



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

The Nags Head Board of Commissioners met at the Board Room located at 5401 S Croatan Highway, Nags Head, North Carolina on Wednesday, July 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 Lauren Womble [sitting in for Town Attorney John Leidy]; Amy Miller; Kelly Wyatt; David Ryan; Perry Hale; Randy Wells; Nancy Carawan; Joe Costello; Brittany Phillips; Roberta Thuman; Rick Jordan; Barbara Bell; Molly Harrison; Colleen and Kelly Hogan; Kelly Green; Joe and Nancy Drumheller; Amy Klauser; Donna Creef; Duke Geraghty; David Neff; Bryan Seawell; Brittany Phillips; 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.

ADOPTION OF AGENDA

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

RECOGNITION

NEW EMPLOYEE - Public Services Director Nancy Carawan introduced Facilities Maintenance Technician Kevin McFarland who was welcomed by the Board to Town employment.

NEW EMPLOYEE - Public Services Director Nancy Carawan introduced Sanitation Equipment Operator Donnie Brown who was welcomed by the Board to Town employment.

TOWN ENGINEER DAVID RYAN AWARDED 2024 ORVILLE T. MAGOON SUSTAINABLE COASTS AWARD
Town Manager Andy Garman introduced Town Engineer David Ryan who was recently awarded the American Society of Civil Engineers' (ASCE) Coasts, Oceans, Ports and Rivers Institute - 2024 Orville T. Magoon

Sustainable Coasts Award; Manager Garman read several letters from associates praising this honor for Engineer Ryan which is a national award given each year. The letter from the American Society of Civil Engineers points out that the award is given for "dedication to building coastal resiliency and sustainability through shoreline and infrastructure planning and management". Board members congratulated Engineer Ryan on this award.

Town Manager Andy Garman noted that this national award was named after Orville T. Magoon who was employed by the Army Corps of Engineers and was a pioneer for coastal management and engineering. Manager Garman thanked UNC-CSI Director of Renewable Ocean Energy, George Bonner, who first recommended Engineer Ryan's nomination in late 2022.

PUBLIC COMMENT

Attorney Womble opened Public Comment at 9:13 a.m.

PUBLIC COMMENT – MOLLY HARRISON

Molly Harrison, W Lakeside Street; asked the Board when considering the Inn at Whalebone site plan modification to consider the safety of the neighborhood; shortening the roadway to 100' may not seem like much but to this neighborhood it is a lot; this is a roadway that has no lines and is a narrow roadway; her neighbor was in an accident in this area and two vehicles were totaled – she feels it is a miracle that it doesn't happen more often; she asked the Board to consider other options to make this area safer and to minimize the impact on this neighborhood.

PUBLIC COMMENT – JOHN HOGAN

John Hogan, S Kingfisher Street; This is the first gas station leaving Hatteras Island; those cars sitting in the turning lane block vehicles heading north which creates a very dynamic situation and is very dangerous; this is also the last gasoline station to visit before heading south to Hatteras; adding vehicles and hotel rooms without a traffic signal is dangerous; he asked the Board to consider how this will impact his neighborhood and his family.

PUBLIC COMMENT – KELLY GREEN

Kelly Green, W Lakeside Street; she expressed a few concerns; at least twice per week the Duck Thru has vehicles that exit without looking west; she questioned where an overflow lot for the hotel will be located; there are undefined lanes in that entrance area; if no light is added, she asked for the hotel to prepare an ingress/egress plan.

PUBLIC COMMENT – AMY KLAUSER

Amy Klauser, S Old Road; in addition to neighborhood concerns, there are the additional concerns of delivery trucks parked on Lakeside every day and they park in the spot where the road is proposed to be widened; another major concern is the uncertainty of this intersection and the difficulty to turn right onto Lakeside, its an awkward turn and you have to be prepared for vehicles coming out of the gas station; there is not enough room for the turning lane into the hotel on the bypass; she pointed out that the bike path cannot be used through that intersection because it is too dangerous; she would like to see other options reviewed.

PUBLIC COMMENT – COLLEEN HOGAN

Colleen Hogan; S Kingfisher Street; asked the Board to consider the neighborhood and its safety rather than the hotel site and financial purposes.

PUBLIC COMMENT – NANCY DRUMHELLER

Nancy Drumheller, S Old Road; her and her husband live here about 50% of the time; when they are here they observe the same issues described above by the neighborhood residents; she is appealing to the Board to take another look at finding another resolution for the entrance/exit for this hotel; why is W Lakeside the only entrance to the hotel site – what about Forrest Street? What happens when it gets congested on both sides of the roadway – safety is the main issue and she asked the Board to look for other options for the entrance/exit of the hotel.

PUBLIC COMMENT – FREDRICK JORDAN

Fredrick Jordan, S Kingfisher Street; he spoke of the number of cars in the neighborhood trying to come into and get out of the neighborhood; problems with vehicles exiting the gas station and delivery trucks coming into and out of; he stated that it was never intended to be a roadway for this type of business and feels that there will be issues of public safety.

There being no one else present who wished to speak, Attorney Womble concluded Public Comment at 9:30 a.m.

