



**MINUTES  
TOWN OF NAGS HEAD  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
WEDNESDAY, MARCH 6, 2019**

The Nags Head Board of Commissioners met in the Board Room of the Nags Head Municipal Complex located at 5401 S Croatan Highway in Nags Head, North Carolina on Wednesday, March 6, 2019 at 9:00 a.m.

Board members Present: Mayor Ben Cahoon; Mayor Pro Tem Susie Walters; Comr. Renée Cahoon; and Comr. Michael Siers

Board members Absent: Comr. Webb Fuller

Others present: Town Manager Cliff Ogburn; Attorney John Leidy; Andy Garman; Phil Webster; Perry Hale; Shane Hite; Amy Miller; Brie Floyd; Roberta Thuman; Holly White; Ralph Barile; Brandon Bostwick; Michael Zehner; Christian Aguirre; Jackie Hart; Nancy Carawan; Ed Snyder; Greg South; Ron Watson; Megan Naquin; John Wilkinson; Paige Griffin; Dave Hallac; Mike Barber; Louis Toth; and Town Clerk Carolyn Morris

**CALL TO ORDER/PLEDGE OF ALLEGIANCE**

Mayor Cahoon called the meeting to order at 9:00 a.m. A moment of silence was followed by the Pledge of Allegiance.

**ADOPTION OF AGENDA**

MOTION: Mayor Pro Tem Walters made a motion to approve the March 6<sup>th</sup> agenda as presented. The motion was seconded by Comr. Siers which passed 4 – 0 (Comr. Fuller was not present.).

**RECOGNITION**

Police Chief Phil Webster introduced Police Officer Brandon Bostwick who was welcomed by the Board to Town employment.

Dep Town Manager Andy Garman introduced Planning & Development Director Michael Zehner who was welcomed by the Board to Town employment.

Police Chief Phil Webster introduced Police Officer Christian Aguirre, who was recognized by the Board for his recent certification as Drug Recognition Expert (DRE). Mayor Cahoon congratulated Officer Aguirre and expressed appreciation for all those that were present on Officer Aguirre's behalf.

Interim Fire Chief Shane Hite introduced Firefighter/EMT John Wilkinson who was thanked for his years of service and congratulated by the Board on his recent retirement.

Interim Fire Chief Shane Hite introduced the following Town Safety Committee members: Jackie Hart, Nancy Carawan, Brie Floyd, Ed Snyder, Perry Hale, Greg South, Ron Watson, and Trey Simmons (unable to attend). Chief Hite summarized the Accident Prevention/Safety Week events scheduled for March 25 – 29, 2019.

The proclamation declaring March 25 – 29, 2019 as Accident Prevention Week was read by Mayor Cahoon as follows:

“WHEREAS, the Town of Nags Head Board of Commissioners, employees and citizens are committed to the maintenance of a safe and healthful workplace; AND

‘WHEREAS, the Town has assumed an active role in the promotion of a safe and healthful work environment by a program of regular occupational worksite evaluations and employee safety education; AND

‘WHEREAS, the Town strives to stimulate and maintain the interest in loss control and accident prevention and recognizes past and future services to the employees and citizens of Nags Head; AND

‘WHEREAS, the Town seeks to guide and encourage the adoption and institution of safe work practices by all employers and employees in Nags Head.

‘NOW, THEREFORE, the Nags Head Board of Commissioners does hereby proclaim

‘March 25 - 29, 2019 as ACCIDENT PREVENTION WEEK in the Town of Nags Head, and commends this observance to our citizens.

‘FURTHERMORE, in recognition of this proclamation, I invite all Nags Head employees to attend the annual Nags Head Safety Luncheon on Friday, March 29, 2019 from 12:00 Noon to 2:00 p.m. at the Douglas A. Remaley Fire Station 16.”

#### Town Community Clean-up Day – Update from Megan Naquin

Public Works Office Assistant Megan Naquin summarized Town Community Clean-up Day events which will start with a clean-up of the S Nags Head right-of-way and ditches on Saturday, March 30<sup>th</sup> – with a rain date scheduled for April 13<sup>th</sup>. The day starts at Whalebone Park at 9 am and ends by 2 pm with pizza at the park.

