



***DRAFT* MINUTES**  
**TOWN OF NAGS HEAD**  
**BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**WEDNESDAY, APRIL 3, 2024**

The Nags Head Board of Commissioners met in person at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, April 3, 2024 at 9:00 a.m. for a Regular Meeting.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Michael Siers; Comr. Kevin Brinkley; Comr. Bob Sanders; and Comr. Megan Lambert

Board members Absent: None

Others present: Town Manager Andy Garman; Attorney John Leidy; Amy Miller; Kelly Wyatt; Joe Costello; David Ryan; Perry Hale; Chris Montgomery; Randy Wells; Shane Hite; Nancy Carawan; Jan Mielke; Will Jones; Alex Liverman; James Moseman; Brittany Phillips; Roberta Thuman; Jackie Hart; Paulette Matthews; John DeLucia; Courtney Gallop; John Kenny; Bob Muller; Donna Creef; Duke Geraghty; Leor Golasa; and Town Clerk Carolyn F. Morris

**CALL TO ORDER**

Mayor Cahoon called the meeting to order at 9 a.m. A moment of silence was followed by the Pledge of Allegiance. Mayor Cahoon recognized former Mayor Bob Muller in the audience.

**ADOPTION OF AGENDA**

MOTION: Comr. Brinkley made a motion to approve the April 3<sup>rd</sup> agenda as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

**RECOGNITION**

Public Services Director Nancy Carawan introduced Facilities Maintenance Custodian William (Will) Jones who was welcomed by the Board to Town employment.

Police Chief Perry Hale introduced Master Police Officer Alex Liverman who was recognized by the Board for five years of service.

Fire Chief Randy Wells introduced Fire Captain James Moseman who was recognized by the Board for 20 years of service.

PROCLAMATION – April 2024 - Child Abuse Prevention Month

Mayor Cahoon read the proclamation designating Child Abuse Prevention Month as follows:

"WHEREAS, children are vital to our state's future success, prosperity and quality of life as well as being our most vulnerable assets; AND

'WHEREAS, all children deserve to have the safe, stable, nurturing homes and communities they need to foster their healthy growth and development; AND

'WHEREAS, child abuse and neglect is a community responsibility affecting both the current and future quality of life of a community; AND

'WHEREAS, communities that provide parents with the social support, knowledge of parenting and child development, and the resources they need to cope with stress and nurture their children will help to ensure that all children grow to their full potential; AND

'WHEREAS, effective child abuse prevention strategies succeed because of partnerships created among citizens, human service agencies, schools, faith communities, health care providers, civic organizations, law enforcement agencies, and the business community.

'THEREFORE, we, the Town of Nags Head Board of Commissioners do hereby proclaim April 2024 as Child Abuse Prevention Month and call upon all citizens, community agencies, faith groups, medical facilities, elected leaders and businesses to increase their participation in our efforts to support families, thereby preventing child abuse and strengthening the communities in which we live."

MOTION: Mayor Pro Tem Siers made a motion to adopt the Proclamation declaring April 2024 as Child Abuse Prevention Month as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

## **PUBLIC COMMENT**

Attorney John Leidy opened Public Comment at 9:10 a.m.

### PUBLIC COMMENT – BOB MULLER

Bob Muller, Nags Head resident, spoke concerning three issues:

- 1) Red light running; he thanked Police Chief Hale for his response; it is still an issue that he witnesses every day; anything that can be done would be appreciated; he suggested speaking to the District Attorney to make sure that people who get tickets for this are not allowed to plead them down.
- 2) Accessory Dwelling Units (ADU); this issue is being discussed again on today's agenda; he spoke against them due to the increase in density, sanitation, parking, and wastewater they would cause; things are good as it is now; continue working on the multi-family ordinance and make sure a rule is noted in the body of the ordinance, not the definition, so it can be enforced; in addition, impact fees would need to be modified if approved.
- 3) Jockey's Ridge; he is strongly in support of the rules surrounding Jockey's Ridge designating it as an Area of Environmental Concern (AEC) – rules which the NC Coastal Resources Commission has reinstated; the

rules now go before the NC Rules Commission – there is a meeting of the Commission on April 8<sup>th</sup>; the Town’s email broadcast sent out yesterday addressed the issue and encouraged public comment; he thanked the Town for the broadcast.

#### PUBLIC COMMENT – COURTNEY GALLOP

Courtney Gallop, Nags Head resident; she spoke on behalf of and as a board member of the Dare County League of Women Voters which is a non-partisan political organization which encourages education and knowledge of the political process; she reminded the Board that the candidates for Nags Head commissioner participated in last year’s League of Women Voters Forum; she introduced the 2024 annual Citizens Guide, prepared by the LWV and provides a comprehensive phone listing of all the civic, political and associated phone numbers in Dare County; she presented five copies of the booklet to the Town which is a very popular guidebook. Ms. Gallop also thanked Police Chief Perry Hale for helping with funeral processions whenever necessary for the Gallop Funeral Home.

#### **CONSENT AGENDA**

The Consent Agenda consisted of the following items:

Consideration of Budget Amendment #10 to FY 23/24 Budget

Consideration of Tax Adjustment Report

Approval of minutes

Consideration of ordinance changes to Chapter 30 *Solid Waste Management* and Franchise Agreement

Consideration of resolutions supporting conservation easements:

- Nags Head Woods and Soundside Event Site

Consideration of Capital Project Ordinances

- Consideration of Capital Project Ordinance, amendment #3, for Public Services Complex

- Consideration of Water Capital Project Ordinance, amendment #1, for Public Services Complex

Consideration of request to increase Dune Management Cost Share Program

Consideration of change order to Old Nags Head Place Stormwater Project

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

Budget Amendment #10, as approved, is attached to and made a part of these minutes as shown in Addendum “A”.