CONSENT AGENDA

The Consent Agenda consisted of the following items:

- Consideration of Budget Amendment #1 to FY 24/25 Budget
- Consideration of Tax Adjustment Report
- Consideration of Order to Collect Taxes
- Consideration of Business License/Registration Fee Debt Release/Write-Offs
- Approval of minutes
- Consideration of modifications to the Consolidated Fee Schedule
- Consideration of reimbursement resolution for Workforce Housing/Town Campus Master Plan – Phase 1 (Fitness Facility)
- Consideration of resolution authorizing higher federal micro-purchase threshold

- Consideration of Interlocal Agreement with Dare County/Municipalities re: connection to Motorola FLEX Public Safety Software System

- Consideration of amendment to MOU between Town of Nags Head and Town of Kill Devil Hills for shared Eighth Street Beach Access maintenance

- Consideration of resolution authorizing the Town Manager to execute a contract on behalf of the Town with the State for a Coastal Storm Damage Mitigation Grant

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 #1, 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 Order to Collect Taxes, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

The Business License/Registration Fee Debt Release/Write-offs summary sheet, as approved, read in part as follows:

"Attached please find a list of businesses for license/registration fee release as well as a memo from Tax Collector Linda Bittner. This report is provided for the Board's information and is in accordance with Town Code Sec. 12-33 Releases (below).

'Sec. 12-33 - Releases. If it is determined that upon the issuance date of a renewal license or registration the business has been discontinued, the finance director may release a tax of less than \$100.00. The tax collector shall annually report to the board of commissioners releases made pursuant to this section and the tax collector's annual report shall be recorded in the minutes of the board of commissioners. This report will be included with the annual request to the board to write off uncollectible accounts pursuant to section 12-32."

Meeting Minutes – The minutes from the June 5, 2024 Board of Commissioners meeting were approved as presented.

The Consolidated Fee Schedule modifications, as approved, read in part as follows:

"Request approval of listed modifications to the Consolidated Fee Schedule:

- *\$17.50 plus tax - Dowdy Park T-shirt*

'The cost of the Town's Dowdy Park T-shirt is being requested for reduction from \$25 to \$17.50 to facilitate additional sales.

- *No Charge – For accident/investigative reports to those involved in crashes or crimes in the Town*

'The Police Department is requesting a change in the language of the Consolidated Fee Schedule pertaining to "Copies of Accident Reports" and Copies of Investigative Reports". The department does not charge victims or others involved in vehicle crashes or crimes within the town. We would request the language read "Copies of Accident Reports" (non-victim / involved others) and "Copies of Investigative Reports" (non-victim / involved others) to be placed under the Police Department section of the Fee Schedule.

'A copy of the two affected pages from the Fee Schedule as well as the Police Dept memo are attached."

The Reimbursement resolution for Workforce Housing and Town Campus Master Plan – Phase 1 (Fitness Facility), as adopted, read in part as follows:

"WHEREAS, The Town Manager and the Finance Officer have described to the Board of Commissioners the desirability of adopting a resolution, as provided under federal tax law, to facilitate the Town's use of financing proceeds to restore Town funds when the Town makes capital expenditures prior to closing on installment financing.

'BE IT HEREBY RESOLVED by the Board of Commissioners of the Town of Nags Head, North Carolina as follows:

'Section 1. The projects are the financing of building construction and associated professional costs (including but not limited to design, engineering, surveying, etc.) for projects identified in the fiscal year 2024/2025 adopted budget:

- Ocean Rescue/Workforce housing (located at 425 W Health Center Drive in Nags Head); and
- Phase I of a Town Hall Campus Master Plan (Fitness Center-Nags Head address to be determined)

'Section 2. The projects are to be financed. The currently expected type of financing (which is subject to change) is an installment finance contract(s). The currently expected maximum amount to be financed for the projects is \$2,500,000.

'Section 3. The Town presently intends, and reasonably expects, to reimburse itself for the original expenditures incurred and paid by the Town from the General Fund within 60 days of adoption of this Resolution from a portion of the financing proceeds.

'Section 4. This Resolution shall become effective immediately upon the date of its adoption."

The Resolution authorizing higher federal micro-purchase thresholds, as adopted, read in part as follows:

'WHEREAS, from time to time, the Town of Nags Head purchases goods and services using federal funding subject to the procurement standards in 2 C.F.R. Part 200, Subpart D; and

'WHEREAS, the Town of Nags Head's procurement of such goods and services is subject to the Town of Nags Head's purchasing and bid requirements policy, as most recently amended on September 8, 2023; and

'WHEREAS, the Town of Nags Head is a non-Federal entity under the definition set forth in 2 C.F.R. § 200.1; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(ii), a non-Federal entity may award micro-purchases without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents that the non-Federal entity files accordingly; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iii), a non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), a non-Federal entity may self-certify on an annual basis a micro-purchase threshold not to exceed \$50,000 and maintain documentation to be made available to a Federal awarding agency and auditors in accordance with 2 C.F.R. § 200.334; and

'WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), such self-certification must include (1) a justification for the threshold, (2) a clear identification of the threshold, and (3) supporting documentation, which, for public institutions, may be a "higher threshold consistent with State law"; and

‘WHEREAS, G.S. 143-129(a) and G.S. 143-131(a) require the Town of Nags Head to conduct a competitive bidding process for the purchase of (1) “apparatus, supplies, materials, or equipment” where the cost of such purchase is equal to or greater than \$30,000, and (2) “construction or repair work” where the cost of such purchase is greater than or equal to \$30,000; and

‘WHEREAS, North Carolina law does not require a unit of local government to competitively bid for purchase of services other than services subject to the qualifications-based selection process set forth in Article 3D of Chapter 143 of the North Carolina General Statutes (the “Mini-Brooks Act”); and

‘WHEREAS, G.S. 143-64.32 permits units of local government to exercise, in writing, an exemption to the qualifications-based selection process for services subject to the Mini-Brooks Act for particular projects where the aggregate cost of such services do not exceed \$50,000; and

‘WHEREAS, pursuant to 2 C.F.R. § 200.320(a)(1)(iv), the Board of Commissioners of the Town of Nags Head now desires to adopt higher micro-purchase thresholds than those identified in 48 C.F.R. § 2.101.

