cofield, Bob Wetzel, Bob Webb, and Dan Snyder.

Also present: Assistant Town Manager Connor Winstead, Planning and Permits Manager Sandy Cross, Community Planner Jim Gould, and Deputy Town Clerk Christy Hanks.

Absent: Council Liaison Sandy Whitman.

CALL TO ORDER

Chair Murray called to order the Regular Meeting of the Planning Board for October 08, 2025 at 4:01 p.m.

PUBLIC COMMENTS

None.

TEXT AMENDMENTS

None.

NEW BUSINESS

None.

OLD BUSINESS

a. Town of Duck Floodwater Management Discharge Plan

Public comment came from Miriam Rollin, 149 Plover Dr, expressing the need for a change to the current discharge plan. Rollin referenced back to prior situations of large flooding, most recently Georgetown Sands last year, and the time it took for the Town to get involved based on the current policy. Rollin researched floodwater management discharge plans from multiple local town and presented that information to the Board in hopes that Duck will consider policies like Nags Head which has no waiting time currently. Murray thanked Rollin for the words while also informing her that Town staff have also prepared a report with comparative policies and the goal is to work towards removing the waiting period.

Cross connected David May from North Carolina Department of Water Resources (NCDWR) with the Board virtually. He discussed options the Town has for improvement and how his team may be of assistance. Mays noted that after reviewing the current discharge plan from 2020 there are ways that it can be reconstructed to better suit the Town's needs. May also point out that there is no problem in reducing the time frame or removing a time frame entirely. One concern with allowing water to sit in areas of septic systems is that it allows for the water to possibly be impacted by bacteria or pathogens decreasing water quality. The longer the water sits, the greater the risk for contamination. By pumping these areas sooner, we can help avoid that contamination improving public health and safety. If the Town decides to reconstruct the plan, NCDWR suggested the goal should be to balance environmental and public safety health. NCDWR can provide comments on proposed revisions. They are not bound to a numeric threshold so long as the policy is not abused and there is a understanding of the process. NCDWR will help with coordination when pumping is needed.

Cofield asked May if NCDWR is looking for any analysis or specific criteria in respect to pollution in standing water. May offered to send over the 2016 policy on flood water pumping, which outlines the criteria that we are looking at but it lacks specific guidelines and details to get a plan approved or to say when enough pumping is enough or how much bacteria requires testing. There are no specific standards that say this is what you are locked into. It is more of a case-by-case discussion. He further noted that they do not typically require water testing except in out of ordinary scenarios and suggested a generic approach to allow flexibility. Cross asked if NCDWR had a draft that they would be willing to provide or would they prefer a draft prepared by the Town that they could comment on. Mays stated that they have a memorandum on discharge waters that they could provide, however, they would look to the Town for their revisions on the document and are happy to review and comment. Cofield followed up verifying that Town's plans are public record. Cross noted that we have copies of multiple other Town's plans and provided the basic information for each town in the Planning Board package. Murray clarified that there is really no way to verify bacterial load in the waters, however noticed language in Kitty Hawk's plan mentioning highly polluted water as well as Dare County mentioning documentation after the pumping. Murray questioned whether the Town should disclose information about bacteria and testing, given that they lack the necessary capabilities and have never conducted such testing before. May indicated that if the Town wanted to be proactive and incorporate testing in the plan, they could and there would be no objection from DWR but he would not expect that to be a requirement of the plan. He would recommend laying out the logistical process for providing for testing but that would not need to be a part of the plan document. Murray clarified that regardless of whether sampling requirements are identified in our plan, DWR will ask for samples when they think they need it. Mays noted that was correct. He further commented that if it is not in the plan, they would encourage a process be developed to manage sampling if requested. The main purpose of the plan is to expedite the process and that there is a roadmap for the process. Murray also mentioned areas that are low laying flat areas that are subject to rainwater flooding and experience ground water where it begins to percolate back up when we have back-to-back rainwater events. Should the Town be including anything in their plan about these situations? May feels that communication with DWR in these cases is generally sufficient, though you could incorporate information on them in the plan. He reemphasized the importance of not abusing the process. May continued that if that is a consistent situation that requires pumping often then it may need to be addressed in a different manner rather than

continue pumping, looking at the bigger picture relating to climate change and sea level rise. This plan is really designed to address larger storm events, but that's not to say it can't be applied to more typical events and sunny day flooding, but the community should be looking at more long-term plans rather than stretching out the intent of the plan. The Board thanked May for his time and information provided. May will be sending Cross the latest pumping guide they currently have.