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

The ordinance modifying Chapter 30 *Solid Waste Management*, as adopted, is attached to and made a part of these minutes as shown in Addendum “C”. The associated Franchise Agreement, as approved, is on file in the Town Clerk’s Office.

The resolution supporting conservation easements in Nags Head Woods, as adopted, read in part as follows:

“WHEREAS, the Town is the owner of parcels 026404001, 005946000, and 006114000 located in Dare County, North Carolina; and

‘WHEREAS, the Town recognizes the need for and the benefits to the public by setting aside and protecting the Nags Head Woods Natural Area; and

‘WHEREAS, the Town desires to dedicate this addition to Nags Head Woods for use in perpetuity as a nature preserve; and

‘WHEREAS, the Nature Conservancy is dedicated to preserving unique and unusual areas in their natural state and desires to establish such a natural area for educational study and for the enjoyment of the public; and

‘WHEREAS, the Town and the Nature Conservancy have entered into a natural area lease agreement plan with the Nature Conservancy managing the property; and

‘WHEREAS, the Town and the Nature Conservancy are joint property owners on an adjoining parcel that has a recorded conservation easement.

‘NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD:

1. That the Town of Nags Head supports a conservation easement on parcels 026404001, 005946000, and 006114000 located in Dare County, North Carolina; and
2. That the Town of Nags Head has applied for an NC Land and Water Fund acquisition grant where upon grant award, The Nature Conservancy would hold and monitor the conservation easement on the aforementioned three parcels. If awarded, the Town will comply with the NC Land and Water Fund grant requirements for The Nature Conservancy to hold and monitor said conservation easement.”

The resolution supporting conservation easements at the Soundside Event site, as adopted, read in part as follows:

“WHEREAS, the Town is a joint owner with the Dare County Tourism Board of parcels 008854000, 012422000, 012422001, and the primary owner of parcel 026487000 located in Dare County, North Carolina; and

‘WHEREAS, the Town is in favor of grant funding from the NC Land and Water Fund Restoration Program to support the Town’s estuarine shoreline project; and

‘WHEREAS, the Town is committed to working towards solutions and techniques to address the ongoing shoreline erosion within the estuarine shoreline area; and

‘WHEREAS, the Town and the Dare County Tourism Board are working together to ensure the success of a living shoreline project.

‘NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE TOWN OF NAGS HEAD:

1. That the Town of Nags Head will work with the NC Land and Water Fund and the Dare County Tourism Bureau to develop a conservation easement for the required property buffer for the purposes of environmental protection and recreational uses of the estuarine shoreline environment on following parcels located in Dare County, North Carolina: 008854000, 012422000, 012422001, jointly owned with the Dare County Tourism Board and 026487000 primarily owned by the Town; and
2. That the Town of Nags Head supports this project as an important example that other North Carolina coastal communities could use as a model for managing and restoring their shorelines.”

The summary sheet for the Capital Project Ordinances, as approved, read in part as follows:

“At the April 3<sup>rd</sup> Board of Commissioners meeting, staff is requesting Board consideration of the following Capital Project Ordinances:

- Consideration of Capital Project Ordinance, amendment #3, for Public Services Complex Project. This ordinance falls within the not-to-exceed amount the Board approved.
- Consideration of Water Capital Project Ordinance, amendment #1, for Public Services Complex Project and Advanced Metering Infrastructure Projects. This ordinance falls within the not-to-exceed amount the Board approved.”

The Capital Project Ordinances, as adopted, are attached to and made a part of these minutes as shown in Addendum “D”.

The memo requesting an increase in the Dune Management Cost Share Program, as approved, read in part as follows:

“To better assist oceanfront property owners with overall dune management, staff requests an additional \$80,000 funding allocation towards the cost share program which includes dune vegetation, sand fence installation, and ocean sand relocation activities in the upcoming season.

‘As a point of reference, the Town processed the below number of sand relocation permits the past three years:

- FY 20-21, 155 sand relocation permits.
- FY 21-22, 190 sand relocation permits.
- FY 22-23, 266 sand relocation permits.
- FY 23-24 (year to date), 243 sand relocation permits.

‘Dune vegetation stabilization is required for sand relocation reimbursement, with a cap of \$3,500. If sand is not being moved, \$1,000 is the cap for plants and fencing, which does include labor and materials. Currently the application interval for planting and sand fence installation is every year, and the application interval for the sand relocation is once every three years. FY 23-24 is the second year of the three-year cycle for the sand relocation reimbursement program.

<i>Activity</i>	<i>FY 20-21</i>	<i>FY 21-22</i>	<i>FY 22-23</i>	<i>FY 23-24</i>	<b>Application Interval</b>	<b>Application Dates</b>
Planting	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	<i>Yes</i>	Every Year	Oct. 1 - June 30
Sand Fence Installation	<i>No</i>	<i>Yes (Mid-Way)</i>	<i>Yes</i>	<i>Yes</i>	Every Year	Oct. 1 - June 30
Sand Relocation	<i>No</i>	<i>No</i>	<i>Yes</i>	<i>Yes</i>	Once Every Three Years	Nov. 15 – April 15
Max. Funding Amount per Parcel	<i>\$500</i>	<i>\$1,000</i>	<i>\$3,500</i>	<i>\$3,500</i>		
<b>Total Program Funding</b>	<i>\$20,000</i>	<i>\$20,000</i>	<i>\$320,000</i>	<i>\$320,000</i> <i>\$400,000</i> <i>Proposed</i>		

<b>Total Amount Disbursed</b>	\$4,000	\$9,931	\$217,152	\$84,209 (requests still being processed)	
<b>Total Amount Remaining</b>	N/A	N/A	\$102,848	\$235,791 \$315,791 Proposed	

‘If program funding is increased to \$400,000, a budget ordinance will not be necessary. Since the funding source is the beach nourishment multi-year capital project fund, unspent funds from the prior year’s program are automatically carried over without an amendment. Initial funding request discrepancies may occur when the actual cost is less than the approved allocation. Additionally, if a homeowner is approved but does not submit their required paperwork for reimbursement by the June deadline (this year it is by June 24<sup>th</sup>), they are not eligible for reimbursement. The \$400,000 allocation would allow us to initially approve up to that amount of requests contingent upon reimbursement requirements being met. We are receiving up to seven sand relocation requests a day with three of those also requesting dune management cost share money.