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

1. In accordance with 2 C.F.R. § 200.320(a)(1)(iv) and the applicable provisions of North Carolina law, the Town of Nags Head hereby self-certifies the following micro-purchase thresholds, each of which is a “higher threshold consistent with State law” under 2 C.F.R. § 200.320(a)(1)(iv)(C) for the reasons set forth in the recitals to this resolution:

- A. \$30,000, for the purchase of “apparatus, supplies, materials, or equipment”; and
- B. \$30,000, for the purchase of “construction or repair work”; and
- C. \$50,000, for the purchase of services not subject to competitive bidding under NC law; and
- D. \$50,000, for the purchase of services subject to the qualifications-based selection process in the Mini-Brooks Act; provided that such threshold shall apply to a contract only if the Unit has exercised an exemption to the Mini-Brooks Act, in writing, for a particular project pursuant to G.S. 143-64.32. If the exemption is not authorized, the micro-purchase threshold shall be \$0.

2. The self-certification made herein shall be effective as of the date hereof and shall be applicable until June 30, 2025, but shall not be applicable to Federal financial assistance awards issued prior to November 12, 2020, including financial assistance awards issued prior to that date under the Coronavirus Aid, Relief, and Economic Support (CARES) Act of 2020 (Pub. L. 116-136).

3. In the event that the Town of Nags Head receives funding from a federal grantor agency that adopts a threshold more restrictive than those contained herein, the Unit shall comply with the more restrictive threshold when expending such funds.

4. The Unit shall maintain documentation to be made available to a Federal awarding agency, any pass-through entity, and auditors in accordance with 2 C.F.R. § 200.334.

5. The Town Manager, or in absence designee, of the Town of Nags Head is hereby authorized, individually and collectively, to revise the Purchasing Policy of the Unit to reflect the increased micro-purchase thresholds specified herein, and to take all such actions, individually and collectively, to carry into effect the purpose and intent of the foregoing resolution.”

The Interlocal agreement with Dare County/Municipalities re: connection to Motorola FLEX Public Safety Software System, as approved, is attached to and made a part of these minutes as shown in Addendum “D”.

The amendment to the Memorandum of Understanding (MOU) between the Town and the Town of Kill Devil Hills for shared Eighth Street Beach Access maintenance, as approved, is attached to and made a part of these minutes as shown in Addendum "E".

The Resolution authorizing the Town Manager to execute a contract with the State for a Coastal Storm Damage Mitigation Grant, as adopted, read in part as follows:

"WHEREAS, the Town of Nags Head is planning for the next large-scale sand nourishment project to mitigate risk of damage from coastal storm effects; and

'WHEREAS, the Town is requesting grant funds encompassing planning, design and permitting for the placement of beach-quality sand along a ten-mile stretch of oceanfront; and

'WHEREAS, the maintenance and restoration of Nags Head beaches is essential to the economy of Dare County and the Town of Nags Head; and

'WHEREAS, the Town provides an integrated approach to implementation of beach management, maintenance, and restoration projects; and

'WHEREAS, Financial assistance for the Town of Nags Head has been tentatively approved by the State for overseeing the engineering design, permitting coordination and construction document preparation for the next beach nourishment project.

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

1. That the Board of Commissioners requests the State of North Carolina to provide financial assistance to the Town of Nags Head in the amount of \$301,000 or 50% of nonstate project costs, whichever is the lesser amount.
2. The Board assumes full obligation for payment of the balance of the project cost (or non-state portion).
3. The Town will obtain all necessary state and federal environmental permits associated with the project and will assure compliance with permit conditions for safe and proper final construction in accordance with approved plans and specifications.
4. The Town will obtain appropriate easements, rights-of-way or suitable spoil disposal areas that may be necessary for the construction and operation of the project without cost or obligation to the State.
5. The Board has complied and will comply with all applicable laws governing the project and the award of contracts and the expenditure of public funds by local governments.
6. The Town of Nags Head accepts responsibility for operation and long-term maintenance of the completed project in providing for continued beach management and restoration and assures that the project is open for use by the public on an equal basis with limited restrictions.
7. The Town holds the State harmless for any damage that may result from the project.
8. The Town Manager, or in absence designee, of the Town of Nags Head is hereby authorized, individually, and collectively, to execute a contract on behalf of the Town of Nags Head with the State of North Carolina for a grant to aid in the projects described above.

9. That the Town Manager, and successors so titled, is hereby authorized and directed to furnish such information as the appropriate State agency may request in connection with such application or the project: to make the assurances as contained above; and to execute such other documents as may be required in connection with the grant contract.”

PUBLIC HEARINGS

Public Hearing to consider NC Public Beach and Coastal Waterfront Access grant application

Attorney Lauren Womble opened the Public Hearing to consider the NC Public Beach and Coastal Waterfront Access grant application. The time was 9:32 a.m.

Notice of the Public Hearing was published in the *Coastland Times* on Wednesday, June 19, 2024 and on Wednesday, June 26, 2024 as required by law.

The agenda summary sheet was presented and read in part as follows:

“Staff would like to apply for a NC Public Beach and Coastal Waterfront Access grant for improvements to the June Street Public Beach Access in S Nags Head. Attached please find a grant pre-application prepared by Planning staff. A brief description of the proposed improvements are as follows:

- The Town proposes to construct a new ADA-accessible elevated dune crossover. The six-foot-wide wooden structure will be approximately 1,650 square feet long and require about three switchbacks. The new walkover will contain handrails. In conjunction with the new walkover, a sixteen-foot octagonal gazebo, new shower station and platform and new solar powered lamp post will be constructed. The existing porta-john wooden enclosure and trash wooden enclosure will be removed, and new enclosures added.”

There being no one present who wished to speak, Attorney Womble concluded the Public Hearing at 9:33 a.m.

