



**MINUTES
TOWN OF NAGS HEAD
BOARD OF COMMISSIONERS
RECESSED MEETING
WEDNESDAY, JULY 20, 2022**

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, July 20, 2022 at 9:00 a.m. for a Recessed Meeting. The Town continues to adhere to COVID state and local guidelines.

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

Board members Absent: Comr. Kevin Brinkley

Others present: Town Manager Andy Garman; Attorney John Leidy; Kelly Wyatt; Amy Miller; David Ryan; Phil Webster; Perry Hale; Randy Wells; Shane Hite; Roberta Thuman; and Town Clerk Carolyn F. Morris

CALL TO ORDER

Mayor Cahoon called the meeting to order at 9 am.

ADOPTION OF AGENDA

MOTION: Mayor Pro Tem Siers made a motion to approve the July 20th agenda as presented. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused.).

COMR. BRINKLEY EXCUSED FROM MEETING

Mayor Cahoon reported that Comr. Brinkley was excused from today's meeting.

PUBLIC COMMENT

There was no one present who wished to speak and no emails for public comment had been received.

OLD BUSINESS

From July 6th Board meeting - Consideration of award of Disaster Debris Removal agreement

Town Engineer David Ryan summarized his memo which read in part as follows:

"This item was previously considered by the Board of Commissioners at their July 6, 2022 meeting with a request for staff to provide the following supplemental information:

1. A copy of the proposed Disaster Debris Management/Removal Services Agreement.
2. Follow up with references for the debris removal offerors and related North Carolina based work experience.
3. Investigate the potential for the inclusion of local contractors to rapidly respond to a disaster debris event.

'A copy of the attorney-reviewed draft agreement is attached for the Board's reference.

'Secondly, North Carolina Emergency Eastern Support Manager, Rebeca Reyes, was contacted to provide clarity on the potential procurement of local contractors and response to the initial "push and shove" period immediately following a disaster debris generating event. According to the FEMA procurement Guidance 2 C.F.R. 200: "A non-federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except where Federal law expressly mandates or encourages geographical mandates."

'In addition to the above referenced provision, FEMA procurement Guidance 2 C.F.R. 200, Subpart D, states "If permitted by the non-federal entity written procurement procedures and applicable non-Federal laws and regulations, a Non-Federal Entity (NFE) may award a contract to the offeror whose proposal offers the "best value" to the NFE. The solicitation must, in addition to the items described above, inform potential offerors that the award will be made on a "best value" basis, which should include a statement that the NFE reserves the right to award the contract to other than the lowest priced offeror." It goes on to further state, "The NFE must make the award to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered."

'Staff contacted representatives from the two top ranked firms TFR Enterprises, Inc. (Leander, TX) and DRC Emergency Services, LLC (Mobile, Alabama). Respondents were asked if they would agree to responding sooner than the 48 hours specified in the Request for Proposals, pre-stage equipment in close proximity to Nags Head, and consider utilizing local subcontractors to respond to the initial "push and shove" debris removal period to provide continued roadway access throughout Town. Each offeror agreed to the 24-hour response period with at least 50% of the required resources and 100% of the required resources within a 48-hour period to commence with "push and shove" services. It should be noted DRC Emergency Services has contacted four local contractors who have agreed to provide the requested services in accordance with the submitted unit rates.

'TFR Enterprises will deploy their equipment from their staging yard in Morehead, KY, which is approximately 10 hours away from Nags Head. They could activate local contractors to immediately begin the "push and shove" efforts and will supplement them with company-owned resources upon arrival. DRC Emergency Services agreed to pre-stage equipment in close proximity to Nags Head in addition to pre-event mobilization of personnel to rapidly respond for the "push and shove" period. At this time, TFR Enterprises has not contacted any local contractors concerning the requested services.

'Supporting information was acquired on North Carolina communities that are currently under contract for debris removal services of the two top ranked offerors. TFR Enterprises has pre-positioned agreements with eight North Carolina municipalities with Morehead City, NC being the closest to Nags Head. DRC Emergency Services currently has agreements with twelve North Carolina communities with Greenville, NC being the closest location to Nags Head.

'Staff has conducted additional outreach outside the written reference letters to obtain feedback from municipalities with recent experiences with each of the vendors with an emphasis on North Carolina based work. Of the nine municipalities contacted for TFR Enterprises, only one reference was able to be communicated with. No work was performed due to a contractual dispute. Five references were contacted from DRC Emergency Services with four responses received. Municipalities and agencies from North Carolina, Florida, Louisiana, and Texas noted exemplary service performed by DRC Emergency Services based upon responsiveness, management, contractor capacity and ability to maximize resources. Storm event support was provided for Hurricane Florence, Hurricane Michael, Hurricane Laura, and Hurricane Harvey.

'The Board will want to consider awarding the pre-positioned agreement to the primary contractor whose qualifications are determined to be the most advantageous or provides the "best value" to the Town, taking into consideration the contractor's qualifications, experience, mobilization, operational plans, and the rate schedule provided within the Request for Proposals."

Engineer Ryan stated that DRC Emergency Services is the recommendation of staff for the Town's debris removal services.

Board members expressed their appreciation for staff's additional research.

MOTION: Comr. Renée Cahoon made a motion to award the disaster debris removal contract to DRC Emergency Services. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.).

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN ATTORNEY

Attorney John Leidy – Beach Nourishment Project Easements

Attorney Leidy stated that he has filed actions to condemn the three properties who have not signed easements after the last Board meeting. Other than these three properties, all required easements have been acquired and recorded for the upcoming Beach Nourishment Project.

Town Engineer David Ryan noted that the project is scheduled to begin this Friday, July 22nd starting at James Street in S Nags Head.

ITEMS REFERRED TO AND PRESENTATIONS FROM TOWN MANAGER

Town Manager Garman - Request for Closed Session

Mayor Cahoon noted that Town Manager Garman's request for a Closed Session to consult with the Town Attorney concerning an attorney/client privilege matter will be addressed later in the meeting.

BOARD OF COMMISSIONERS AGENDA

Comr. Renée Cahoon – Staff Stay Safe Outside

Comr. Renée Cahoon expressed her concern that Town employees that work outside stay hydrated and pay attention to the heat issues.

CLOSED SESSION

MOTION: Mayor Cahoon made a motion to enter Closed Session pursuant to GS 143-318.11(a)(3) to consult with the Town Attorney re: matters protected by attorney/client privilege and to preserve that privilege. The motion was seconded by Comr. Renée Cahoon which passed 4 – 0 (Comr. Brinkley was excused). The time was 9:45 a.m.

OPEN SESSION

The Board re-entered Open Session at 9:55 a.m. Attorney Leidy reported that the Board did consult with the Town Attorney during Closed Session and did give him direction.

ADJOURNMENT

MOTION: Comr. Renée Cahoon made a motion to adjourn. The motion was seconded by Mayor Pro Tem Siers which passed 4 – 0 (Comr. Brinkley was excused.). The time was 9:56 a.m.

Carolyn F. Morris, Town Clerk

Date Approved: **August 3, 2022**_____

Mayor: _____
Benjamin Cahoon