‘Homeowners initially do not have to have paperwork in place when their funding is set aside. Currently the full \$320,000 has been accounted for and we have homeowners on a waitlist. We are requesting to set aside up to \$400,000 as requests come in.

‘Staff is available to answer any questions.’

The summary sheet for the Old Nags Head Place Stormwater Project Change Order, as approved, read in part as follows:

“Please find attached Change Order #6 to the Old Nags Head Place Stormwater Drainage Project. Staff is seeking Board of Commissioners authorization for the implementation of an underdrain system along Curlew St. and the southern portion of Linda Lane to mitigate elevated groundwater conditions. The additional construction cost associated with this request is \$93,492.50.”

The Change Order to the Old Nags Head Place Stormwater Project, as approved, is attached to and made a part of these minutes as shown in Addendum “E”.

**PUBLIC HEARINGS**

Mayor Cahoon announced that the Public Hearing advertised for this meeting re: Parking on Septic Systems will not be held today and will be rescheduled after additional Planning Board review.

Public Hearing to consider text amendments submitted by Albemarle & Associates, PE on behalf of Golasa Holdings, LL to allow the long-term rental of units within existing hotels and motels

Attorney John Leidy introduced the Public Hearing to consider text amendments submitted by Albemarle & Associates on behalf of Golasa Holdings, LL to allow the long-term rental of units within existing hotels and motels. The time was 9:18 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, March 20, 2024 and on Wednesday, March 27, 2024, as required by law.

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

"Albemarle & Associates, Ltd, on behalf of Golasa Holdings, LLC has a request for a text amendment to the Unified Development Ordinance (UDO), which, if adopted, would permit the long-term rental of existing hotel units within existing older hotels and motels.

'While such conversions are common in urban areas, they have not been previously addressed in the UDO. Over the past four (4) months the applicant has collaborated with the Planning Board and planning staff to fine tune the use and develop a proposed ordinance for the Board of Commissioners review.

'The current definition of hotel is provided below and states that units are intended for transient guests on a rental basis. The UDO goes on to define transient occupancy as occupancy that is no longer than 30 days combined, see below:

*'Hotel means a structure containing hotel units, hotel suites, and or efficiency units with 24- hour, on-site management and intended for transient guests on a rental basis.*

*'Transient occupancy means occupancy by the same individual or owner for a combined period of no greater than 30 days in any single calendar year.*

'Other definitions that are relevant to this discussion are provided below for convenience.

*'Hotel efficiency unit means a lodging unit having living and cooking facilities and also meeting the following requirements:*

- *Efficiency units shall be limited to one bedroom.*
- *The kitchen area shall comprise no more than ten percent of the entire unit.*

*'Hotel suite means lodging unit having living and cooking facilities within a hotel and also meeting the following requirements:*

- *Units shall be limited to two bedrooms.*
- *The kitchen area shall comprise no more than ten percent of the entire unit.*

*'Hotel unit means a lodging unit which does not contain independent cooking facilities and is designed and intended for transient guests on a rental basis. This definition shall include rental units customarily found in motels, hotels, inns and motor lodges.*

'The proposed ordinance has been drafted with the following considerations in mind.

- Creation of a new use category "Long-Term Rental of Hotel Units", permitted via the Special Use Permit process, with proposed supplemental regulations in Section 7.12 of the Unified Development Ordinance.
- The applicant's initial request suggested the term "legacy hotel/motel" be established as a means to define and limit the number of existing hotel and motel structures that this new use category would be available to. The proposed definition stated a legacy hotel or motel would be one built before 1975 that is still functional to support both transient, and long-term occupancy by guests or tenants. Staff recommends setting the cutoff date to November 10, 1972, aligning with the pre-FIRM date for flood insurance regulations. Pre-FIRM structures are likely to be constructed on grade and non-conforming with regard to

current FEMA requirements. Therefore, to enhance their preservation, it may be warranted to provide some additional flexibility with respect to the uses allowed given these additional nonconformities. This language is supported by the applicant.

- Noting that this proposed new use is likely not economically viable in an oceanfront setting, staff would further recommend narrowing this proposed use to existing hotels and motels located within the C-2, General Commercial Zoning District. Except for the majority of South Nags Head which is R-2, and excluding the Village at Nags Head, the remainder of Nags Head oceanfront areas are zoned CR – Commercial Residential. Staff would also recommend that this use be considered via the Special Use permit process.

By applying these proposed regulations, the following hotels and motels would be eligible to utilize this proposed new use:

- Roadway Inn/Seahorse Inn at 7218 SVDT (zoned C-2, constructed in 1970)
- Owens Motor Court at 7122 SVDT (zoned C-2, constructed in 1960)
- Tarheel at 7010 SVDT (zoned C-2, constructed in 1950)
- First Colony at 6715 SCH (zoned C-2, constructed in 1932)
- Nags Head Beach Inn at 303 Admiral (zoned C-2, constructed in 1960)

Note: Staff did send an email to these businesses to inquire about their average room size and, should this ordinance be adopted, if they would be interested in taking advantage of this option. Tarheel Motel responded and stated their rooms are approximately 264 square feet in area, including the bathroom and that they would be interested in long-term rentals, specifically for traveling nurses and other professionals for shoulder and winter months. First Colony Inn stated that they would not have any interest in offering their units for long-term rentals. We have not yet heard back from Seahorse Inn and Nags Head Beach Inn.