MOTION: Comr. Brinkley made a motion to approve the North Carolina Public Beach and Coastal Waterfront Access grant application request as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

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

Update from Planning Director

Planning Director Kelly Wyatt summarized her monthly Planning Dept memo 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 July 3rd, 2024.

Monthly Activity Report

Attached for the Board’s review is the *Planning and Development Monthly Report for May 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 of June:

- Tuesday, June 4th – Technical Review Committee Meeting (Inn at Whalebone)
- Wednesday, June 5th - Board of Commissioners Meeting
- Thursday, June 6th – CRS Users Group Meeting, Elevation Certificate Training
- Wednesday, June 12th – Committee for Art and Culture Meeting
- Wednesday, June 12th – Eastern Carolina Council Resource Roundtable
- Thursday, June 13th – Board of Adjustment Meeting (no hearings)
- Tuesday, June 18th – Planning Board Meeting
- Wednesday, June 19th – Board of Commissioners mid-month meeting
- Dowdy Park Farmers Market – Thursday, June 13th, 20th, and 27th.
- Dowdy Park Summer Concert Series – Wednesday, June 19th and June 26th

`Planning Board - Pending Applications and Discussions

`The Planning Board’s most recent meeting was held on Tuesday, June 18, 2024. The following items were heard:

- Consideration of a Site Plan Amendment for construction of an 87-unit Hotel (Inn at Whalebone) including a request to eliminate or modify the condition of the October 4, 2023 Board of Commissioners approval that the existing Lakeside Street roadway be expanded to accommodate three lanes of traffic. The Planning Board voted 4 to 3 to recommend approval of the site plan amendments and the modification proposed by the Town Engineer as it pertains to the Lakeside Street expansion.
- Consideration of a Sketch Plan Review application for construction of a 2,279 square foot stand-alone restaurant at 7100 S. Croatan Highway (Outlets Nags Head). The Planning Board did not have any significant questions or concerns with the proposal at this time.
- Consideration of various amendments to the Unified Development Ordinance as it pertains to the use of multi-family dwelling developments. Staff provided a brief presentation to the Planning Board and noted that they would return at their July meeting presenting the ordinance revisions in their final format for the Planning Board’s formal recommendation.
- Planning staff requested that the Planning Board consider initiating a text amendment to the Unified Development Ordinance as it pertains to the dormitory use in the SED-80, Special Environmental District to facilitate the construction of lifeguard housing at 425 W. Health Center Drive, Nags Head. The Planning Board voted unanimously to initiate the necessary text amendments.

`The Planning Board’s next meeting is scheduled for Tuesday, July 16th, 2024. Currently, the agenda is expected to include consideration of a text amendment request from Anlauf Engineering PLLC on behalf of the Ark Church to modify the definition of “Religious Complex” to allow for a single-family residence of church staff in addition to the already allowed parsonage. Additionally, the agenda is anticipated to include consideration of various text amendments to the SED-80, Special Environmental District to permit the construction of a dormitory for housing Town of Nags Head lifeguard staff.

`Board of Adjustment – Recent and Pending Applications

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

`Additional Updates

- DWMP/Septic Health Advisory Committee – The Septic Health Advisory Committee is scheduled to meet on Thursday, July 25th. To advance the recommendations of the Decentralized Wastewater Management Plan four (4) additional water quality monitoring loggers have been purchased, and the department has recently

received the GPS unit needed to begin mapping locations of existing septic systems within the Town.

- Estuarine Shoreline Management Plan – Unfortunately, the town was not invited to submit a full proposal for the National Fish and Wildlife Foundations National Coastal Resilience Fund grant. In light of this, we have revised our grant application for the NC Resilient Coastal Communities Program, Phase 3 grant, requesting a total of \$500,000 with a matching contribution of \$40,000.
- Electric Vehicle Action Plan – LoWire Technologies is in the process of installing the two (2) Level II EV Chargers at Town Hall.
- Sand Relocation and Dune Management Cost Share Program – The Dune Management Cost Share Application period closed the week of June 24th with the entire \$400,000 being allocated to 138 participants. Planning and Finance staff are now working to process the reimbursements.
- Public Beach and Coastal Waterfront Access Grant Program – Staff has been informed that the pre-application to the NC Public Beach and Coastal Waterfront Access Program has been selected to submit a Final Application for improvements to the June Street Beach Access. The deadline for final application submission is August 2nd, 2024. Item F-1 on Board of Commissioners July 3rd meeting is the Public Hearing to consider the grant application for improvements to the June Street Public Beach Access in S. Nags Head.
- Dowdy Park Events/Farmers Market/Holiday Markets/Art & Culture – Summertime at Dowdy Park is in full swing. For the month of July, the Town will be hosting the following:
 - Yoga on the Lawn, Tuesday mornings 7:30 – 8:30am all month long.
 - Fitness Fridays, Friday mornings 7:30 – 8:15am all month long.
 - Summer Concert Series, Wednesday evenings 6:30 – 8:00pm.
 - SOUL One on July 3rd
 - The Bee Keepers on July 10th
 - Troy Breslow Band on July 17th
 - Will Overman Band on July 24th
 - Rob Oliver Trio on July 31st

 - Dowdy Park Farmers Markets, Thursdays 9am – 1pm: July 4th, 11th, 18th, & 25th
 - Family Fun Night, Tuesday, July 2nd at 4pm – 7pm – Outer Banks Summer Tale Fest, Storytelling event with crafts, kids activities and lawn games.
 - Movie at Dowdy Park, Friday, July 12th – partnership with Outer Banks Health.
- Tuesday, July 2nd – Technical Review Committee Meeting
- Wednesday, July 3rd - Board of Commissioners Meeting
- Wednesday, July 10th – Committee for Art and Culture Meeting
- Thursday, July 11th – Board of Adjustment Meeting (no hearings)
- Tuesday, July 16th – Planning Board Meeting
- Wednesday, July 17th – Board of Commissioners mid-month meeting
- Thursday, July 25th – Septic Health Advisory Committee Meeting
- Dowdy Park Farmers Market – Thursday, July 4th, 11th, 18th & 25th

- Dowdy Park Summer Concert Series – Wednesday, July 3rd, 10th, 17th, 24th, and 31st "

Move Agenda Item

Mayor Cahoon confirmed consensus from the Board to move the Inn at Whalebone site plan modification to the current location on the agenda as there were numerous interested residents from the Roanoke Shores subdivision in the audience.