#### PRESENTATION – Town Committee for Arts & Culture - Report on Dowdy Park from Paige Griffin

Dep Town Manager Andy Garman introduced Paige Griffin who provided an update of the 2018 activities at Dowdy Park and summarized the plans for 2019. In addition to the Farmers Market, activities included movies, yoga, and concerts. With approval of the Committee for Arts & Culture, she is looking for a more comprehensive schedule for this year to include Tuesday, Wednesday, and Thursday activities with an increase in vendors and revenue. She expressed her appreciation for the Outer Banks Visitors Bureau, the Nags Head Church, and the NC Aquarium in Manteo for their assistance last year.

PRESENTATION – Dave Hallac, Superintendent of Cape Hatteras National Seashore and the Outer Banks Group - 2018 Year In Review

National Park Service Superintendent Dave Hallac introduced Mike Barber who handles Public Relations for the Park Service. Superintendent Hallac explained that he is responsible for three parks on the Outer Banks: Wright Memorial in Kill Devil Hills, Fort Raleigh in Manteo, and Cape Hatteras seashore. He presented a slideshow summarizing the events of 2018; photos showed the effects of erosion, the possible spreading of fire from vegetation up against houses in S Nags Head, site renovation work that had been done on the Wright Memorial, and he reported on upcoming special events planned for this year to include a 50<sup>th</sup> anniversary celebration of the 1969 moon landing. Board members thanked Mr. Hallac for presenting the update and they expressed their appreciation for the work he has done and continues to do for the Park Service. His slides are attached to and made a part of these minutes as shown in Addendum "A".

**PUBLIC COMMENT**

PUBLIC COMMENT – LOUIS TOTH

Louis Toth, Village at Nags Head resident; he read in the Outer Banks Sentinel that the Town of Nags Head is the only municipality that traps coyotes in this area – he thanked the Board and asked that other municipalities be encouraged to participate.

PUBLIC COMMENT – ANDREW LAMBERT

Andrew Lambert, owner of a jet ski business on the Nags Head/Manteo Causeway; he has been operating a jet ski business in that area since 1997; he spoke against a proposed no wake zone of 600' for the Commercial Outdoor Recreational Uses Overlay District which he feels is unreasonable; he would have appreciated the Town asking for input from him and others that may be affected in that area; he emphasized that the Town had no problem sending him notices of violation which he took care of but when taking action that would affect him, he received no notice.

**CONSENT AGENDA**

The Consent Agenda consisted of the following items:

- Consideration of Budget Adjustment #9 to FY 18/19 Budget
- Consideration of Tax Adjustment Report
- Preliminary Tax Delinquent List for advertisement
- Approval of minutes
- Request for Public Hearing to consider Zoning Ordinance text amendments re: Short-Term Rentals
- Consideration of Resolution Designating Applicant's Agent for NC Emergency Mgmt for Tropical Storm Michael
- Consideration of Resolution to request Dare County delegate approval of pyrotechnics permits to the Town

**MOTION:** Comr. Renée Cahoon made a motion to approve the Consent Agenda as presented. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

Budget Adjustment #9 to the FY 18/19 Budget, as approved, is attached to and made a part of these minutes as shown in Addendum "B".

Tax Adjustment Reports Town-wide and for the MSD Districts, as approved, is attached to and made a part of these minutes as shown in Addendum "C".

The Tax Delinquent List was provided for the Board's information; the summary sheet read in part as follows:

"At the February 6<sup>th</sup> Board of Commissioners meeting, Board approval was received to advertise tax liens in the newspaper on March 13, 2019 in accordance with NCGS 105-369.

'Attached please find preliminary tax delinquent listing as of February 27, 2019."