- Requirement that “all” units within the development must be converted to long-term rental occupancy, that the development could not have both short – and – long term occupancies within the same development. While the applicant concurs and stated that this is their preference, this language would preclude Tarheel Motel from utilizing the ordinance as written as their response indicates that they would prefer combined short- and long-term occupancy options and only for the off-season.

- Requirement that any hotel operating under this new use category lease/rent units on a long-term basis only and define long-term lease/rent as occupancy for a period of ninety (90) consecutive days or more. This would be consistent with the proposed definition of “Long Term Occupancy/Tenancy” in the draft multi-family development amendments and consistent with the NC Vacation Rental Act. The applicant concurs with this proposed requirement.

- Definitions of “*Long Term Tenancy/Occupancy*” and “*Workforce Housing*” have been proposed as staff is recommending a condition that all long-term rental units under this use category be subject to a lease restriction requiring that the unit be used exclusively for workforce housing. As part of the Planning Board’s recent effort to craft draft ordinance language for multi-family dwelling developments within the town, and consistent with the Board of Commissioners comments during their August 2, 2023 Joint Workshop, it was the consensus of both boards that any new multi-family dwelling developments within the town should be for the purpose of providing workforce housing, and not for the purpose of adding additional vacation rentals/short term rentals. Based upon this, staff believes the restriction that these units be for workforce housing only is warranted. The applicant was not amenable to having all units restricted to workforce housing, however they did agree to language that would require a minimum of 50% of the units being lease restricted to long-term occupancy.

- As a method of enforcement of the lease/rental restriction staff will request any development operating with Special Use Approval for long term rental of hotel units to provide copies of all active lease agreements ensuring that all contain language requiring long-term occupancy and in addition, that 50% of the lease agreements are restricted to workforce housing.
- Requirement that each unit meets the minimum requirements of the North Carolina Building Code regarding interior space dimensions for efficiency dwellings. This portion of the current NC Building Code is provided as an attachment and incorporated into the proposed ordinance language. The applicant has indicated that the existing units within their development meet this requirement.
- A requirement that any existing hotel development transitioning to long-term rental adhere to the current NC Fire Prevention Code Requirements. Note that while a new hotel or multi-family development would be required to install a sprinkler system the conversion of an existing non-sprinklered hotel/motel to a multi-family development would not necessitate the installation of a sprinkler system.
- Consider requiring this new use be parked using the same parking standard as single-family, two-family, and multi-family dwelling units at the number of bedrooms minus two, with a minimum of two (2) spaces per dwelling unit. While the applicant would prefer a reduced parking standard, they have agreed to this requirement noting that they will document and/or keep parking analysis should a request for a reduction be made in the future.
- Requirement that would prohibit utility meters of any type for individual units and require that this proposed new use operates under a single, unified rental management operation. Similar language is found within the supplemental regulations for cottage courts and is intended to discourage circumventing the subdivision ordinance and creating condominium ownership of the individual dwelling units. The applicant concurs with this requirement.
- While discussing this item, both the Planning Board and staff have expressed concern about the amount of space available for the storage of long-term tenants' belongings. To address this concern, a condition has been proposed that would require all storage to be located indoors or in an approved location that is not visible from public rights-of-way or neighboring properties.
- Language that would allow a hotel operator to transition from the long-term rental of units back to the prior transient hotel use via an administrative review provided that no alternations had been made to the site or to the structure and units themselves that would result in an increase in the degree of nonconformity.

Through the discussions there were several concerns mentioned that should be noted as part of this request. Planning Board members were generally concerned that, should this amendment be adopted, it would conflict with various aspects of the recently drafted amendments for multi-family development.

The primary differences are briefly outlined below:

- Minimum site requirements and dimensional standards such as lot width, lot area, setbacks, open space requirements, lot coverage and architectural design may not be met.
- Density allowances would be affected. For instance, Owens Motor Court at 7122 S. Virginia Dare Trail is 68,000 square feet in area. Under the Large Multi-Family standards, this site would accommodate approximately 12 units. The applicant noted that 29 units exist.

➤ The proposed minimum unit size in the draft multi-family amendments is 800 square feet, we are discussing a minimum 220 square feet for this proposed new use.

Concerns were raised about lighting and how this proposed new use, if adopted, may be regulated. Hotels are considered to have a medium level of activity. This means that parking lot lighting associated with a hotel cannot exceed 7.0 footcandles and shall be a minimum of 0.5 footcandles. Acknowledging that in many ways, this proposed new use is most like a multi-family use, it is considered to have a low level of activity. This means that parking lot lighting associated with multi-family use cannot exceed 3.0 footcandles and shall be a minimum a 0.2 footcandles. All parking lot lighting fixtures must be cutoff fixtures and the maximum maintained horizontal footcandle level at any point on a common property line of improved residential property shall not exceed 1.5 footcandles.

Keeping in mind that this new use category would be applicable to a handful of existing hotel properties, staff has not proposed nor has the Planning Board recommended any changes to the lighting standards applicable to this new use category.