Modification to Site Plan submitted by House Engineering, P.C. for construction of a four-story, 90-unit Hotel (Inn at Whalebone). The property is zoned SPD-C, Village Hotel is located within the Hotel Overlay District at 6632 W. Pheasant Avenue - approved at October 2023 Board meeting

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

"Consideration of a Site Plan Amendment for the construction of an 87-unit Hotel (Inn at Whalebone) and all necessary site improvements. This Site Plan was last reviewed at the Board of Commissioners October 4, 2023 meeting at which time the Board voted unanimously to recommend approval of the site plan with two conditions as noted below:

1. The existing roadway is to be expanded to accommodate three (3) lanes of traffic, and the three (3) lanes should extend to the most westward entrance of the hotel off Lakeside Street.
2. An approved subdivision plat addressing the portions of lots 24, 29, 30 and 31 and a recombination plat addressing lots 32, 33, 34, 35, 36, 22, 23, 26 and 27 be approved and filed at the Dare County Register of Deeds prior to the issuance of any development permits for the proposed hotel project.

'The applicant is requesting that consideration be given to various Site Plan Amendments as well as a request to eliminate in whole, or modify, the requirements imposed by condition #1 as it relates to W. Lakeside Street.

'Staff Recommendation/Planning Board Recommendation

Based on the staff's review and analysis of the proposed site plan amendments, we find that the modifications comply with the Unified Development Ordinance (UDO) and recommend approval as presented.

'Regarding the applicant's request to remove or modify the condition to widen Lakeside Street, this condition was included in the October 4, 2023, Board of Commissioners approval to address traffic concerns raised by citizens and Board members. While fully meeting this condition could impact runoff onto adjacent properties and conflict with above-ground utilities, there is an opportunity to widen a portion of the roadway. This approach would fulfill the intent of the Board of Commissioners' conditioned approval without encroaching on adjoining properties. Staff recommends that the Board of Commissioners consider modifying the approval to reflect the alternative roadway design proposed by the Town Engineer.

'At their June 18, 2024 meeting, the Planning Board voted 4 to 3 to recommend approval of the Site Plan Amendments and modification of the condition related to the widening of Lakeside Street."

The staff memo read in part as follows:

"BACKGROUND INFORMATION

At their October 4, 2023, meeting, the Nags Head Board of Commissioners reviewed the Site Plan Application request to construct a 90-unit hotel, Inn at Whalebone at 6632 W. Pheasant Avenue (W. Lakeside Street). The Board of Commissioners voted unanimously to approve the site plan with the two conditions noted below:

- The existing roadway is to be expanded to accommodate three (3) lanes of traffic, and the three (3) lanes should extend to the most westward entrance of the hotel off Lakeside Street.
- An approved subdivision plat addressing the portions of lots 24, 29, 30 and 31 and a recombination plat addressing lots 32, 33, 34, 35, 36, 22, 23, 26 and 27 be approved and filed at the Dare County Register of Deeds prior to the issuance of any development permits for the proposed hotel project.

'Shortly after the site plan approval, the applicant worked with Bissell Professional Group to prepare the necessary subdivision plat and have it recorded with the Dare County Register of Deeds. Condition # 2 has been satisfied.

'At this time, the applicant is requesting that consideration be given to various Site Plan amendments as well as a request to eliminate in whole, or modify, the requirements imposed by Condition #1 as it relates to the widening of Lakeside Street.

'Site Plan Amendment Review

Section 4.4 of the Unified Development Ordinance sets forth the criteria for what types of development may be reviewed and approved administratively by staff. In addition to listing what constitutes minor versus major site plan modifications, it states that the UDO Administrator has the authority to determine when projects shall require a Major Site Plan due to other project activities or unique circumstances. As the UDO Administrator, Planning Director Kelly Wyatt made the determination that the proposed modifications were major in nature as the project had notable concerns with traffic circulation, access, and stormwater management from its original review in October of 2022.

'The applicant has outlined the modifications from the most recent Board of Commissioners approval on October 4, 2023, in their attached Site Plan Amendment Project Narrative. It notes that many of the modifications were in response to achieving state stormwater and wastewater approvals. These modifications include:

- This project was originally approved as a 90-unit hotel; however, the revised plan seeks approval for an 87-unit hotel.
- The overall area of the proposed building has increased by 729 square feet.
- With the proposed reduction in hotel units, 87 parking spaces are now required. The revised parking is compliant with 90 proposed spaces.
- Building lot coverage has increased from 12.94% to 13.4%. With 35% allowed, this lot coverage remains compliant.
- Parking lot coverage has increased from 36.18% to 38.6%. With 45% allowed, lot coverage remains compliant.
- The minimum required landscaped area of 20% remains at 28%.
- Numerous modifications have been made to the stormwater management design.

'Town Engineer David Ryan has reviewed the revised plans and notes that the stormwater narrative on Sheet C-103 indicates a Seasonal High Water Table Elevation of 3.50' MSL. The typical infiltration basin detail indicates a SHWL of 4.8'. This discrepancy should be clarified. The stormwater management design information submitted appears to be in substantial compliance with the Town of Nags Head Unified Development Ordinance.