The Request for Public Hearing summary sheet, as approved, read in part as follows:

"The Planning Board has been working with planning staff to develop a recommendation to manage short-term rentals ("STR") throughout the Town. As part of the process, a community engagement survey was completed. From the 580 responses received the following trends were identified: the majority of responses came from full-time residents and property owners living west of US Hwy 158, 50% of respondents have rented through an STR website and the majority had an enjoyable experience; 60% of respondents are aware of STR's in their neighborhood, the majority were comfortable with them being there while 35% were concerned; an overwhelming majority of respondents feel that it is important to have a manager or host readily available to address any issues; responses on where STR's should be located were relatively even throughout the Town and the majority of those responding felt that STR's did offer benefits to the Town.

'Based upon this input it was the consensus of the Planning Board to recommend the management of STR's through a registration process. Staff has drafted an ordinance that would 1) allow short-term rentals town-wide via a registration process, 2) require a local host operator to be registered with the Town that can be readily accessible to address any concerns, and 3) require that partial-house rentals be required to have one (1) additional parking space beyond the minimum required for a single-family dwelling. Whole house rentals would not be required to have an additional parking space and those homes managed by a real estate broker would not be required to register.

'Staff Recommendation: Staff recommends approval of the draft ordinance as presented noting that there may be budgetary impacts in order to assist with the implementation of the registration program. Any such request will be provided as part of the 2019-2020 budget.

'Planning Board Recommendation: At its February 15, 2019 the Planning Board voted unanimously to recommend approval of the proposed text amendment as submitted. Draft minutes of this meeting are included in your package. Additionally, staff will be bringing forward the actual registration form for the Planning Board's consideration at their March 19, 2019 meeting."

The Resolution for Designation of Applicant's agent for NC DEM for Tropical Storm Michael, as adopted, is attached to and made a part of these minutes as shown in Addendum "D".

The Resolution to request Dare County delegate approval of July 4<sup>th</sup> pyrotechnics permits to the Town, as adopted, read in part as follows:

"WHEREAS, NCGS 14-413 (a1) authorizes the governing body of any city to issue permits pursuant to Article 54 of the North Carolina General Statutes which addresses the sale and permitting of pyrotechnics; AND

'WHEREAS, this statute provides for the delegation for permitting of pyrotechnics to be exhibited, used, or discharged within the corporate limits of a city by a Board of Commissioners by resolution; AND

'WHEREAS, this statute requires that the Board of Commissioners of each county in which the city lies to take action by resolution; AND

'WHEREAS, the Town of Nags Head is requesting that the Dare County Board of Commissioners approve the transfer of permitting of pyrotechnics to the Town of Nags Head; AND

'WHEREAS, the Dare County Fire Marshall and the Town of Nags Head Interim Fire Chief have discussed the merits of this transfer of permitting authority and both believe that this action would be of benefit to both Dare County and the Town of Nags Head; AND

'WHEREAS, the delegation of this authority shall remain in effect until withdrawn by this Board of Commissioners by a subsequent resolution; AND

'WHEREAS, the Town of Nags Head will notify the Dare County Fire Marshal if pyrotechnics displays and exhibits are applied for or a permit issued in the Town of Nags Head, located within the Dare County jurisdiction.

"NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF NAGS HEAD BOARD OF COMMISSIONERS That this Board approves the transfer of permitting authority for pyrotechnics to be exhibited, used, or discharged within the corporate limits of the Town of Nags Head from Dare County to the Town of Nags Head effective May 1, 2019."

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

### Project Update – FOCUS Technical Committee - UDO

Planner Holly White summarized the summary sheet for the FOCUS Technical Committee which read in part as follows:

"The Technical Committee ("Committee") met on Thursday, February 21st to discuss comments on the draft UDO from the Committee, Planning Board, and Board of Commissioners. Committee members provided staff with direction on specific comments where additional feedback was needed. The Committee will be meeting again on Thursday, March 7th to finalize review of the remaining comments. Attached are initial comments reviewed by the Committee. Staff comments are shown in green text and Committee feedback and actions are shown in red text. Once the Committee has finished reviewing all comments, staff will provide the Board of Commissioners with an update of all comments and direction."