Cross addressed the Board on starting the discussion and let them know she has provided, in the agenda packet, a breakdown of topics to discuss and comments and notes. Cross also provided an AI generated breakdown of other community's discharge plans. Many do not have a waiting period, and this is a large concern that the Town of Duck currently has. As everyone has mentioned, the longer it sits the more contaminated the water becomes. Cross made note that the policy references "following storm events", however on September 17, 2024 the Town experienced 8 inches of rain, do we classify that as a storm event or a rain event. Should the Board broaden this statement?. Cross asked the Board how they would like to proceed.

Murray started the conversation asking if it was the Board's consensus to eliminate the waiting period. While most of the Board stated yes, Webb vocalized that maybe shortening it is an option and that it should be discussed more. Murray felt like after speaking with May, adding language of a storm coming and getting pumps in preparation also shortens the waiting period. Cross mentioned that the September 17 rain event was not a predetermined or anticipated storm event. Even if there was no waiting period, the soonest they would have received pumps would have been 24 hours. If the Town is aware of an event coming, they could possibly be pumping within 4 hours. Murray does feel that due to the nature of the Town's flooding, he believes that they will be told they are pumping too much and at some point, they are going to have to deal with ground water pumping. Murray asked if they go to Council after dealing with the storm water pumping, and further request that the Council allow them to also look into ground water pumping. He added that if you are more than 50ft away from a septic system and there is a set well point, that water is clean. If you are more than 100ft away, then it is 100% clean. If prior to a storm event the ground water is pumped into the ocean, it would help. Cross and Gould pointed out that currently Carolina Beach has a lake that is pumped to the ocean prior to storm events to provide capacity for storm water to drain into the lake. Murray also questioned if UV/heat exposed water is cleaner than water pumped through 100ft of sand, and thought that may be something that DWR may have information on.

Murray noted that this is worth revising for the Town's constituents while noting that if you fix one area and not another it will cause some irritation among residents. Cross added that if the Board is looking to revise the flood water discharge plan it is worth suggesting that the Town is looking for more long-term infrastructure options to help with these issues. Looking at the September 17 event, Georgetown Sands did not have enough water to qualify for pumping, however they were able to solve the problem because they had land to pump to. Similar to Tuckahoe where they would pump to high ground and let it percolate back down and over time the water dissipates. Cross added that if the Town can begin pumping sooner, it will help alleviate public health issues but emphasized the need to consider long-term infrastructure solutions for areas where pumping may not be possible.

Cross clarified with the Board that four (4) members were in favor of removing the waiting period and one (1) was on the fence. Webb clarified that while he thinks no waiting period would be ideal, in order to fix these areas, we or they would need to buy equipment and that's a lot of money. Cross added that the County currently has eight (8) large pumps. The Town used a pump last September, and they are a resource for the Town and our communities. Murray asked to add language similar to Kitty Hawk about water beneath or within dwellings, adding that this is taxpayer money and these are taxpayer homes that are being affected. Snyder asked about removing language about properties, as our flood water condition is separated by roads and properties, suggesting we keep that language and add the language from Kitty Hawk? Murray stated that yes he would, asking Cross if there were any roads that are lower than the adjacent properties that are flooding and precluding emergency vehicles or in these basin areas are the roads typically higher than these adjacent properties. Cross believes that possibly Georgetown Sands roadway maybe lower, however there is a valley between Charles Jenkins and Plover and the roads through here may be lower than the properties that flood. Murray believes that once a pump is set in place pumping continues until all the flood water is gone. Cofield agrees, stating he enjoyed the presentation by May, and the Town needs to set parameters.