'Staff reports from this project original review and approval on October 5, 2022, and subsequent review and approval on October 4, 2023, are attached for the Planning Board's consideration.

'Based upon the staff's analysis, the proposed modifications remain compliant with the requirements of the Unified Development Ordinance.

'Lakeside Street Widening Condition of Approval Review

'The applicant has submitted a request that the Planning Board and Board of Commissioners consider amending or removing the condition placed upon their October 4, 2023 Site Plan Approval that Lakeside Street roadway be expanded to accommodate three (3) lanes of traffic, and the three (3) lanes should extend to the most westward entrance of the hotel off Lakeside Street.

'MacConnell & Associates, P.C. has provided a Technical Memorandum outlining the impacts and challenges associated with this request. MacConnell & Associates, P.C. provided a Turn Lane Exhibit for town staff and Board consideration, it is attached for the Planning Board's review. Town Engineer, David Ryan has conducted a review of this proposed exhibit and has provided the following comments:

"Lakeside Street Turn Lane Exhibit- A condition was placed on the previous site plan approval to widen the Lakeside St roadway extending from S. Croatan Hwy. to the westernmost boundary of the subject property. With the existing Lakeside St. right-of-way width at 40' there are some impacts associated with a roadway widening of this length. These impacts include runoff onto adjoining properties and potential conflicts with above ground utilities. However, there is still an opportunity to provide roadway widening to meet the intent of the previous Board of Commissioners conditioned approval.

The applicant has submitted an exhibit which shows a reduced widening plan from the eastern property boundary. This concept indicates an encroachment onto the adjoining undeveloped property to the south. Attached is an exhibit mark-up which describes a potential alternative roadway widening approach which may not result in improvements extending onto private property. The recommendation is for the applicant to modify the traffic improvements for Lakeside St. to reflect the approach as identified in the attached plan mark-up. This approval would be conditioned on the applicant acquiring detailed survey information for the development of a roadway widening and construction plan in accordance with Chapter 36-4 of the Town Code of Ordinances. It should be noted that a temporary construction easement may be required from the owner of the undeveloped property to the south for the purposes of construction in addition to a right-of-way encroachment through NCDOT."

'STAFF RECOMMENDATION

Following review and analysis of the proposed site plan amendments, staff has determined that the modifications comply with the Unified Development Ordinance (UDO) and recommend approval as presented. However, the discrepancy in the seasonal high water table elevation noted by the Town Engineer on Sheet C-103 must be clarified before any permits can be issued.

'Regarding the applicant's request to remove or modify the condition to widen Lakeside Street, this condition was included in the October 4, 2023, Board of Commissioners (BOC) approval to address traffic concerns raised by citizens and Board members. While fully meeting this condition could impact runoff onto adjacent properties and conflict with above-ground utilities, there is an opportunity to widen a portion of the roadway. This approach would fulfill the intent of the Board of Commissioners' conditioned approval without encroaching on adjoining properties. Staff recommends that the Board of Commissioners consider modifying the approval to reflect the alternative roadway design proposed by the Town Engineer.

'PLANNING BOARD RECOMMENDATION

At their June 18, 2024 meeting, the Planning Board voted 4 to 3 to recommend approval of the Site Plan Amendments and modification of the condition related to the widening of Lakeside Street."

Director Wyatt noted that applicants Bryan Seawell and David Neff are available to answer questions.

Mayor Cahoon explained that the Board last year provided conditional approval of the hotel but that street improvements were not part of that initial approval; Ms. Wyatt agreed and noted that the hotel is permitted by right.

Comr. Sanders questioned the date of the NCDOT traffic analysis; Ms. Wyatt stated it was done in early September 2023 and NCDOT indicated that there was no justification for a traffic signal.

Mayor Pro Tem Siers questioned if a traffic analysis could be done in July; he would like see all the facts and analysis to be gathered in the height of the season.

Town Engineer David Ryan provided a report; several iterations have been discussed pertaining to the roadway widening – the proposal was for no roadway widening but staff would not accept that as a viable option; is the right-of-way wide enough to support a 3-lane configuration was a question at the site plan review. A review of the Town Code has to be considered as well as drainage and the roadway itself. When considering this, there has to be consideration of the adverse impacts to the residential properties when evaluating widening the roadway. That combined with little room to work with, combined with the Town Code requirements and meeting the intent of what the Board originally approved, the proposal was to look at some reduced roadway widening in order to avoid adverse impacts. He recognizes the conflicts of vehicles going into and out of the gas station.

Town Engineer Ryan agreed with Mayor Cahoon that the commercial property to the south, if developed later, could cause adverse impacts.

Comr. Lambert confirmed with Engineer Ryan that both sides of the road will include work for drainage improvements.

In response to Comr. Sanders, Engineer Ryan stated that NCDOT said that no traffic signal was needed at this time so having a 3-lane configuration sets it up in the future for a traffic light similar to other streets in the Town that are signalized.

Applicant Bryan Seawell said that they have worked closely with staff to come up with the best option; the site plan takes care of some of the nonconformities with the gas station.

Comr. Lambert expressed concern with the number of staff available at any one time at the hotel; is 87 rooms with 6 staff members on site adequate? Comr. Lambert expressed her concern that the overflow parking area will be the neighborhood.

Comr. Brinkley suggested looking at a Traffic Control Map amendment for No Parking – Tow Away Zone on Lakeside Drive. He also agreed with a traffic analysis to be done in July, not September.

Board members spoke of safety concerns and the driveway; Mayor Cahoon said that the Board has heard from staff that this is the best solution for a number of reasons. Board members agreed to a July traffic study and that this is a potentially dangerous situation for traffic and pedestrians in this area.