### Project Update - Stormwater Projects

Town Engineer David Ryan summarized the summary sheet for Stormwater Projects which read in part as follows:

"Attached is a copy of the resolution with the Division of Environmental Quality (DEQ) for the Stormwater Drainage Study 2018-2019 grant award. This award encompasses the conceptual drainage study work related to the following project areas:

'Project Area #10 - Nags Head Cove Subdivision - proximity of Kipper Court  
'Project Area #12- S. Old Oregon Inlet Rd. proximity of milepost marker 19.5  
Project Area #13- S. Old Oregon Inlet Rd. proximity of milepost marker 18

'Per the preliminary information received from Division of Coastal Management (DCM), work associated with the grant will begin when the contract is executed. The contract will be executed upon review by the Town Attorney and will be forwarded to the Board once received. A status report of the (3) drainage construction projects will be provided."

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution with the State Division of Environmental Quality (DEQ) authorizing the conceptual drainage study work related to three stormwater project areas – Nags Head Cove Subdivision, Kipper Court; S Old Oregon Inlet Road, milepost 19.5; S Old Oregon Inlet Road, milepost 18 - for the Planning and Management Grant as presented. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

**MOTION:** Mayor Pro Tem Walters made a motion to authorize the Town Manager to execute the State Division of Environmental Quality (DEQ) Planning and Management Grant contract as presented (upon review and approval by the Town Attorney). The motion was seconded by Comr. Siers which passed 4 – 0 (Comr. Fuller was not present.).

Mr. Ryan provided an update on the ongoing stormwater construction work in Project Areas 1, 2, and 3.

Mayor Cahoon said that he appreciates the work being done to mitigate the issues with the upcoming St. Patrick's Parade and the ongoing construction work. Comr. Renée Cahoon asked that staff look more closely at doing projects during the off season in order to avoid these types of timing issues in the future.

## **NEW BUSINESS**

### Committee Reports – Mayor Cahoon – Homebuilders Association

Mayor Cahoon stated that he, Town Manager Ogburn, and Planning staff met with representatives from the Homebuilders Association concerning the new stormwater development standards for lots which was very positive. A discussion was also initiated concerning fill standards.

### Committee Reports – Mayor Cahoon – Beach Nourishment Committee meeting

Mayor Cahoon and Town Manager Ogburn attended what will be regular Beach Nourishment Project meetings with the County and other Municipalities. Mayor Cahoon said that maintenance of the projects and associated funding will be regular items of discussion.

### Consideration of NC Dept of Environmental Quality (DEQ) Planning and Management Grant for the Jacob Street Beach Access Project and associated Resolution and Contract authorization

Town Manager Ogburn summarized the agenda summary sheet which read in part as follows:

"Attached please find a proposed resolution with Division Environmental Quality (DEQ) for the Jacob Street Beach Access grant award. Also attached is the associated Contract authorization. The award amount is \$122,226 and the Town's matching amount is \$60,426.

'Request Board adoption of attached resolution authorizing the execution of the Public Beach & Estuarine Access Grant Contract for the Jacob Street Beach Access Project and the associated contract.

'The budget for this project is currently reflected as outlined by this resolution and contract."

**MOTION:** Comr. Renée Cahoon made a motion to adopt the resolution and authorize the Town Manager to execute the contract with the State Division of Environmental Quality (DEQ) for the Planning and Management Grant for the Jacob Street Beach Access Project as presented. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

The resolution in support of the Jacob Street Beach Access Project, as adopted, read in part as follows:

"WHEREAS: The Town of Nags Head (the "Town") was advised that a proposed contract between the Town and the North Carolina Department of Environmental Quality (DEQ) for Public Beach & Estuarine Access grant funds was presented for the project known as Jacob Street Beach Access and discussed; that, under the terms of the said contract, the Town will pay a total local cash contribution of \$54,711 and local in-kind contribution of \$5,715 as its local share of the total project costs.