Concerns were raised about these units operating as Single Resident Occupancies. Single Resident Occupancies (SROs) are a type of housing arrangement where each individual or household occupies a single room within a larger building. These rooms typically serve as both living and sleeping spaces and may include a private or shared bathroom and kitchen facilities. In review of SRO's, they are often utilized in urban areas to provide affordable housing options, especially for individuals with limited incomes. SRO's are a subject of discussion in urban planning and housing policy debates as they play a role in addressing housing needs of vulnerable populations, but they also raise concerns about living conditions and tenant rights. Staff would submit there are aspects of this proposed new use that resemble the characteristics of SRO's such as individual compact rooms or small living spaces, providing basic amenities designed to meet essential housing needs in a more affordable and space-efficient manner. Ensuring that this proposed housing arrangement, or any housing arrangement for that matter, maintains quality living conditions is of utmost importance.

Potential ways to address this is to provide clear zoning regulations to ensure that it meets the needs of families and individuals by providing adequate living spaces, bedrooms, common areas and amenities to promote family friendly environments and to closely monitor and enforce any established use regulations.

#### POLICY CONSIDERATIONS

The 2017 Comprehensive Land Use Plan provides the policies and actions which would guide the Town's zoning and development actions. Due to the nature of this request, there are numerous pertinent policies that have been provided in separate attachment for the Board of Commissioners' consideration.

#### STAFF RECOMMENDATION

While there are several unknowns associated with this request as this is a use that we have never contemplated within the town, staff finds that the proposed use is consistent with the 2017 Comprehensive Land Use Plan with the incorporation of the recommended supplemental regulations.

#### PLANNING BOARD RECOMMENDATION

At their March 19, 2024 meeting the Planning Board voted 5-1 to recommend adoption of the proposed text amendment as presented. While the majority of Planning Board members are supportive of the proposed text amendment noting that it has potential to provide for workforce housing opportunities, they are also concerned about the inconsistencies with the proposed multi-family dwelling development ordinance currently under consideration.

'If the Board of Commissioners is inclined to adopt this proposed text amendment, please reference Appendix A for the Statement of Consistency with the Towns adopted Comprehensive Land Use Plan requirements.'

John DeLucia, Albemarle & Associates, spoke on behalf of the applicant; Mr. Golasa recently purchased and renovated the Owens Court hotel/motel; re: the 50% regulation, Mr. Golasa has a list of 75 people waiting for housing; this allows them some flexibility for retirees, etc; the intention was to provide long-term housing for local folks; if workforce housing ends up being provided elsewhere, then it would be converted back to a hotel full-time.

Bob Muller, Nags Head resident; he doesn't oppose this ordinance but wants to make sure the Town takes note that it has no mechanism in place to enforce the housing requirements; the Town needs to look at finding a mechanism or organization that can make sure these units are being rented as intended; the applicant intends to do that but there are other businesses/buildings that could be converted to this use and others may not be as diligent as Mr. Golasa may be; a rental agreement doesn't mean that the applicant didn't lie; it's difficult to enforce a limited set of uses.

There being no one else present who wished to speak, Attorney Leidy closed the Public Hearing at 9:34 a.m.

Town Manager Garman stated that staff can enforce the regulations with the normal zoning procedures the Town has in place; Attorney Leidy said that this would likely be complaint-driven as to whether tenants and the owner are in compliance – which he feels would be difficult but not impossible. Town Manager Garman also spoke of internal procedures which could be created outside of the ordinance.

Mayor Cahoon understands the concern about 50% of the units being used for workforce housing; he would like to see the Town try it as it does make a move toward providing some workforce housing.

Other Board members agreed but did mention concern about enforcement; Comr. Lambert suggested an annual audit or a semi-annual audit.

Mayor Cahoon suggested a change to the ordinance where an audit can be required once per year and requested at other times if needed.

Applicant Leo Golasa stated that he has a list of applicants that are all interested in workforce housing – more than enough for annual leases.

Mayor Pro Tem Siers expressed his concern that other property owners may not be as diligent and the amendment would apply to more than just Mr. Golasa's property.

**MOTION:** Mayor Cahoon made a motion to adopt the ordinance with the additional verbiage providing for an audit to take place not less than annually and which can also be requested by the Town at any time for cause. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

The ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "F".

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

### Update from Planning Director

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

"This memo provides an overview of selected Planning and Development Department activities, projects, and initiatives. If requested, Staff will be prepared to discuss any of this information in detail at the Board of Commissioners meeting on April 3, 2024.

#### 'Monthly Activity Report

Attached for the Board's review is the *Planning and Development Monthly Report for February 2024*. In addition to permitting, inspections, code enforcement, and Todd D. Krafft Septic Health Initiative activities, Staff was involved in the following meetings or activities of note during the month:

- Tuesday, March 5<sup>th</sup> - Technical Review Committee Meeting
- Wednesday, March 6<sup>th</sup> - Board of Commissioners Meeting
- Saturday, March 9<sup>th</sup> – Winter Market at Dowdy Park from 9am – noon
- March 11<sup>th</sup> – 15<sup>th</sup> – Joe Costello at NFIP Training
- Wednesday, March 13<sup>th</sup> – Committee for Arts and Culture Meeting
- Thursday, March 14<sup>th</sup> – Board of Adjustment Meeting (no hearings)
- Thursday, March 14<sup>th</sup> – CAMA Land Use Planning Webinar
- Tuesday, March 19<sup>th</sup> – Planning Board Meeting
- Wednesday, March 20<sup>th</sup> – Board of Commissioners mid-month meeting (if needed)
- Thursday, March 27<sup>th</sup> – Living Shoreline Meeting

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

'The Planning Board's most recent meeting was held on Tuesday, March 19, 2024, and included the following:

- Consideration of text amendments that if adopted would allow the long-term rental of units within existing hotels and motels. The Planning Board voted 5-1 to recommend adoption of the proposed amendments as presented.
- Consideration of a text amendment submitted by Jordan Harrell of Jernigan Oil Company, Inc. to allow the use of digital LED price signage at gas stations. The Planning Board voted 5-1 to recommend adoption of the proposed amendment as presented. Staff is working with the Town Attorney to ensure these proposed amendments are consistent with recent content neutral sign regulations.
- Discussion and initiation of text amendment related to the installation of netting as a barrier to prevent golf balls from leaving the boundaries of Nags Head Golf Links golf course and causing damage to private property.
- Discussion of text amendment to prohibit driving over and/or parking on septic systems when adjacent to driveways, drive aisles, and parking areas. Planning Board members concurred that staff should explore drafting language that minimizes the impact on properties that would be unnecessarily affected by the new regulations.