Cofield mentioned wanting to know about bacteria criteria and setting parameters on whether it becomes an issue and what to do if there is an issue. Cross reminded the Board that once you start testing for bacteria and it is apparent it must be disclosed. While it is the right thing to do it may also create panic and concern that the Town is unsafe. Cofield clarified that should the Town determine bacteria is a possible issue then the Town would address it and have a process for it. Cross asked to what end? If there is bacteria present, will they need to stop pumping or will they be allowed to continue. Wetzel clarified that the Town has never tested flood water in the past for the presence of bacteria. Cross added that while they have never tested flood water, they have tested the sound, however the problem is you often find E coli in there and it is difficult to discern from testing whether it is animal or human. Testing can be skewed by whatever is in the water. Wetzel clarified that there is no way to know if flood waters in the past have contained human fecal material. Cross stated simply that she herself would not be walking in the water. Wetzel suggested testing due to a significant amount of pumping into the ocean and over a period, test the ocean around the discharge and ensure the water is safe for humans to be in. Murray stated that while he is an advocate for water quality, it starts on land and if the Town is not willing to do the things that need to be done through investments, then the water quality will suffer. Murray also noted that intermediately testing water quality with no base line of the ocean there is no way to know if it's an anomaly. While the Town may be able to develop that with the plan for the future it requires funding and years of research before you can know if there is an issue. Cross mentioned that other areas such as Nags Head are currently testing, however, if the Town sees this as a priority, then going to Council to make it a priority is the path. Until the Town has established water quality testing there is no trend or baseline and doing it intermittently will show it all over the place. Wetzel asked where it is being tested. Cross stated that currently Nags Head is doing the ocean and the sound and believes more recently does summer and winter time, but she can follow up to look into more information on their current results. Gould also noted it is the State that handles the water quality testing and not Dare County. Cross also reminded the Board about the Town of Duck being a tourist community and those implications. Webb also noted that if other Town's are pumping into the ocean and only Duck is testing it could show results that is an accumulation of multiple areas. Murray stated the Board was at a consensus to not add water testing into the plan.

Murray referenced language speaking to cessation of pumping and it states floodwaters no longer threatens dwellings, utilities, or septic systems. Cross asked the Board if there is any other language from other Town's that they like. Murray stated instead of the earlier language from Kitty Hawk he prefers the summary of the cessation of pumping. This language is the reason to begin pumping and the reason to stop pumping. Murray also asked if Staff believes DWR would have a problem adding language to stop pumping and wait two hours to see if ground water levels rise again. Cross sees this as viable language to add as some areas are low and the flow downward can cause consistent need for pumping. Gould asked if the Board was moving away from having a standard to start pumping. Murray stated he doesn't mind having a standard; however, he feels that stating floodwater threatens dwellings, utilities, or septic systems regardless of 6 inches or not, and believes that the 6 inches applies in situations of the road being lower than adjacent properties and it could become impassible. Gould's concern is that pumping during the storm event where there is an anticipated rainfall total that hasn't been seen before and utilizing Town resources pumping earlier than previously and before it gets to the 6 inches. Cofield offered the added word of or. Cross believes that is a good compromise as it allows threatened dwellings, utilities, septic systems or 6 inches. Cross asked if the Board would like to remove language of water equal to or greater than 6 inches from the center line, or greater than 10 inches depth over two properties. Murray suggested leaving it as an or option due to the rain events, however if there is an ocean breach or sound over wash there could be limited areas that it would apply to. Cross will bring back revisions and markups to the following meeting in November.

b. General Nuisances – Pumping on Private Properties and Streets (Improper Discharge of Water)