Board members expressed concern about the neighborhood safety and verified with Town Engineer Ryan that the design presented is the best solution for a number of reasons to include being bound by Town and State laws. Board members would like to see another traffic analysis conducted - in the month of July – to determine if a traffic signal at Lakeside Street is authorized; staff is to present a Traffic Control Map amendment for a No Parking – Tow Away Zone designation for Lakeside Street at the August Board meeting.

MOTION: Mayor Cahoon made a motion to approve the amended site plan with street improvements as presented. The motion was seconded by Comr. Brinkley.

Mayor Pro Tem Siers emphasized that the Town can designate a No Parking – Tow Away Zone on Lakeside Street but per NCDOT there is no authorization for a traffic signal.

WITHDRAWAL OF MOTION: Mayor Cahoon withdrew his motion.

Town Manager Garman confirmed that a report from Police Chief Hale along with a request to modify the Traffic Control Map for a No Parking – Tow Away Zone for Lakeside Street will be on the August Board meeting agenda.

MOTION: Mayor Cahoon made a motion to approve the modification to the site plan submitted by House Engineering, P.C. for construction of a four-story, 90-unit Hotel (Inn at Whalebone), approved at the October 2023 Board meeting, to include the street improvements as presented. The motion was seconded by Comr. Brinkley.

Comr. Lambert said that she has a hard time supporting the requested modification without the traffic study analysis being done for July. Town Manager Garman said that he would look into this being done.

CONTINUATION OF MOTION: The motion passed 4 – 1 with Comr. Lambert casting the NO vote.

Discussion of Accessory Dwelling Units (ADU)

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

“In an effort to advance the discussion of a potential Accessory Dwelling Unit (ADU) ordinance, staff will provide a presentation to the Board of Commissioners highlighting the similarities and interconnectedness between Accessory Dwelling Units, Partial-Home Short Term Rentals and Duplexes. Staff would submit that many existing partial home short-term rentals within the town are already functioning similarly to an accessory dwelling unit. Both accessory dwelling units and short-term rentals provide additional living spaces that can be rented out as separate, independent housekeeping with similar operational characteristics. In addition, many of the existing partial-home short-term rentals, and should we permit them, attached accessory dwelling units, would be comparable to duplexes in terms of structure and use.

“In order to have a better understanding of how a potential ADU ordinance may affect the Town, staff believes it is important to discuss and gain understanding of the current situation within the Town, the overlap between these uses, the need for regulatory consistency, and to gain input on steps for moving forward to enhance the safety and functionality of existing and future structures within the Town.”

Ms. Wyatt stated that possible options to consider include: 1) to not allow accessory dwelling units right now but to focus on short term rentals or 2) to allow accessory dwelling units and establish regulations.

Mayor Cahoon thanked Planning Director Wyatt for bringing this forward as it is something that needs to be discussed; he would prefer to do both accessory dwelling units and short-term rentals together.

Comr. Sanders would like to see Option 2 with 2 bedrooms and maximum vs minimum; he likes the restrictions on Airbnb’s – he also appreciated staff’s report.

Comr. Brinkley also appreciated staff’s report and wants to keep ADU’s and STR’s together – and to restrict to long-term rentals.

Mayor Pro Tem Siers thanked Ms. Wyatt for the investigative report. He said that this is something that is already happening on a regular basis and for it to be less hidden would be safer for the occupants and the neighborhoods.

Comr. Lambert agreed with the other Board members and would like to see more ADU's and not more STR's.

Mayor Cahoon asked if the Building Inspector could look into a certain type of paint that expands in certain situations – he questioned if this would be an option for an applicant to improve the safety of his unit rather than having to rip the drywall out. This may mean that homeowners may be more open about their units.

Manager Garman noted that he would like to see what Kill Devil Hills and Kitty Hawk are doing towards accessory dwelling units. Board members spoke in favor of Option 2 as listed on Ms. Wyatt's slides – to keep ADU's and STR's together; no more than two bedrooms; and restrict to long-term rentals. Town Manager Garman said that staff will bring forward some options.

OLD BUSINESS/ITEMS TABLED FROM PREVIOUS MEETINGS

From May 1st Board meeting – Discussion/Review of multi-use path pavement markings

The agenda summary sheet read in part as follows:

"At the May 1, 2024 Board of Commissioners meeting, it was Board consensus to authorize staff to install pavement markings (speed limit/user guidance) in a high traffic area of the beach road multi-use path to determine if this was something we want to adopt as a standard for the remainder of the path. As mentioned in previous discussions, bicycle speeds and operator behavior has created user conflicts and safety concerns.

'At the July 3rd Board of Commissioners meeting, Police Chief Perry Hale will discuss with the Board what has been done so far and gather input on proceeding further with additional pavement markings."

Police Chief Hale summarized the pilot project and displayed a photo of the stenciled 10 miles per hour designation on the multi-use path at Eighth Street. If approved, this designation would be placed throughout the Town every ½ mile to visually educate people; he pointed out that so far they have had no complaints or comments on the stenciling.

Board members spoke in favor of the multi-use path speed limit stenciling staff did in response to their direction from the May 2024 Board meeting. It was Board consensus to continue with the multi-use path speed limit stenciling as shown.

From February 7th Board meeting – Consideration of approval for Beach Nourishment Master Plan

Town Engineer David Ryan explained that the purpose of the Beach Nourishment Master Plan is to develop a long-term strategy to permit, schedule, and finance ongoing beach nourishment efforts. The Executive Summary states that "The framework developed here allows for proactive planning and execution of sustainable beach management over the 50-year planning horizon."

Board members thanked Engineer Ryan for completion of the Master Plan. Mayor Cahoon mentioned the importance of making sure the sand source is protected through the years – with no cable, etc. installations.