The Planning Board's next meeting is scheduled for Tuesday, April 16<sup>th</sup>, 2024. Currently, the agenda is expected to include consideration of revised ordinance language prohibiting driving and/or parking on septic systems adjacent to driveways, drive aisles, and parking areas.

Board of Adjustment – Recent and Pending Applications

There were no items for the Board of Adjustments consideration in March 2024.

Additional Updates

- DWMP/Septic Health Advisory Committee – The Septic Health Advisory Committee's next quarterly meeting will be scheduled for late April 2024. Prior to the meeting, staff will collaborate with the committee to develop another version of the draft ordinance aimed at prohibiting driving over and/or parking in septic areas. In response to concerns about the potential impact of the previously proposed amendment on property owners who do not currently face issues with parking on their septic areas, staff is preparing an alternative option for consideration. This alternative ordinance will explicitly prohibit driving over and/or parking in septic areas. If a violation is observed, a Notice of Violation will be issued, and the installation of a physical barrier may be required to prevent future violations. This approach seeks to address parking on septic systems through a formal violation of the Unified Development Ordinance with a clear remedy, rather than the more proactive but potentially overreaching language of the current draft.
- Estuarine Shoreline Management Plan – Town staff continues to focus on applying for the necessary grants to continue the implementation of the Estuarine Shoreline Management Plan. Currently, staff are preparing a pre-proposal for a grant from the National Fish and Wildlife Foundation's National Coastal Resilience Fund. This grant is for the design phase of the Villa Dunes and Soundside Road pilot sites. Should we be invited to submit a full proposal, the deadline for submission will be July 2, 2024.
- Electric Vehicle Action Plan – As we proceed with the purchase and installation of two Level 2 EV Chargers, we have discovered that the underground geothermal system for Town Hall is situated near the intended location for the chargers. We are currently examining the geothermal plans and will provide an update on the next steps at your May 2024 meeting.
- Sand Relocation and Dune Management Cost Share Program – As of March 28, 2024, the entire \$320,000 allocated to the Dune Management Cost Share Program has been distributed among 107 applicants. Staff has proposed that additional funding be allocated to this program (see Item E-7). We have also received 235 Sand Relocation Applications, with 230 approved and authorization letters issued. The sand relocation program allows for sand to be moved until April 30<sup>th</sup>. Staff plans to stop accepting new applications for sand relocation around April 15<sup>th</sup> to begin doing final inspections and closing them out.
- Public Beach and Coastal Waterfront Access Grant Program – Staff are working on the pre-application for this Public Beach and Waterfront Access Grant through the Division of Coastal Management (DCM) for renovations to the June Street Beach Access. The pre-application is due April 15, 2024.
- Permitting Update 2<sup>nd</sup> Quarter – See below the total number of permits accepted and the average turnaround time. These numbers do not include trade permits.

2023	Total Permits	Avg Turnaround/days
October	75	4.0
November	63	3.0
December	45	2.2

- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – Vendor applications for the 2024 Dowdy Park Farmers Market were open from March 26th to March 28th. Due to various constraints, we were only able to accept approximately ten new vendors this season, in addition to welcoming back our returning vendors. We received over 50 applications, which the Committee for Art and Culture will review and make selections from at their April 10th meeting. Event Coordinator Paige Griffin has finalized the lineup for the upcoming 2024 Summer Concert Series, with an announcement and poster distribution throughout the town coming soon. Paige is also finalizing the schedule for this season's Family Fun Nights. The final Winter Market of the season will be held on Saturday, April 13, 2024, from 9 am to noon at Dowdy Park.

#### 'Upcoming Meetings and Other Dates

- Tuesday, April 2<sup>nd</sup> - Technical Review Committee Meeting
- Wednesday, April 3<sup>rd</sup> - Board of Commissioners Meeting
- Wednesday, April 10<sup>th</sup> – Committee for Art and Culture Meeting
- Thursday, April 11<sup>th</sup> – Board of Adjustment Meeting (no hearings)
- Saturday, April 13<sup>th</sup> – Winter Market at Dowdy Park from 9am – noon
- Monday, April 15<sup>th</sup> – June Street CAMA Grant Pre-Application Due
- Monday, April 15<sup>th</sup> – Multi-Family Working Group Meeting
- Tuesday, April 16<sup>th</sup> – Planning Board Meeting
- Wednesday, April 17<sup>th</sup> – Board of Commissioners mid-month meeting (if needed)
- Wednesday, April 24<sup>th</sup> – CRS 2024 Cycle Verification Meeting (in-person)"

Comr. Brinkley questioned the action plan for the Electric Vehicle chargers; Ms. Wyatt explained that they are looking at an additional two parking spaces at Town Hall with no additional funds needed.