Cross started the conversation welcoming Chief of Police Jeff Ackerman to a zoom call for his thoughts and concerns on making pumping on private properties and streets a nuisance violation. Chief Ackerman and his team are in support of making this nuisance a violation as this will allow the police to have some sort of process to handle this. Currently if there is a call about this type of nuisance, they are allowed to issue a civil citation along with a \$50 fine and often people will pay the fine and continue to pump. Current steps after receiving a phone call are to speak with the party that is pumping and ask them to stop, if they refuse then they discuss between property owners to attempt a resolution, then if they continue to refuse to assist in resolution issue the civil penalty. To have a nuisance's ordinance it would allow police to follow similar steps that could even lead to arrest if needed. Cofield asked Chief Ackerman if the first step in asking the faulty party is to stop their actions can the police stop them. Chief Ackerman stated that is the end goal as that is typically what the complaint call would like and by making this an ordinance this would allow the police to have that authority. Cross thanked Chief Ackerman for his overview and support on this matter as he logged off.

Cross broke down the language of the steps on how the officers would be able to address a general nuisance in responding to a complaint. Murray clarified that it's a procedural process and asked the Board to discuss which kind of pumping and when is it a problem. Snyder asked what exactly the breakdown is for pool companies when pumping and what they are supposed to do. Cross addressed it as staff see it often and there are methods such as a backwash under the pool pump and place perforated piping and spread it out. The goal is to keep the water pumped out on the homeowner's

property and not flowing into neighbors properties or into the roadways. The goal in this nuisance language is a means to make them stop by redirecting and rethinking how they are managing their water. Snyder believes that a conversation with the neighbor should always be step one in these situations prior to involving police hands. Cofield agreed with Snyder and believes that the Town should also look more into educational opportunities through the process and prior, so they are aware on how to address these situations. Cross let the Board know that this has happened before with providing this information and e-news reminders, however no matter how much information is provided not everyone follows through with the correct process. Cross stated that the Town staff could develop information to disseminate to property owners and contractors reminding them in the spring and fall as pool openings and closings occur and during storm events.

Wetzel showed concern for property owners who are pumping off their property in flooding situations compared to those pumping for their pools. While Wetzel supports adding more strength to the nuisance, he has concern for property owners trying to avoid damage during a storm event. Cross reminded the Board that often enough a simple conversation between neighbors could solve these issues and sometimes staff come into play helping to keep the peace. Murray spoke on common practice compared to poor behavior actions and sees these as different situations that shouldn't be handled the same way. Cross stated that it is not about criminalizing these situations, it is about handling them properly during complaints. Cross added that the ordinance is a complaint driven and the pumping concern must be a nuisance in a manner that causes or threatens to cause hazard detrimental or public safety. Wetzel suggested staff add damage to public property. Winstead stepped in adding that there is a provision in the ordinance with the determination by town manager or designee and not everything is black and white. Winstead explained that there is determination to be made that will determine if these complaints are actual problems that speak to the ordinance itself.

Murray showed concern of unruly neighbors in which the pumping may be causing no issue or anything harmed, however they do not like their neighbor and wants action regardless. Cross reminded the Board that this ordinance will not justify unreasonable complaints. Cross noted that Chief Ackerman and his team would not support an ordinance that was written in allowance for such measures to be taken due to an unjustifiable complaint. The Board discussed possibly different language attesting to building pools and the need for de-watering them in certain areas and different options or notices to neighbors or surrounding properties in these situations. Murray questioned who would be cited for a valid complaint. Cross said the property owner, however ultimately it would be the person performing the act of the nuisance. Board asked that the ordinance states that the person cited is the person actively pumping in the situation.

At approximately 5:35 p.m., Cofield left the meeting.