'BE IT THEREFORE RESOLVED, as follows:

'That a contract between the Town and the North Carolina Department of Environmental Quality be and the same is hereby approved.

'That the Manager is hereby authorized to sign and execute the said contract for and on behalf of the Town and forward the same to the North Carolina Department of Environmental Quality.

'That upon final execution, a copy of said contract be filed with the minutes."

The contract with DEQ for the Jacob Street Beach Access Project grant, as approved, is attached to and made a part of these minutes as shown in Addendum "E".

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

Town Manager Ogburn - Discussion of condemned structure located at 115 McCall Court in S Nags Head

The agenda summary sheet read in part as follows:

"Attached please find the agreement entitled "Permission To Remove And Dispose Of Structure" for the condemned structure located at 115 McCall Court in S Nags Head. The agreement has been executed and is between the Town and the property owners, John and Karen Kane.

'These funds will be taken from the beach nourishment capital project fund, no budget amendment is necessary at this time."

Town Manager Ogburn also reported that the property owners are working with attorney Robert Hobbs to deed the property to the Town after the structure is removed. Funds to remove the structure would come from the Beach Nourishment Capital Project fund – a budget adjustment would therefore not be necessary.

**MOTION:** Mayor Pro Tem Walters made a motion to authorize the Town Manager to execute the agreement to remove the structure at 115 McCall Court in S Nags Head in an amount not to exceed \$12,000. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Fuller was not present.).

Town Manager Ogburn - Update on Beach Nourishment Project  
Request for Change Order - Tim Kana, Coastal Science & Engineering  
Consideration of Capital Project Ordinance, Amendment #5

The agenda summary sheet read in part as follows:

“At the March 6<sup>th</sup> Board of Commissioners meeting, Town Manager Ogburn will provide an update on the 2019 Beach Nourishment Project. Tim Kana of Coastal Science & Engineering will provide a detailed presentation of the upcoming project and request approval of a Change Order to the CS&E Agreement to reflect the construction administration numbers utilized for the Hurricane Matthew FEMA grant.

Attached please find the following:

- Presentation slides from CS&E
- Change Order (Amendment #2) to the CS&E Agreement
- Presentation by Finance Officer Amy Miller of Amendment #5 to the Capital Project Ordinance

“This item is scheduled for Time Specific at 11:00 a.m.”

Coastal Science & Engineering President Tim Kana summarized the upcoming 2019 Beach Nourishment Project:

- Amount of sand is similar to the 2011 project
- \$36 million for the 2019 project – the 2011 project was \$30 million
- Both projects were 10 miles long – the 2019 project places more sand in S Nags Head where more erosion took place
- More integration of the dune management plan in the 2019 project so there is not so much sand encroachment onto properties - to include more sand fencing and aggressive vegetation done early in this year’s project
- Dr. Kana thanked Town Engineer David Ryan for taking care of the Great Lakes contract, the mean high water survey and turtle monitoring requirements from FEMA
- Pre-construction meeting scheduled for next week, March 14<sup>th</sup> at 2 pm in the Board Room
- Pre-construction survey to be scheduled to establish the initial condition of the beach

In response to Comr. Renée Cahoon, Mr. Kana stated that he will verify with CAMA but he believes that another mean high water survey is a requirement even though it was established with the 2011 project.

Mayor Cahoon expressed Board members’ appreciation. There were no questions from Board members.

Town Engineer Ryan pointed out that the Change Order Request, as presented in the package, needs Board action.

**MOTION:** Comr. Renée Cahoon made a motion to authorize the Town Manager to execute Change Order #2 to the CS&E Contract (to reflect construction administration numbers utilized for the Hurricane Matthew

FEMA grant) and to adopt the Capital Project Ordinance, Amendment #5 as presented. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

Amendment #5 to the Capital Project Ordinance, as adopted, is attached to and made a part of these minutes as shown in Addendum "F".