#### Discussion of potential Accessory Dwelling Unit ordinance per Strategic Plan

Planning Director Kelly Wyatt summarized the agenda summary sheet re: the Accessory Dwelling Unit ordinance which read in part as follows:

"In November 2023, during their retreat, the Board of Commissioners directed planning staff to explore the development of an Accessory Dwelling Units (ADU) ordinance, incorporating a range of optional provisions and regulatory standards to determine whether this type of use could be supported by the community under certain circumstances. This is Action Item #2.2 under the Development Goals within the most recently adopted version of the Board's Strategic Plan. This menu of options for consideration would cover various aspects, including permitted zoning districts, geographic areas, minimum lot size requirements, maximum unit size limitations, height restrictions, deed restrictions, and parking considerations.

'The Planning Department previously conducted research, prepared, and presented a draft ADU ordinance to the Board of Commissioners in September 2019, which was not adopted at that time. The previous ordinance is included as an attachment. The recent discussion surrounding ADU's related to whether they could serve to provide workforce or long-term housing, most likely incorporating deed restrictions. Staff will provide a brief presentation on ADUs at the Board's April meeting with the goal of creating discussion and seeking direction from the Board on how to proceed with this initiative."

Mayor Cahoon questioned if the other localities mentioned have a history of complaints and did they have to take any enforcement actions? He also asked Attorney Leidy to review the Greensboro short-term rental ordinance and restrictions.

Comr. Lambert said her biggest concern is that the unit not be used for vacation rentals.

Mayor Pro Tem Siers said that he is interested in discussing the nonconforming illegal ADU's the Town currently has. He also noted that the Dare County Housing Task Force has had no discussion on ADU's yet.

Mayor Cahoon suggested polling current ADU property owners to see if they have had any issues.

Comr. Brinkley stated his interest in incentivizing for long-term rentals; he also agreed with Mayor Pro Tem Siers' comments about obtaining information about the existing ADU's in Town.

Comr. Sanders agreed with the points brought up by other Board members and said that a lot of localities are not going to be able to check the boxes required for lot coverage and septic systems.

It was Board consensus that additional research by staff be done re: the following:

- 1 – Survey what is out there re: existing nonconforming ADU's
- 2 – Question existing ADU owners and what, if any, issues they have had
- 3 – Review available lots in terms of where they are, what size, and how many there are
- 3 – How to incentivize property owners to go from short-term to long-term rentals
- 4 – Enforcement history from other towns that have these units in effect now

#### Consideration of appointment to Hazard Mitigation Plan Update Committee

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

"In 2019, Dare County, Currituck County, and the towns of Manteo, Nags Head, Kitty Hawk, Kill Devil Hills, Southern Shores, and Duck collaborated to update their Hazard Mitigation Plan, an effort known as the Outer Banks Regional Hazard Mitigation Plan. This plan was adopted by the Board of Commissioners on July 1, 2020. Dare County Emergency Management is preparing for the update of this plan and, as was done in the 2019 process, is requesting that in addition to town staff, that the town appoint two citizen representatives to participate in the update effort. For Nags Head, the team will include Deputy Fire Chief Shane Hite, Director of Planning and Development Kelly Wyatt, Deputy Director of Planning and Development Joe Costello, Code Enforcement Officer Ed Snyder, and two citizen representatives. Megan Lambert and Meade Gwinn served as the citizen representatives for the 2019/2020 planning process. Staff is requesting the Board of Commissioners reappoint Megan Lambert and consider appointing Planning Board member David Thompson to the committee for the upcoming Hazard Mitigation Plan Update. While Meade Gwinn has indicated his inability to participate in the update, Mr. Thompson has expressed his availability and interest in joining the effort."

**MOTION:** Comr. Brinkley made a motion to appoint Comr. Megan Lambert and Planning Board member David Thompson to the Hazard Mitigation Plan Update Committee formed with representatives from Dare and Currituck counties as well as local municipalities. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

## **NEW BUSINESS**

### Committee Reports

Comr. Brinkley – the Septic Health Advisory Committee meeting is coming up in mid-April; Jennette’s Pier update concerning wind turbines was forwarded to Board members; and the first Town Multi-Family Ordinance Working Group meeting took place on March 25<sup>th</sup> with the next meeting scheduled for April 15<sup>th</sup>.

Mayor Pro Tem Siers – he attended the March 21<sup>st</sup> Dare County Tourism Board meeting; Manager Garman attended the Dare County Housing Task Force meeting last month and will be reporting on that meeting on today’s agenda.

Comr. Lambert – the next Government Education Access Channel Committee meeting will take place at the end of this month.

Mayor Cahoon – It was Board consensus that the Mayor send a letter to the NC Rules Commission on behalf of the Board re: Jockey’s Ridge and the regulation concerning the area of environmental concern (AEC). Mayor Cahoon also encouraged comments from the public to be forwarded to the Commission prior to their meeting on Monday, April 8, 2024. He reported that the next meeting of the Coastal Resources Commission (CRC) is in Dare County on April 24-25 if anyone is interested in attending.

### Consideration of amendment to Traffic Control Map re: Oneto Lane and Gallery Row

The agenda summary sheet read in part as follows:

“Please find attached a memo from Police Chief Perry Hale requesting to amend the Traffic Control Map to designate Oneto Lane and E Gallery Row as “No Parking Between Signs - Tow Away Zone”. Town sanitation trucks have difficulty negotiating Oneto lane to pick up trash carts due to vehicles parking on both sides of the street. In addition, residents would prefer to maintain curbside sanitation collection in that area.

‘The “No Parking Between Signs – Tow Away Zone” designation is also requested for Gallery Row to allow sanitation trucks to navigate the route.

‘Attached please find a memo from Police Chief Hale, a map depicting the area as well as an ordinance amending the Traffic Control Map for Board review and consideration on April 3<sup>rd</sup>.”