Cross noted that she has noted that the Board would like to remove dewatering from the nuisance language and add "damage to property". Murray asked if there was a way to remove "de-watering" as these activities are not as often as other situations and a one-time pumping for installation. Winstead clarified that by removing that language would Murray like a separate call out within the language that makes a reference to the zoning ordinance. Murray asked can the general nuisance ordinance reference the zoning ordinance. Staff stated it was unsure and would research that possibility. Murray continued that language in the zoning ordinance referencing the general nuisance could speak to the evaluation of zoning staff prior to police presence. Snyder stated his understanding was that staff would always be involved prior to police. Murray disagreed noting that a complainant may call police first. The language as writing does state that in the case of a

complaint, the original determination would be made by the Town Manager or designee prior to police involvement but that may not always be the case. If the police receive a call prior to staff observing it, Cross noted that she could work with police to they notify staff before enforcement. If the complaint is correct and the violator refuses to stop then staff would get the police involved. Murray asked staff if there was any data on complaint phone calls to staff on pumping violations. Staff does not have that data, but Cross noted that most of the issues were resulting from pool backwash and not dewatering. The Board agreed take out the de-watering language out of the nuisance and apply it to the zoning ordinance.

Cross asked the Board if the language “Control and minimize impacts associated with stormwater runoff or other water discharge from all development and redevelopment” as part of the purpose and intent statement needed to be edited taking out stormwater runoff. Board agreed to remove that language. Murray questioned the term effluent being utilized as it meant any water being pumped. Cross will look into it and if needed will include it as it fits for pumping. Cross asked if the language “Discharge of Stormwater, Pool Water, Hot Tub Water, and De-Watering Effluent” needed to be revised or left alone. Murray believes to his understanding the de-watering effluent is for ground water and therefore should leave the language as it reads. Wetzel brought up the language about HVAC condensation and asked if this was a concern. Cross and Murray agreed that they see no reason to have that in the ordinance. Cross questioned if “Town may take action to abate the violation in a manner which appropriately balances the need for public safety with the need for due process of law” was needed or if it can just reference the general nuisance ordinance. Murray liked that it was there in the zoning ordinance and would also like the general nuisance ordinance referenced. Cross finished up with the idea of creating a possible internal process for the general nuisance of pumping that would allow Town staff to be first on site and allowing them to make the decision on how to proceed.

PRESENTATION OF STUDIES/REPORTS

a. 2025 Trend Report for Planners: Water At Risk: Global Change, Local Consequences (pages 27-28)

Cross addressed the Board asking if they would like to defer this presentation to the following meeting on November 12, 2025. Murray agreed to the deferral for the following month.

APPROVAL OF MINUTES

Minutes from the August 13, 2025 Meeting

Wetzel motioned to approve the minutes as amended with fixing one typo. Webb seconded the motion. Motion carried 4-0.

Minutes from the September 10, 2025 Meeting

Wetzel motioned to approve the minutes as amended with member title revisions. Webb seconded the motion. Motion carried 4-0.

STAFF COMMENTS

a. Summary of October 01, 2025 Town Council Meeting

Murray asked staff to hold all light survey comments until the following meeting when all five members would be present. Cross let the Board know that at the previous council meeting the Council did adopt the changes made to ordinances 156.050, walls and fences, and 156.128, land disturbance activities.

b. Project Updates

Cross let the Board know that no one showed for their Theresa Court mandatory pre-bid so they have re-advertised a new bid opening on October 28, 2025 with no mandatory pre-bid. Cross did follow up with multiple contractors putting the word out and is optimistic to have more information at the November meeting. Webb asked if Staff felt any reluctance from contractors to bid. Cross explained that the job is not typical as it requires asphalt work, landscaping work, pavers and it may not be big enough for some companies either.

Herron property stake holder meetings begin Thursday and Friday as well as an open house Friday, October 10, from 4:00 p.m. to 6:00p.m. Cross reminded the Board about Jazz festival that weekend, hoping for better weather. Wetzel asked about the turnout for the stakeholder's meetings. Cross informed him that majority of the slots were all well filled and she was hoping the open house provides more opportunities.

BOARD COMMENTS

None

ADJOURNMENT

Wetzel moved to adjourn the meeting.

The meeting was adjourned by consensus of Board members at 6:00p.m.

Approved: _____


Marc Murray, Chairman