## **BOARD OF COMMISSIONERS AGENDA**

### Comr. Renée Cahoon – Government Education Access Channels

- Consideration of Government Education Access Channels 2019-2020 Budget
- Consideration of updated Interlocal Agreement and Standing Operating Procedures

The agenda summary sheet read in part as follows:

"Attached, along with a narrative, is the proposed 2019-2020 Budget for the operation of the Government Education Access Channels. Also attached is an update to the Interlocal Agreement and the Standing Operating Procedures to reflect the name change from "UNC - Coastal Studies Institute" to "Coastal Studies Institute – ECU"."

**MOTION:** Comr. Renée Cahoon made a motion to approve the proposed GACC FY 2019/2020 budget as presented. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

**MOTION:** Comr. Renée Cahoon made a motion to approve the name change in the GACC Interlocal Agreement and the Standing Operating Procedures from "UNC - Coastal Studies Institute" to "Coastal Studies Institute – ECU" as presented. The motion was seconded by Comr. Siers which passed 4 – 0 (Comr. Fuller was not present.).

### Mayor Pro Tem Walters – Accessory Dwelling Units

Mayor Pro Tem Walters reported that discussion took place at the Board's Retreat in January 2019 concerning accessory dwelling units and discussions were to be continued; with the completion of the Unified Development Ordinance nearing, she would like the Board to be able to provide staff some guidance. She would like staff to prepare an ordinance re: accessory dwelling units to assist with issues such as affordable housing and aging family members, etc. by addressing options such as minimum lot size, maximum ADU size, adequate septic capacity, and adequate parking. She would like Board consensus to direct staff to bring a proposal back for Board review at the next Board meeting.

Comr. Renée Cahoon would like to see maps/zones as not every neighborhood would be appropriate for this type of use; she stated that this is not a way to obtain greater density as she is not interested in greater density. It was Board consensus to bring back a proposed ordinance for the Board to consider addressing the issues brought up by Mayor Pro Tem Walters.

## MAYOR'S AGENDA

### Mayor Cahoon - Review of Town Manager's new evaluation form

Mayor Cahoon presented the proposed Town Manager's new evaluation form and said one of the reasons for a new form was for consistency among the subjects with statements and verbiage. Board members spoke positively about the new form.

**MOTION:** Mayor Pro Tem Walters made a motion to adopt the Town Manager's new evaluation form with the addition of the "ranking" columns (1 – 5). The motion was seconded by Comr. Siers which passed 4 – 0 (Comr. Fuller was not present.).

### Mayor Cahoon - Request for approval to forward letter to Dare County in support of Town of Kitty Hawk, Tina Tice, as Albemarle Commission Solid Waste Management Authority alternate representative

The summary sheet for this agenda item read in part as follows:

"At the March 6<sup>th</sup> Board of Commissioners meeting Mayor Cahoon will discuss with Board members the possibility of forwarding a letter to the Dare County Board of Commissioners in support of appointing Town of Kitty Hawk councilwoman Tina Tice to serve as alternate to represent Dare County on the Albemarle Commission - Solid Waste Management Authority."

**MOTION:** Comr. Renée Cahoon made a motion to appoint Town of Kitty Hawk Councilwoman Tina Tice as the Albemarle Commission Solid Waste Management Authority alternate representative. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.).

### Mayor Cahoon - Distribution of book "Atomic Habits" by James Clear

Mayor Cahoon stated that he has wanted to do a "Town read" where everyone reads the same book; he distributed to Board members the book "Atomic Habits" by James Clear. He said that the book is about building positive habits – both personally and corporately. Mayor Cahoon said that the "Town read" may possibly become an annual program; he looks forward to receiving feedback from Board members.

## ADJOURNMENT

**MOTION:** Comr. Renée Cahoon made a motion to recess to the Board's CIP Workshop on March 19, 2019 at 9 am in the Police Training Room. The motion was seconded by Mayor Pro Tem Walters which passed 4 – 0 (Comr. Fuller was not present.). The time was 11:18 a.m.

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Carolyn F. Morris, Town Clerk

Date Approved: **April 3, 2019** \_\_\_\_\_

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