Police Chief Hale summarized his memo which read in part as follows:

“East Gallery Row and Oneto Lane have become congested over the past few years with the number of vehicles arriving at each residence and visitors have been parking along the right of way and street on both Oneto Lane and E. Gallery Row. This in return has caused issues with the town’s trash trucks having access to the carts located at each property. A solution for a centralized dumpster was put in place earlier this year but was not popular with property owners. For the town to operate the trash trucks in this area, I am recommending both streets be deemed “No Parking Between Signs” / “Tow Away Zone” on both sides of Oneto Lane and “No Parking Between Signs / Tow Away Zone” on E. Gallery Row from NC12 to Oneto Lane.

‘I will be available at the Board meeting to respond to questions or comments.”

**MOTION:** Comr. Brinkley made a motion to adopt the ordinance amending the Traffic Control Map re: *No Parking Between Signs – Tow Away Zone* on Oneto Lane and Gallery Row as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

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

Mayor Cahoon confirmed with Attorney Leidy that the status of the lawsuit with the State re: local zoning regulations and affordable housing will be discussed in Closed Session.

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

### Town Manager Garman - Update on Public Services Facility

Town Engineer David Ryan provided the following update on the new Public Services Facility construction:

- Final site work is in progress in the Administration Building – Both the Administration and the Water Distribution buildings have been energized.
- Strong progress has been made in the last month on the Sanitation and Vehicle Storage buildings
- Occupation of the Admin Building is being targeted for the last week of April 2024 to be followed by the Water Distribution Building in the first couple of weeks of May 2024.

In response to a question from Mayor Cahoon, Engineer Ryan said that there will probably be a couple of weeks lag time after the Admin Building is occupied before the bulk/brush yard opens up.

### Town Manager Garman - Discussion of proposed modifications to brush/bulk yard operations

Town Manager Garman provided the following update concerning the brush/bulk yard operations:

- Office space will be provided for the attendant to the brush/bulk yard; the yard will be easier for the public to utilize; the site will be open five days/week instead of the current three days/week, to close on Wednesdays and be open on Saturdays. In general, services will be increased for the public.
- The recycling container that was on the Public Services site and was not manned – Manager Garman stated that he would like to move it into the brush/bulk yard for more control.

Manager Garman wanted to make sure the Board and the public were aware of these planned modifications to the brush yard operations.

### Town Manager Garman - Update on Dare County Housing Task Force

Town Manager Garman provided an update on the most recent meeting of the Dare County Housing Task Force: A mission statement was adopted and there is a dedicated page to this effort. There was discussion about target markets and what is trying to be accomplished; the group talked about the towns and what barriers might be in place and if legislative action is necessary. They also spoke of examples from Colorado which may

not be allowed by NC state law and how to incentivize short term into long term units. The Chair is working to provide more structure for the meetings and may be hiring a consultant to help with this very complex problem. He said that the Task Force meets every third Tuesday of the month.

## **MAYOR'S AGENDA**

### Mayor Cahoon - Consideration of NCLM Board of Directors Voting Delegate

The agenda summary sheet read in part as follows:

"Mayor Cahoon has requested appointment as the Town's Voting Delegate for the North Carolina League of Municipalities (NCLM) upcoming election for Board of Directors. Please find attached the information provided by the League for this purpose."

**MOTION:** Comr. Brinkley made a motion to appoint Mayor Cahoon to represent the Town as NCLM Board of Directors Voting Delegate. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

## **BOARD OF COMMISSIONERS AGENDA**

### Comr. Brinkley – Buxton beach contamination

Comr. Brinkley asked if it was appropriate for the Town to write a letter calling on the federal government to take action in the ongoing Buxton beach and water contamination issue. Contamination has occurred in the area of Buxton's Old Lighthouse Beach at the site of the former Navy and Coast Guard Station. Mayor Cahoon agreed with Comr. Brinkley and it was Board consensus that a letter be prepared on behalf of the Board to this effect. Mayor Cahoon noted that he sent an email on his own after first reading the report.

### Comr. Brinkley – Red light running issue

Comr. Brinkley said that he appreciates former Mayor Muller speaking today concerning the red light running issue. He appreciates the Police Department's strong enforcement of the law/violators and he thanked the Police Dept Administrative Assistant for providing information concerning this issue on social media. He also noted that unless things have changed since he was a member of law enforcement, in Administrative Court/Traffic Court proceedings, officers would be unable to obtain a reduction or alter a District Attorney ruling.

### Mayor Cahoon - Request for nominations for Lightkeeper/Nags Header Awards

Mayor Cahoon requested and encouraged nominations for both the Town's Lightkeeper (honoring those that are living) and Nags Header (honoring those who have passed) Awards – due to the Town Clerk by May 1<sup>st</sup>. Application forms can be found on the Town's web site and in the Town's offices.

### Mayor Cahoon – No anticipated need for an April mid-month meeting

Mayor Cahoon stated that he does not anticipate a need for an April mid-month meeting.

**CLOSED SESSION**

MOTION: Comr. Brinkley made a motion to enter Closed Session to discuss an honorarium in accordance with GS 143-318.11(a)(2); to consult with the Town Attorney re: pending State litigation under attorney/client privilege and to preserve that privilege in accordance with GS 143-318.11(a)(3); and to discuss the possible acquisition of property located at 4222 S Croatan Highway in accordance with GS 143-318.11(a)(5). The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 10:40 a.m.

**OPEN SESSION**

The Board re-entered Open Session at 11:26 a.m. Attorney Leidy noted that the Board did discuss what it went into Closed Session to discuss but no actions were taken.

**ADJOURNMENT**

MOTION: Mayor Pro Tem Siers made a motion to adjourn to the FY 24/25 Budget Workshop. The motion was seconded by Comr. Sanders which passed unanimously. The time was 11:27 a.m.

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

Date Approved: \_\_\_\_\_

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