MOTION: Comr. Sanders made a motion to approve the Beach Nourishment Master Plan as presented. The motion was seconded by Mayor Pro Tem Siers which passed unanimously.

A copy of the Beach Nourishment Master Plan, as approved, is on file at Town Hall.

NEW BUSINESS

Committee Reports

Mayor Pro Tem Siers – The Dare County Tourism Board approved a request for a tournament-style pickleball court at the former Pamlico Jack site.

Mayor Pro Tem Siers - Dare County Housing Task Force – a list of properties were put together for review and another meeting is scheduled later this month. Housing Task Force Chair Donna Creef was in the audience and she noted that minutes of the Task Force are posted after approval.

Comr. Brinkley – The Septic Health Advisory Committee meets later this month.

Comr. Sanders – Jockey’s Ridge State Park 50th anniversary, scheduled for June 2025, is going well and they were very appreciative of the Town’s donation at the last meeting.

Consideration of amendment to Traffic Control Map re: Bonnett Street and Wrightsville Avenue

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 the south side of Bonnett Street from its intersection with Wrightsville Avenue to NC 12 as “No Parking - Tow Away Zone”. (The north side of Bonnett Street was previously designated as a “No Parking – Tow Away Zone”.) Parking from the Farmer’s Market and other Dowdy Park events is making it difficult to see other vehicles, cyclists, and pedestrians traveling west on Bonnett Street.

‘Attached please find a map designating the area as well as an ordinance amending the Traffic Control Map for Board review and consideration.’

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

“Parking on E. Bonnett Street during events has increased over the years with the popularity of the markets and other events held at Dowdy Park throughout the year. Vehicles do use the overflow parking at NHES; however, they also park along the shoulder along Bonnett Street where it is not marked for no parking. Over the past few weeks, the department has noticed an increase in parking east of Wrightsville Ave. on the south side of Bonnett Street which is creating a hazard for motorists trying to maneuver through this intersection. The parking is making it difficult to see other vehicles, cyclists, and pedestrians traveling west on Bonnett St.

‘We are requesting to make the section from Wrightsville Ave. to NC 12 “No Parking - Tow Away Zone” to prevent future traffic issues in the area.

‘I will be available at the Board meeting to answer any questions.’

MOTION: Mayor Pro Tem Siers made a motion to adopt the ordinance amending the Traffic Control Map to designate No Parking – Tow Away Zone on the south side of Bonnett Street as presented. The motion was seconded by Comr. Brinkley which passed unanimously.

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

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Nothing to report from Attorney Lauren Womble who was sitting in for Town Attorney John Leidy.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Update on construction of the Public Services Facility

Town Engineer David Ryan reported that the Water Distribution Building is now occupied and last week electricity and internal utilities were installed in the Fleet Facilities/Sanitation Building. The Vehicle Storage Building now has internal utilities and some exterior siding is taking place. The next push is to occupy the Fleet Facilities/Sanitation Building in the next 4 – 5 weeks.

Town Manager Garman - Town Projects – Year in Review

Town Manager Garman introduced this item with a slideshow highlighting the Year in Review for FY 23/24.

The presentation by Town Engineer David Ryan was well received and is on file in the Town Clerk's Office and is also to be showcased on the Town's web site.

BOARD OF COMMISSIONERS AGENDA

Comr. Kevin Brinkley – Discussion of high-flying kites on the beach

Comr. Brinkley said that he has received several emails from plane/helicopter pilots concerning safety issues with kite strings; he is bringing this forward for discussion purposes. He displayed a photo showing how close a kite's string was to the flight path.

Comr. Brinkley noted that this is an issue for Currituck, Outer Banks, and south to Hatteras Island and how flights over the water can create issues. He is providing this for discussion. There is no ban on kites; this is more for educational purposes. According to Kitty Hawk Kites, John Harris, 300' of string is the length of string on kites but sometimes people add string onto their kite; the kite flying guide that he distributes when someone purchases a kite can be updated.

Mayor Cahoon spoke in favor of an education campaign to be shared with Dare County re: flying kites over the ocean. Town Manager Garman is to speak to the County Manager about this item. John Harris of Kitty Hawk Kites had indicated that the kite flying guide he distributes when someone purchases a kite can be updated. Some people may be adding to the 300' of string attached to the kite.

Comr. Lambert – Lakeside Street and the Inn at Whalebone

Comr. Lambert asked if there was a public sound access on Lakeside Street; Town Manager Garman is to look into this and provide an update.

Comr. Lambert questioned the number of vehicles that use the neighborhood street to turn around; she would like to see a No Thru Street designation for Lakeside Street.

MAYOR’S AGENDA

Mayor Cahoon – Notes on drainage projects

Mayor Cahoon pointed out that the Town’s drainage project at the Old Nags Head Place Subdivision is working very well; He also mentioned the drainage project scheduled for later this year in S Nags Head.

CLOSED SESSION

MOTION: Mayor Cahoon made a motion to enter Closed Session to confer with the Board re: matters related to attorney/client privilege, to include the use of the Town site at 105 W Seachase Drive, and to preserve that privilege, pursuant to GS 143-318.11(a)(3) and to discuss the possible acquisition of real property located at 4222 S Croatan Highway pursuant to GS 143-318.11(a)(5). The motion was seconded by Comr. Lambert which passed unanimously. The time was 11:41 a.m.

OPEN SESSION

The Board re-entered Open Session at 12:36 p.m. Attorney Womble stated that the Board did discuss the items on the Closed Session agenda and no actions were taken.

ADJOURNMENT

MOTION: Comr. Brinkley made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed unanimously. The time was 12:37 p.m.

Carolyn F. Morris, Town Clerk

Date Approved: _____

Mayor: _____
Benjamin Cahoon